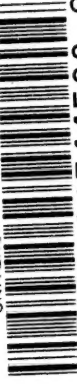


UNIVERSITY OF TORONTO



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# Agricultural Indebtedness

and its Remedies



CALCUTTA UNIVERSITY

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# Agricultural Indebtedness in India

and  
Its Remedies

BEING  
*SELECTIONS FROM OFFICIAL DOCUMENTS*

COMPILED BY  
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193686  
21.1.25-

Published by the  
**CALCUTTA UNIVERSITY**  
1915



PRINTED BY  
**ATULCHANDRA BHATTACHARYYA**  
AT THE  
**CALCUTTA UNIVERSITY PRESS**  
Senate House, Calcutta

## INTRODUCTION

More than two years ago the Calcutta University decided to publish for the use of advanced students and teachers a series of selections from authoritative documents treating of Indian economic problems, by bringing together in a collected form the large amount of valuable materials that lie scattered in old and inaccessible Blue Books, in the proceedings of Legislative Councils, and in Government reports and publications. The first subject which appealed to me as one of the most important and far-reaching was that of 'agricultural indebtedness'. A special interest centres round the subject, because the general state of indebtedness is almost as old as the British rule in this country, for I find reference to the subject in the literature on the Permanent Settlement in the Blue Books of 1813 and preceding years. But it appears that no scientific and systematic treatment of the 'disease' was attempted till the seventies of the last century, when the indebtedness of the Deccan ryots, who had been the victim of great vicissitudes of fortune almost since the conquest of the Deccan, rose to such magnitude as to demand prompt legislative action. Their accumulated indebtedness, aggravated by the cotton crisis in Bombay, culminated in serious agrarian disturbances in the year 1875 ; and the Government of India being awakened to the gravity of the problem redressed the situation by the enactment of a law for the relief of the Deccan ryots. This condition

of indebtedness was not confined to Bombay alone. The Famine Commissioners of 1882 and 1901 drew prominent attention to the wide-spread character of this evil and suggested various legislative and executive measures to remedy it, among which were : (1) an alteration in the practice and procedure of civil courts and the institution of special courts and agencies for the cheap and summary disposal of suits against agricultural borrowers ; (2) restrictions on the alienations of lands ; (3) the establishment of co-operative credit banks ; and (4) the introduction of a large measure of elasticity in the collection of land revenue. The first had already been incorporated in the Deccan Agriculturists' Relief Act ; the second was found suitable for special areas such as the Punjab and Bundelkhund ; the fourth was adopted as a general executive measure in almost all provinces ; and the third were introduced by legislation for the purpose of providing facilities for cheap credit to the ryots. A measure, akin to this, had been proposed in 1884 by SIR W. WEDDERBURN, then a District Judge in the Bombay Presidency. It consisted in the establishment, as an experimental measure, of an agricultural bank in Poona, which was intended to take over the functions of the village money-lender on condition that it should restrict its dealings with only the solvent class of cultivators and supply to that body capital on definite terms to be approved by Government. The proposal was, however, negatived by the Secretary of State on the score of its financial unsoundness. The co-operative credit societies which were established in 1903, on the urgent and emphatic recommendation of the Famine Commission of 1901 were designed to utilise the combined credit of the agricultural population for the purpose of making loans on their own responsibility to their fellowmen at a small rate of interest. The measure has proved an unqualified



success ; and it is estimated that it has saved the agriculturists Rs. 10,00,000 in interest on every crore lent out by the societies. A short history of this movement is given on pages 444-49.

An interesting and instructive account of the co-operative credit movement in Europe is given in Chapter V (pp. 283-406) which contains selected extracts from the valuable Reports of SIR F. A. NICHOLSON published in Madras in 1885 and of MR. J. R. CAHILL, published as a Blue Book in 1913. In the same chapter has been included, as a subject of comparative study, an account of the Egyptian system of making agricultural loans. It consists in the Government's enlisting the co-operation of a private Bank for providing borrowing facilities to the *fellaheen* and differs essentially from the co-operative credit system. The whole financial responsibility for these loan transactions rests with the Bank, which, financially assisted by Government, distributes the loans through its own officers, the Government having no pecuniary interest in the operations. The part played by the latter is limited to the collection of the Bank's dues through the officers who collect the land-tax, the Bank being thus saved the cost and responsibility of collection. It will be remembered that it was generally predicted that a similar system would prove a failure in India, although it had worked well in Egypt ; the reason apparently being that the volume of operations and the area of territory over which they extend in the latter country are much smaller and of more manageable dimensions than could possibly be dealt with by a Central Bank in India.

The compilation is designed to be a source-book and guide for advanced students and teachers who desire to prosecute a special study of the subject, and I hope to follow it up, under the auspices of the Calcutta

University, by similar compilations on some of the most important and fascinating subjects, such as Land Revenue, Provincial and Local Finance, Famine, Cotton Duties &c.

DARBHANGA BUILDING,

*December 24, 1914.*

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S. C. RAY.

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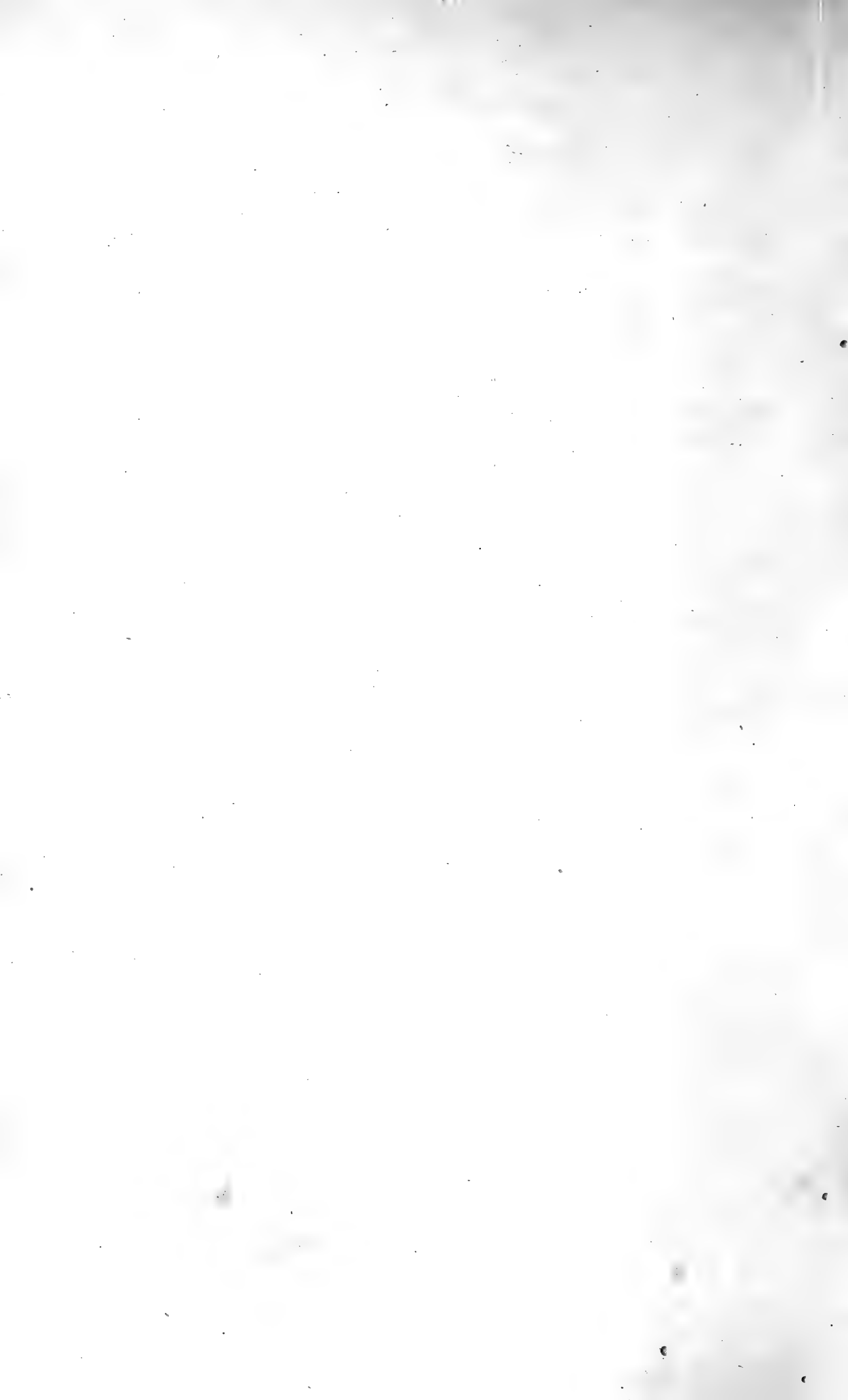
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# CHAPTER I.

## INDEBTEDNESS OF THE LAND-HOLDING CLASSES.

[*Extracts from the Report of the Deccan Riots Commission, 1875.*]

The earliest record shows that indebtedness was common among the Deccan ryots when their country came into our hands. Mr. Commissioner Chaplin reporting on the newly acquired Deccan districts in 1822, writes:—

“The ryots in many villages, though usually frugal and provident, are much in debt to *sowkars* and merchants owing to the oppression of the revenue contractors ; many of these debts are of long standing, and are often made up of compound interest and fresh occasional aids which go on accumulating so as to make the accounts exceedingly complicated ; a ryot thus embarrassed can seldom extricate himself. His exertion may be compared to the hellish torments of Sisyphus, who had no sooner rolled his burthen to the summit of the hill than it fell back upon him with redoubled violence. \* \* \* The *Miras*\* fields of ryots are sometimes mortgaged for these debts.”

Again he writes : “The Collector of Ahmednagar, notwithstanding some embarrassments, is of opinion that there is an universal tone of satisfaction among the ryots resulting from the improvement of their condition, and he thinks that they are gradually extricating themselves from their difficulties. The general feature of the picture is correct, but it is perhaps charged with colours a little too brilliant. He thinks that complaints against them from the *sowkars* are decreasing, but this circumstance is partly to be ascribed to many of these debts having been declared inadmissible.

These debts were of two kinds, public and private. The public debt of the village community arose usually from advances or loans made by the Mahratta Government to be recovered with interest from the revenues of villages assigned to the State creditor ; the private

---

\* *Miras* tenure comprised a right of occupancy at the customary rate and other privileges distinguishing it from the ordinary tenancy-at-will.

debts were the result of the system before mentioned by which the collection of the State dues was made through *sowkars*, who usually recovered in kind what had been paid in cash and drafts. The great mass of the agricultural population had no such interest or title in their land as to afford security for large debt. Mr. Chaplin indeed mentions that "*Miras* holdings are sometimes mortgaged," but in another place he estimates the selling value of *miras* land at not more than 2 or 3 years' purchase, and states that land yielding Rs. 200 of gross produce can seldom be mortgaged for more than Rs. 100. The usual and recognized method for recovery of debt was for the *sowkar* to send a Mohosul, that is, a servant whose maintenance had to be paid daily by the debtor, or to place a servant in "Dharna" at his door, (which is the process called "Tuquaza" by Mr. Chaplin,) or to confine the debtor in his house or otherwise subject him to restraint and even severer measures. It is plain that such methods could not be put in force against any but the humbler class of debtors, and doubtless the ordinary dealings of the *sowkar* and ryot were based rather on the ascertained result of experience, teaching each his own interest than on any power of compulsion in the hands of the creditor. The ryot's constantly recurring necessity could not be relieved unless he maintained his credit by good faith; and, on the other hand the *sowkar* had no support from without to look for in exacting more than a fair profit, which, considering his risks, would be also a large profit. Honesty was the ryot's best policy and caution was a necessity to the money-lender.

The condition of the ryot as regards his relation to the money-lender when British rule commenced may be summed up as follows:—

1st.—There was a considerable burden of debt, and many of the ryots were living in dependence upon the *sowkar*, delivering to him their produce and drawing upon him for necessaries.

2nd.—The ryot's property did not offer security for large amounts; his cattle and the yearly produce of his land being the lender's security, the mortgage of *miras* land was rather a means by which the *sowkar* got a firmer hold upon the produce than upon the land itself, for immovable property was not sold for

debt, and the *miras* title would have no value for a non-agricultural landlord.

3rd.—Rates of interest were very high, and much of the debt consisted in accumulations of interest.

4th.—The causes of indebtedness were chiefly the revenue system, and sometimes expenditure on marriages or such occasions.

5th.—The amount of individual debt was usually moderate.

6th.—The *sowkars* were usually men of substance maintaining establishments employed in dunning and looking after debtors.

7th.—The creditor received little or no assistance from the State in recovering debts, but had great license in private methods of compulsion.

### Causes of Debt.

The estate of an ordinary Kunbi ryot, exclusive of his land and its produce, has been estimated by competent authority to be of little more than Rs. 200 in selling value; it will be somewhat as follows:—

	Rs.
Live stock	125
Implements and utensils	20
House	50
Miscellaneous	20
	<hr/>
Total	215
	<hr/>

The recorded results of personal enquiry by the Commission prove how many of the population are possessed of less than the above average. With the exception of the land all the items of the estate are subject to depreciation, and imply yearly charges for maintenance and renewal. The people being thus possessed of very little beside their land, what kind of income does that yield them? The two crops—*bajri* and *jowar*—form the great bulk of the agricultural produce; in a large portion of the area under report they constitute  $\frac{8}{10}$ ths of the whole. Supposing that the rainfall was sufficiently constant to ensure a

moderate return every year, it would still be inevitable that the Kunbi should draw the whole of his year's income from land in the lump during the two months of harvest. As, however, there is one year of drought in every three, over much of the region, and a good crop also only once in three years, it follows that the income yielded to the Kunbi from his land is received *in full* triennially instead of annually. It is everywhere a serious aggravation of their ill fortune to the cultivators of indifferent soils that, their land yielding only one kind of produce, they receive the whole return in a lump, while better soils that admit of a variety of crop enable the cultivator to spread his receipts over six months of the year. This evil is intensified for the ryots of the disturbed districts by their capricious climate. It is hardly possible to conceive any conditions more certain to produce indebtedness among the poorer classes than these. When to these conditions is added the variation in the value of the ryot's produce which leaves him in absolute uncertainty at seed time what his crop will be worth if he get one, it is apparent that no great degree of improvidence is needed to account for his indebtedness, but rather that considerable industry supplementing the income of agriculture, and considerable frugality in living must be presumed in order to account for the large number of Kunbis who are not burdened with debt.

It would be idle to say that improvidence does not exist as a cause of indebtedness. It consists however rather in Improvidence. the short-sighted imprudence of an ignorant class ready to relieve present necessity by discounting future income on any terms, and unable to realise the consequences of obligations foolishly contracted, than in an extravagant expenditure or misapplication of income. The results of the Commission's enquiries show that undue prominence has been given to the expenditure on marriage and other festivals as a cause of the ryot's indebtedness. The expenditure on such occasions may undoubtedly be called extravagant when compared with the ryot's means, but the occasions occur seldom, and probably in a course of years the total sum spent in this way by any ryot is not larger than a man in his position is justified in spending on social and domestic pleasures. The expenditure forms an item of some importance in the debit side of his account, but by itself it rarely appears as the nucleus of his indebtedness. The sums usually spent on

these occasions have probably been over-estimated, or the operation of other causes in producing debt has been overlooked by the officers who have attributed the ryot's burdens so largely to this cause. This oversight would indeed be a natural consequence of the fact that it is only on marriages or similar occasions that expenditure by a Kunbi comes under observation. The amount spent by a Kunbi of average circumstances on the marriage of his son is from Rs 50 to Rs 75, a sum which by itself even at 24 per cent. interest could be repaid without much difficulty if his average margin of profit was not forestalled by other debt, and he were treated with fairness and moderation by his *sowkar*. The constantly recurring small items of debt for food and other necessaries, for seed, for bullocks, for the Government assessment, do more to swell the indebtedness of the ryot than an occasional marriage.

As a matter of fact the ryot's surplus is, in the majority of cases, already forestalled. Even those who are in fair circumstances and solvent have usually to maintain their credit by handing over all that can be spared of their crop 'on account' to their *sowkar*, and the poorer must do so under pain of civil process. There has never been a time when a large proportion of them were not under the burden of debt, and their present indebtedness is in great part a legacy from their forefathers. The enquiries of the Commission enable us to state with some measure of certainty that the chief cause of the present indebtedness of the ryot is ancestral debt.

It was hoped that the permanent title and the light assessment guaranteed by the survey settlement would so far increase the ryot's profits, and stimulate his industry that, by degrees he would free himself from the debt which hung round him. The increased production and the stimulus to agricultural enterprise did indeed follow as anticipated, but debt instead of diminishing, increased. The facilities for recovery of debt offered by our civil courts had called into existence an inferior class of money-lenders dealing at exorbitant rates of interest with the lower strata of the agricultural poor. As the value of the ryot's title under the survey settlements came to be recognized, and his eagerness to extend his cultivation grew

Stimulus to borrowing given by survey settlement contemporary with stimulus to lending given by increased facilities for recovery.

accordingly, a fresh start was given to the money-lender in his competition with the ryot for the fruits of the soil. The bulk of the people were very poor, and the capital necessary for extended cultivation could only be obtained on the credit of the land and its produce; existing debt left but little margin of profit to the ryot even under the reduced rate of assessment. This margin would go but little way to cover his increased needs for the stock, seed and assessment of new cultivation. While his return in produce for the first year or two would be but nominal, even the most cautious could not be expected to wait for accumulation of profits to take up fresh land for fear that the more wealthy or reckless should be before-hand with him. This too sudden extension of cultivation following the survey assessment was prominently noticed by Mr. Hart in 1841, and in the Ahmednagar District it was so excessive as to cause a re-action in the third and fourth years after these settlements.

The increase of the population taken as a sign of prosperity has been a subject of congratulation with the officers who have recently had to deal with the revision of assessment in the Poona District. It is doubtless a feature in the history of this region which, as much as any other, marks its changed condition during the last 30 years. The returns show an increase in population of about 45 per cent. in that period, and it is probable that the ratio of increase is progressive rather than uniform, as the spread of vaccination, sanitary precautions and facilities for medical treatment have reduced the virulence of epidemics, and improved communications have made dearths impossible and facilitated access to the markets for labour. Cultivation has reached its limit. The area of six cultivated acres per head of agricultural population must, considering the precariousness of the climate, be taken to mean that the produce of a good season of but three acres is available to each person of the cultivating class, half of the area of six acres being deducted on account of bad seasons, and the average yield being thus reduced to about half a *good* crop per annum. Comparing this with Guzerat, where the rainfall is rarely deficient, we find that each member of the ryot's family here has yearly the net produce of three acres of 8 annas assesment, while in Guzerat each person has the produce of two acres of Rs. 2-13-4 assesment, the former paying Rs. 3, the latter Rs. 5-11, to

Government, the net produce being in the case of the latter both of much higher value and having the additional advantage of not being received all at once. It has been estimated that the yearly cost of food and necessaries to each member of a Kunbi's family is about Rs. 25. Admitting that the food consumed by his family does not cost the ryot the market value, it is nevertheless plain from the figures of estimated yield\* of land, that in a year of average rainfall his receipts from six acres—two of each kind of soil—will leave a very narrow margin for Government assessment and expenses, amongst which the interest on the *sowkar's* loans in bad years must count as a current and unavoidable charge.

The deficit which frequently exists is made up by the produce of stock and of the dairy, and by the labour of the Kunbi and that of his family and his cattle. In illustration of this it may be noticed that the Collector of Ahmednagar reported that, owing to the drought and failure of crops in 1871, the agricultural population had to a great extent left their villages in search of labour for their maintenance. This exported labour must be looked upon as maintaining the solvency of the district, for little else is exported. The railway is not used for the export of produce. As stated by the Superintendent of Survey regarding the ryots of Bhimthari District, the practice is to save the surplus of a good season to meet the deficiencies of bad years. A little produce is sent to Poona in carts for local consumption, but the food grain of the region is consumed by the inhabitants.

The normal effect of a pressure of population upon land is that, soon as extended cultivation has reached the limit of profitableness, the cultivating class endeavours by improved agriculture and increased industry to obtain more from the soil. This result is under the present conditions not to be looked for here; on the contrary, there is a widespread belief that land is not so productive as it used to be. That their present state of indebtedness prevents the ryots from making efforts to improve the outturn of their land, there

*	GOOD SOIL.			MIDLING.			POOR.		
	R.	A.	P.	R.	A.	P.	R.	A.	P.
Jowar	...	13	8 6	5	13	0	2	13	0
Bajri	...	10	13 5	6	8	0	4	6	0

can be no doubt. Writing of the Ahmednagar ryot more than 20 years ago, Lieutenant Burgess of the Survey says, "As long as the ryot is in the hands of the money-lender, how can he prosper, being so involved? Should he do so, his prosperity would only make the usurer the richer without materially, if at all, increasing his own resources." This lesson the ryots have apparently now learnt; they find that the lands broken up and the wells dug with borrowed capital yield a profit only to the *sowkar*. To use Sir G. Wingate's words, "the ryot toils that another may rest, and sows that another may reap." The result has been well shown in a report from the Irrigation Department dated 16th June, 1875. It was found that the ryots did not use the water of the Lakh Canal, an important irrigation work in the Ahmednagar District. The Executive Engineer for Irrigation reported to Colonel Merriman, the head of his department, on this subject as follows:—"While on the canal I questioned the ryots closely, and they stated that, without exception, they were all deeply indebted to the money-lenders, who get as much as possible in the shape of interest on money lent out to each land-holder at harvest time. They stated that a very large portion of the value of each crop goes towards paying interest on their debts, and that they are discouraged from taking more trouble than necessary with the cultivation of their land. I consider it is very probable that this is the reason why so little is done towards extending irrigation on this canal." The Assistant Collector in charge of the District, Mr. Blathwayt, writes on the same subject to the Collector of Ahmednagar:—"I believe the fact is that the holders of land under the Lakh Canal are generally poor. Their lands have been mortgaged to *sowkars* who take away the products of the fields for interest of the money lent, and the poor landholders have to trouble themselves for nothing; they have to pay for the water, but could not get the profits to themselves, and consequently do not care to use the water." On the above, Colonel Merriman, the Chief Engineer for Irrigation, remarks:—"The reason given by Mr. Blathwayt is a very sufficient one. The district is very thinly populated, and the indebtedness of the cultivators no doubt explains why the progress of irrigation is so slow."

Whether the land itself now yields less than formerly it is impossible to determine with certainty. Possibly the belief generally held on this point is in some measure due to the fact, that as cultivation extended until it embraced

Productiveness said  
to be diminishing.



the poorest and most unprofitable soils, the general average of returns per acre diminished. The estimate of the cultivator was formerly based on the return of the better lands; he has now to include much inferior soil, but has not proportionately reduced his expectations.

The following causes, however, may have operated to decrease the actual out-turn of land in cultivation. A consequence of the payment of assessment by registered holdings instead of by actual cultivation is the discouragement of fallows. The ryot having nothing to pay for his wastes could well afford to let his land rest and cultivate portions in rotation. During the early period of our administration, the lands of this region were largely devoted to grazing purposes, and there was no direct Government demand upon the wastes so used. The encouragement given to cultivation by the survey was accompanied by a discouragement to grazing, through the right of pasture being made subject to purchase from Government. The supply of manure from flocks and herds, the demand for which should have increased with this increase in cultivation, diminished, and doubtless with it must have diminished the fertility of the soil.

Thus it will be seen that while increasing population demands more from the land than it yielded 40 years ago, the conditions of agriculture have not tended to increase its fertility, and indebtedness has taken away the natural motive to industry—the hope of gain—and thereby prevented relief from the increasing pressure being sought in improved cultivation. We are dealing now with the causes of indebtedness, and have been led to dwell upon one of its consequences; the case is only an illustration of the familiar fact, that the consequences of an evil often tend to reproduce it.

Another method in which relief from the pressure of increased population might naturally be sought is emigration. The habits and instincts of the Kunbi make him most averse to leave his village except for a short absence, but in a remarkable case in which 19 cultivators with their families, in all 66 persons, most of them inhabitants of Poona District, and many from villages in the area under report, went into Khandesh hoping to find work at Jalgaon, where there is a railway station with large traffic; failing in this they were already on their march to Indore to apply for land under H. H.

Holkar, when they were met by Mr. Pollen, the Assistant Collector in charge of the District, through whose means they were settled on waste lands in Khandesh. The cause of their leaving their homes, they informed Mr. Pollen, was that "their lands had gone and their creditors were merciless." In this case it is true the emigration was directly caused by the consequences of debt, and in so far as the creditors of these men had taken from them their yearly produce or their property unfairly, so far was the pressure which forced them to emigrate due to other causes than the increase of population; but at the same time the operation of this cause is indicated. We find the natural course of events which follow that cause in their story, their yearly income failing, they lived on their capital until that was gone, their labour was not wanted for the cultivation of the land they had lost, and there was no other opening for them nearer home.

The conclusion which we would adopt on the subject of the increase of population as a cause of indebtedness is that, had the agriculture of the district to support only its own producers, including a fair interest on capital actually expended on account of the land, it would be sufficient, with the assistance of the wages of exported labour during the idle season and bad years, to maintain them at their present number, and larger returns might be obtained from the land by improved cultivation to meet a still further increase. But agriculture pays a heavy tax to the *sowkar*, much of which neither represents expenditure on account of the land nor ever returns to the land; such holdings as pass into the hands of the *sowkar* will not, under hired labour, support so many persons as lands cultivated by proprietors, and these holdings are yearly increasing. Revised assessments have already in a portion of this region reduced the margin of the ryot's profits and thrust his creditor's demands further upon his capital; the revision of the remaining districts will make this encroachment more general than it is at present. It is not to be expected that increasing population will produce improved outturn; the demands of the creditor are sufficient to absorb any increased return, and the profit of labour invested will go to the *sowkars* to the discouragement of such investment by the ryot in future. Without such improvement in agriculture the return from the land must be expected to diminish rather than increase.

Another cause of the increase of indebtedness is the facility with which the money-lending class can command the assistance of the law in the recovery of debt, and consequent upon that facility, an expansion of the ryot's credit, inducing numbers of small capitalists to compete for investments in loans to the Kunbi. We have already quoted Sir G. Wingate's remarks on this point, although at the present time other causes have combined to impair the ryot's credit, still one material cause of his present condition must undoubtedly be sought in the state of things described in 1852, and since that date other causes have operated to aggravate immensely the evil which was then discerned. Whatever facilities were afforded by the law to the creditor in 1852 have been greatly enhanced by the introduction of the present procedure in 1859, and by the punctual conduct of judicial duties now exacted from the subordinate courts, while the ryot's credit has been enhanced by the addition of his land and agricultural stock and implements to the security liable for his debts.

The introduction of compulsory registration of deeds dealing with immovable property in 1865, protected the creditor from attempts to repudiate or dispute a registered bond. In the meantime the ryot's estate had risen in value, and new cultivation offered securities for new loans; his personal solvency was assured by the large demand for labour on the railway and other public works, and his title in his land was, in 1865, recognized and secured by an Act, which confirmed the rights vested in him by the survey settlement. The American War from 1862 to 1865, while, on the one hand, it poured money into the country to seek investment, on the other hand, raised to an extravagant pitch the value of agricultural securities. To the above causes tending to attract capital to the business of agricultural money-lending, we may add that in the dearth of other industries in this country with a population whose wants embrace little but the merest necessaries, capital which under other conditions would find employment in trade or manufactures, here naturally turns to agricultural investments, and almost the only course open to the clerk or servant who has saved a little money in a village *sowkar's* employment and desires to earn an independent living, is to set up in the same business himself, preferably in the place where he is already known.

The enquiries of the Commission have made it clear that the smaller class of *sowkars*, who are also the most unscrupulous, have increased very considerably during the last ten years, and that it has been a common practice for the ryot to borrow from one *sowkar* to pay another, or to borrow from two or three at a time. A result of this is that in the competition with inferior members of their class even respectable *sowkars* are obliged more and more to resort to the methods of swelling the debt and coercing the debtor practised by them. We here again quote the letter of Sir G. Wingate describing the change in the relations of the parties:—

“The prosperity of the ryot is no longer necessary to the prosperity of the village money-lender. The latter has no longer occasion to trust to the good faith or honesty of the former. Mutual confidence and good-will have been succeeded by mutual distrust and dislike. The money-lender has the ever-ready expedient of a suit at law to obtain complete command over the person and property of his debtor. It becomes the interest of the former to reduce the latter to a state of hopeless indebtedness in order that he may be able to appropriate the whole fruits of his industry beyond what is indispensable to a mere existence. This he is enabled without difficulty to do. So long as a ryot is not much involved, the money-lender is ready to afford him the means of indulging in any extravagance without troubling him at all about future repayment. The debt may lie over and he may choose his own time for repayment. The simple and thoughtless ryot is easily inveigled into the snare, and only becomes aware of his folly when the toils are fairly around him and escape is impossible. From that day forward he becomes the bondsman of his creditor. The latter takes care that he shall seldom do more than reduce the interest of his debt. Do what he will, the poor ryot can never get rid of the principal. He toils that another may rest, and sows that another may reap. Hope deserts and despair possesses him. The virtues of a freeman are supplanted by the vices of a slave. He feels himself to be the victim of injustice and tries to revenge himself by cheating his oppressors. He cannot get into a worse position than he already occupies, and becomes reckless. His great endeavour is to despoil his enemies, the money-lenders, by borrowing continually. When he has got all that he can from one, it is a triumph to him if by any

amount of lies and false promises he can get something more from another. When he has two creditors there is a chance of their fighting with each other, and that during the fray he may be able to snatch a portion of the spoil from both."

### Extent and nature of indebtedness.

In the foregoing pages we have endeavoured to show that the *Resume of previous chapters.* normal condition of the bulk of the ryots in the disturbed districts is one of indebtedness; that, owing to causes, some natural and others the result of our administration or of internal circumstances, this indebtedness had grown to an extreme point during the 20 years preceding the riots; that many years ago elements of danger to the public peace were detected in the temper of the ryot smarting under the consequence of his debts; lastly, that these consequences, averted for some time by the transient prosperity of the American War period, returned with multiplied force during the six years preceding the riots.

The extent of serious embarrassment through debt can be ascer- *Analysis of embar-* tained with fair accuracy from the enquiries of *rassment in 12 villages.* the Commission. It appears that about one-third of the occupants of Government land are embarrassed with debt, that their debts average about eighteen times their assessment, and that nearly two-thirds of the debt is secured by mortgage of land. For 12 villages the results in figures are as follows:—

Total number of Government occupants	...	...	1,876
Number of Do Do embarrassed	...	...	523
Assessment payable on their holdings	...	...	Rs. 10,603
Amount of debts on personal security	...	...	„ 1,18,009
Do on mortgage of land	...	...	„ 76,233

The proportion of *khatas* indebted to the total number of *khatas* in these villages is 28 per cent. The total debt is more than eighteen times the assessment. Of the occupants in embarrassed circumstances, about two-thirds hold land of less than Rs. 20 assessment. These figures entirely confirm the opinions stated to the Commission on the subject by the local officers, and tally in great measure with the results of investigations into indebtedness in other districts. It must be noted that the amount of his assessment is not an absolute standard of a ryot's solvency. Many cultivate the lands of

Wattandars or Inamders in addition to their Government holdings and the assessment does not show any addition for well irrigation, though the share in a well is a property of some value, and, as such, much sought in security for debt. Of the cultivators not included among the embarrassed class, some are in good circumstances, but the lowest stratum is but little removed from embarrassment; continuous bad seasons or further fall in prices would rapidly swell the proportion of embarrassed to solvent ryots, for there is no hard line between the 28 per cent involved and those above them.

The extent to which land has been lost to the cultivating class cannot be determined with accuracy, for much land is held in mortgage, of which the occupancy is not transferred to the *sowkar*. In the villages scrutinised by the Commission in the Ahmednagar District, it was found that about one-eighth of the occupancies had on an average been transferred to *sowkars*, namely, that the direct assessment payable by *sowkars* for land was about one-eighth of the whole demand on the village, but this only represents the amount of land in their occupancy as Government tenants. The increasing extent to which land is passing from the Kunbi to the *sowkar* has been illustrated above by the growth of the money-lender's *khata*s. These properties have been acquired within the last 20 years, and for the most part within the last ten years. In 1854 there were six suits on mortgage bonds of immovable property in the Court of Talegaon in the disturbed district of Poona, of which four were against Kunbis; in 1872, there were 192 suits of this description, of which 143 were against Kunbis. In the other courts having jurisdiction in the disturbed portion of Poona, three decrees were issued on this class of suits in 1854, of which two were against Kunbis; in 1872, 98 decrees issued, of which 69 were against Kunbis.

It is difficult to ascertain with any certainty the selling value of ordinary ryots' occupancies in the region under report. There are few bona-fide sales for cash, the returns of the Registration record are valueless for this purpose, and the revenue sales of defaulters' holdings are, for other reasons, little more reliable. The estimate may perhaps be hazarded that an average of seven years' assessment of dry-crop land would be a good price to the seller at present. Irrigated land would fetch a much higher price, possibly up to 15 or 20 years' assessment. Taking the debt of the 12 villages dealt with above, Rs. 1,94,242, we find it is due from occupancies of Rs. 10,603,

assessment; a liberal estimate of the selling value of these occupancies would not exceed an average of 10 years' assessment, and it is plain that the debt is nearly double the capital value of the land to an ordinary purchaser. The solution of this apparent anomaly is that the amount of the debt as represented in the bonds held by the *sowkar* is far more than the real value of the consideration which has passed, and the *sowkars* in no case expect to be paid in full; secondly, that the ryot's land is often more valuable as security to the *sowkar* than it is as an ordinary investment to a purchaser; for, through the great reluctance of the ryot to sever all connection with his land, the *sowkar* is able to exact more than the ordinary rent; and thirdly, the land is not the only security which the *sowkar* holds; the law gives him a command not only over the debtor's immovable property, but over his labour and the labour of his family.

### The nature of the dealings.

The transactions between *sowkar* and ryot are all conducted by means of bonds; an account current is hardly known. There is usually a debt of long standing, probably inherited, the interest of which makes a yearly debit. Besides this debit there are the retail transactions called in the vernacular "give and take", meaning that the debtor delivers his produce, or as much of it as he is obliged to deliver, to his creditor, and the creditor supplies his needs—clothing, assesment, seeds, food, and cash for miscellaneous expenses. Every now and then a larger item appears on either side, a standing crop as yet unripe is perhaps sold after a valuation either to the creditor himself or another,—the creditor in the latter case getting the price paid,—or a pair of bullocks or cow and calf are given to the creditor on account; against this the debtor draws occasionally a considerable sum for a marriage, for the purchase of land or bullocks or a standing crop, or for the digging of a well. Bonds are continually passed as the account progresses, sometimes a bond is taken as a deposit, and the debtor draws against it; or, a small transaction is included in a larger bond and the debtor is to draw against the balance.

Marwari *sowkars* keep accounts, but often only in the form of a memorandum book, money-lenders not belonging to the trading classes often keep

Sowkar's accounts.

no accounts ; but with all, the bond is the recognized record of the transaction. Bonds are never or very rarely made for large amounts. When a large amount of debt has to be reduced to paper several bonds are drawn : thus a debt of Rs. 175 will be represented by one bond of Rs. 100, another of Rs. 50, and a third of Rs. 25. Probably, the chief object of this arrangement is that the *sowkar* may have means to get a decree without much cost. A decree on the Rs. 25 bond will usually give him the power over the debtor that he requires to compel him to meet demands on account of the entire debt of Rs. 175, and will not cost so much. Moreover, interest usually ceases on a bond being converted into a decree, and it is not to the bond holder's advantage to take a decree for the whole debt. When the debt has reached an amount for which the ryot's personal security is not sufficient, it is commonly converted

Mortgages of land. into a mortgage of land ; where the ryot possesses a well or a share in a well, the well or share together with the irrigated land are preferred as security. Sometimes a joint security of another ryot of substance is added to the personal bond ; in such cases the joint surety usually has a direct interest in the loan, or as a near relation assists the debtor, or his security is purchased by private arrangement. Often before the mortgage of land is resorted to, there is a mortgage of the debtor's house, bullocks, crops, cart, or other movable property. When bullocks are mortgaged, the debtor has to pay for their hire which thus becomes the interest of the loan. When the mortgage of land is completed it is usual in the Ahmednagar District for the right of occupancy to be transferred to the creditor in the Government books. This is not the case in Poona. It is not easy to trace the cause of this difference in the practice of the two districts, but it is probable that the assessment being lower in Ahmednagar, there is more to be got out of Government land, and the Marwari, who has almost a monopoly of money-lending in Ahmednagar, is harder and more exacting in his terms than the *sowkar* of the Poona district, while at the same time the ryot is, if possible, more ignorant and helpless. It is not uncommon for the Ahmednagar ryot to continue paying the assessment of his land after he has transferred the right of occupancy to his mortgagee.

Joint Security.

Other mortgages.

Transfer of occupancy.



When the land has been transferred by mortgage, the *sowkar* almost invariably commences by leaving the debtor in occupation as tenant, and a form of mortgage exists in which the profits of the land really are all that is mortgaged, as the tenant is left in possession without any transfer or acknowledgment of the mortgagee's right, so long as he delivers the produce yearly. On a failure of the debtor to deliver the produce the mortgagee usually obtains possession. Sometimes the produce of the land is made to represent the interest of the loan, but more usually a specific rate of interest is cited in the mortgage bond. The debtor holds as tenant on every variety of terms and conditions. Often these are reduced to writing: either a lease or a deed of partnership (as the vernacular name runs) or a simple contract, where a rent in money is stipulated. Often it will be found that the rent is adjusted to cover the interest agreed on in the mortgage bond. As the amount of capital in the mortgage bond is usually more than the value of the land at 12 per cent. interest, and as the rate of interest in the bond is usually at least 18 per cent., it follows that the land will not yield the required sum, and thus the mortgagee constantly receives the full actual rent of the land, and in addition exacts bonds for the yearly deficit. Often the rent is settled in *kind* and the rates are mainly determined by the power of the mortgagee to screw his tenant. One mortgagor tenant in his statement used the following words: "I cultivate the land, but I have *no right* to take for my use any of the produce of the field." Doubtless, under the hardest conditions, the tenant *does* take something as was admitted by another ryot, who was bound to hand over the entire produce of a field to his *sowkar*; on the other hand, much land is held by mortgagor tenants in Poona at the usual rental terms, namely, half of gross produce of dry-crop and one-third of irrigated lands; the mortgagee paying the assessment, and seed and expenses being shared in the proportion of their respective interests in the crop. In Ahmednagar the *sowkar* has more power over his debtor and trusts him less, and regular contracts as to rent are not so usual, but the tenant is expected to pay the assessment and expenses and hand over the rest of the produce. One regular contract is in evidence under which the mortgagor tenant had to pay the assessment and half the crop of irrigated land. Considering the expenses of such cultivation this means tenancy with insufficient wages. On the other hand, a mortgagor tenant, whose bond was backed by a good security, got

his land to cultivate at one-fourth the produce, assessment and seed being supplied in the proportions of the landlord and tenant's interests in the crop. When the tenant pays in kind, his payments may exceed the amount of interest stipulated in the mortgage bond ; but he keeps no account of such payments, and the creditor was found in all cases enquired into by the Commission to have no conception of his responsibility for accounts on this head. As the responsibility cannot be enforced by the ryot, it practically does not exist. Doubtless, most mortgagee landlords *have* an account, but the ryot cannot get it without going to court, which to him is out of the question. Another form of mortgage, which is usually entered into only when the parties have come to a final settlement, is the transfer of the land to be enjoyed for a certain number of years in satisfaction of debt (*vivum vadium*) ; it is usually found, however, that before the period has expired the mortgagee has established claims giving him a further lien on the land. A similar

Instalment bonds.

method of settlement by an instalment bond is gladly accepted by a debtor, but here again the failure to pay one instalment in a bad year usually gives the debt a fresh departure. As above stated, the *sowkar* as mortgagee landlord usually allows the ryot to cultivate the mortgaged land, and as long as the ryot is left in this relation to his fields he accepts his fate without much bitterness. It often happens, however, that owing to default in payment by the tenant, or to better terms being offered by another, or to the cattle and implements of the tenant being sold in execution of a decree, it ceases to be the interest of the mortgagee to leave the cultivation in the tenant's hands, and the land is then taken from him.

Labour bonds.

Besides the security of the ryot's personal credit, stock, and movables, house and lands, and the joint security of a surety, the labour of the ryot is also drawn into his dealings with the *sowkar*. This form of bond is not uncommon in Ahmednagar, the terms being that the debtor is to serve the *sowkar*, and that his wages are to be credited at the end of the year, or that a certain sum is to be worked out by service to the *sowkar* for a certain period. Sometimes the wife's labour is also included in the bond.

It is an almost universal practice to enter in bonds that "no payments are to be alleged by the debtor, unless they are certified

Stipulation regarding receipts in bonds. by a receipt under the creditor's signature," or "that on payments being made, the bond-holder shall pass a receipt. As no instance has come to notice of a creditor giving a receipt for part-payments, it must be presumed that the former stipulation is inserted in order to deter the debtor from pleading part-payment when sued, and the latter stipulation to satisfy the debtor's desire to have something in the bond which shall make it the duty of the creditor to pass receipts.

One of the most noticeable features of these *sowkars'* dealings is the peculiar system of retail business which reduces all transactions, even the most trivial, to the form of written contracts. This system does not prevail to the same extent in other parts of the presidency, where the account current is kept open until the balance has reached an amount which makes further security desirable. The invariable use of bonds in the region under report is probably the result of the more precarious character of the ryot's assets, due to his greater poverty and to the uncertainty of the climate, and it is an indication of the extent to which the character of ordinary trade transactions has been affected by their alliance with a money-lending business much of which is unsound. The ryot is constantly in great need, and has thus most limited choice in his means of relief. The *sowkar* is sharp in business and fully understands the weak side of the Kunbi and the urgency of his necessities. The terms upon which they deal are that every debit is to be protected by a bond giving the *sowkar* unlimited powers of recovery, and that the credit side is to be left to the honesty of the creditor.

[*Extracts from the Famine Commission's Report, 1880.*]

**(Part II, Chapter III, Section IV.—Pages 130-136.)**

No subject has been more strongly and frequently pressed on our attention than the evil results which spring from the degree to which the landowners are sunk in debt, the asserted rapid increase of their indebtedness, and the difficulty they find in extricating themselves from such burdens. In some parts of India, notably in the four districts of the Bombay Deccan and in the Jhansi district, their indebtedness has become so grievous that the Government has recently been led to take special steps for their rescue, and in other parts it has, at different times, intervened to protect special classes whose ruin, otherwise unavoidable, it was thought necessary, on political grounds, to ward off. On a topic which has been so long and earnestly debated by every Indian administrator of importance it is difficult to make any new suggestion. It was fully discussed last year in the Council of the Governor-General of India, and remedial measures were adopted which are still only in an experimental stage, so that we can offer no conclusion based on the result of their actual operation; but the subject is one of such gravity that the Famine Commission have felt bound to give it their most careful consideration:

2. We have found no reason to believe that the agricultural population of India have at any known period of their history been generally free from debt, although individuals or classes may have fallen into deeper embarrassments under the British rule than was common under the Native dynasties which preceded it. It has been usual for the landholders in all times habitually to have transactions with the money-lender of their village, with whom they carry on a running account on friendly terms, taking from him advances for seed and food in the months preceding the harvest and handing over to him the greater part of their produce, from the money proceeds of which he pays their dues to the State and places any balance to their credit. Under this arrangement the ignorant cultivator was relieved of much trouble and responsibility, and his payments to the Government were conducted for him by the money-lender or village-headman. His account might run on amicably for a long series of years unless extravagant expenditure on family ceremonies, or a failure of the

harvest from drought, should involve him in difficulties beyond his ability to meet. Even in such cases the money-lender would be deterred from extreme measures by popular opinion, and by the knowledge that he could count on no support from the ruling authority in selling up and reducing to destitution a member of the class on which the payment of the land revenue depended. Thus, though the cultivator (in the absence of any power of obtaining loans on the security of his holding) was never deeply involved, he was seldom free from debt, and lived the life of a contented serf, exempt from the risks and responsibilities which accompany the possession of independent rights, but also without any stimulus to raise himself or improve his position.

3. The changes which have been introduced under the British Administration are for the most part those which will always occur in the progressive development of social life from a simple to a more advanced stage. Of these changes those which have affected the landed classes consist chiefly in their admission by the State to better defined rights of property in their holdings, combined with the more complete recognition of the force of contracts, and the obligation on the courts of justice to enforce them. It is to be expected in every forward movement in the education of a people that while the result is beneficial to the country as a whole, some classes or individuals will fail to display the qualities needed to benefit by the advantages offered, and will suffer inconvenience under the novel circumstances to which they are unable to adapt themselves. But although a section of the landholders has thus suffered, we ought not to overlook the fact that the class as a whole has prospered under British Administration, and that the more enterprising and substantial landowners have greatly benefited by the enlargement of their proprietary rights, and by the moderation with which the land revenue is now assessed.

4. We learn from evidence collected from all parts of India that about one-third of the landholding class are deeply and inextricably in debt, and that at least an equal proportion are in debt, though not beyond the power of recovering themselves. It is commonly observed that landholders are more indebted than tenants with occupancy rights, and tenants with rights, than tenants-at-will, a result obviously attributable to the fact that the classes which have the best security to offer are the most eligible customers of the money-lenders.

It does not appear that in this respect one province greatly differs from another, but certain localities are from special circumstances either above or below the average condition. Thus, in the Punjab, the canal-irrigated tracts are stated to be highly prosperous; in Eastern Bengal, the profits of jute cultivation have enriched the cultivating tenants; in the Central Provinces, the land holders have profited in the same way by high prices of cotton and large exports since the American War; in Madras, the ryots of the deltas are in easy circumstances. On the other hand, the precarious out-turn of the crops, with other adverse circumstances, has grievously depressed the landholders of the Bombay Deccan and the adjoining districts of Madras, as well as those of the somewhat similar region of Jhansi; and many of the talukdars of Oudh, of Sindh, and of Guzerat without such excuse, have been led by a course of extravagance into a state of bankruptcy, to relieve them from the consequences of which special legislative measures have been framed.

5. With regard to the creditors of the landed classes we are informed that in the more prosperous parts of the country the substantial landowners are themselves engaged in money-lending, and that neither they nor the professional money-lenders of the better class often employ the agency of the Civil Courts against their debtors. But it has happened in some cases that when a district has fallen into depression, it has attracted an inferior class of foreign usurers, who have no scruples in using every means open to them to secure a profit on hazardous transactions, and who, working entirely through the machinery of the Courts, are not inclined to cultivate sympathetic relations with the people, by whom they are detested in turn. It is not probable that the gains of these usurers are excessive, but they are exacted with the utmost degree of friction, hostility, and suffering, with the unfortunate result of attaching odium to the civil tribunals.

6. However just may be the terms of abhorrence applied to the "Marwari," or foreign usurer, it must be remembered that he is the product of a diseased condition of the community. The like condemnation must not be extended to the village banker of the better class, with whose useful services the rural communities of India have at no time been able to dispense. Any violent interference with the legitimate business of the rural banker would be disastrous, as it would result in the calling-in of all agricultural loans, and the transfer of this capital to some other field of investment. The State should rather

assist him in his transactions so far as they are lawful, should afford additional facilities for the recovery of reasonable claims, and should thus induce him to make loans at a lower rate of interest than that which now prevails, under the custom established under Native rule when the security was very inferior. The aim of all remedial measures as regards the landholders should be to make his dealings with his banker fair and open, and while protecting him from extortion or oppressive measures of coercion, to constrain him to pay his just debts to the full extent of his means, but by less cruel and ruinous expedients than imprisonment or the sale of all he possesses. The means available to these ends are cheap and accessible courts which shall give full consideration to the equity of every claim, and a simple method of recovering debts.

7. The origin of debt among the landed classes is traceable to various causes, among which the most prominent are the failure of crops from drought, expenditure on marriage or other ceremonies, general thriftlessness, an improvident use of sudden inflations of credit, the exactions of an oppressive body of middlemen, and administrative errors, such as unsuitable revenue settlements; and debt once incurred very rapidly grows with exorbitant rates of interest. In so far as the causes of indebtedness lie in the inherited tendencies of the people, such as want of forethought, and readiness to promise anything in the future in order to secure present gratification, no remedies are possible, except through the spread of education, the gradual growth of provident and self-denying qualities under the influence of painful experience, and the success of the stronger and thriftier individuals in the struggle for life. It is obvious that there is danger lest any intervention of Government should hinder the growth of such qualities, or protect the weak and foolish too completely against the consequences of their own action. But where the misfortunes of the landholders have ensued on the introduction of novel institutions, somewhat too advanced for their present stage of intelligence and forethought, it is the duty of the Government, for a time at least, to moderate the stridency of the action of those institutions; and this has commonly been the object of the remedies which have been suggested.

8. Among the administrative measures by which indebtedness is alleged to have been caused, is the system of rigid and regular collection of the land revenue. Seeing the very small proportion

which the land revenue bears to the gross produce of the land, there cannot be much foundation for this view, though numerous instances have been given of men who in times of calamity have been forced to borrow, and who have never been able to recover themselves afterwards; and it is to prevent such a misfortune as this that we have already recommended that on such occasions greater leniency should be shown in postponing the demand till better times. But we think that too much weight should not be attributed to this cause; the fact that landowners who have no land revenue, or only a light quit-rent to pay, are often also deeply embarrassed, proves, if indeed it required proof, that the payment of the land revenue is not the main cause of debt. If a man spends all his income on himself, and borrows to pay his rent or taxes, it can hardly be said that his indebtedness is due to the fact of his having rent and taxes to pay, when these charges bear so light a proportion to income as the land revenue does to the gross out-turn of the land.

9. It has, again, been alleged that the action of the Civil Courts has contributed to the indebtedness of the agricultural classes, and various suggestions have been made for constituting tribunals and a procedure which may provide more effectually against this result. Sufficient regard is not, it is said, in all cases, paid to those equitable considerations which are of such essential importance in the adjudication of disputes in which the ignorance, improvidence, or the necessity of the one party, places him at the mercy of the superior intelligence and resources of the other. Contracts, the extravagant one-sidedness of which bespeaks a sense of hopeless weakness on the one side, and a spirit of unscrupulous exaction on the other, have been enforced by the Civil Courts with too mechanical an adherence to the letter of the law, and too little regard to the circumstances of the parties and the substantial merits of the case. Native customs which tempered the severity of contracts, such, for instance, as that which restrained the rate or amount of interest, have been swept away, and a rigid and elaborate legal system has too often proved only an additional instrument of oppression in the hands of the more wealthy or better instructed litigant, and an additional cause of ruin to the impoverished agriculturist.

10. Several alterations have, however, within the last few years, been made in the Code of Civil Procedure with a view to providing adequately for the relief of insolvent debtors, to guarding against



the oppressive use of the machinery for executing decrees, and especially mitigating the harshness of its operation as regards agriculturists. Tools, implements of husbandry, the cattle necessary for tillage, the materials of his house are in the case of an agricultural defendant exempted from attachment or sale in execution of decree. The district officer is further empowered to represent to the Court that the sale of land in execution of decree is objectionable, and that the decree can be satisfied by temporary alienation or management, and thereupon the Court may authorise such satisfaction. Another provision enables the Government in any particular area to transfer the execution of such decrees as involve the sale of land to the district officer, who is thereupon invested with authority to deal with the land, adopting various courses for satisfying the decree, and avoiding the necessity, except in the last resort, of an execution sale. The Government, the High Courts, and other superior tribunals will no doubt continue to watch with care the operation of the law, and to take every precaution against its abuse.

11. Some evidence was brought before us in favour of a simple and inexpensive system of settling disputes by the agency of unpaid arbitrators, and it was suggested that in this way relief might be afforded to agricultural debtors. We observe, however, the existing law makes ample provision for recognising references to arbitration by consent of the parties, and for giving to the awards of arbitrators so appointed the form of a decree. It has not, however, been found that this mode of settling disputes is generally popular; and we were informed that recent changes in the Stamp Law, by which a heavier fee than before is imposed in submissions to arbitration and awards of arbitrators, will tend still further to discourage resort to this mode of adjustment. If this prove to be the case, it would be matter for consideration whether the Stamp Law might not with advantage be altered in this respect. Arbitration, other than that by consent of the parties, stands, of course, on an altogether different footing, and there is no reason to suppose that it would be for the benefit of any class of litigant. On the contrary, it would be likely to open the door to much of that corruption which is so serious a difficulty in the administration of justice in India. The Civil Courts are strictly controlled and supervised, and are, whatever their other imperfections, incomparably purer than any tribunal before known in India; nor is it probable that an equally high standard of purity

would be attained by recourse to a less exact procedure and less responsible agency.

12. The two most important cases to which the attention of Government has recently been called by evidences of special distress are those of Jhansi and the Bombay Deccan districts. In both of these the popular tendencies to indebtedness are said to have acquired an increased power for mischief under the novel circumstances created by "the fatal gift of transferable rights in the soil, and the establishment of Civil Courts in an ignorant population." In both, the ruin of the land-owners has been precipitated by the harsh and extortionate practices of an inferior class of money-lenders. In the case of Jhansi, remedial measures are still under consideration, but for the four Deccan districts a special remedy has been devised and is now on trial.

13. The facts of the case which the Act for the relief of indebted agriculturists in certain parts of the Deccan was designed to meet, explain how a rural population may sink below the level of average prosperity. Much of the soil is poor, the rainfall capricious, and the out-turn of the harvest liable to violent fluctuations. The conditions which prevailed in the Deccan under Mahratta rule were unfavourable to steady industry, and the present generation has come within the influence of a most exceptional disturbance of prices. A sudden rise in the value of cotton at the time of the American War occasioned a vast inflation of credit, which was fed by a corresponding influx of capital seeking investment, whereby the landholders, under cover of the proprietary rights they had acquired, were tempted to improvident borrowing. Being deficient in the qualities of forethought, energy, and self-reliance, they were thus laid open to new dangers, while their improvident habits were such that the low unvarying revenue assessments of our Government brought them no advantage. The extravagant habits engendered by this temporary prosperity were not easily laid aside, and the subsequent collapse in prices, combined with bad seasons, threw them into debt. As indebtedness became more hopeless and inextricable, the money-lender resorted more freely to the aid of legal process, and the debtors, exasperated at the invasion of their cherished rights in their holdings, were driven to despair, and finally on several occasions to rioting and violence. The proportion of land-owners seriously embarrassed does not appear to exceed 30 per cent., but the amount of debt in proportion

to income is heavier than that stated to exist in other provinces, and about two-thirds of the debt is said to be secured by mortgages of land.

14. By the Act which has recently come into force for the relief of the Deccan agriculturists, village registrars are to be appointed, before whom agriculturists are to execute all instruments relating to obligations for the payment of money or charges on property, and all conveyances and leases: any deed not thus registered and attested is not to be deemed valid. Agriculturists are entitled to demand receipts for all payments, as well as yearly statements of account, or pass-books in which their account shall be written and attested by the money-lender. The local Government is empowered to appoint village munsiffs, with jurisdiction in small suits of which the subject-matter does not exceed ten rupees, a system which has been found to work well in the Madras Presidency. Suits of larger value will be tried by additional subordinate judges who, when the defendant is an agriculturist, will, as a rule, inquire fully into the history of the debt, take a separate account of principal and interest, credit the debtor with any money repaid, disallow all interest which the Court deems unreasonable, follow, in decreeing the amount due, the principle of Hindu Law known as *dam dupat*, under which the interest must not exceed the principal, and fix instalments for the payment of the sum decreed. The Government will doubtless exercise the powers provided by law for reducing the expense of stamps and fees in these Courts. If the decree is for less than 50 Rupees the Court may discharge the agriculturist at once on payment of as much as he is able to pay. If the defendant is found to owe 50 Rupees, or upwards the Court may treat him as an insolvent, and any agriculturist whose debts are of similar amount may be declared an insolvent on his own application. In such case all claims against him are called in, and the amount to be recovered from him is ascertained by inquiry into the history of them all. No agriculturist can be arrested or imprisoned in execution of a decree for money, nor can his immoveable property be attached or sold unless it has been specifically mortgaged. In the latter case the Court may direct the Collector to let the property for a period not exceeding 20 years, if thereby a premium can be obtained equal to the amount of the secured debt, or otherwise to sell it. If the debts are not secured by mortgage, the Court may direct the collector to manage any immoveable property (other than

houses or buildings) not required for the support of the insolvent and his family, for a period not exceeding seven years, and the proceeds to be divided among the creditors. It is understood, though the case is not directly provided for in the law, that it is the intention that the agriculturist should, whenever possible, be retained as cultivator of the managed property paying a reasonable rack-rent under suitable precautions. While any property is in the collector's hands the insolvent is not allowed to encumber or alienate it.

15. Experience will show whether, after the mass of existing debt is disposed of under these provisions, the money-lenders will withdraw their capital beyond the reach of the Act. Some uncertainty is felt on this subject, but there seems no reason to doubt the assertion of many native witnesses, including village bankers, that the creditors are prepared to make large sacrifices in return for the interposition of Government to effect prompt recovery of their money, and the measure will at any rate have the effect of clearing off the existing burthen of debt.

16. The Deccan Riots Act has been passed so recently that we have no information as to how it is found to work in practice, and such experience can be the only safe guide in this subject; but if this proves satisfactory, the principles embodied in it might, with advantage, be applied to other parts of India. Two of the principles contained in the Act may perhaps be singled out for especial reference. The multiplication of small village Courts, presided over by the village headmen, and of village registrars, before whom all bonds for debt must be executed, would probably be of good effect in all parts of the country. Considering that of the 1,400,000 suits annually disposed of by the Courts of British India, 1,200,000, or 85 per cent., are for sums under Rs. 100, and 630,000, or 44 per cent., for sums under Rs. 20, a strong *prima facie* case appears to be made out for tribunals which shall dispose quickly, easily, and cheaply, and by a procedure suitable to the wants of a humble order of litigants, of a vast mass of petty litigation. Village tribunals of this description already exist in the Madras Presidency, and we are glad to know that the Government of India has invited the various local administrations to consider how far it may be possible or desirable to extend the Madras system to other provinces.

17. The second is the creation of special courts with a procedure specially devised to take up and dispose effectually of cases of this

kind. Wherever the indebtedness of the land-owners has assumed serious proportions, the appointment of special Courts to examine into their debts, to reduce their amount to the sum equitably due, and to fix instalments which would pay the debt off in a given number of years, at a rate of interest proportionate to the diminished risk, would appear to be the only effectual way in which Government can remedy the evil.

18. It is, we think, deserving of consideration whether the existing law of contract and the rules of procedure provide adequately for the case of the ignorant peasants in any transactions which goes beyond the scope of their ordinary life. It is characteristic of these classes to promise anything, to submit to any condition for the future, if only relief for the present can be secured; and it is in dealing with such cases that the Indian Courts are said to fail in providing adequate protection. The Contract Act does, we understand, mention certain specific grounds, such as mistake, fraud, or undue influence, on which contracts may be disputed; and the general duty of following "justice, equity and good conscience", which has at all times been enjoined on Indian Courts, renders it obligatory on every judge to secure, as far as possible, the interests of justice, in its highest sense, between the parties before him. But if it be the case that this obligation is sometimes insufficiently recognised, it would be well that the language of the law on this subject should be rendered more explicit and the duty of the judge be more distinctly pointed out. Instances were brought to our notice in which bonds, the terms of which were in a high degree suspicious, have, on the mere admission of signature by the defendant, been, without further inquiry, made the basis of a decree which involved most unfair advantage to the one party and the total ruin of the other. It should, we think, be expressly enjoined on the judge to satisfy himself that the defendant was fully alive to the character of the transaction, that the bargain was not extorted in a moment of extreme necessity, that the relations of the parties were such as to leave each a free agent, and generally to apply to the contract all those considerations which the scruples of English equity judges have interposed between improvidence and those who would fain turn it to their own advantage.

19. We advocate, however, one modification of the Bombay Act in respect of the provision which, if the land has been specifically mortgaged, necessitates its alienation, temporary or permanent, from

the management of the mortgagor. This provision is severer than that of the amended Civil Code under which the collector may liquidate a decree by managing the land, for a term not exceeding 20 years through another; that "other" being, if the collector thinks fit, the mortgagor himself, who may then be kept on as the cultivator of the land. If the debtor is turned out, and the land is let to another person for a term of years, at the expiry of that term the debtor will re-enter with no increased sense of the importance of thrift, but with additional incapacity, through the disuse of years, for managing the land. We therefore recommend that in all such cases the principle should be followed of paying off the debt by instalments, the land remaining in the hands of the debtor and being managed by him, on payment of a full rent, the excess of which above the revenue would go towards the liquidation of the debt; such payments being collected from him by the Revenue Courts along with the land revenue, and being made over every half year to the creditor. In the event of the debtor's failure to carry out such an arrangement, and to pay the instalments thus fixed unless he is prevented by drought or any other exceptional calamity, he should be ejected and his rights in the holding sold, when it may be hoped that he would be replaced by a better and more thrifty man.

20. As a supplement to cheap and accessible Civil Courts, the assistance of the Revenue officials in the repayment of agricultural debt is probably the greatest benefit to both debtor and creditor which the Government is able to offer. The Revenue officers are possessed alike of the means of ascertaining what the debtor could pay, and of realizing the instalments of his debt with the minimum of cost and risk to the creditor. In Upper India, a Zemindar who has a gross rental of Rs. 100 pays Rs. 50 as land revenue, and about Rs. 15 in cesses. Rs. 10 must be set aside for the vicissitudes of the season, and Rs. 25 may be taken as the minimum annual profit he receives as a proprietor. In the majority of cases he himself cultivates a portion of the estate; if, then, he is content to pay a cultivator's rent, and to live on a cultivator's profit, he is able to pay his whole proprietary profits, or Rs. 25 a year, or 50 per cent on his government revenue, in liquidation of his debts. Such an instalment will clear off a debt of Rs. 100 at 12 per cent in 6 years, or of Rs. 200 at 9 per cent in 14 years. In Southern India the margin between the Government rates and a full rent is probably not so great, but the Revenue authorities would decide what the average profits of a ryot are. On such considerations the

instalments should be fixed, and when fixed they might be collected with the land revenue and paid over to the creditor, who would thus be freed from all trouble in executing his decree, and from almost all risk.

21. The risk being thus lowered, it is but reasonable that the rate of interest should be reduced; and this is an essential part of any scheme for paying off large amounts of debt. It may not be wise to fix by law the limits of rates of interest which the Court shall decree, but it would seem desirable that the local Government should be authorised to indicate to the Courts the maximum and minimum rates that should, with a general reference to the value of money, ordinarily be paid. At present 24 and 36 per cent. are commonly paid by agriculturists,—rates which would be fatal to successful agricultural enterprise in any country. Six per cent. is the rate now usually paid by Native merchants when they borrow from each other as a temporary convenience, and something above this may be necessary in India in the case of profits dependent on the land and the weather, but the object should be not to recognise any rate in excess of that which would be reasonable, having in view the character of the security offered.

22. The same principle adopted for dealing with existing debt might also be applied in the cases of new loans raised by owners of unencumbered estates. A mortgage need not be an agreement entered into privately, and on very onerous terms, between the money-lender, taking all risks, and the landowner, assenting to terms he does not understand, but might, with advantage to both parties, rather be an agreement openly made between them before the Collector, and on terms sanctioned and to be enforced by him. Any mortgage not so made would rank only as a simple unsecured debt, and no cognizance of it would be taken by the Court which alone would have jurisdiction in respect of landed debts. Personal and unsecured debts would not be put beyond the pale of the law, but decrees for them would not be liable to be executed against the land. In special tracts it might be thought advisable that the Collector should be empowered to refuse his sanction to a loan incurred for an extravagant or merely ceremonial purpose, or for any cause but one of agricultural improvement or necessity.

23. The landholder would in such case execute an agreement before the Collector, or the Court which deals with agricultural debts, to repay the loan, principal and interest, in an appointed number of instalments,

which would be collected from him in the same way as the land revenue, next after any sums due to the Government. The estates on which such loans are secured should be free from other encumbrances, and it should probably be enacted that no claims on the land should be recovered except by the Collector as above stated, and that he should recover none except those thus openly arranged before him. The landholder would be required to surrender his right of transfer or sale while his holding is thus charged. His power of improvident borrowing would certainly be restricted, but he would be protected from the danger of losing his land, while the creditor would have good security up to a certain definite and calculable limit, and would be able to lend at moderate interest. If a landholder is unable to offer the security necessary to enable him to obtain a loan on these terms, we would not withdraw his power to sell his rights. Nor would we be understood to recommend any interference with the free transfer of landed property, or with the rate of interest, except in cases where, and so long as, the condition of the landholding community presents unhealthy symptoms which seem remediable by such expedients.



[ *Extracts from the Famine Commission's Report, 1901.* ]

(Part III, Section VI.—Pages 106-111)

INDEBTEDNESS IN THE BOMBAY PRESIDENCY.

326. The indebtedness of the Bombay *ryot* has for many years engaged the earnest attention of the Supreme and Provincial Governments. We agree with the analysis of the causes of such indebtedness made by the Deccan Riots Commission; but we desire to call special attention to the agrarian system introduced by the Survey Settlement as an accentuating cause of indebtedness, and more especially to the unrestricted right of the cultivators to transfer their holdings which the Survey Settlement recognised. A brief exposition of the leading features of this agrarian system is necessary to explain our meaning.

327. The salient features of the system are, (*a*) the creation of a territorial unit of land revenue assessment, which is called 'the field'; (*b*) the assessment of land revenue on each 'field' independently, each thus becoming a separate holding; (*c*) the recognition of the recorded occupant of 'the field' as possessing complete proprietary rights over it, subject only to the payment of the revenue or tax assessed on it; and, (*d*) the punctual recovery of the tax from the recorded occupant in bad years as in good.

328. The system was devised for small cultivators; there was no intention to create large holdings. "There would seem," wrote Captain Wingate, one of the authors of the system, "to be few grounds for anticipating the establishment of wealthy agriculturists cultivating large farms under any circumstances in India. Our measures have to be framed for the class of small farmers who now prevail universally." Accordingly, the 'field' was designed to contain "the extent of land capable of being cultivated by a pair of bullocks." This was the theory; but the facts of existing holdings and their boundaries were accepted and fitted, as best might be, into the new scheme.

329. The recorded occupier of each 'field' under the Survey Settlement became the recognized owner, subject to the payment of a moderate land tax. His rights as owner were, says Captain Wingate, "absolutely free from all conditions except the simple one of discharging the Government tax." But this condition was to be rigidly enforced. In the discussions which preceded the adoption

of the principles of the "Joint Report," which is the basis of the Bombay Revenue system, the advantages of elasticity in the collection of the land tax did not escape notice. But, nevertheless, a leading principle of the Revenue system, as finally established, was that, in view of the moderation of the assessment, sufficient elasticity was given by making the assessment of each 'field' separate, and by giving the registered occupant complete power of transfer or relinquishment over his 'field.'

330. A strong tenure of this sort held at a low assessment was a very valuable property; and it is easy to see now that it would have been wise to have kept a vigilant watch over the use which an ignorant and unthrifty peasantry was making of it. But the authors of the system held that the best way "to excite the cultivator to independence and to create agricultural capital" was "to exempt him as much as possible from the pupilage to, and surveillance of, Government officers." There was, it was said, "an obvious advantage to get land out of the hands of the cultivators unable to pay their way and to transfer it to cultivators with more capital.\* \* \* As the customs and native revenue systems of India are adverse to land transfers, it is therefore all the more necessary to adopt measures for giving them effect." Accordingly it was decided that there should be no interference by Government officers with the people, and that no enquiries should be made regarding the financial condition of the cultivators.

331. Thus things were left to take their own course; and the result was,—as invariably happens when an ignorant and improvident peasantry can dispose, without restriction, of valuable rights in land—that the cultivators sank deeper into debt, and their property began to pass out of their hands. It must be admitted that the conditions on which, under the Revenue System, the cultivators held their lands helped to bring this result about. The rigidity of the revenue system forced them into debt, while the valuable property which they held made it easy to borrow.

332. This is the state of things to-day, and while it remains unaltered, indebtedness in the Bombay Presidency must continue and increase.

333. We desire to guard ourselves against the supposition that we impute want of care or solicitude for the people's interest to the authors of the Bombay revenue system. The authors of that system were men of ability, humanity, and zeal for the public good, and

nothing is further from our thoughts than to impugn the excellence of their intentions. What we wish to point out is that their intentions have not been fulfilled. They expected the accumulation of agricultural capital; but their plans did not promote thrift, nor did they conduce to the independence of the *ryot*. They looked for the capitalist cultivator; and we find the *sowkar's* serf.

334. On the extent of the indebtedness of the Bombay cultivators no precise official information, we believe, exists; but there are materials for a probable estimate. We know that the Deccan Riots Commission of 1875 found that "about one-third of the occupants of Government land are embarrassed with debt; that their debts average about 18 times their assessment; and, that nearly two-thirds of the debt is secured by mortgage of the land." We also know that the money-lenders, in the villages visited by the Commission, paid about one-eighth of the whole land revenue—their property having been acquired within the preceding twenty, and for the most part the preceding ten, years—while it was notorious that the private transfers of land were, in most cases, not recorded. The Commission of 1891 found that, within the preceding eight years, land paying 10 per cent. of the revenue in the districts which they visited, had been sold, two-fifths going to money-lenders; while lands paying  $17\frac{1}{2}$  per cent. of the revenue had been mortgaged, four-sevenths going to the *sowkars*. In his evidence before us, the Chief Secretary to the Bombay Government said that 28 per cent. of the land in Broach had passed into the possession of the money-lending classes; and from a report of the Collector of Ahmedabad it appears that, in his district expropriation of the old owners has also made considerable way. Taking all these statements into account, and comparing them with the evidence we have recorded, we think it probable that at least one-fourth of the cultivators in the Bombay Presidency have lost possession of their lands; that less than a fifth are free from debt; and that the remainder are indebted to a greater or less extent.

335. It is unnecessary to retrace here the efforts which since 1875 have been made to remedy this lamentable state of things. Commissions have sat and reported; Acts of the Legislature have been passed and amended; executive action of various sorts has been taken. But, of all, the result has been disappointment. Comparing the statistics of sales and mortgages in the four districts to which the

Relief Acts have applied with the corresponding figures in non-Act districts, and weighing the evidence of the witnesses on the point, we form the conclusion that these Acts have done but little substantial good. Indeed, there is positively room for holding—and statistics show—that transfers of property, both by sale and mortgage, have become more frequent in districts to which the relief Acts apply. We therefore think that the time for palliative measures has passed, and that the hour has come for recognizing facts as they exist, and for applying those measures which the facts demand, no matter how unwelcome may be the disillusionment that they may bring.

336. The cultivators, whose names are recorded, may, for the purpose in hand, be divided into three classes:—(1) those who have completely lost their lands; (2) those who have only mortgaged their rights; and (3) those who are free from debt. We are only concerned with the first and second classes.

337. It is a curious, but common, practice in Bombay for the money-lender owner to maintain the name of a cultivator of the first class on the village proprietary register, and to keep his own name off it. The motive for such action is suggested in paragraphs 70 and 77 of the Report of the Deccan Riots Commission, which also incidentally explain why such a large portion of the land revenue in the Bombay Presidency is paid by money-lenders:—

“Instances of the redemption of mortgage are almost unknown; a mortgage is equivalent to a transfer of the *ryot's* title, his interest in the mortgaged land, where, as is usual, he remains upon it as cultivating for the mortgagee, being that of a tenant at a rack-rent.\* \* \* The *ryot's* land is often more valuable as security to the *sowkar* than it is an ordinary investment to a purchaser; for, through the great reluctance of the *ryot* to sever all connection with his land, the *sowkar* is able to exact more than the ordinary rent, and, besides, the land is not the only security which the *sowkar* holds; the law gives him command not only over the debtor's movable property, but over his labour and the labour of his family.”

338. Now, we urge that the maintenance of the old owner's name on the register has inconvenient results in many directions. The first of these is that, the register is not a record of actual facts as it should be; and, from this it follows that the demand for the land revenue is made upon a person who is not actually responsible for the payment of it; that an opportunity is, thus, given for the exercise by untrustworthy subordinate officials of powers which are susceptible of great abuse; that the capitalist owner is exempted from directly bearing those responsibilities which the possession of property

should impose ; and that the Government is prevented from protecting the actual cultivator, *i.e.*, the expropriated owner, by a Tenancy Law. Moreover, there is reason for believing that the refusal to recognize actual facts in this connection has positively contributed to the people's indebtedness. It is in evidence that the *marwari* or alien class of money-lender, the most exacting of all, does not care to stand forth as owner and cultivate the land. Had money-lenders of this class been compelled to record their names, had the duties of proprietorship been enforced against them, and had their sub-tenants been protected against excessive rack-renting, these money-lenders would probably have concluded that land was a less desirable investment than it has been and is.

339. Two ways of dealing with this first class of cases suggest themselves, for we put aside as Utopian the re-purchase of the old holdings by the State. One is to reinstate the old owners by coming to a composition with the *de facto* owners, and by arranging for the payment of the latter's claims by instalments. This method would, we gather, be acceptable to Bombay opinion, and, if a practicable means of enforcing it can be devised, it would no doubt be in every way desirable. But we fear that, at best, it holds out but a slender hope of success. There are no possible means by which the *de facto* owners can be compelled to part with their property : while even a liquidation based on consent could hardly be effected within any measurable period of time.

340. Failing such a scheme, one practicable method of dealing with this class of cases seems to us to be to recognize the facts, to record the money-lenders for what they are, namely, the owners of the land which has passed away from the tenants, and to protect the latter from rack-renting by a suitable Tenancy Act. There is universal agreement that the expropriated owner has, as a rule, sunk to the condition of a mere serf, tilling the land and making over the produce to the owner. In good years he has nothing to hope for except a bare subsistence ; in bad years, like last year, he falls back on public charity.

341. In regard to the cultivators of the second class who are as yet the owners of their holdings, and in respect of whom the money-lender is still merely a mortgagee, the situation is different. The problem is how to preserve to the *ryots* their rights in their holdings, which are fast slipping from their grasp. Here the remedial

measures called for are of a legislative as well as of an executive character. The executive measures are the introduction of elasticity in the collection of the Government demand, and its corollary, the improvement in the system of land records. The legislative measures are concerned, first, with enabling the tenantry to compound for their existing debts; and, next, with limiting their power of incurring fresh debts, or, in other words, imposing limitations on the transfer of their property in the future. We will deal with the legislative remedies first, and then express our views upon the administrative question.

342. We propose the following legislative measures, and we note that the probability of lasting success will be greatly strengthened if Mutual Credit Associations take root and flourish in the country. In the first place, power should be given by statute for the following or some similar procedure:—

(1) The account between debtor and creditor should be investigated, and a fair sum should be fixed, to be paid by the former to the latter in liquidation of the debt.

(2) The average produce of the holding should be ascertained, and its money value should be expressed in cash.

(3) The surplus produce, after providing for the subsistence of the cultivator and his family and the necessities of cultivation, should be appropriated to the payment of debt, provided that such appropriation shall not be continued after the lapse of a term of years.

(4) In substitution for (1), (2) and (3) the holding should be made over, at the land tax assessed, to the creditor in usufructuary mortgage for a term of years.

In either case the holding should be declared free of debt at the end of the term. We have ascertained that a procedure similar to this is followed in Rajputana.

343. In the second place, we think that legislation with the object of restricting the transferability of land should be undertaken in Bombay; and we might refer to the legislation lately carried through in the Punjab, as indicating how this object can be effected. Otherwise we fear that, as the Commissioner of the Central Division said in 1882, "the number of non-cultivating occupants will continue to largely increase, and our moderate survey rates, which are intended to benefit the cultivators, will only benefit land speculators, who will, as

occupants, pay the low rates to Government and grind down their sub-tenants under a hideous system of rack-renting."

344. Coming next to the executive measures, we need not again refer to the question of elasticity in the collection of the land revenue; but a few words are necessary as to improvements in the Land Records system which are essential to the proper introduction of it. These improvements consist chiefly in the better organization of the Land Records staff; in the mapping and registration of every plot contained in the 'field'; in the maintenance of a correct map by the village accountant; and in the due registration in the village records of all particulars regarding ownership, encumbrances and cultivating rights.

345. We were unfavourably impressed by the insufficient control, which, under the Bombay system, is exercised over the village accountant, and with the waste of strength involved in employing one set of officials indealing with the land revenue, and a different set in dealing with agricultural statistics. The experience of other provinces shows that both functions are best and most economically discharged by one properly graded staff of village accountants, circle superintendents (or *kanungos*) and district superintendents (supervisor *kanungos*), working under the Collector. It is only by consolidating the two staffs in this way that the necessary control can be established over the village accountant.

346. Above all, there should be a real record of all proprietary rights in land, and to this end registration of title in the village register should be enforced. At present there is no precise information as to the actual ownership of the land, and the entries in the village papers are often at variance with the facts. The result is that, when the revenue falls due, and the actual cultivator, who is not the owner, protests that he is not responsible, the local officials are reduced to a shrewd guess as to who the responsible party may be. This throws an enormous power into the hands of the village accountant, a subordinate official, who, in every province, requires to be kept under strict control.

347. We advise that no time be lost in giving effect to the reforms which we have suggested above.

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## CHAPTER II.

### GRANT OF LOANS AND ADVANCES TO AGRICULTURISTS.

[*Extracts from the Proceedings of the Governor General's Council,  
dated the 30th December, 1870.*]

SIR JOHN STRACHEY said :—

A system of advances of this description, under the name of *takāvī*, had been in force in many parts of India almost from the commencement of our rule, and there were, in several old Regulations passed at the end of the last century and the beginning of this, some seventy or eighty years ago, many provisions bearing on the subject. These old laws authorized, under certain conditions, the advancing of Government money for agricultural improvement, and in some parts of India the system had been acted upon to a very considerable extent. The security on which these loans were made was complete, because the security was the land itself on which the improvements were carried out, and the advances were declared by law to be recoverable by the same processes as were applicable to the recovery of arrears of land-revenue. The provisions of these old Regulations had, however, been found to be very incomplete; and, as might have been expected, they were hardly suitable in many respects to the circumstances of the present times, and besides it was thought very desirable to consolidate the whole law on the subject. This would be a further step towards the carrying out of the great scheme of the consolidation of the statutes of this country which his Hon'ble and learned friend Mr. STEPHEN had in progress.

The Government believed that the principle of giving the assistance of the State to private persons for the purpose of carrying out works of permanent agricultural improvement was one that might with great advantage receive a much wider and more systematic development than had hitherto been given to it. The works for which these advances would be made were not at all great works requiring engineering skill, but works of improvement within the capacity of the proprietors and occupiers of the land themselves, with such little help from the authorities as might be necessary. These works would be for the most part such works as wells and small drainage works,



the reclamation of waste land, and so forth. There was another class of works at the present time for which advances of this kind might be made with special benefit, and for this class of works, through imperfections in the existing law, to which he need not now more particularly allude, advances had hardly been made at all. Northern India was being gradually covered with a system of great canals for irrigation; but the State could only construct the main channels for these works. All subsidiary works, such as the smaller channels for bringing water into the fields and the preparation of the land for irrigation, must be done by the people themselves, by the local proprietors and occupiers of land. Although these subsidiary works required really little skill, and were for the most part inexpensive, still the cost of them was often greater than the small proprietors and cultivators in possession of the land were able to bear without difficulty; and the necessity of incurring this expenditure had been found very often to be a serious obstacle in the way of obtaining full advantage from the irrigation canals constructed by the Government. Without these subsidiary works of which he had spoken, it was impossible that full benefit could be derived from the canals. It rested with the occupiers of the land themselves to take water, or not, as they pleased; and the result of the present state of things was that there was frequently extreme delay, after the main channels were made, in taking the water. Thus there was delay in protecting the country against famine, and obtaining for the country the vast accession of wealth and prosperity which was offered to it, and at the same time, necessarily, delay in obtaining for the Government an adequate return on the vast sums of money that it had expended. The Government believed that there could be no object to which portions of the loans which it was proposed to raise for reproductive works could be more advantageously and properly devoted than this; and in making loans for works of this kind there could be absolutely no risk, for the loans would be given on the security of the land itself, and under a system already known to the people and highly appreciated by them. In a very few years all advances of this kind would be repaid, without the slightest doubt, with interest; nor would any elaborate or expensive machinery be required for the carrying out of this system under any development we were likely to see given to it. He believed there could be no doubt that the existing revenue and other public establishments would be quite sufficient to do everything which was likely to be required.

He need not now enter into the details of the measure he proposed to introduce. A more fitting opportunity for doing so would be found on the introduction of the Bill, if the Council would give him leave to proceed with the measure. Provisions would of course be required in detail, to regulate the purposes for which these advances of money might be made, and for defining the conditions under which advances should be given, and under which they would be repayable, and, in cases of failure in re-payment, for defining the manner in which the money should be recovered. The Local Governments were all consulted regarding this measure in a letter which was published in the *Gazette of India* some six months ago. Answers had been received from all the Local Governments in the north of India; and although many suggestions had been made, many of which were very valuable and would require careful consideration in detail, he might say generally that the proposed measure had been generally approved by all the authorities consulted.

This system, which had long been in force in India, though in a very undeveloped form, was identical in principle with that which had been carried out on a large scale in many parts of the United Kingdom under the Land Improvement Acts, with results which were most encouraging, and the nature of which was well-known to HIS EXCELLENCY THE PRESIDENT, and to which he need not refer more particularly. He thought it might be safely said that there was perhaps no country in the world to which a system of this kind was more properly applicable than India; for in India at the present time there was one great industry, and one only—the agricultural industry. The one great source of wealth in India was the land. It might be safely said that the whole present and future prosperity of this country, and he might add the future financial position of our Empire in India, depended on the development of the vast and practically unlimited, though too often neglected, agricultural resources of the country. If advantage were taken of the means which science and wealth had placed at our disposal for the improvement of the land, and, he might add, if we abstained from putting into operation theories which ignored the only really great and progressive source of wealth which India possessed, it might be safely predicted that the increase of agricultural prosperity in India would be rapid and immense; and he believed that at no distant period the twenty millions of annual income which the land now

yielded to the State might be expected to form, he might really say, an insignificant burden on the agricultural resources of the country. The present measure would be a step in this direction, and he thought, a not unimportant step. He believed that if it were worked intelligently it might produce really great results, and he thought that this measure would also be valuable at the present time as a fresh recognition of the fact that the Government of India was not only a Government, but the receiver, as the representative of the public, of that portion of the rent of the land which had belonged from time immemorial to the State, and that, in its capacity of chief land-lord of the country, duties devolved on the Government for the improvement of the land, and for the advancement generally of agriculture, beyond the ordinary duties of a Government, and similar in kind to those duties which a good land-lord had everywhere to perform.

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[*Extracts from the Proceedings of the Governor General's Council,  
dated the 28th September, 1871.*]

#### LAND IMPROVEMENT LOANS BILL.

THE HON'BLE MR. (afterwards SIR JOHN) STRACHEY said that he need not say much about the objects of the Bill, because they had been fully stated on former occasions. In regard to the main principles of this measure, there was no novelty in it. It was a consolidation of the old *takavi* laws, with some important amendments. It ought, he thought, to be remembered to the credit of the British Government of the last century in India, that it recognized by law the principle now acted upon with so much advantage at home, under the Land Improvement Acts, that it was the duty of the State to make use of its resources in encouraging and developing agricultural improvement. The old Regulations for which it was proposed to substitute the present Bill, had not, he believed, in any Province, been applied on any defined and organized system. Their application had mainly depended on the opinions or zeal of individual officers of the Government. Nor would it have been easy to introduce such a system, for the provisions of the existing law were, to some extent, unsuitable and obsolete. For instance, if the law were strictly acted upon, which he believed it never was, they would have to charge twelve per cent. interest on all advances. What they required was a well organized system under which the Government should encourage, by loans granted on the security on the land to be improved, the construction of simple works of agricultural improvement, such as, wells, tanks, minor water-courses, and so forth. The Government was now gradually covering India with great works of irrigation on a scale unknown in any other part of the world, but no proper provision had hitherto been made for the encouragement of the humbler but hardly less valuable class of works to which this Bill referred—works which would be constructed by the landed proprietors and occupiers themselves.

The present measure brought with it no financial risk, and imposed no charges whatever on the revenues of the State. Government would make advances at a somewhat increased rate of interest

over that which it itself had to pay, but still at a lower rate than money could be borrowed at from other parties, and he presumed that these advances would ordinarily be made, or might, with perfect propriety, be made from the money borrowed for re-productive works.

Those works would be so simple that there could be no doubt, under proper management, of their reproductive character. The security for re-payment would, in almost every case, be the land itself on which the improvement was made. He only wished that they had some such sort of local and well-defined security for the re-payment to the State of the charges incurred on the great works of canal irrigation executed by the Government itself. There was no doubt that they ought to have such security, and he believed that at some future time they would get it. This however, was not a question he need dwell upon now, as it might perhaps, before long, come up for consideration before the Council, when the Canal Bill was being proceeded with.

Hitherto, advances of this character had only been made to the proprietors of the land to be improved. Under the present Bill, advances, under certain circumstances, might also be made to tenants; but the consent (either expressed or implied) of the landlord would be always necessary, unless the Collector should be satisfied that the tenant possessed in the land an independent and transferable interest which would furnish by itself, without reference to the landlord, a sufficient security for the re-payment of the loan.

The Government would make rules as regards all details not expressly provided for in the Bill.

The practice laid down in the old Regulations which had been found perfectly successful in protecting the Government against loss, was also introduced into this measure, namely, that advances would be recoverable as arrears of land revenue.

He hoped that if this measure became law, it would prove the starting point of a system under which benefits of the greatest possible value might be conferred upon the country.

The HON'BLE SIR R. TEMPLE said that he entirely agreed in the remarks of his Hon'ble friend, Mr. STRACHEY. The Financial Department concurred heartily in the Bill. The advances provided

under the Bill would be made, of course, from the cash balances, and the cash balances consisted partly of the results of Imperial taxation, and partly of sums raised by loan. Now, how was it possible to spend such balances more properly than in stimulating and assisting agriculture—the only reliable field for taxation? The security for these advances was the best possible—the very land that was to be improved. He agreed that it was highly desirable that similar security should be provided in the case of canals; any such proposal would certainly have his (SIR R. TEMPLE'S) support. As to the rate of interest, it would always be such as to fully recoup the Government for all expenses connected with the loan; no fraction of any such expenses would fall on the general tax-payer. In former times some small advances might have been made without interest, on the principle, he supposed, that land revenue not expended might, with propriety, be spent on the landowner from whom it was derived. But the principle was one that obviously could not be generally carried out. Those who borrowed should, as a rule, pay interest; and this being so, there was no need for the short periods in which, under the old system, these loans were repayable. These short periods had to a great extent, neutralized the value of the advance, because an agriculturist found himself obliged to repay the loan before he began to reap any advantage from the improvement effected. Now that a man would pay fair interest, there would be no need for any such hurry. It was far better that the people should borrow of Government than from their own countrymen on what, in any civilized country, would be regarded as exorbitant rates. It was a great duty to encourage saving, and to lead tenants, as well as landlords, instead of hoarding their savings, hiding them in a napkin, melting them down into ornaments, or burying them in the ground, to apply them as capital to reproductive purposes in compliance with the sound principles of political economy.

HIS EXCELLENCY THE PRESIDENT said—I cannot allow the Bill to pass without expressing my satisfaction at the prospect of its immediately becoming law.

Ever since I have been in India I have been most anxious that the system under which *takavi* advances have for years been made, should be systematized and rendered more beneficial.

In Ireland a system of Government advances has been in operation for many years to the great benefit of the country. I may say for the satisfaction of my Hon'ble colleague, the Financial Member of Council, that the system has been carried on throughout the entire period of the famine without the smallest loss to the Government, as well as I recollect. From the last returns I see that the sum now advanced is considerably more than two millions, and the arrears of principal and interest amount to something like £550

The whole system works like clock-work, with great advantage to the country, and without the smallest risk of present or future loss to the State.

In England, where it has not been thought necessary to establish a Government system of loans, many Acts of Parliament have been passed to enable private individuals and Companies to carry out almost the same system; and to Companies which make these loans, the same facilities for recovery and the same securities are given as the Government would have thought necessary to enact for its own loans.

I happened to be connected little with a Company of that kind, and the result was precisely the same as in the case of the Irish Government loans.

The sums of money negotiated were exceedingly large, but the re-payments are made to the day, and I do not believe that the Company with which I was connected had ever to complain of having a single bad account.

There are several other Companies of the same kind that have been engaged in the same transactions, and, with the exception of some which were not very well managed, the same satisfactory results have generally been obtained.

It seems to me that such a system which has worked so well in other countries, and which is so well known and has been so long in existence in India, must be an immense benefit to the country, and that if the local Governments take up this measure in the spirit that I have—no doubt they will—it will be found easy to establish a small and inexpensive organization for working the provisions of the Bill in case the district officers have not time to give to it due attention,

I think in districts where the transactions may not be large, and where the system is well known, it may be found that the district officers can do all that is necessary; but in other districts, where numerous or large works may be desired, and the proprietors are willing to undertake them, that some small special organization may be necessary for a certain class of works, and that there will be no difficulty in arranging for their proper supervision and completion.

There is only one other remark that I wish to make, and that is, that the Council will perceive the Bill is strictly limited to loans made for agricultural improvements.

I have heard it stated that, by the passing of this Bill, the Government have announced their intention of withdrawing permanently advances for agricultural purposes that may not strictly come under the head of agricultural improvements. I can only say that this is not the intention of the Government, and it is possible that there still may be certain loans necessary particularly under pressure of famine and distress, such as have been given in former years under the *takavi* system, which it is absolutely necessary that we should make. There is nothing in this Bill to prevent this still being done.

The whole object of the Bill is to put, on a more systematic footing, the system of loans for permanent agricultural improvements, which can have no other effect except that of adding permanently to the value of the land and increasing the value of the property.

I commend this Bill to the attention and consideration of Local Governments, believing that it will not only have the effect of benefiting the people, but it will also bring the officers, who are engaged in carrying out its provisions, into a most agreeable contact with the people, and increase those kindly feelings which ought to exist between the rulers and the ruled.

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[*Extracts from the Famine Commission's Report, 1880.*]

**Part II, Chapter IV, Sec. III, pp. 143-45.**

GOVERNMENT LOANS TO FACILITATE LAND IMPROVEMENT.

### **Sketch of existing practice.**

1. Advances for the improvement of land are now made for the most part under Act 26 of 1871. The object of this Act was to define the purposes for which it was held to be legitimate to place a charge on the land, as security for the repayment of advances made by the State, to enable improvements to be carried out, and to give the Government a preferable claim on the land for such repayment. These purposes were defined to be undertakings whose object is the permanent improvement of the productive powers of the land; and such undertakings are of three classes: (1) wells, tanks, or other works for the storage, supply, or distribution of water for agricultural purposes, or the preparation of land for irrigation; (2) works for the drainage of land, for reclaiming land from river or other waters, and for the protection of land from floods or erosion; (3) for reclaiming, clearing, or enclosing lands for agricultural purposes. The provisions of the Act, which has been amended as to procedure by Act 21 of 1876, are, that a landowner, or tenant with his landlord's sanction, should apply for an advance; and that the Collector after satisfying himself that the object comes under one of the above three classes, and that the security offered is sufficient, may make the advance, and shall ultimately recover it in the same way as the land revenue is collected. Further details as to the amounts to be lent, the mode of making applications, the mode of enquiring into the security and the object, the interest to be charged, the manner and time of repaying instalments, and the amount of those instalments, are to be provided for by rules drawn up by local governments and sanctioned by the Governor General in Council.

### **Defects of the system.**

2. The evidence we have received regarding the working of this Act renders it unquestionable that it has failed to realise the intention of promoting improvements, and that there is a very general reluctance to make use of its provisions. The sums which have been

advanced under the Act are extremely small,\* and bear no proportion whatever to the need which the country has of capital to carry out material improvements. This result is alleged to be due to several causes, among which the following are the most prominent:—The obstacles created by inefficient Native subordinates, to whom the granting of such advances gives extra trouble; the delay and expense of the initial procedure, under which the first application has to be stamped, the bond for repayment stamped and registered, and a minute and troublesome inquiry has to be made into the nature of the applicant's tenure and its value; the necessity of paying interest, which is usually fixed at  $6\frac{1}{4}$  per cent. per annum; the small number of years over which repayment may be spread, and the consequent largeness of the annual instalments; the early date at which they begin to fall due, even before the improvement has begun to realise a profit; and the rigidity of the rules for punctual repayment.

### Suggested alterations in the Act and rules.

3. The evidence we have obtained on these points leads us to recommend that the Government of India should cause an inquiry to be made as to how far these complaints are valid, and to what extent they can be met by an alteration in the rules. While all needful precautions are taken to secure the State from loss, every unnecessary impediment should be removed which now makes the people unwilling to apply for such advances. In particular we recommend that the period over which the repayment of the debt can be spread should be considerably enlarged; that a reasonable time should be allowed for the completion of the work before repayment begins; that the rate of interest charged should not exceed what it costs Government to effect its loans; that the annual instalments should be fixed at an amount which would, in a prescribed term of years, discharge the principal and interest together, so that any separate interest account may be avoided, and which should not exceed at the

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\*The sums disbursed in the last year on record, 1877-78, are as follows:—

	Rs.
Punjab (7 districts only).....	180,000
North-Western Provinces.....	68,543
Bengal.....	459
Central Provinces.....	7,515
Bombay.....	14,957
Madras.....	156,367

outside 10 per cent. on the original advance, at which rate it is calculated that the loan, with interest at 5 per cent., would be repaid in 14 years. If, on the other hand, a period of 20 years is allowed for repayment, the annual instalments need not be more than 8 per cent. on the original advance; if 25 years, they might be reduced to 7 per cent.

### **Advances to be managed by the Agricultural Department.**

4. Not only should the way be made easy for landowners to apply for such advances, but they should be encouraged to do so by the advice and influence of the district officers. We suggest therefore the advisability of entrusting this duty to the officer of the Agricultural Department in each district, who should make it his peculiar duty to encourage the landed classes to look to Government rather than to money-lenders for advances of this kind, should advise with them as to the objects on which money can be most usefully laid out, and should supervise the proceedings of the native agency through whom the details of the procedure must ordinarily be carried on.

### **Advances for objects outside the Act, and in exceptional cases.**

5. Besides the advances given for the objects contemplated by this Act, advances of another kind have been, and still are, made outside the Act, such as loans to help landowners to pay off debts, for the purchase of bullocks or seed grain, and for the construction of embankments and watercourses, loans without interest to some wild tribes, or to facilitate the recovery of the country from famine. It is undoubtedly well that provision should be made for giving assistance in exceptional cases which do not come under this Act, and peculiarly so when the country is recovering from so great a calamity as that of famine. We have already proposed that the making of loans to the landed classes should be a part of the regular system of famine relief, and this measure should be liberally extended and prolonged till the effects of the famine have passed away. There may also be other cases of exceptional calamity, in which relief may properly be given to deserving tenants or landlords by advances of this kind; and it is desirable that the district officers should, under suitable rules, have the power of giving such assistance where the

circumstances are personally known. But care should be taken to avoid falling into excess in doing this. There could be no greater encouragement to unthrift and recklessness among the agriculturists than the knowledge that they have no need to accumulate capital to meet any misfortune that may befall them, but that they can always rely on obtaining from the Government the money they require on comparatively easy terms. The landed classes are only too prone to enter into any contract for the future which will relieve them from present pressure, and this tendency would be stimulated if the Government, as a rule, lent money except for the object of a definite and permanent improvement of the land.

### **Improvements not to be the ground for increased assessments.**

6. In addition to the difficulties mentioned in para. 2 of this section as arising out of the working of the rules made under the Act, another reason has been prominently alleged for the disinclination of landowners to spend money, whether their own or borrowed, on the improvement of the land, and that is their doubt whether at the expiration of a term of settlement they will be allowed to enjoy the whole profits of such an improvement, or whether it will form the occasion for an enhancement of their assessment. In the Punjab it is a rule of the revenue system that constructors of new wells should be protected for 20 years from enhancement on account of the irrigation thus provided, and that repairers of old wells and diggers of water-courses should be similarly protected for 10 years. In the North-Western Provinces, Oudh, and the Central Provinces no definite rule appears to have been laid down. In Berar and Madras, rules have been issued providing that the assessment on lands on which wells or other improvements have been constructed by the owners or occupants at their own cost shall not be enhanced at a future settlement, except on the ground of a general revision of the district rates. But these rules have not the force of law, and in the Bombay Presidency alone has this understanding been embodied in an Act. We think it important that a precise and permanent understanding should be come to on the subject and ratified by law. The landowner should be guaranteed against any enhancement of his assessment for such a period as shall secure to him such a reasonable return on his investment as will encourage the prosecution of improvements. It appears to be quite possible to draw up a set of rules

defining what the period should be for any locality or any class of cases, so that it may be clearly known, without fear of mistake or danger of retractation and change of view, by every landowner or tenant who executes a permanent improvement on the land, whether he is entitled to the entire profits arising from it, or to a part, for ever, or for a term of years.

### **Right of tenants to make improvements to be affirmed.**

7. We think also that more distinct legal provision is required to secure that every occupancy tenant may effect in the land he occupies material improvements of the kind contemplated in Act 26 of 1871 without requiring him to obtain the sanction of his landlord, and without endangering the security of his tenure. Such a right has nowhere been authoritatively declared by the law, and decisions of the Courts have in some instances negatived, and in others questioned, its existence. Further, every tenant who is ousted by his landlord for failure to pay rent or other causes should obtain compensation for unexhausted improvements. A clause providing for the latter case exists now in the Rent Law of the North-Western Provinces, but does not appear to exist in the Punjab, Oudh, Bengal, or the Central Provinces.

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*[Extracts from the Proceedings of the Governor General's Council,  
dated the 26th October, 1882.]*

#### AGRICULTURAL LOANS BILL.

THE HON'BLE MR. CROSTHWAITE said :—

The Council is aware that an Act was passed in 1871 for the purpose of enabling Government to make advances of money to the owners and tenants of land for the sole purpose of improving that land. After some eleven years' experience, it is universally admitted that the Act is a failure. The total advances under the Act for the whole of India do not come to more than four-and-a-half or five lakhs at the outside during the year, and the Famine Commission, in Chapter 4 of the second part of their Report, have called attention to this subject, and suggested that the Act might be made simpler, and the Local Governments might have more power to make the rules under which the Act is worked elastic and suitable to local peculiarities. On the report of the Famine Commission, the Local Governments were asked to give their opinions on these suggestions. Those opinions have now been received, and are almost unanimous that the Act and the rules framed under it require simplification. The North-West Government are specially anxious that this should be done, and they have pressed it on the notice of the Government of India. In accordance with those opinions the present Bill has been framed, on the principle of leaving everything, that can possibly be thus left, to rules to be framed by the Local Government. In the present case, I think this method of framing the Act is not open to objection, because the only interests concerned are those of the Government which advances the money, and it is presumed that in making the rules it will take precautions against loss. In thus amending the law we have also taken the opportunity of endeavouring to encourage the application of private capital to the improvement of land. We propose to follow the method which has been for a long time adopted in the English and the Irish Acts, which have been passed for a similar purpose, the method, namely, of empowering companies whose articles of association, and the method of whose business, approved by the Government, are to make advances to owners of land for the purpose of executing improvements.

We propose that the Government of India should have the power to place conditions on those companies, to ensure that their business shall be carried on in a proper and reasonable manner; and, if those companies fulfil the conditions imposed upon them, the Bill is so drawn as to enable them to take advantage of its provisions for the recovery of the advances; in fact, their loans will be secured and will be recoverable in the same manner as if the money had been advanced by the Government.

This is the Bill which I ask leave now to introduce, and I hope that the Council will give me permission to introduce it, because, although I think it is open to doubt whether it will lead to a very great extension of advances by Government, I think it is quite probable that it may open the door to private enterprise in the matter. For my own part, I fear that, until the causes which prevent people from improving their lands are removed, namely, in the case of tenants, the want of security that the profits which are derivable from their improvements will not be appropriated by the landlord; I think that, until the provincial laws are altered in this respect, there is not much hope, so far as tenants are concerned, that they will take advance either from the Government or from private companies; but I think that, when this Bill is passed, we shall have done all we can in a direct way to make the system of advances popular.

THE HON'BLE SIR STEUART BAYLEY said:—

I have only a few remarks to make in confirmation of the proposals of my hon'ble friend, MR. CROSTHWAITTE, in connection with this Bill, which, I quite agree with him in hoping, the Council will give him permission to introduce to-day.

He has told us of the origin of the Bill, but there was also another reason for bringing it in which he omitted to mention, which was a small technical omission, regarding the recovery of interest on loans, which was brought to our notice by one of the Local Governments. But, in reading the papers connected with the Bill, I was very much struck by the unanimity of all those consulted as to the fact of the old law having failed in accomplishing the objects with which it was established, though there was considerable difference of opinion as to the reasons of that failure: reasons were given of all kinds. Some gentlemen, I observe, actually stated that the agriculturists did not require loans for the

improvement of their land; but that was not general. More commonly it was said that the dealings of the cultivator with officials in matters of this kind were exceedingly troublesome, that at every point he was thrown back, and that it took him an enormous amount of time, and caused him an unreasonable amount of trouble, to get his loan. That was, I think, very generally agreed. Another point was the excessive cost of the application in point of fees; another point was the high rate of interest; another was the shortness of the time within which he had to repay the amount, and there may have been other reasons given, but those were the main ones in regard to the Act as it stood. But the real reason, to my mind, which has prevented the old Act from having anything like the operation which we would have wished for it, was brought out very clearly and lucidly in a report by MR. JONES, Commissioner of Berar. He explained—and I think every one will agree that his explanation is incontestable—that the ryot, if he borrows from the Government, cannot also borrow from the village money-lenders. It was a sermon on the old text that you cannot serve two masters. The ryot comes to the Government and he receives the loan, but, in order to receive it, he must hypothecate his land. Shortly afterwards he wants perhaps to borrow for some other purpose—for marriage, or to pay his revenue, or for any one of the thousand domestic purposes for which he requires money besides agricultural operations. He then goes to the village money-lender; the money-lender turns round upon him and says:—‘No, you have already borrowed from the Government, the Government have been ruining my business by charging a lower rate of interest than mine; the Government have already got the first lien on your land, and now you can go to the Government for the other money that you want.’ Well, when it comes to a choice, and the ryot has to decide whether he should borrow from one of two competitors,—one of whom can only lend for one purpose, while the other can lend for all purposes,—there is very small doubt as to what he will do; he will cleave to the one who can lend for all purposes, and despise the other who can only lend for one purpose. That is, I think, the real reason which cuts at the root of any very extended usefulness of the Act as it at present stands. There remains the fact that, though this applies to the cultivators who are indebted, it does not apply to the cultivators who are not indebted. These may require loans for agricultural



improvements, and to them the necessity for keeping on good terms with the village money-lender does not apply; but the great majority of cultivators—even those very well off—all over the country, must occasionally have to apply for loans for temporary purposes. Well, I suppose, the logical deduction from this would be—‘Then why not give up the whole business and try and arrange a system of companies or banks conducted by private enterprise which shall take over from you the agricultural loans, and at the same time carry out the ordinary domestic and industrial loans which the ryot wants at all times and in all parts of India?’

We have given a great deal of attention to this subject, with the assistance of my Hon'ble friends, MAJOR BARING, MR. CROSTHWAITE and others; we have been practically working at it all the season; it has been thoroughly threshed out, and a scheme up to a certain point has been devised; but the more we worked at it, and the deeper we dug, the greater the difficulties, and the more insuperable they seemed. We were met by these two main difficulties, in regard to Northern India especially,—first, that the ryot in those parts has no transferable interest in his land which he can offer as security, and the only interest he can offer—his crops—are previously hypothecated to the landlord. These were the two points at which we struck. We got pretty well on with the work, when it was brought to our notice that a gentleman in Bombay—MR. (now SIR WILLIAM) WEDDERBURN—was at work on a similar scheme, and he had the advantage of being in communication with certain bankers at Poona who were apparently willing to assist him in starting an experiment of the kind. It occurred to us that the experiment of an Agricultural Banking Society aided by Government should, in the first instance, if tried at all, be tried in a selected tract of country, and not thrown to be torn in pieces by the fortune or ill-fortune which might attend it under the varying conditions of different parts of India, and, when we came to consider to what tract of country we should apply it, it seemed to us that very obvious advantages existed in regard to the Deccan which did not exist in any other part of India. In the first place, the cultivator of the Deccan has a transferable interest in his land, and, in the second place, he has no landlord coming between him and the Government. Well, SIR WILLIAM WEDDERBURN was good enough to come up to Simla, and we had various conferences with him, and the upshot of it

all is that we propose now to consult the Government of Bombay on the possibility of introducing such a scheme into a selected area in the Deccan. In the meantime, the necessity remains for amending the existing law, not only on the small technical point which I have mentioned, but also on the various grounds given by MR. CROSTHWAITE. We wish to amend the defects in procedure, we wish to simplify the procedure in every direction, to shorten the operations and various processes through which the ryot has to go before he can get his loan; we wish for permission to reduce fees and stamp-duties; we wish to bring the interest down to the lowest point compatible with justice and fairness to the general taxpayer, and we wish to make the law as elastic as possible, and to leave as much as possible to be provided for by the rules of the various Local Governments.

These are the objects with which the Bill is brought in, and I have no doubt that, in the hands of my Hon'ble friend MR. CROSTHWAITE, these objects will be attained. We have also provided experimentally—and these provisions will have to be very carefully considered in Select Committee when leave is given to introduce the Bill—for permission practically for the Government to make over, in any tract in which an agricultural bank may be started, its money-lending business for agricultural operations altogether. Such banks have not yet been started generally, but I was very much interested in having my attention recently called to a report in the Bengal Government Gazette by the Commissioner of the Presidency Division of Bengal, giving an account of an agricultural bank which has been started in Jessore. That bank is conducted entirely by Native managers, and it has been started by Native capital. It is principally concerned with deposits by agriculturists, but it has also a good deal of loan work. Naturally, you will ask, if an agricultural bank in Bengal can do loan work, why should we have been so much hampered with regard to the security of the land and the crops? The answer is given in the Commissioner's report on the bank. The bank lends only on the security of *zamindaris* and *patni taluqs*, that is to say, on what is absolutely, or nearly absolutely, proprietary right, and does not descend to tenures. This, of course, limits to a certain extent the usefulness of the bank from our point of view, but still it is a very useful experiment, and I only hope the example will be followed freely and frequently in other parts of India.

HIS EXCELLENCY THE PRESIDENT said :—

I have only to say, in regard to this Bill, that it is not a very large measure. I believe, however, that it will remove many of the difficulties which now prevent the practical employment of the existing machinery for Government loans for agricultural improvements, and that, as far as it has that effect, it will, I cannot doubt, be beneficial to the agricultural community.

The difficulties found to exist in India in this matter are not confined to India alone. We find also at home that loans of this description are not taken advantage of to the extent to which one might naturally suppose they would be, for very much the same reasons as those which have deterred agriculturists from availing themselves of them in this country,—namely, the difficulties created by the very strict rules which have been laid down for the guidance of applicants for loans of this description. These rules have been found to be unpalatable to English landholders, and I am not by any means surprised to find that they have had the same effect in this country. The main object of this Bill is to simplify those rules to the greatest possible extent, to enable them to be applied to the different parts of the country as varying circumstances require; and it is my earnest hope that, although the measure is not one of a very extensive character, it will effect a small and useful reform in the present system of loans for agricultural improvements.

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[*Extracts from the Proceedings of the Governor General's Council,  
dated the 4th January, 1884.*]

#### AGRICULTURISTS' LOANS BILL.

The HON'BLE SIR STEUART BAYLEY said that the Act which he was asking the Council to amend was known as the Northern India *takavi* Act. The Act was a very small one, and its whole essence consisted of one section, which said that,

“The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.”

The loans were to be recovered as arrears of land revenue. The object of the amending Bill was, in the first place to correct a small omission which was made in the original Act. The omission was this, that, although the loans themselves were recoverable as arrears of revenue, no arrangement was made for the recovery of interest on these loans. It was proposed to provide for this. The second point was that the Act, which extends at present only to Northern India, might, at the option of other Local Governments, be extended to the provinces under their jurisdiction. The third point was to provide that loans given on the joint security of village committees, or to other agricultural associations of the same kind, might be collected on the joint responsibility in the same way as in the Agricultural (Land) Improvement Loans Act. These were all the proposals of the amended Bill.

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[*Extracts from the Famine Commission's Report, 1901.*]

**Part III, Section V, Pages 102-106.**

ADVANCES BY GOVERNMENT.

310. There is some connection from the historic as well as from the economic stand-point between the establishment of Credit Associations and the encouragement of advances under the Agricultural Loans Acts. The historic connection lies in the fact that it was originally intended to incorporate in the Land Improvement Loans Act a scheme for the creation of Agricultural Banks, although not of the Raiffeisen class. The economic connection lies in the identity of the object, at which both Agricultural Banks and the system of Government advances alike aim.

311. That object is the promotion of agricultural prosperity and the improvement of the cultivators' condition. "The real justification of the policy (of Government advances to cultivators) lies," said the Member in charge of the Bill, which became Act 12 of 1884, "in the position of Government as the great landlord of the country, and the direct bearing which the welfare of the cultivator has on its revenues." But a wider view may be taken of the responsibilities of the Government, and its interest in the cultivator as a citizen no less than as a contributor to its revenues justifies it in promoting his industry. The policy of the *Takavi* Acts should not be regarded as productive merely, but also as protective; and it is upon the protective aspects especially that we would insist. We recognise the progress that has been made, since these measures were originally introduced, but we are convinced that there is both scope and need for a further extension of the policy in its protective aspect on lines of greater liberality. It will be convenient to deal separately with the two Acts, although many considerations apply equally to both.

312. The Land Improvement Loans Act (19 of 1883) in its present form rose out of the recommendations of the Famine Commission of 1880. That Commission noticed many defects in the existing law regarding agricultural advances, and their recommendations led to improvements, which, so far as they have gone, have proved beneficial. Still much remains to be done.

313. It is not necessary to enlarge upon the importance, from the protective point of view, of agricultural improvements generally. The Commission of 1880 drew attention to the matter and suggested, among other reforms, the possibility of "extending the practice of Bombay and Madras to Upper India so far as to rule that the assessment of land irrigated from a permanent well should not be liable to enhancement on account of the well at any revision of the settlement, provided the well is kept in efficient repair." This recommendation was embodied in the Bill which afterwards became Act 19 of 1883, and was thus referred to by the Hon'ble Member of the Governor General's Council in charge of the Bill during the debate upon it:—

"The section, as it left the hands of the Select Committee, proposed to go even beyond the recommendation of the Famine Commission, and to exempt from increase of assessment profits arising from improvements effected by the aid of loans taken under this Act, not merely for such periods as would secure to the maker a reasonable return for his investment, but for all time. In those temporarily settled provinces where cultivation has almost reached its natural limits, this principle might perhaps be applied with advantage; but in others where extensive areas are still awaiting reclamation, which can practically yield no return and pay no revenue until irrigated, the enactment of such a hard and fast rule would result only in a useless sacrifice of the prospective financial resources of the state."

314. For these reasons the clause which embodied the recommendation in question was curtailed; and the profits of those improvements, which consist of the reclamation of waste land, or the irrigation of land assessed at unirrigated rates, are still, in Upper India, exempted from an increase of assessment only for a limited term.

315. We have carefully considered this question in the light of the grievous misfortunes which have within recent years afflicted Upper India. Our enquiries demonstrate that there is a field for the construction of wells, tanks and other artificial means of irrigation, to which it would be difficult to assign a limit. It has also been forcibly brought home to us—as it was to the Commission of 1880—that the present terms on which these loans are offered do not attract the owners of land to make more than a partial use of the opportunities held out to them. We are convinced that nothing

short of a permanent exemption will stimulate the owners of land to that full activity, which is on every ground so greatly to be desired.

316. We recommend, then, that in all future settlements any increase of assets due to the construction, otherwise than at the expense of the State, of wells, tanks or other artificial sources of irrigation should be permanently exempted from assessment to revenue. We are aware of the objection that it is financially unwise to exempt permanently the increase of assets due to irrigation in the poorer soils, because it is in the poorer soils that irrigation will lead to the largest increase of assets. But this objection is met by the consideration that, from the protective point of view, it is just the poorest soils which are most in need of irrigation.

317. With a view to the encouragement of well sinking, we would also recommend that an expert staff be appointed, with power to disburse loans on the spot. Under the advice of this staff trial wells might be dug, the cost being recoverable from the landholder only if good water is reached. In all cases we recommend that partial or complete remissions should be granted if the well is a failure from causes beyond the borrower's control. The cost of this expert staff and of these remissions should be charged to a fund, constituted from the difference between the rates of interest at which the Government respectively borrows and lends.

318. In this connection we would call attention to the recommendation of the Famine Commission of 1880, that the rate of interest should be reduced. It is a matter of financial calculation; but we consider that a rate of 5 per cent. would be sufficient. The principle is already admitted; for in the rules of most provinces provision is made for loans at low rates of interest, or altogether free of interest, and in Madras and Bombay the ordinary rate for these loans is 5 per cent. But we think the time has come to introduce a general rule of greater liberality.

319. Although the rules in this respect are generally liberal, something may also be done to stimulate improvements by a more careful adjustment of the payment of interest to the time when the profits begin to accrue, and by lengthening the period allowed for repayment of the principal. We also think that permission should be given to Local Governments to substitute for recovery of the principal

the imposition of a permanent charge on the land irrigated from the well.

320. In the course of a Resolution of the Bombay Government, dated 25th July 1884, justifying the policy of charging an increased revenue on land which possessed the advantage of sub-soil water, it was stated, that the cultivator would be "stimulated to utilise the sub-soil water by this method of assessment." The evidence that we have taken indicates that this hope has not been realised. Indeed, this method of assessment has apparently created much dissatisfaction in Guzerat. It was pointed out that the incidence of a "water advantage" rate is unequal and unfair ; for, while the rich and large land-holders can construct wells and recoup themselves, the poor cultivator, with a small holding and without capital to construct a well, must pay the rate without hope of recoupment. It was said, moreover, that the holdings of cultivators even when they are not poor and unable to build wells, frequently consist of patches of land situated in many 'fields', widely scattered over the village, and that it could not possibly pay to construct a well for any one patch. In these cases it is urged, that a "water advantage" rate is a mere addition to the assessment with no fair justification. These objections to a "water advantage" rate seem to us to be very weighty, and we are unable, in the face of the results, to reconcile its existence with the liberal policy of the Bombay Government in foregoing all additional assessments on account of wells constructed by private enterprise.

321. The reclamation of waste land is of less importance from the protective point of view than the extension of irrigation, but we consider that this also is a factor of protection. We recommend that in the case of reclamation, exemption should be granted for the term of the current settlement, or for the term of 15 years, whichever last expires ; and that in the succeeding settlement, or for the remainder of the succeeding settlement, assessment at half-rates should be allowed.

322. Our recommendations apply with equal, if not greater, force, to improvements made directly by private capital. Such improvements are apt to escape notice in the absence of a proper system of registration ; and no effort should be spared to make the rules, for concessions to improvements made from private capital, and for their registration, widely known.



323. The Agriculturists' Loans Act (12 of 1884) has been to such extent more successful than the sister Act. But there is one great objection to the present system—that the relief does not reach the cultivators, who are most in need of it. The conditions of security are strict, and the desire of subordinate officials to avoid all risk of loss in collection is strong. The result is that these loans in ordinary times reach only the more substantial and solvent cultivators, who are the least in need of them. The cultivator who is struggling in deep waters cannot hope to profit by a *takavi* advance. He is in debt because he is poor; and his poverty prevents him from obtaining the means of escape from debt. We recognise that it is impossible to reach by loans of public money the lowest strata of agricultural society; some security at least must be required. But we are of opinion that more may be done by a development of joint personal security. One of the three great objects of Act 12 of 1884 was to “provide for loans being made to village communities or other associated agriculturists,” and to the principle of joint responsibility we look for a large extension of these loans. We have already noted that this principle was applied with great success in the Central Provinces during the recent famine, and it is not, we think, too much to hope that a system which was so far successful on one occasion may be generally utilised to extend the beneficent range of these advances to deserving but poverty-stricken cultivators. Before this can be done, however, there must be a revision of such existing rules, as lay stress on the need for the security of real property and the desirability of limiting the advances, that can be made, to those whose rights in their holdings can be brought to summary sale—an instance, surely, of the manner in which the object of the rules is lost sight of in their application. It is scarcely necessary to remark that the reasons for reducing the rate of interest are particularly cogent in the case of loans under this Act.

324. We believe that, if our recommendations, on both those Acts are adopted, one step will have been taken towards the solution of a great problem. In the debate on Act 19 of 1883 it was remarked that, “the Northern India *Takavi* Act requires for its application in each case but little preliminary enquiry,” and the need for enquiry decreases as the system of records improves. Some help may be obtained from non-official agency, and some of the stiffness and the slowness of the present machinery may be removed. Hard and fast

rules limiting the discretion of Collectors, as to the classes to be relieved and as to the extent of the relief, are inconsistent with the policy that we advocate. It is a good rule, and has worked well in practice, to authorise Deputy Commissioners, and Assistant or Extra Assistant Commissioners, to distribute agricultural loans on tour after enquiry on the spot. We strongly recommend the adoption of this rule wherever it is not at present in force. It is peculiarly suited to advances on a joint bond, which it is also calculated generally to popularise. And it is to the principles of the joint bond and personal security that we look in the future for the greatest benefit from these loans.

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[*Extracts from the Report of the Indian Irrigation Commission, 1903.*]

**Part I, Chap. VI, Pages 59-70.**

LOANS FOR AGRICULTURAL IMPROVEMENTS.

182. *The takavi system.*—Of all the methods by which Government is able to stimulate and assist private irrigational improvements, the most convenient and obvious is the system of State advances to the cultivating and land-owning classes, known as *takavi*. We propose, therefore, to consider briefly what use has been made of this system, and how far such use is capable of extension and the system capable of improvement. This system has existed in India from time immemorial, and is now regulated by special laws, namely, the Land Improvement Loans Act (19 of 1883) and the Agriculturists' Loans Act (12 of 1884) for the whole of India, and by rules under these Acts, framed for each province by the Local Governments, and sanctioned by the Government of India. Under the former Act money is advanced for specific purposes of land improvement, and under the latter, for seed, cattle, and other miscellaneous agricultural purposes. But the objects of the two Acts are closely connected, for it will often be the case that in order to make efficient use of his improvement the cultivator will find it necessary to provide himself with cattle and manure, well-gearing and the like, if not with seed.

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184. It will be seen that in this period (*i.e.* 10 years ending 1900-1), 625 lakhs of rupees have been advanced by Government, 348 lakhs as agricultural loans, and 277 lakhs for the specific purpose of land improvement. Of this latter sum, 202 lakhs are returned as having been advanced for wells and irrigation, including in these categories, tanks, wells, temporary dams, irrigation channels, and the like. The remaining 75 lakhs are returned as having been advanced for other purposes. But out of this sum a considerable amount has actually been expended on irrigation. Thus, 10 lakhs at least have been given in the Punjab for village water-courses in the Chenab and Jhelum colonies, and at least 30 lakhs have been allotted in Bombay for field embankments and similar works. Out of the total advanced under the Land Improvement Loans Act, therefore, at least 242 lakhs, or about

six-sevenths may be taken as having been advanced for irrigation purposes. Out of the amounts advanced under the Agriculturists' Loans Act, substantial sums have been given in Sind for canal clearance, and in all provinces for such objects as the provision of lifting gear for wells and other purposes closely connected with irrigation. Of the large sums given out during the famines for cattle and seed, a very considerable proportion must have been required for the working of wells, or the cultivation of lands under both wells and other sources of irrigation, which lands, but for the aid afforded, could not have been cultivated. It will be observed that considerably more than half of the total advances were given in years of severe drought—generally speaking, the famine years 1896-97 and 1899-1901, when large concessions were made, on account of the impoverished condition of the cultivators, to stimulate the construction of wells in the drought-stricken areas, and to provide employment on other works of agricultural improvement, mostly of direct or indirect irrigational value, for many of the labouring classes who would otherwise have come on to the State relief works. The amount of the loans in the famine years cannot therefore be taken as a criterion of the use which has been, or can be, made of the system in ordinary years. They indicate, however, what large sums can be disbursed when a keen demand has been excited by urgent necessity, and when the energies of a large staff of officers are concentrated upon meeting that demand.

185. It will be instructive to analyse further the figures of advances for land improvement in ordinary years. The first noteworthy point is that, out of the 142 lakhs advanced, Madras has given  $56\frac{1}{2}$  and Bombay nearly 36, or between them,  $92\frac{1}{2}$  lakhs. The Punjab comes next with little more than 19 lakhs, while Bengal, the United Provinces, and Central Provinces, give only 15 lakhs between them. Berar and Ajmer-Merwara gave each twice as much as the Central Provinces. On the other hand, out of the 119 lakhs advanced as agricultural loans, no less than 78 were given in the Punjab, United Provinces, and Central Provinces.

186. Now, the diversity of conditions in the various provinces is such that it would, of course, be unreasonable to expect an equally full use of the *takavi* system in every one of them. But we are strongly of opinion that this diversity does not sufficiently account for the much greater freedom with which the advances are given for land improvement in the two Southern Presidencies, and for other agricultural

purposes in the Punjab, United Provinces, and Central Provinces, than in other parts of India. We are far indeed from saying that even in Bombay and Madras the amounts advanced for land improvement have been as large as they might have been if the Governments and their officials on the one hand, and the people on the other, had been fully alive to their opportunities. It is worth noting that in Bombay, during the normal years 1893-94, 1894-95 and 1895-96, out of 18 lakhs advanced, 12 were given in three districts of Belgaum, Dharwar, and Bijapur, of the Southern Division, where vigorous measures had been first started on the initiative of an individual officer who for a series of years administered the collectorates of Dharwar and Belgaum. Similarly, in the Madras Presidency out of 30 lakhs advanced in the years 1891-92 and 1892-93 15 were taken up in the single district of Coimbatore. The years were deficient in rainfall, but Coimbatore was by no means the most severely affected district, and the large amount of *takavi* taken was largely due to the exertions of the Collector of the time. It is not perhaps too much to say that, the history of the fluctuations in the amounts of *takavi* taken up in any province, is the history of the interest taken in the matter by individual officers, who were quick to apprehend the kind of improvements which the agriculture of their districts required, and the value of *takavi* advances as a stimulus to the execution of such improvements as were most suitable to the locality and its needs. Thus the advances in the Bombay districts mentioned were spent chiefly upon the levelling, terracing, and embanking of fields, while in the Coimbatore district of Madras they were spent chiefly on wells. And there can be little doubt that, if all Collectors in Madras and Bombay had taken the same interest in their *takavi* work as the heads of the districts mentioned, still larger sums would have been advanced throughout the two Presidencies than have yet been given in ordinary years. But if this is the case in Southern India, far more is it so in the Northern Provinces, where so little *takavi* has been granted up to the present for land improvement, except in famine years. In this view we are supported by the local members who have been associated with our Commission. Thus MR. WILSON thinks the Punjab Government might distribute ten lakhs per annum against the one lakh which it has hitherto given for wells. MR. CRADDOCK would have an expenditure of four lakhs in the Central Provinces as against a fourth of

a lakh; and MR. ALLEN, of Bengal, without stating any specific sum, considers that the advances might be very largely increased in that province.

187. *Advances by the Opium Department.*—A strong proof, if proof be required, that much more can be done in ordinary times by means of State advances than many are inclined to suppose, is to be found in the operations of the Opium Department, which every year advances very large sums to cultivators of poppy, on condition that certain areas are put under that crop, and, in addition, a certain amount for wells, which, however, are used for other crops as well as for poppy. We do not suggest that it would be possible for Collectors to advance on the same scale. But the work of the Opium Department shows that there is no insuperable difficulty, or reluctance on the part of the cultivator, to prevent him from taking State advances from Government for agricultural purposes, when the advantages to be gained have been properly impressed upon him.

188. *Stimulating means required.*—Although, then, there are defects in the *takavi* system to which we shall advert below, and improvements to be made, yet the first and perhaps the principal measure required is to quicken the interest of all classes of revenue officers in *takavi* work, to place liberal allotments at their disposal, and to inquire strictly into the causes of failure to spend up to them.

189. *Rate of interest.*—We have inquired carefully into the extent to which the free use of *takavi* is hindered by defects in the law, rules, and administration. In the first place, we have no hesitation in saying that the rate of interest charged is not in itself excessive. That rate is  $6\frac{1}{4}$  per cent. (one anna in the rupee) for all classes of improvements, except in Madras and Bombay where the charge now is only 5 per cent. These rates are so far below the market rate of interest that the people regard them as extremely liberal. Some witnesses have recommended lower rates with a view of popularising the system; but no one has been found to assert that the existing rates were too high. The Opium Department, however, make all their advances, including those for wells, without interest. It would also appear, from calculations made by MR. WILSON and COLONEL GREY, that the Punjab Government, with interest at  $6\frac{1}{4}$  per cent., gains substantially by the present system. The Imperial Government which advances money for these loans to the Provincial Government at 4 per cent., while itself able to borrow at little over  $3\frac{1}{2}$ , also

presumably gains appreciably. We think that these loans ought not to be made a source of profit to the State, and that the interest on them should be reduced to a point sufficient merely to cover the risks taken. At present the amounts found to be irrecoverable are inappreciable; and the charge for risk might, therefore, be correspondingly small while the security remains as good as at present. We have made recommendations which may slightly increase the risk; but, even if they are accepted, we would suggest that the rate of interest may, with advantage, be reduced to 5 per cent. in all provinces. We think that such a reduction will be likely to strike the popular imagination as an act of great liberality, and may increase the attractiveness of *takavi* loans in far greater proportion than might be anticipated from the small diminution which would result in the actual payments by each individual cultivator.

190. The remarks in the preceding paragraph refer generally to *takavi* advances in all parts of the country. We have, however, also, carefully considered whether in precarious tracts where it is desired to give a special stimulus to irrigation, it would be desirable to reduce the general rate of interest, or grant loans free of interest. On the whole, we are of opinion that, it would be preferable to make free grants-in-aid, as proposed below, charging full interest on the remaining part of the sum required, which will be treated as an ordinary *takavi* advance. This plan has numerous advantages. The financial arrangements will be sounder and simpler. The free grants will be chargeable to some final head of expenditure, such as 'minor works, agricultural'. It will be easy also to work a system of free grants with considerable elasticity. Thus the grants might vary from *nil*, by tenths to, say, five-tenths; or, by sixteenths, to eight annas in the rupee, of the total sum required.

191. *Rigidity of collection.*—There is no cause of the alleged unpopularity of the *takavi* system which has been more frequently testified to than the rigidity of the system of collection. It is pointed out that the money-lender gives time readily to the client with tolerable credit. Government rarely or never gives time. There can be hardly any doubt that this does constitute an objection in the mind of the cultivator to become a debtor to Government, provided that he can get the money on sufficiently easy terms elsewhere. It is not that he has merely to pay the interest. This would probably be no greater burden to him than an addition to his land revenue assessment, which he pays

with remarkable punctuality. But he has also to pay an instalment of principal which, if his crops are poor, may be a considerable burden. The Collector or head of the district has authority, under the rules in all provinces, to suspend payment on the occurrence of failure of crops or other exceptional calamity, subject, however, to a report to higher authority. But this power of suspension is not very frequently exercised, except in years of very general failure of crops ; and when it is, the result is merely to postpone payment of the instalment for a single season, with the result that in the ensuing year the cultivator has to pay double the usual amount. The increased payment must often be raised with difficulty, and it is probable that under the circumstances, cultivators would seldom care to apply for suspension of *takavi* payments. We are of opinion that, suspension should be given without hesitation whenever, from causes beyond the control of the borrower, his crops fail to such an extent as to render the payment of the year's instalment unduly burdensome to him ; that whenever suspensions of revenue are granted, they should carry with them automatically suspensions of the *takavi* instalment which may be due the same year ; that the officer who has authority to grant the loan should also have authority to grant the suspensions ; and that the suspended instalment should not be made payable in the ensuing year with the instalment of that year, but that the effect of suspension should be to postpone by one year the payment of all remaining instalments due on the loan. It seems also unnecessary for the head of the district to report each case of suspension, as it occurs, to superior authority. Greater leniency in the matter of recovery cannot well be exercised by Government, which in these matters is unable to place itself in the same position as a private creditor.

192. *Period of repayment.*—There is, however, a measure which would undoubtedly go far to mitigate the hardship of rigid recovery, and that is the lengthening of the periods of repayment. In several places these periods have been criticised as too short. But opinion is not unanimous on the point, many witnesses considering that the people are perfectly satisfied with the periods allowed. It is remarkable what a reluctance there appears to be to work up to the full period of thirty-five years allowed by law. Except in Madras, where the period for wells is fixed at thirty years, in no province may the Collector fix a period longer than twenty years, while in Bengal his discretion is limited to ten, and in the Central Provinces and United Provinces, to



fifteen years. In the Punjab, the fixing of a period longer than twenty years actually requires the sanction of the Government of India, which, it is observed, will only be granted under very special circumstances, and the injunction is given that advances must be repaid in as short a period as is consistent with the object for which they are made. This order indicates the spirit in which the law and rules have been worked, and the effect has been that loans are seldom granted even for the full period for which the Collector has discretion. Short periods of repayment are considered to facilitate recovery, and are alleged to be in the true financial interest of the borrower. But neither of these considerations is mentioned or alluded to in the law, which prescribes that, in considering the periods for loans, regard should be had, (*a*) to the durability of the works, and (*b*) to the expediency of their cost being paid by the generation of persons immediately benefiting by them. [Section 6 (3), Act 19 of 1883]. In our opinion the borrower may be left to judge what his own financial interests and those of his successors are in this matter, and it seems to us hardly necessary for the Legislature to direct that attention should be given to consideration (*b*). Up to the present, the periods sanctioned have generally been so short that it can rarely have been brought into account at all; and if, in the future, longer periods are allowed, it will be many years before the enthusiasm of the cultivating and land-owning classes for agricultural improvement is raised to such a pitch as to pass the bounds of prudence, and so endanger the prosperity of succeeding generations. On the contrary, we apprehend that, by the encouragement of such investment, posterity are likely on the whole to reap substantial benefits. There is, also, no apparent reason why, when desiring a loan for an agricultural improvement, the borrower should be fettered by considerations, which are never allowed to stand in the way of the far more extensive borrowings which are made for purposes of unremunerative and extravagant expenditure. Generally speaking, then, the sole consideration in determining the period of repayment should be the durability, or what we may term the 'life' of the work; the full period so determined should be offered to the borrower; and no pressure whatever should be placed upon him with the object of inducing him to choose a shorter period.

193. Now there are some works, *e. g.*, soundly constructed wells in various parts of the country such as the Bombay Deccan, which, if properly maintained, will last practically for ever. In such cases

there would be no objection, according to the principles stated above, to the acceptance of a perpetual charge equivalent to the interest on the capital advanced, instead of an instalment sufficient to extinguish the debt within a term of years. This proposal deserves examination. In some Native States money is frequently advanced for well construction in return for an additional assessment upon the land benefited. But in the Northern Provinces of British India, where the period of the exemption of improvements from taxation is not perpetual, this practice could not be worked at all; and in Southern India it might be looked on, though erroneously, as infringing the principle of such exemption. Many good authorities doubt whether the ryot would like the perpetual charge. This is a matter of opinion which cannot be settled until the feeling of the people has been tested. But we are ourselves somewhat reluctant to suggest permanent indebtedness as a possibility. There is an undoubted stimulus to thrift, and advantage to the borrower, in arrangements enabling him to extinguish his debt within a reasonable period; and, if the period of repayment be made long enough, the excess of the annual payments over the perpetual charge will not be large enough to deter people from borrowing. Thus, supposing the period which might be allowed for wells in the Bombay Deccan, where, if properly made and maintained, they are virtually indestructible, to be fifty years, then at 5 per cent. interest, a payment of Rs. 5-8 would extinguish within that period a debt of Rs. 100, whereas the perpetual charge would be Rs. 5, or only 8 annas less per annum. No reasonable man would prefer the perpetual charge for the sake of saving the eight annas. On the other hand, as the figures given below show, the perpetual charge would be a far easier annual burden than the instalment required to discharge the short-term loans now given, in which the period extends to but seven or ten years, or even a loan for as long as twenty or thirty years.

*Sum required to discharge a loan of Rs. 100 at 5 per cent.*

						Rs.
in 7 years	...	...	...	...	...	17·3
„ 10 „	...	...	...	...	...	13·0
„ 20 „	...	...	...	...	...	8·0
„ 30 „	...	...	...	...	...	6·5
„ 50 „	...	...	...	...	...	5·5
„ perpetuity	...	...	...	...	...	5·0

194. This policy of offering long periods of repayment should be followed in all parts of India. For there is no part in which there is not great room for the extension of agricultural improvement, or, in which the State ought not to encourage such extension to the utmost of its power. But in tracts secure from famine or severe scarcity, the State will not be justified in running extraordinary risks, and in such cases a strict estimate should be made of the life and durability of the improvement. Following these principles then, we recommend, either that no maximum period should be prescribed by the law, or that the maximum for the whole of India should be far longer than the existing maximum of thirty-five years. In view of the considerations stated below, fifty years would seem to be a suitable term. Within the provinces, Local Governments might be empowered to prescribe in the rules maximum periods for different tracts and districts, and for different classes of works, having regard to the durability of the work for which the loan is granted. As the rules require the sanction of the Governor General in Council, it will be easy for the Government of India to check any tendency, if it arises, to allow excessively long, or unduly short, maximum periods. The officer empowered to grant loans should, in every case, have full power to fix the period within the maximum, if any, without prior reference to superior authority.

195. *Permanent charge for interest.*—There is another alternative which has much to recommend it. Working as before on the basis of a 5 per cent. rate of interest, the borrower, if he would build a thoroughly durable well, might be charged Rs. 5-8 per cent., to be paid so long as the well endures, without any demand for repayment of capital, although he might repay at any moment any portion he wished, thereby reducing the interest proportionately. This would be identical with the former proposal if the well endured for fifty years and no longer. It would be to the interest of the borrower to make the work last as long as possible, but if it failed within 50 years there would be a loss to Government. On the other hand, if the work lasted more than 50 years, Government would gain, as it would receive something more than the normal rate of interest. We think therefore that an arrangement of this description should be offered as an alternative to a loan for a long but definite term, in all precarious tracts where special stimulus is required. If the ryot does not like the arrangement, it can be dropped.

196. We cannot say which of these proposals would be regarded with greater favour by the borrowers, but there would be no loss to Government under either ; although, from the point of view of the cultivator, there would appear to be a relinquishment of all claim to the principal, notwithstanding a very moderate charge as interest, which in the case of the latter proposal would also be relinquished as soon as the failure of the well rendered the payment burdensome. These terms would very probably appear to be far more liberal and attractive to the ryot than to the actuary. And, in dealing with the people of this country, what may be called sentimental considerations of this sort, are of great importance.

197. *Delays in distribution, and exaction of underlings.*—According to the evidence which we have taken, one of the greatest obstacles to the extension of *takavi* advances consists in the endless delay and trouble which seem inseparable from official procedure—the visits to head quarters, the official inspection, and also the substantial portion of the advance which is apt to stick to the hands through which it passes. These evils seem to be universally recognized and admitted, and we have no desire to minimize them. But we have some doubt as to the extent to which they have effectively lessened the demand for *takavi*. The payments to underlings seem most unfortunately to be cheerfully acquiesced in by the people, and probably do not exceed the discounts and commissions which any client will have to surrender to his money-lender in the course of his haggling with him. The head-quarters of the district or sub-division are often not farther away than the shop of the money-lender with whom the ryot transacts business. We are unable to suggest any general remedies. But there seems to be no reason why journeys to head-quarters should not be shortened or saved, by giving powers generally to sub-divisional officers, and even to tehsildars, as in Madras and Bombay, to grant advances within certain limits, instead of retaining the whole power in the hands of the Collector, as seems to be done in other provinces. It has also been stated again and again before us that, if an officer of standing were to go into camp with money in his hand, receive applications, inspect sites, settle terms and make advances on the spot, many of the difficulties would be removed. This was the procedure perforce adopted in time of famine, when there was no other way of getting the large allotments promptly disbursed. Similar methods are

pursued by the Opium Department in the distribution of their advances. We recommend that the experiment be tried in districts in which it may be determined to make large advances in future. There are few provinces in which it would not be possible to select tracts in which very considerable sums might be distributed in this way with the certainty of great benefit to the people and the Government.

198. *Inquiries regarding security.*—One of the chief reasons for delay in the disposal of applications for *takavi* has been found in some provinces to arise from the length and complication of inquiries into the sufficiency of the security offered. In most cases the security taken is the land to be benefited. Its value is easy to ascertain sufficiently well for practical purposes. The principal object of the inquiries is generally, therefore, the extent to which the land has been previously encumbered. Now, it was probably the intention of the framers of section 7 (1) (c) of the Land Improvement Loans Act that, the land benefited should be saleable for recovery of *takavi* arrears, just as it would be for recovery of arrears of land revenue, free of all encumbrances. But doubts have arisen as to the exact legal effect of this provision. These doubts should, in our opinion, be set at rest under competent legal advice, or, if need be, by one or two test cases; and then, if necessary, the law should be amended so as to give effect, beyond any possible question, to what appears to have been the original intention of the Legislature. Once the land is made saleable free of all encumbrances, elaborate inquiries into their existence will be no longer necessary. The just rights of prior encumbrancers seem to be sufficiently guarded by section 5 of the Act, which provides that officers may, if they think it expedient, publish a notice calling for objections to the grant of the loan, and must consider objections submitted, and make written orders admitting or overruling them. This provision could, if thought necessary, be fortified by making public notice compulsory.

199. The other remedy against prolonged inquiry into the matter of encumbrances is to prescribe, if necessary by law, that wherever a record-of-rights has been prepared, objections submitted by prior encumbrancers will be recognized only if the encumbrance has been previously entered in the record. This will enable the inquiring officer, by mere inspection of the record, to ascertain all prior encumbrances of which he need take account. The existence of

prior encumbrances, however, should not necessarily bar the grant of the loan. The value of the land as security to the encumbrancers will generally increase by the improvement. The encumbrancer may foreclose and get the benefit of it. But its value for protective purposes will remain, and the security of Government in the land for purposes of recovering the advance will not be impaired.

200. *Transfer of occupancy rights.*—There seems to be little doubt that in *zamindari* provinces the fact that the occupier of the soil is generally a tenant without rights of transfer in his holding, throws considerable difficulty in the way of advancing him money for improvements. For the best and most obvious security for the advance, namely, the land benefited is not available unless the land-owner can be induced to stand in; and this he can seldom be prevailed upon to do. In the Central Provinces an attempt has been made to overcome the difficulty by making tenants' holding sale-

Tenancy Act, sec-  
tions 46 (3) and 70  
(3).

able for the recovery of Government loans. We think the advisability of making similar provision in other provinces should be considered; although most officers seem opposed to such a measure, mainly from fear, first of its leading to the acquirement by the occupancy tenant, to his ultimate ruin, of full rights of transfer, and secondly of the extreme opposition of the land-owners. But opposition might be conciliated by giving the landowners rights of pre-emption; and as regards the risk to the tenants from an undue extension of the right of transfer, it may be observed that where the land-owners have considerable estates, as in many parts of the United Provinces and Bengal, the greater number of wells and other small improvements are made by the tenants; and the importance of providing the tenantry with the best possible security for advances seems sufficient to justify the running of a risk, which, after all, can be avoided by firmness and foresight on the part of the administration. We understand also that, as a matter of fact, transfers are even now often effected by tenants in the form of sub-leases. It may, therefore, be that transferable rights for *takari* purposes will not add much to existing evils, if evils there be. If the sub-leases be valid and legal security for private advances, *takari* might also be advanced on the strength of some similar form of conveyance to a Government officer.

201. *Joint security.*—There is, however, a way of making advances to tenants, otherwise than on the security of their land, which

deserves mention: namely, the taking of joint security from several tenants. In Northern India the areas irrigated by wells are often so large that several holders may be interested in the same well. Indeed it seems to be a general practice in parts of the United Provinces for all the neighbours to use a well which commands their lands, by whomsoever it be made, after the wants of the owner are satisfied. Notwithstanding the frequent difficulty of inducing people to co-operate, it seems not improbable that in order to secure this user as of right, instead of merely by permission as at present, there would be no insuperable difficulty in inducing neighbouring tenants to stand joint security for one another. It may be observed that the Opium Department generally advances for wells on this system.

202. *Advances on personal security.*—But even if this measure fails, we think that the experiment ought to be freely tried, of advancing to tenants of solidity and character, upon their individual personal security alone. Their crops and personal property will often suffice to cover any but a very large loan; and the general integrity of *takavi* borrowers, as amply evidenced by the insignificant amount of irrecoverable loans, is an asset which should by no means be overlooked.

203. *Simplification of accounts.*—We regard simplicity in accounts and procedure as of the greatest importance, with the object of saving as much trouble as possible to the subordinate revenue officials, who have it in their power to discourage applications for *takavi*. From this point of view we think the separate account of principal and interest a mistake. With an instalment of fixed amount, and with penal or compound interest exacted in only very exceptional cases, nothing more than the simplest record of repayments will be necessary.

204. It has been suggested to us that, when land revenue is recovered by rates upon the area cultivated or matured in each harvest, a *takavi* advance might be recovered by a percentage surcharged on the amount of land revenue, so that the recovery would be automatically adapted to the means of repayment. The idea seems to us admirable. Under this system, however, annual payments will vary considerably from year to year. It will accordingly be difficult to settle how much of each such payment should be credited to principal and how much to interest, and, generally, to determine exactly how the account stands, and to enable the borrower to keep a satisfactory

check on his repayments. To meet this objection, and to simplify calculations and accounts, we would make a composition with the borrower for a definite sum, which would be determined on terms to be fixed for each tract. We would say to him, for instance—"You have borrowed rupees 300. If you repay it by fixed instalments in twenty years, you will have to pay rupees 24 a year, or rupees 480 in all. We will take so many annas in the rupee on your land revenue till you have paid rupees 480, not charging more if the twenty years are exceeded, or less if the money is recovered sooner." The result will be that over a series of good years, when the revenue payments and surcharges would be relatively high, the Government would be repaid sooner and receive a better rate of interest on the money lent, while over a series of bad years the period of repayment would be longer and the interest lower. If the terms of composition are judiciously fixed, Government will in the end lose nothing on an average of transactions, and the individual borrower will benefit by the adaptation of the loan recoveries to his fluctuating resources.

205. *Establishments.*—If *takavi* advances increase at all upon the scale which we should hope and wish to see, there is certain to be a need for increases of establishments, at any rate in particular tracts where there is large scope for the work. A great deal can be done by trifling increases of the subordinate establishments, such as were long ago made in the three Carnatic districts of the Bombay Presidency

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But it is not unlikely that in other places more may be needed than this; and special officers with suitable establishments may have to be provided, either to deal with *takavi* work or to replace permanent district officials appointed to deal with it. It is of the first importance that the officers dealing with applications should know the locality and the people. It has been suggested that the entrusting of the distribution of *takavi* to a special officer who would not be responsible for its collection might prove to be dangerous. We do not attach great weight to this apprehension. Subordinate officials are only too prone to the belief that their reputation depends above all things upon the promptness and completeness with which they collect Government dues of all kinds; and transfers are so frequent that under the existing system, where all the *takavi* is worked by the district officials, the distribution of the advances, and the collection of dues which are paid in instalments spread over several years, must frequently be done by different



officers. In districts in which agricultural banks may be successfully established, it may be possible to utilize their agency in the distribution of *takavi*, or even to make advances to the banks on their own security for the purpose of agricultural improvements.

206. *Procedure in time of famine.*—Our observations have, so far, been confined to the administration of the *takavi* system in ordinary times. In times of famine, large departures will, of course, have to be made from the ordinary rules. It is unnecessary here to say more than that, we entirely approve the system followed in recent famines, from 1896-97 onwards, in accordance with which very large sums were advanced for private irrigational improvements, and extraordinary concessions were made. There can be no doubt that, in addition to the actual help derived from the advances, a valuable stimulus was given to the execution of improvements out of unaided or only partially aided private resources. The only point on which we have to offer advice is that, the greatest care should be taken in famine times to have the advances given out early. The authorities should begin offering the advances some time before it has become certain that the impending scarcity will develop into famine. For each district a sum based upon experience of requirements in previous famines should be fixed beforehand; and authority to disburse up to that sum should be given to heads of districts by the Local Governments as soon as they are satisfied that the emergency has arisen which would justify such a measure. The grant of such authorization would be reported at once to the Supreme Government as a warning of the financial provision likely to be required. In this way the delays incurred, at an important crisis, in the preparation of detailed estimates requiring a number of reports from the local officials, would be avoided. But these estimates could, of course, be prepared subsequently at comparative leisure. Small and temporary irrigation works are those which are likely to be most useful on the occurrence of famine, and all permanent allotments should be at once diverted to these, so far as is possible within the district.

207. *Special concessions in famine tracts.*—We have discussed above the methods by which the *takavi* system may be utilized for the development of private irrigation works. But we are convinced that, if progress is to be made at the full rate attainable with benefit to the country, still greater concessions will have to be made in tracts

exposed to famine. These concessions should generally take the simple form of free grants of money, which may be fixed at a maximum of one-half the total amount required, up to a limit of, say, rupees 500. The localities in which these grants would be justifiable may be characterised broadly as those tracts which have suffered severely in any great famine, such as those of 1876-77, 1896-97, and 1899-1900, and have not since obtained, by irrigation or otherwise, protection sufficient to guarantee them against the recurrence of similar calamities.

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There may often be in such tracts better financial justification for the grant for wells than for a canal depending upon storage. We do not, however, contemplate the bestowal of free grants in every case even in such a tract, but only when the concession is justified by the poverty of the applicant, or where the margin of profit from irrigation is so close that the concession will make the difference between profit and loss to the irrigator. The proportion of the free grant to the total sum required should, we think, vary with the circumstances both of the tract and of the grantee; and as the development of irrigation in any tract progresses it will be reasonable to reduce that proportion gradually to *nil*. We do not desire that taking of *takavi* should be a necessary condition of receiving a free grant. Such grants should be allowed to cultivators who are, although poor, thrifty enough to provide the remainder from their own resources.

208. Some witnesses have proposed that in precarious tracts a bounty should be given on every well. The plan has the merit of simplicity. But, provided that no inordinate difficulties are found in determining the resources of the grantee, it may be doubted whether the plan would be so successful in getting the maximum number of wells constructed as that which we recommend. Our proposal restricts grants to people of slender resources, and so encourages more people of this class to construct wells with the aid of funds which under the alternative scheme would go to people of ample means, some of whom would make wells without Government aid. Other concessions, such as postponement of commencement of repayment until the work begins to be remunerative, partial remission of the sums advanced in case of failure of the work, exemption of improvements from enhancement, and so forth, are discussed in the chapter on private improvements. For reasons assigned in paragraph 190, we deprecate advances of money free of interest, or at abnormally low rates.

209. *Disbursement of loan, and inspection of work.*—In order to secure that loans and grants are expended upon the objects for which they are granted, it will be necessary to observe carefully the precautions which we believe are already enjoined in all provinces, namely, the inspection of the works and the disbursement of the money allotted in instalments, the second instalments not being granted until the local authority is satisfied that work to the value of the first has been executed. Where advances are large, it will be necessary to have a special agency for inspection; elsewhere probably the work can be done by the ordinary establishments with such additional strength as may be required for the distribution of advances on the larger scale now contemplated. It is possible that the inspections may be turned by subordinates into an occasion for black-mailing. But we do not see how they can be dispensed with. The subordinates' inspections should be checked as far as possible by superior officers, who should regard this duty as one of the most important items of village inspection work. Care should be taken that the advance or grant will fully cover so much of the total outlay required to construct the work as the borrower is unable to provide from his own resources. Insufficient allotments merely lead to waste and tempt the borrower to misapply the money received.

210. *Forecast of outlay in each province.*—In order to give some rough idea of the sums which may have to be provided during the first few years until repayments of *takavi* begin to flow in, we hazard the following forecast of the amounts likely to be required annually in each province:—

PROVINCE.	TOTAL.	Free grant.	Takavi.
	Lakhs.	Lakhs.	Lakhs.
Madras.....	20	5	15
Bombay.....	15	5	10
United Provinces.....	10	2	8
Punjab.....	10	1	9
Bengal.....	9	1	8
Central Provinces.....	6	2	4
Other Administrations.....	5	1	4
TOTAL.....	75	17	58

The amounts at present allotted to these provinces for *takavi* alone average  $19\frac{1}{2}$  lakhs in ordinary years. What we virtually recommend, therefore, is that Government should treble the existing *takavi* grants, and make an allotment of 17 lakhs for free grants-in-aid of works of private improvement, under some definite head of expenditure, say, 'minor works,—agricultural.'

211. We have very little on which to base this forecast, except conjecture and the opinions of well qualified officers. The exact allotments will have to be settled with Local Governments and Administrations. But even this expenditure will effect very little. Thus, calculating the expenditure required to protect an acre of land by means of the various private works at Rs. 100 in Madras and Bombay, and Rs. 50 elsewhere, we find that 75 lakhs would give protection to about one hundred thousand acres per annum. In twenty years, therefore, the protected area would have been increased by two million acres. A considerable portion of this, however, would not be in the areas liable to severe famine. It will probably be sanguine if we calculate that one and-a-half million acres within these areas can be protected in twenty years by means of *takavi* and grants-in-aid. Excluding Burma, the total area of cultivation exposed to famine may be put roughly at one hundred and fifty million acres. Thus, by means of *takavi* and grants-in-aid alone, protection can be given to not more than 1 per cent. of that area. This proportion is so small that, if reliance had to be placed on Government aid only, it might seem hardly worth while to lend it. But the value of *takavi* advances and grants-in-aid is by no means limited to the actual amount of work effected by their means; they give, in addition a real stimulus to unaided private effort. Having regard to the rate of progress attained in the various provinces in the past without any assistance, or with the aid of comparatively little stimulus of the kind, we shall not perhaps be over-sanguine if we hope that the area under irrigation from private works may be doubled in fifty years. But even if this result be obtained, then deducting one-fourth of the increase as occurring in the areas not exposed to famine, the increase of protection in the famine-exposed tracts will not exceed 13 per cent of their area, and it becomes evident that, notwithstanding every possible extension of private works, considerable areas must remain without protection by their means.

212. *Financing of advances and grants-in-aid.*—The amounts of the grants to be provided for *takavi* advances, and for grants-in-aid of private irrigation works, will necessarily come under revision from time to time, say, at intervals of five years; but the revision should be made rather with reference to requirements, and to the maximum amounts that can be effectively expended under existing conditions of administration, than to budget exigencies. We cannot too strongly insist that the success of the policy which we advocate, will depend on its being pursued systematically and continuously, at whatever rate of progress may give the best results, and without being liable to interruption in years of great financial stress. We consider that the additional expenditure proposed will not impose any permanent burden on the State, for there will be an adequate return in the greater protection afforded against famine; but we apprehend that considerations of ways and means may sometimes render it difficult to carry out this policy continuously. Assuming provisionally that for the next few years the rate of expenditure will be as proposed, there may be a difficulty in providing the grants required out of current revenues. The 17 lakhs to be provided for grants-in-aid will be practically a new item of expenditure, while the grants for *takavi* will exceed the normal under this head by 40 lakhs. There will not only be a great immediate increase in the demand under the latter head, but its duration will be greatly prolonged if the period of repayment of loans is extended as we have suggested; and we have also proposed a reduction in the rate of interest which will involve the surrender of some of the profits which the State has hitherto made on its *takavi* transactions. We have suggested a universal rate of interest at 5 per cent. as the basis of all loan transactions for agricultural improvements, in the belief that this rate will be sufficient to cover all the risks of loss, but if this rate is likely to be too low, it must be increased. We think that the State should not look for direct financial profit on these transactions: but we recognize at the same time that it must be a cardinal principle of *takavi* transactions that they are self-supporting and involve no loss to the State, and that the expansion of operations which are recommended depends on the rigorous observance of this principle. Subject to this condition, however, we think that the only limit to the *takavi* grants should be the amount which the people are willing to take, and the officers of Government are able to distribute, with due regard to security and other considerations;

and that, if the amounts required cannot be provided from general revenues, some arrangement should be made under which the money could be obtained from loan funds, as for expenditure which will be essentially productive, and which will all be eventually recouped. These conditions will not apply to expenditure incurred on private irrigation works, which cannot properly be met from loan funds; but we suggest for consideration that expenditure of this kind should be recorded under a new head, as grants-in-aid for private agricultural works, and should be chargeable against the famine grant, or, in other words, should be met from that portion of the grant which would otherwise be shown as applied for the reduction or avoidance of debt. We think that any expenditure which will tend to increase the protective efficiency of private works is as legitimate a charge against the famine grant as expenditure on non-productive irrigation works, and may be justified on the same ground—that it will tend to reduce the amount of future charges for actual famine relief, and is a better insurance against the cost of famine than a corresponding reduction in the public debt.

213. In order, then, to secure that continuity of policy and action which we have recommended, we further suggest that Local Governments and Administrations should be invited to submit estimates of the full amounts which they can distribute over a series of years, not less than five; and that they should be given regular annual allotments up to which they should be expected to work. Failure to do so should be explained, but should not be made the ground for diminution of the allotments during the remainder of the period, unless the local authorities convince the Supreme Government that experience already gained has demonstrated the impracticability of spending up to them. Similarly, heads of districts and divisions should get for a term of years regular allotments based upon carefully framed estimates of requirements. The fixing of allotments, however, should not exclude the grant of special additional allotments on good cause shown. Allotments to provinces, or parts of provinces, unaffected by famine have sometimes been curtailed in order to satisfy the demand in affected localities. Such curtailments should be avoided, if at all possible, with due regard to financial exigencies. Any check to the steady development of private improvements by means of advances is likely to have serious and permanent effect on the zeal of Local Governments and officials on which the success of the system so largely depends.

214. *Summary.*—In order to make our proposals clear, we summarize below those which relate especially to precarious or selected tracts. The remainder apply to all parts of India in which *takavi* may be advanced for purposes of irrigational improvement:—

- (1) Special liberality in estimating periods of repayment (paragraphs 192-194).
  - (2) Special arrangement specified in paragraph 195.
  - (3) Advance of money on the spot (paragraph 197).
  - (4) Payment by surcharge on fluctuating revenue (paragraph 204).
  - (5) Special famine measures (paragraph 206).
  - (6) Grants-in-aid (paragraph 207).
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[*Resolution of the Government of India, No. 6-204-16, dated the  
30th November, 1905.*]

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PRINCIPLES ON WHICH THE SYSTEM OF ADVANCES, UNDER THE LAND  
IMPROVEMENT AND AGRICULTURISTS' LOANS ACTS,  
SHOULD BE WORKED.

The Government of India have had under consideration the system in force for the advance of loans from State funds to assist in the development of agriculture, whether under the Land Improvement Loans Act, 1883, or under the Agriculturists' Loans Act, 1884. The recommendations made on the subject by the Famine Commission of 1901 were referred for opinion to Local Governments, and after consideration of their replies, and of the recommendations made on the same subject in the report of the Irrigation Commission of 1903, the Governor General in Council is now in a position to lay down the principles on which he considers that such loans should be made, and to offer certain suggestions with the view of making their operation more effective. He agrees with both Commissions that the system is a very valuable one, both in ordinary times and in times of drought; that it should be the policy of the State, as supreme landlord and as the guardian of the people against famine, to promote with reasonable liberality, the execution by private persons of works which will add to agricultural efficiency and increase the total produce of husbandry; and, that loans for the purpose of purchasing seed and cattle and for other agricultural objects, not covered by the Land Improvement Loans Act, should not be limited to times of special stress, but should, like those made for the improvement of the land, form a part of the ordinary revenue administration. The consideration which has now been given to the subject has led him to the conclusion that in most Provinces the existing rules might safely and properly be revised, so as to secure greater simplicity, liberality and elasticity in the working of the system, and thus increase its popularity and the advantages derived from it by the agricultural population.

2. This Resolution will first deal with loans made under the Land Improvement Loans Act on ordinary conditions, and then with loans on special terms and advances made under the Agriculturists' Loans



Act; and it will be convenient to consider land improvement loans chiefly in connection with the construction of wells, though it should be understood that the principles enunciated also apply, so far as may be, to tanks, water-courses, embankments and other works for the improvement of land.

3. As regards the rate of interest to be charged on ordinary advances under the Land Improvement Loans Act, the present practice is that, in Madras, Bombay and Burma the rate levied is 5 per cent., and that in all other Provinces it is  $6\frac{1}{4}$  per cent. Both the Famine Commission and the Irrigation Commission suggested that the rate might with advantage be made 5 per cent. in all Provinces, though the latter Commission admitted that a rate of  $6\frac{1}{4}$  per cent. is not in itself excessive, and that the people regard it as extremely liberal. The general opinion of the Local Governments of Northern India, however, is that there is no good reason for reducing the present rate of  $6\frac{1}{4}$  per cent.; and with this opinion the Governor General in Council concurs. This rate is very much less than that warranted by the custom of the country and charged by village money-lenders, and it does not seem probable that a reduction of the rate of interest from  $6\frac{1}{4}$  to 5 per cent. would have any appreciable effect in increasing the demand for loans, as the ordinary borrower would not be likely to have any clear idea of the benefit he would derive from the reduction. The Governor General in Council agrees with the Irrigation Commission that loans under the Land Improvement and Agriculturists' Loans Acts need not be made a source of direct profit to the State; and he considers that where the present rate of interest is found to result, after taking into account all classes of transactions (including remissions) under both Acts, in a net profit to the Local Government, this margin of profit should be utilised, not in giving a reduction in the general rate of interest charged to all borrowers, but in granting special concessions to those borrowers who stand in need of them, and thus rendering the system more elastic. He would regard the margin between the rate paid by Government on the loans it raises, and that charged by Government on the advances made to agriculturists, as an assurance fund against risks and a sinking fund to cover losses, such as may be expected to occur in individual cases. For these reasons the Government of India agree with the Local Governments of those Provinces in which the rate of interest is at present  $6\frac{1}{4}$  per cent.,

that there is no good reason for a reduction of that rate, and would ask the Governments of Madras, Bombay and Burma to consider whether the rate at present charged in those Provinces might not, with advantage, be raised to  $6\frac{1}{4}$  per cent.

4. Under the present rules it is usual to levy penal or compound interest on overdue instalments, and the Irrigation Commission recommend that such interest should be exacted only in very exceptional cases. In this recommendation they are supported by several Local Governments, and more especially by the Lieutenant-Governor of the United Provinces, who points out that the failure to pay interest when due must be owing either to contumacy or to poverty, and that in the first case coercive process to enforce payment should be taken without delay, and in the second the question is whether some remission should not be granted, and not whether more interest should be exacted. The Government of India are unable to accept this argument without modification, as, even when the delay is due to contumacy, it is impossible, in practice, to levy the arrear at once, and it is equitable that a delay so caused should involve a penalty, if only as a lesson in punctuality. They agree, however, that Local Governments should be prepared to remit or reduce compound and penal interest in cases in which they are satisfied that the failure is due to inability to pay and that the levy of such interest would be productive of hardship.

5. Under most of the present sets of rules the maximum ordinary term fixed for the repayment of a loan is 20 years. The Famine Commission suggested that this period might be extended, and the Irrigation Commission recommended that no maximum period for repayment should be prescribed, or that the maximum term should be fixed at 50 years, Local Governments being empowered to prescribe maximum periods for different tracts and districts and for different classes of works, having regard mainly to the durability of the work for which the loan was granted. After full consideration of these suggestions, the Government of India are of opinion that in the case of ordinary improvements a twenty years' term for repayment is generally sufficient for the following reasons. An examination of interest tables drawn up to show the amount of the annual or half-yearly instalments required to discharge, within different periods, a loan of Rs. 100 at  $6\frac{1}{4}$  or even at 5 per cent. will prove that, to extend the period of repayment beyond twenty years effects no substantial reduction in the amount of the annual or half-yearly instalment ; so

that such an extension affords no great immediate advantage to the borrower, while it burdens him for a longer term with the duty of making repayments. A still stronger reason is to be found in the consideration that the amount of funds available for making such loans is limited, and that the rate, at which fresh loans can be made, depends to a large extent on the rate at which the money already out on loan is repaid to Government, so that it may be utilised by being re-issued in the form of further loans. Thus to extend the term generally adopted for repayment would reduce the number of improvements which could be aided by means of the total sum available, and render it less effective for the purpose in view. The Government of India, therefore, are of opinion that the ordinary term for repayment of loans should not exceed 20 years ; but they have no objection to a Local Government's taking the power to grant a longer term in special cases.

6. In fixing the actual term of repayment in individual cases some consideration should no doubt be paid, as recommended by the Irrigation Commission, to the probable durability of the improvement, with the view of arranging that the whole of the loan shall be repaid before the improvement ceases to be of use ; but this is a matter in which the convenience of the borrower may well be consulted, and the Government of India recommend the following procedure, which has already been adopted in some Provinces. A specimen table\* appended to this Resolution shows to the nearest anna the amount of equated yearly or half-yearly payments that would be required to discharge a loan of Rs. 100 with interest at  $6\frac{1}{4}$  per cent., in periods of 10, 15 and 20 years respectively, from the date of the first instalment, assuming that this is paid at the end of three years † from the date on which the loan is drawn. Similar tables should be drawn up for other amounts and periods, and should be explained to the borrower, it being left to him to choose, subject to the approval of the lending authority, which table of payments he will adopt. The borrower will then easily understand how many instalments of so many rupees each he will have to repay, and will be able to select the scale which best suits his convenience. As regards the date from which the repayment should commence, the Famine Commission

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\* See pp. 126-27.

† As stated further on in this paragraph, the period of grace contemplated is not to exceed  $2\frac{1}{2}$  years ; but three years has been taken in the table to cover the results of unpunctualities which will probably occur in the repayment of the instalments.

suggested that a more careful adjustment of the payments might be made to the time when profits begin to accrue. On this point also the Government of India think that within reasonable limits the convenience of the borrower may be consulted, and that the object should be to ensure that payment, either of principal or interest, is never exacted before the date when, by the exercise of such due diligence as may reasonably be expected of an Indian peasant, the profits of the improvement might be expected to cover the payment. This period of grace should not, however, exceed  $2\frac{1}{2}$  years in any case, and interest should be charged during its currency : this will be allowed for in the tables above mentioned. The Government of India are not prepared to agree to the suggestion that the borrower might be allowed to repay instalments of the loan only so long as the well endures, as this would involve enquiries which would be accompanied by some trouble everywhere, and might often prove impracticable owing to insufficiency of staff or of records.

7. In some Provinces the rules regarding the nature of the security to be required before a loan is granted for the improvement of land seem to be unnecessarily strict. Under section 7 (1) of the Land Improvement Loans Act, all loans granted under the Act, as well as the interest chargeable thereon, may be recovered from the borrower as if they were arrears of land revenue due by him, and-out of the land for the benefit of which the loan has been granted, up to the extent of the interest of the borrower in that land, including the interest of mortgagees on, or persons having charges on, that interest. Where, therefore, the borrower's interest in the land to be improved is sufficient security of itself to cover the loan, no further security should be demanded. The Madras rule on the subject lays down that no loan should be granted unless the value of the security offered exceeds by at least one-fourth the amount of the loan applied for. The Government of India are, however, of opinion that this rule may be relaxed with safety, and are inclined to suggest that, where the amount of the loan does not exceed three-fourths of the value of the land after the improvement has been carried out, no collateral security need be required. Where the interest of the borrower in the land to be improved is not sufficient of itself to ensure the repayment of the loan, it is necessary to require further security, which may consist of other lands belonging to the applicant, or of land belonging to other persons who are willing to become his sureties, or of personal security.

It is for the Local Government to satisfy itself that the security offered, in whatever form it is given, is sufficient to guarantee the repayment of the loan, and where it is of opinion that security other than land is sufficient, there is no objection to such security being accepted. Indeed, the Government of India strongly endorse the opinion recorded by the Irrigation Commission that, the joint personal security of several persons may often be accepted as sufficient to ensure the repayment of a loan, and recommend for the consideration of Local Governments the rule now in force in Madras to the effect that, when a loan is applied for by the members of a village community, or by a group of cultivators on their joint personal security, the Collector may, at his discretion, advance on such security an amount not exceeding five times the annual assessment of the land held by the applicants. In this connection it may be mentioned that in some Provinces great delay is caused by an enquiry into previous encumbrances on the land offered as security ; although, seeing that under the Act, the existence of mortgages or other charges on the interest of the borrower does not lessen the security for the loan, it would seem unnecessary to make elaborate enquiries regarding previous encumbrances on the land to be improved ; and the Government of India trust that Local Governments will provide that such an enquiry shall not be carried further than is necessary with due regard to the security of the loan. The Irrigation Commission have called attention to the difficulty of advancing money for improvements to tenants in some Provinces owing to their having no transferable rights in their holdings, and Local Governments will be separately addressed on this subject. Meanwhile the Government of India desire to express their concurrence in the recommendation of the Commission that, where the personal security of a tenant, or the joint security given by several tenants, is sufficient to ensure the repayment of the loan, the experiment of making advances to tenants on such security ought to be freely tried. In some Provinces a rule exists forbidding the granting of a loan to any borrower, who is in arrears for land revenue, or for a previous loan ; but the Government of India are of opinion that this in itself is no sufficient reason for refusing a loan, if the security offered is otherwise satisfactory, and recommend that Collectors should be given the discretion of granting loans to persons in arrears, when they are satisfied as to the security offered.

8. The rules in force in some Provinces regarding the procedure in granting loans might also be revised with the object of affording greater facilities to persons wishing to borrow. Arrangements might be made for the supply free of cost of printed copies of a form of application, to be presented to any revenue officer, and all revenue officers might be required in the case of an oral application to cause it to be recorded in the prescribed form by some official. It is usually sufficient in the case of an application for a small loan to refer it for local enquiry to an officer not below the rank of revenue inspector, or field *kaunungo*, though, where the loan applied for exceeds Rs. 500, it would be advisable to prescribe that the local enquiry should be conducted by an officer of a rank not lower than that of a deputy *tahsildar*. In Madras *tahsildars* have the power to sanction loans not exceeding Rs. 250, while Divisional Officers can sanction loans up to Rs. 500, and Collectors up to Rs. 1,000; and other Local Governments are requested to consider whether similar powers to sanction loans could not safely be delegated to subordinate officers, so as to obviate the delay of a reference to higher authority. In the case of a large loan it is advisable to advance the money in instalments, the second instalment not being granted until the lending authority is satisfied by local inspection that work to the value of the first instalment has been executed; but care should be taken that this condition does not lead to delay, and reports of trustworthy subordinates as to the progress of the work should be accepted, subject only to such check as is considered necessary. Great importance should be attached to the principle that the advance should be sufficient to cover so much of the total outlay required to construct the work as the borrower is unable to provide from his own resources, as it is often better to refuse altogether an application for an advance than to sanction it in part only, leaving the applicant to borrow elsewhere to complete the work.

9. The Government of India concur with the Irrigation Commission as to the importance of elasticity in the collection of instalments for the repayment of loans, and approve of their recommendations that suspension should be given without hesitation, whenever, from causes beyond the borrower's control, his crops fail to such an extent as to render the payment of the instalment unduly burdensome to him; that whenever suspensions of revenue are granted on a large scale over a wide area, they should carry with them automatically suspensions of the *takavi* instalments which may be due the same year; that the officer

who has authority to grant the loan should also have authority to grant suspension; and that the suspended instalment should not be made payable in the ensuing year with the instalment of that year, but that the effect of suspension should be to postpone for one instalment period the payment of all remaining instalments due on the loan. When a man borrows money he should be required to repay the loan with interest; but time should be given him to make those repayments in such a manner as will not be ruinous to him. As regards remissions, the Government of India are of opinion that it is a sound principle not to remit repayment of a loan so readily as remissions of ordinary land revenue are granted, and that as a general rule the risk of the failure of an improvement should be borne by the borrower, as this affords the best guarantee that the money will be judiciously applied; but they will have no objection to a Local Government's remitting outstanding instalments or a part of them, when a work fails from causes beyond the borrower's control and when recovery of the loan in full would occasion serious hardship; and they are prepared to consider proposals for the delegation of the power of granting such remissions to local officers.

10. The foregoing paragraphs have dealt with the treatment of ordinary loans under the Land Improvement Loans Act. The Irrigation Commission have made certain proposals with the view of encouraging irrigation in especially precarious tracts. They recommend that in selected areas, which have suffered severely in recent famines, and have not since obtained, by irrigation or otherwise, protection sufficient to guarantee them against the recurrence of similar calamities, land-owners should be encouraged to apply for loans on ordinary conditions sufficient to pay for a portion of the cost of the contemplated improvements, and that Government should make a free grant of the remainder of the cost, the proportion of the free grant to the total cost depending on the property of the applicant and the marginal profit from irrigation, the suggested maximum being half the total amount required up to a limit of Rs. 500. The Government of India have no objection to free grants being made under such circumstances, *i.e.*, when they are applied to works, the success of which is calculated to reduce future expenditure on famine relief; but under present circumstances they must be debited in the same way as actual famine outlay and charged to Provincial Revenues. The Government of India will consider separately whether such grants-in-aid might not

be specially charged against the Famine Insurance Grant, as Protective Irrigation expenditure to be met from Imperial funds. This course would, however, require the sanction of the Secretary of State, and it is subject to the disadvantage that the sums so spent would reduce the amount available for outlay on ordinary Protective Irrigation works and on Protective Railways. Such free grants cannot in any case be charged to the loan account, but it is advisable to provide that they may be recoverable as an arrear of land revenue, should the money be spent otherwise than in accordance with the conditions of the gift, and it will be for Local Governments to consider whether this can be provided for under the existing law, or whether further legislation on the point will be necessary.

11. Advances made in ordinary times under the Agriculturists' Loans Act for the purchase of seed, fodder, cattle, and other requirements of agriculture are undoubtedly of the greatest advantage to poor cultivators, and often enable them to sow their lands or preserve their cattle without getting into hopeless debt; and, where funds are available, liberal advances should be made for this purpose. In some Provinces loans of this character are made free of interest or at low rates of interest; but the Government of India are of opinion that, as a general rule, it is good policy to require a borrower who is given a direct loan to pay a fair interest for it; and that, save in very exceptional circumstances, the same rate of interest should be charged as is charged on loans made for the improvement of land. The principles already enunciated regarding land improvement loans are generally applicable to advances made under the Agriculturists' Loans Act, but as such loans are usually of small amount individually, and are often required to be disbursed in large numbers and with as little delay as possible, it is still more important in this case to simplify and expedite the procedure by such measures as empowering subordinate officers to sanction loans and accepting joint or personal security. In accordance with the recommendations made by the two Commissions, the Government of India have already authorised a system of employing selected officers to take lump sums with them into camp, and disburse loans on the spot on the receipt of the borrowers. This system has been authorised as regards advances to be made under both Acts, but is specially applicable to petty advances made for the purchase of seed and fodder. The Government of India also approve of the suggestion made by the Famine Commission that, where



available, non-official agency might be employed to aid in making enquiries and disbursing loans; and where the number of such loans is large, it will often be found advisable to make the necessary enquiries well beforehand, and to arrange for the immediate disbursement of the money when the loan is actually required, as, for instance, when rain falls at seed-time.

12. The foregoing considerations are applicable to the case of loans made in ordinary times; and, it remains to consider the case of loans made to agriculturists in anticipation of scarcity or during the currency of famine. As regards such loans, the Government of India agree with the opinion expressed by the Famine and Irrigation Commissions, that loans to agriculturists are especially required in the very early stages of famine as a measure of moral strategy, and to put heart into the people, and that a system of advances when made in good time and with prudent forethought, is a most efficient form of relief, and one which can to a very great extent be freed from the pauperizing influences of State charity. These principles have been incorporated in the revised Famine Codes and will no doubt be acted upon when occasion arises. It has been usual in most Provinces to make advances in famine times on low interest or free from interest altogether, and to remit them with great generosity. The Government of India however agree with the Famine Commission that this is mistaken charity, likely to demoralise the people. They are of opinion that these advances should always carry interest at the usual rate, and that while due regard should be paid to the subsequent seasons and the circumstances of the borrowers, repayment of these loans should take precedence of the recovery of arrears of land revenue. If it is necessary to grant some remission, it should take the form of a remission of land revenue, and the loan with interest should be recovered; or, if this will involve great hardship, a portion of the loan itself, and not merely the interest, should be remitted. In times of famine, in place of granting loans free of interest, the system of making free grants in addition to repayable loans, already alluded to, may be freely utilised. Advances may be made to land-owners for the construction of private works to enable them to give employment to the poor, a portion of the advance being made in the form of a loan repayable with interest on ordinary terms, and the remainder in the form of a free grant-in-aid from famine funds, to be

spent on the employment of labour in accordance with the system of "Aided Village Works," for which provision has been made in the revised Famine Codes. In such times a similar system may be adopted as regards advances for the purchase of seed, fodder, or cattle.

13. The Government of India agree with the Irrigation Commission that the system of loans to agriculturists would be rendered more popular, both with the subordinate revenue officers and with the borrowers, if the procedure and the system of accounts could be simplified. The chief difficulty in effecting an improvement of this character is the necessity of distinguishing between repayments of principal and interest. Under the system of equated payments mentioned above, it would be unnecessary to show, in the account made over to the borrower, the distinction between capital and interest; as all that he need be told is the number of even rupees to be paid by him at each instalment, and the number of instalments he will have to pay; and the Government of India will consider separately whether it will be possible to relieve the subordinate revenue establishment from the necessity of keeping up for each borrower's account details of principal and interest. In any case, however, it will be necessary to maintain these details in the Account Offices.

14. As regards the source from which funds may be obtained for increasing the amount available for advances under the two Acts, the present system is that, funds are provided by the Imperial Government and advanced to Local Governments under the Provincial Loan Account, which includes not only advances to agriculturists, but also loans to Municipalities, District Boards, and landed proprietors. Interest at  $3\frac{1}{2}$  per cent. is charged to the Local Government on the mean between the outstanding balances at the commencement and at the close of the years, and Provincial Revenues are credited with the full amount of interest realised on the loans granted by the Local Government, and are debited with any sums which it may be necessary to write off as irrecoverable. The sums recovered by way of repayment of previous loans are available for making fresh advances, and should any further sum be required by the Local Government, it is found, so far as possible, by the Imperial Government from its resources for the year. The amount outstanding on the 31st March, 1904, on account of advances to cultivators under the two Acts was over  $2\frac{1}{2}$  crores, and the average amount of loans made during the last ten years has been 86 lakhs per annum, or, excluding the four

famine years, 57 lakhs per annum. While the Government of India agree with the Irrigation Commission that it is very desirable that the supply of funds for this purpose should be continuous and sufficient to meet all reasonable demands, they are unable to accept their recommendation that the amount available for such loans should be greatly increased and should be provided continuously without being liable to interruption in years of financial stress, the money being obtained from loan funds if necessary, seeing that the additions to the Provincial Loan Account are made from the cash balances of the Government of India, which are necessarily limited according to the circumstances of the year. They, however, recognise that, should the system of loans to agriculturists be improved in accordance with the suggestions already made, the demand for such loans is likely to increase gradually, and so long as it is kept within reasonable bounds, and is a natural and not an artificially inflated demand, they will endeavour to meet it to the extent to which funds may be available from time to time.

15. In this connection the Governor-General in Council thinks it necessary to utter a word of caution against what he considers to be a very real and practical danger, namely, the danger of creating, by too active a policy, a forced and spurious demand for these advances. Even under the most favourable circumstances irrigated cultivation requires, at all events in the case of wells, more capital than dry cultivation; and in many parts of the country, where the wells are costly and their results uncertain, and where physical conditions make it possible to irrigate only a small area from each well, only the highest form of cultivation, which entails very considerable annual expenditure, is likely to be profitable. In such a case it is worse than useless to encourage a peasant to contract a debt for the construction of a well, the profitable working of which is beyond his resources; and the Government of India, while they are anxious to see the system of advances administered in a sympathetic spirit, and made as simple and liberal and elastic as possible, trust that no excessive inducements will be held out to individuals to apply for loans which they may find it difficult to repay, and that any increase of demand will be spontaneous, and therefore healthy.

16. Under the Provincial Loan Account system any profits or losses that may occur on these loans are credited or debited to Provincial Revenues, and the Government of India would suggest to Local

Governments that, as recommended by the Famine Commission, an administrative account should be maintained for the loans under the two Acts, showing on the one side the profit made by the Local Government by charging to borrowers a higher rate of interest than it pays to the Imperial Government, and on the other, the cost of remissions and of other expenses connected with these loans ; and that where, on an average of years, the net profits of the Local Government are large, measures should be taken to reduce them, not by a reduction of the rate of interest charged, but by more liberal treatment of those cases in which the borrower has met with misfortune, or by providing expenditure for such purposes as maintaining a staff for well-boring or other aids to land improvement, or for an extension of the system of free grants-in-aid. It must, however, be clearly understood that expenditure on such establishments or grants, though it may be justified by profits on loan transactions, is entirely distinct therefrom, and must be separately debited in the Local Government's current expenditure.

17. Seeing that the financial responsibility for this loan system rests with the Local Governments, the Government of India are prepared to relax the present law, under which the previous sanction of the Governor-General in Council is required for any modification of the rules in force, and will take steps to have the necessary change made in the existing Acts. Local Governments will then be empowered to revise their rules at their discretion subject only to the control of the Imperial Government ; but whenever it is proposed to make any change which is not in accordance with the principles enunciated in this Resolution, or which materially affects financial arrangements, previous reference should be made to the Government of India ; and in all cases copies of the notifications effecting changes in the rules should be sent to the Government of India for their information.

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[*Extracts from the Land Improvement Loans Act, 19 of 1883.*]

4. (1) Subject to such rules as may be made under section, 10 loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

- (a) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;
- (b) the preparation of land for irrigation;
- (c) the drainage, reclamation from rivers or other waters, or protection, from floods or from erosion or other damage by water, of land used for agricultural purposes or waste-land which is culturable;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;
- (e) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and,
- (f) such other works as the Local Government, may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or overruling it:

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the advance of the last instalment actually paid, as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government in making the rules fixing the period, shall, in considering whether the period should extend to thirty-five years, or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

7. (1) Subject to such rules as may be made under section 10, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes; namely:—

- (a) from the borrower—as if they were arrears of land-revenue due by him;
- (b) from his surety (if any)—as if they were arrears of land-revenue due by him;
- (c) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land;

(*d*) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immovable property other than the land on which that revenue is due :

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs, is paid to the Collector by a surety, or an owner of property comprised in any collateral security, or recovered under sub-section (1) by the Collector from a surety, or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

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[*Extracts from the Agriculturists' Loans Act, 12 of 1884.*]

4. (1) The Local Government may, from time to time, subject to the control of the Governor General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

(2) All such rules shall be published in the local official Gazette.

5. Every loan made in accordance with such rules, all interests (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same, due by the person to whom the loan was made, or by his surety.

6. When a loan is made under this Act to the members of a village community, or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute, is entered upon, the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorised in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

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[*Extracts from the Notification of the Government of Bengal,  
dated the 23rd March, 1909.*]

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RULES UNDER THE LAND IMPROVEMENT LOANS ACT, 19 OF 1883.

In exercise of the power conferred by section 10 of the Land Improvement Loans Act, 1883, the Lieutenant-Governor is pleased to make the following rules for Bengal (including the district of Sambalpur) as to the grant of loans under the Act.

1. (1) Subject to the provisions of these rules, and provided that the district allotment is not exceeded without the sanction of the Commissioner of the Division, Sub-divisional Officers, and also Deputy Collectors specially empowered by the Collector with the approval of the Commissioner, may sanction loans of sums not exceeding rupees 500 in each case, and the Collector may sanction loans up to rupees 1,000 in each case, for purposes specified in the Act.

(2) Any loan exceeding rupees 1,000 shall require the sanction of the Commissioner, and exceeding rupees 5,000, the sanction of the Board; and the Commissioner or the Board, as the case may be, may call for such detailed plans and estimates, or for such professional opinion, as may seem necessary, before sanctioning any such loan.

2. Applications for loans may be presented to the Collector, or to any other Revenue Officer, not below the rank of a Kanungo, authorised in this behalf by the Collector.

3. (1) Application may be made orally or in writing.

\* \* \*

4. (1) A Revenue Officer receiving an application under rule 2 shall either make a local enquiry himself, or cause one to be made by another Revenue Officer not below the rank of a Kanungo, or by some reliable non-official

agency, if available, for the purpose of ascertaining the particulars mentioned on the reverse of Form A.\*

(2) A Kanungo shall be so employed only when a gazetted officer is not available.

5. If the Revenue Officer is not empowered by rule 1 to sanction the loan, he shall transmit the application with his report to the Collector or to the officer who ordered the enquiry, as the case may be, provided that, if the receiving or enquiring officer is subordinate to a Sub-divisional Officer, he shall submit it to the Sub-divisional Officer.

6. The Local Government may, by general or special order empower any person to perform all or any of the functions of a Collector or of a Revenue Officer referred to in rules 2, 4 and 5.

7. In deciding whether the security offered is sufficient, the officer dealing with the application shall be guided by the following principles:—

Security.

- (i) Where the amount of the loan does not exceed three-fourths of the value of the applicant's transferable interest in the land, after the improvement has been made, no collateral security need be required.

\* I.—Mahal, field number, area of land to be improved.

II.—Status of applicant, *i.e.*, proprietor or tenant. If a tenant, and the landlord's consent is required, whether the landlord objects.

III.—Security—

- (i) If the land itself, the nature and value of the applicant's interest in it, and the nature and extent of encumbrances, if any.  
 (ii) If personal, the names and status of the co-sureties.  
 (iii) If property other than the land itself, its nature, value, and nature and extent of pre-existing encumbrances, if any.

IV.—The Improvement—

- (i) Its estimated utility and value.  
 (ii) Objections, if any, of third parties.  
 (iii) Probable date on which it will begin to yield profit.

V.—Repayment—

- (i) Suitable date for first instalment, with reference to clause IV (iii).  
 (ii) Proposed instalments and period of repayment.

VI.—Date on which the loan or any instalment thereof should be received by the applicant,

- (ii) Where the applicant's interest in the land is not sufficient of itself to guarantee the repayment of the loan, further security shall be required, which may consist of transferable interests in other lands belonging to the applicant, or to the other persons willing to become his sureties, or of personal security.
- (iii) Where a body of five or more co-villagers bind themselves jointly and severally as contemplated in section 9 of the Act, their personal security will generally be sufficient, and such officer may, if empowered by rule 1, at his discretion advance on such security an amount not exceeding five times the annual assessment of the land held by such villagers.

8. If the proposed improvement falls within section 4, sub-section (2), of the Act, and if the security offered is good and sufficient, the officer dealing with the application, or the Collector, when the application and report have been transmitted to him under rule 5, may, on completion of the local enquiry, sanction the loan himself, if he has power by rule 1 to do so; otherwise, the Collector shall forward the application, with his report thereon, to the Commissioner for disposal.

9. Where the Revenue Officer, other than the Collector, has power under rule 1 to sanction the loan applied for, he may, as soon as the local enquiry is completed, and the particulars mentioned on the reverse of Form A are filled in, take the security required by rule 11, sanction the loan, and, if so desired by the applicant, disburse it on the spot. Loans, or instalments of loans, sanctioned by the Collector or any higher authority may be disbursed in the village by Sub-divisional Officers and Deputy Collectors empowered under rule 1, and by any reliable non-official agency, where available.

Provided that disbursement on the spot may not in any case exceed rupees 500 for a single item :

Provided also that, when any loan is payable in more than one instalment, the second or any subsequent instalment shall not be passed for payment by the sanctioning officer until he has had an enquiry made locally and satisfied himself that satisfactory progress is being made with the work for which the loan was sanctioned.

\* \* \*

13. (1) In the case of a loan granted by instalments, if the applicant, after taking one or more instalments, fails to take any other instalment within six weeks from the date on which he is entitled to it, the Collector may declare the loan closed.

(2) The total of the instalments taken by the applicant shall then constitute the loan, which shall be treated as having been fully paid on the date on which the last instalment was actually taken; and a fresh arrangement for repayment shall be made by the Collector, consistent with rules 17 and 18. \* \* \*

14. (1) The ordinary rate of interest on loans shall be one anna in the rupee, or  $6\frac{1}{4}$  per cent. per annum.

(2) The Local Government may, for special reasons, and on special application through the Board of Revenue, sanction a loan at a lower rate of interest, or without interest.

(3) If any instalment of principal or of interest, or of consolidated principal and interest, is not paid when it falls due, the Collector shall charge interest on it at  $6\frac{1}{4}$  per cent. per annum, from the date of its falling due to the date of payment:

Provided that, whenever the Collector is satisfied that the default is due to inability to pay, and that the levy of such interest would be productive of hardship, he may, with the sanction of the Commissioner, reduce or remit it.

(4) In charging penal interest on overdue instalments not suspended under rule 20, the same period of 15 days' grace shall be allowed as in the case of payments of cesses, and thereafter interest shall be charged on the total of the overdue instalment at the same rate as the interest on the loan.

15. (1) Interest shall be levied for the period intervening between the date of the completion of the loan (in cases in which loans are granted in one payment), or between the dates of the payment of the instalments (in cases in which loans are granted in instalments), and the date from which the first instalment of interest, consolidated with the first instalment of the principal, becomes payable.

(2) The interest leviable in such cases shall be demanded in a lump sum on the date on which the first consolidated instalment of principal and interest is made payable.

16. (1) The re-payment of the loan shall be made in accordance with the Table of Equated Repayments of *Takavi* Loans, prepared by the Accountant-General, Bengal, similar to the annexed Form F, which shows the amounts of equal yearly payments necessary to repay a loan advanced with interest at  $6\frac{1}{4}$  per cent. per annum for any number of years from one to twenty.

(2) When the instalments are payable half-yearly, the sum to be paid each half-year shall be half the sum shown in the said Table for a yearly instalment.

17. (1) Repayment shall be by yearly or half-yearly instalments.

(2) The date of the first instalment shall be the time when profit begins to accrue, but shall in no case be later than two and a half years from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the advance of the last instalment actually paid.

18. The date of the last instalment shall not ordinarily be later than twenty years from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the advance of the last instalment actually paid, the amount of the instalments being fixed, in cases in which such a principle is applicable, with reference to the annual profit expected to accrue from the improvement: Provided that the whole amount of the loan shall in all cases be repaid before expiry of the period for which the improvement is likely to be effective.

\* \* \*

20. (1) The realization of instalments or of interest may be suspended by the Collector on proof of failure of crops from causes beyond the borrower's control, or of other exceptional calamity rendering the payment of instalments unduly burdensome to him.

(2) The Collector shall report every such suspension to the Commissioner, who shall pass such orders on the case as may seem proper.

(3) No interest shall be charged for the period of suspension. The total amount to be repaid shall remain the same as before.

(4) The power of suspension of payments of instalments or of interest on loans which is conferred on the Collector by clause (1) of this rule may be exercised to the extent of Rs. 1,000 in any one case.

(5) Notwithstanding anything contained in clause (4) of this rule, in all cases where suspension of revenue or rent has been granted on a large scale over a wide area, a suspension of payment of instalments due during the period for which suspension of revenue or rent has been granted, shall be made by the Collector without reference to any higher authority, and the effect of such suspension shall be to postpone for one instalment period at a time the payment of all remaining instalments due on the loan.

21. (1) The Collector shall, in no case without reference to the Commissioner, remit repayment of a loan; and he may recommend remission only in cases where a work fails from causes beyond the borrower's control, and where recovery of the loan in full would occasion serious hardship.

(2) Remission may be sanctioned by the Commissioner up to the amount of loan a Collector may sanction, and by the Board up to the amount a Commissioner may sanction. Larger remissions require the sanction of the Local Government.

\* \* \*

23. (1) If at any time it is proved to the satisfaction of the Collector that any part of a loan has been misapplied, he may, after recording in writing the grounds of his decision, and subject to the control of the superior Revenue Authorities, proceed to recover the whole amount of the loan with such interest as may have become due thereon.

(2) Before determining to take action under clause (1) of this rule, the Collector shall take into consideration the expense of supervision, even when that may have been supplied by the debtor himself.

#### SUPPLEMENTARY RULES HAVING EFFECT ONLY IN TEMPORARILY SETTLED ESTATES.

25. When land is reclaimed from waste and brought under cultivation by means of a loan granted under the Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land, until after the expiration of a period of

three years, reckoned from the beginning of the harvest first reaped after such reclamation was effected.

26. When land assessed at unirrigated rates is improved by  
 Improvement by irrigation by means of a loan granted under the  
 irrigation. Act, the increase in value derived from the  
 improvement shall not be taken into account in revising the assessment  
 of land revenue on the land—

- (a) if the irrigation is provided by the construction of a new masonry well, until after the expiration of twenty years, reckoned from the beginning of the harvest first reaped after such improvement was effected ;
- (b) if the irrigation is provided by the construction of a distributary from a canal, until after the expiration of a period of five years, reckoned as in clause (a) of this rule directed ; or,
- (c) if the irrigation is provided by any means other than those hereinbefore in clauses (a) and (b) specified, until after the expiration of a period of ten years, reckoned as in clause (a) of this rule directed.

27. (1) For the purpose of carrying out any irrigation work  
 Loans combined or protective work, such as a private tank or  
 with free grants. embankment—

- (a) which is likely either to lead ultimately to an increase in the land revenue, or to be necessary to secure the land revenue already assessed, and
- (b) which is beyond the capacity of the people, to be benefited thereby, to carry out without assistance in money,

loans may be granted to a landowner, sufficient to pay for a portion of the cost of the work, a free grant being made of the remainder of the cost, the proportion of the free grant to the total cost depending on the property of the applicant and the marginal profit from the work ;

Provided that, without the sanction of the Board of Revenue, which shall only be accorded in special cases, the maximum amount of the free grant shall not exceed half the said total cost, or Rs. 500, whichever may be less :

Provided also that the work be carried out to the satisfaction of the Collector,

(2) Should the amount of any loan made under clause (1), or any part thereof, be misapplied, or be spent otherwise than in accordance with the conditions on which the loan was made, the whole amount of the loan shall be recoverable as arrears of land revenue under section 7 of the Act.

(3) In dealing with loans and free grants under this rule, the procedure prescribed in rules 1 to 23 shall, *mutatis mutandis*, be followed :

Provided that the payment of any such free grant shall be deferred until the agreement in Form B has been registered by the grantee under the Indian Registration Act, 1877.

(4) The amount of any free grant made under this rule shall not be included in the loan accounts, but shall be shown in a separate account, and debited to "43—Minor Works."

#### SAVING.

28. Nothing in these rules shall be deemed to affect any power of the Board of Revenue or the Local Government to grant, in special cases, loans under the Act on terms other than those hereinbefore prescribed or to affect the terms of any special agreement under which any loan under the Act has been, or may hereafter be granted, or the terms of any unexpired settlement.

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SPECIAL RULES UNDER THE LAND IMPROVEMENT LOANS ACT, 19  
OF 1883, FOR TRACTS AFFECTED BY DISTRESS.

1. These rules shall have effect in such tracts as may, from  
Application of rules. time, to time be declared by the Local Govern-  
ment to be affected by distress.

2. (1) On the first warnings of distress, the Local Government  
Allotment of funds. will call upon the Board of Revenue to submit  
estimates of sums required for advances under  
the Land Improvement Loans Act, 1883, and will allot to each Division  
such amount as may, with reference to local conditions, and the district  
programmes of village relief works, seem to be necessary.

(2) Commissioners may divide the sums so allotted among the  
districts of their Divisions at their discretion, and may transfer  
assignments from one district to another ; but the total expenditure  
within the Division must be kept within the amount assigned.

(3) If a Collector considers the allotment assigned to his district  
to be insufficient, he shall report the fact and his requirements to the  
Commissioner, who shall, if possible, arrange for a transfer from  
another district, or report the matter, through the Board of Revenue,  
to the Local Government for orders.

3. (1) In distressed areas, loans may be made for land improve-  
Loans combined with free grants. ments which will afford employment to the poor,  
with the assistance of free grants-in-aid from  
famine funds.

(2) The general proportion of the free grant-in-aid to the total  
expenditure will be fixed for each Division by the Local Government.

(3) The proportion in individual cases or classes of cases  
shall be fixed by the Collector, but the previous sanction of the  
Commissioner must be obtained if that proportion varies by more  
than 25 per cent. from the average proportion fixed for the Division.

(4) Should the amount of any loan made under this rule, or any  
part thereof, be mis-applied, or spent otherwise than in accordance  
with the conditions on which the loan was made, the whole amount  
of the loan shall be recoverable as arrears of land revenue under section  
7 of the Act.

4. (1) Subject to the provisions of these rules, and provided that the district allotment is not exceeded, Sub-divisional Officers and Famine Relief Charge Superintendents, and also Deputy Collectors specially empowered by the Collector with the approval of the Commissioner of the Division, may sanction loans (including free grants-in-aid at the proportion fixed under rule 3) not exceeding Rs. 1,000 in each case, and the Collector may sanction such loans up to Rs. 5,000 in each case.

Powers of sanction.

(2) Loans exceeding Rs. 5,000 shall require the sanction of the Commissioner, and loans exceeding Rs. 10,000 the sanction of the Board ; and the Commissioner or the Board, as the case may be, may call for such detailed plans and estimates, or for such professional opinion on the project proposed, as may seem necessary before sanctioning any such loans.

5. (1) Applications for loans may be made orally or in writing to the Famine Relief Circle Officer or Charge Superintendent, or to any Revenue Officer not below the rank of a Kanungo.

\* \* \*

6. (1) An officer receiving an application under rule 5 shall either make a local enquiry himself, or cause one to be made by a Famine Relief Officer not below the rank of a Circle Officer, or by a Revenue Officer not below the rank of a Kanungo, or by some reliable non-official agency if available, for the purpose of ascertaining the particulars mentioned on the reverse of Form D.\*

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\* I.—Mahal, field number, area of land on which work is to be executed.

II.—Status of applicant, *i.e.*, whether proprietor or tenant. If a tenant, and the land holder's consent is required, whether the landlord objects.

III.—Security—

(1) If the land itself, or the land itself, together with any other land belonging to the applicant,—the value of the applicant's interest in such land or lands, and the nature and extent of encumbrances, if any.

(2) If personal,—the names and status of the co-sureties.

(3) If land hypothecated by collateral surety,—its nature and value, and the nature and extent of pre-existing encumbrances, if any.

IV.—The work—

(1) Its estimated utility and value.

(2) Objections, if any, of third parties.

V.—Dates on which the instalments of the loan should be received by the applicant.

(2) A Kanungo or a Circle Officer shall be so employed only when a gazetted officer is not available.

\* \* \*

7. If the Famine Relief Officer or the Revenue Officer is not empowered by rule 4 to sanction the loan, he shall transmit the application with his report to the Collector or the officer who ordered the enquiry, as the case may be, provided that, if the receiving or enquiring officer is subordinate to a Famine Relief Charge Superintendent, or to a Sub-divisional Officer, he shall submit the application to his immediate superior.

Submission of application with report of local enquiry.

8. In deciding whether the security offered is sufficient, the officer dealing with the application shall be guided by the following principles :—

Security.

- (i) Where the amount of the loan does not exceed three-fourths of the value of the applicant's transferable interest in the land after the improvement has been made, no collateral security need be required.
- (ii) Where the applicant's interest in the land is not sufficient of itself to guarantee the re-payment of the loan, further security shall be required, which may consist of transferable interests in other lands belonging to the applicant or to other persons willing to become his sureties, or of personal security.
- (iii) Where a body of five or more co-villagers bind themselves jointly and severally as contemplated in section 9 of the Act, their personal security will generally be sufficient ; and such officer may, if empowered by rule 4, at his discretion advance on such security an amount not exceeding five times the annual assessment of the land held by such villagers.

9. (1) Where any application submitted refers to a project already entered in the district programme of village relief-works, the information given in the programme and in any plans that may have been prepared for the work, may be referred to in

Principles to be observed in determining the amount to be advanced.

dealing with such application.

(2) In determining the amount of the loan in such cases, the officer dealing with the application shall follow the estimates of cost of the works as given in the said programme. For other works the rate shall not exceed the ordinary local rate by more than 25 per cent.

10. If the proposed work be approved by the enquiring officer, and if the security offered be good and sufficient, he may, on completion of the local enquiry, sanction the loan himself if empowered by rule 4 to do so ; otherwise, he shall forward the application with his report for orders under rule 7.

11. If the loan is sanctioned in the village by an officer other than the Collector, the sanctioning officer, after filling in the particulars mentioned on the reverse of Form D\* and taking the security required by rule 13 may, if so desired by the applicant, disburse the loan on the spot. Loans or instalments of loans sanctioned by the Collector or any higher authority may also be disbursed in the village by Sub-divisional Officers and Famine Relief Charge Superintendents, and by Deputy Collectors empowered under rule 4, and by any reliable non-official agency, where available ;

Provided that, when any loan is payable in more than one instalments, the second or any subsequent instalment shall not be paid by the disbursing officer, except as provided in rule 16.

15. Interest shall be charged at one anna per rupee, or  $6\frac{1}{4}$  per cent. per annum, except in the case of a mis-application of the loan, when interest shall be charged at double the above rate, as provided for in rules 22 and 23.

16. Loans shall ordinarily be given in three instalments, viz., two-fifths before the work has been commenced, two-fifths when it is approximately half finished, and one-fifth when it has been passed as completed after due inspection.

17. (1) Repayment shall be made by yearly or half-yearly instalments.  
 (2) The date of the first instalment shall be the time when profit begins to accrue, but shall in no case be later than two-and-a-half years from the date of the actual advance of the loan, or, when the

Repayments by instalments ; date of instalment.

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\* See foot note on p. 114.

loan is advanced in instalments, from the date of the advance of the last instalment actually taken.

18. The date of the payment of the last instalment shall not ordinarily be later than twenty years from the date of the actual advance of the loan ; or, when the loan is advanced in instalments, from the date of the advance of the last instalment actually taken, the amount of the instalments being fixed, in cases in which such a principle is applicable, with reference to the annual profit expected to accrue from the improvement ;

Date of last instalment, and principle on which instalments should be fixed.

Provided that the whole amount of the loan, or such portion of it as will be recovered, shall in all cases be repaid before the expiry of the period for which the improvement is likely to be effective.

19. (1) In the case of a loan granted by instalments, if the applicant, after taking one or more instalments, fails to take any other instalment within six weeks from the date on which he is entitled to it, the Collector may declare the loan closed.

Closure of loan on failure to take instalment due.

(2) The total of the instalments taken by the applicant shall then constitute the loan, which shall be treated as having been fully paid on the date on which the last instalment was actually taken ; and a fresh arrangement for repayment shall be made by the Collector consistent with rules 17 and 18. \* \* \*

20. (1) The realization of instalments or of interest may be suspended, by the order, and at the discretion, of the Collector, on proof of failure of crops from causes beyond the borrower's control, or of other exceptional calamity rendering the payment of instalments unduly burdensome to him.

Suspension of instalments, or of interest.

(2) The Collector shall report every such suspension to the Commissioner, who shall pass such orders on the case as may seem proper.

(3) No interest shall be charged for the period of suspension. The total amount to be repaid shall remain the same as before.

(4) The power of suspension of payments of instalments, which is conferred on the Collector by clause (1) of this rule, may be exercised to the extent of Rs. 5,000 in any one case.

(5) Notwithstanding anything contained in clause (4) of this rule, in all cases where suspension of revenue or rent has been granted on a large scale over a wide area, a suspension of payment of instalments due during the period for which suspension of revenue or rent has been granted, shall be made by the Collector without reference to any higher authority, and the effect of such suspension shall be to postpone for one instalment period at a time the payment of all remaining instalments due on the loan.

22. (1) If at any time it is proved to the satisfaction of the Collector that any part of a loan has been misapplied, or that it is not being spent on the work for which it was intended, or that the statements made by the applicant in his application for the loan\*\*\* or by his sureties in their bond proffering collateral security, as to the nature and extent of the encumbrances on the immovable property pledged as security for the repayment of the loan, are in any particular untrue, the Collector may, after recording in writing the grounds of his decision, and subject to the control of the superior Revenue Authorities, proceed to recover the whole amount of the loan, with such interest as may have become due thereon at the rate of  $12\frac{1}{2}$  per cent. per annum, from the date on which the loan was made to the date of recovery.

(2) Before determining to take action under clause (1) of this rule, the Collector shall take into consideration the expense of supervision, even when that may have been supplied by the debtor himself.

23. (1) In the circumstances described in rule 22, interest shall also be levied at  $12\frac{1}{2}$  per cent. per annum for the period intervening between the date of the completion of the loan (in cases in which loans are granted in one payment), or between the dates of the payment of the instalments (in cases in which loans are granted in instalments), and the date from which the first instalment of interest, consolidated with the first instalment of the principal, becomes payable.

(2) The interest leviable in such cases shall be demanded in a lump sum on the date on which the first consolidated instalment of principal and interest is made payable.

24. If the work for which a loan is made is carried out to the satisfaction of the Collector, and in accordance with the conditions imposed by these rules, and if it is necessary to grant some remission, it shall take the form of a remission of land revenue. The loan with interest shall ordinarily be recovered.

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RULES UNDER THE AGRICULTURISTS' LOANS ACT, 12 OF 1884.

1. The Collector may sanction loans of sums not exceeding Rs. 700 in each case. Sub-divisional Officers, and any Deputy Collector who may be specially empowered in this behalf by the Collector with the approval of the Commissioner may sanction loans not exceeding Rs. 250. Loans exceeding Rs. 700 shall require the sanction of the Commissioner, and loans exceeding Rs. 5,000, the sanction of the Board. The district allotment may not be exceeded without the sanction of the Commissioner.

2. Applications for loans may be presented to the Collector or to any other Revenue Officer not below the rank of a Kanungo authorised in this behalf by the Collector.

3. (i) Applications may be made orally or in writing.

\* \* \*

4. (i) A Revenue Officer receiving an application under rule 2 shall either make a local enquiry himself or cause one to be made by another Revenue Officer not below the rank of a Kanungo or by some reliable non-official agency, if available, for the purpose of ascertaining the particulars mentioned on the reverse of Form A.\*

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\* I.—Field number, and area of land owned or occupied by applicant, and Mahal in which it is situated.

II.—Status of applicant, that is, whether proprietor or tenant.

III.—Security—

(i) If an interest of the applicant in immovable property, the nature and value of that interest, and the nature and extent of pre-existing encumbrances thereon, if any.

(ii) Where sureties offer personal security, their number, names, residence, status and means.

(iii) If property other than the land itself, its nature and value, and nature and extent of encumbrances, if any.

IV.—Repayment—

(i) Suitable date for first instalment, with reference to the circumstances under which the loan is applied for.

(ii) Proposed instalments and period of repayment.

V.—Date on which the loan or any instalment thereof should be received by the applicant.



(ii) A Kanungo shall be so employed only when a gazetted officer is not available.

5. If any Revenue Officer is not empowered by rule 1 to sanction the loan, he shall transmit the application with his report to the Collector, or to the officer who ordered the enquiry, as the case may be, provided that, if the receiving or enquiring officer is subordinate to a Sub-divisional Officer he shall submit it to the Sub-divisional Officer.

6. The Local Government may, by general or special order, empower any person to perform all or any of the functions of a Collector or of a Revenue Officer referred to in rules 2, 4 and 5.

7. (1) When the applicant possesses an interest in immovable property of value sufficient to secure the whole amount that may become payable in respect of the loan, he shall mortgage that interest, or a sufficient portion thereof, to the Government as security for the payment of that amount, and no further security need be required from him.

(ii) When the applicant does not possess an interest in immovable property of such value as aforesaid, he shall procure some person or persons to become his surety or sureties for the payment of the said amount.

(iii) When the sureties are a body of village residents who bind themselves jointly and severally to the Government for the payment of the said amount, their personal security may be accepted, provided that the sureties have executed a bond \* \* \* In other cases, the security given by the surety or sureties shall consist of the mortgage of immovable property.

(iv) The Collector must in every case satisfy himself that the security offered in whatever form it is given, is sufficient to guarantee the repayment of the loans, and when he is of opinion that security other than land is sufficient, such security may be accepted.

8. If the loan applied for is one that can be granted under the provisions of section 4, sub-section (1), of the Act, and if the security offered is good and sufficient, the officer dealing with the application or the Collector, when the application and report have been transmitted to him under rule 5, may, on completion of the local enquiry, sanction the loan himself, if

empowered by rule 1 to do so; otherwise the Collector shall forward the application, with his report thereon, to the Commissioner for disposal.

9. When the Revenue Officer, rather than the Collector, has power under rule 1 to sanction the loan applied for, he may, as soon as the local enquiry is completed and the particulars mentioned on the reverse of Form A\* are filled in, take the security required by rule 11, sanction the loan, and, if so desired by the applicant, disburse it on the spot. Loans or instalments of loans sanctioned by the Collector, or any higher authority may be disbursed in the village by Sub-divisional officers and Deputy Collectors empowered under rule 1, and by any reliable non-official agency, where available :

Provided that disbursement on the spot may not in any case exceed Rs. 500 for a single item :

Provided also that, when any loan is payable in more than one instalment, the second or any subsequent instalment shall not be passed for payment by the sanctioning officer until he has had an enquiry made locally and satisfied himself that satisfactory progress is being made with the work for which the loan was sanctioned.

12. A copy of the order granting the loan shall be given to the applicant, and, on presentation thereof, payment of the loan or of any instalment of the loan may be made to him either at the district or the sub-divisional Treasury, or on the spot under rule 9.

13. (i) In the case of a loan granted by instalments, if the applicant, after taking one or more instalments, fails to take any other instalment within six weeks from the date on which he is entitled to it, the Collector may declare the loan closed.

(ii) The total of the instalments taken by the applicant shall then constitute the loan, which shall be treated as having been fully paid on the date on which the last instalment was actually taken; and a fresh arrangement for repayment shall be made by the Collector, consistent with rules 17 and 18. \* \* \*

14. (i) The ordinary rate of interest on loans shall be one anna on the rupee, or  $6\frac{1}{4}$  per cent. per annum.

\* See foot note on p. 120.

(ii) The Local Government may, for special reasons, and on special application through the Board of Revenue, sanction a loan at a lower rate of interest or without interest.

(iii) If any instalment of principal or of interest, or of consolidated principal and interest, is not paid when it falls due, the Collector shall charge interest on it at  $6\frac{1}{4}$  per cent. per annum from the date of its falling due to the date of payment :

Provided that, whenever the Collector is satisfied that the default is due to inability to pay, and that the levy of such interest would be productive of hardship, he may, with the sanction of the Commissioner, reduce or remit it.

(iv) In charging penal interest on overdue instalment not suspended under rule 20, the same period of 15 days' grace shall be allowed as in the case of payments of cesses, and thereafter interest shall be charged on the total of the overdue instalment at the same rate as the interest on the loan.

15. (i) Interest shall be levied for the period intervening between the date of the completion of the loan (in cases in which loans are granted in one payment), or between the dates of the payment of the instalments (in cases in which loans are granted in instalments), and the date from which the first instalment of interest, consolidated with the first instalment of the principal, becomes payable.

(ii) The interest leviable in such cases shall be demanded in a lump sum on the date on which the first consolidated instalment of principal and interest is made payable.

16. (i) The repayment of the loan shall be made in accordance with the Table of Equated Repayments of *Takavi* Loans, prepared by the Accountant-General, Bengal, similar to the annexed Form F, which shows the amounts of equal yearly payments necessary to repay a loan advanced with interest at  $6\frac{1}{4}$  per cent. per annum for any number of years from one to twenty.

(ii) When the instalments are payable half-yearly, the sums to be paid each half year shall be half the sum shown in the said Table for a yearly instalment.

17. Repayment shall be by equated yearly or half-yearly instalments, the date of the first instalments being later than one year from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the advance of the last instalment actually paid.

Repayment by instalments; date of first instalment.

18. The date of the last instalment shall not be later than five years from the date of the actual advance of the loan, or, when the loan is advanced in instalments, ten years from the date of the advance of the last instalment actually paid.

Date of last instalment.

19. The dates for payment of instalments (annual or half yearly) shall be fixed by the Collector, with the sanction of the Commissioner, for each thana of his district, with reference to the season when repayment can most easily be made.

Date of repayments of loans.

*Explanation.*—The season at which repayment can most easily be made will ordinarily be the time when crops grown for sale are taken to market. In jute districts, for instance, it would probably be best to provide for repayment by one annual instalment in September, when the jute crop is sold, except in cases where the borrower himself prefers to pay in two yearly instalments.

20. (i) The realisation of instalments or of interest may be suspended by the Collector on proof of failure of crops from causes beyond the borrower's control, or of other exceptional calamity rendering the payment of the instalments unduly burdensome to him.

Suspension of instalments or of interest.

(ii) The Collector shall report every such suspension to the Commissioner, who shall pass such orders on the case as may seem proper.

(iii) No interest shall be charged for the period of suspension; the total amount to be repaid shall remain the same as before.

(iv) The power of suspension of payments of instalments or of interest on loans, which is conferred on the Collector by clause (i) of this rule, may be exercised to the extent of Rs. 700 in any one case.

(v) Notwithstanding anything contained in clause (iv) of this rule, in all cases where suspension of revenue or rent has been granted on a large scale over a wide area, a suspension of payment of instalments due during the period for which suspension of revenue or rent has been granted, shall be made by the Collector without reference to

any higher authority, and the effect of such suspension shall be to postpone, for one instalment period at a time, the payment of all remaining instalments due on the loan.

21. (i) The Collector shall, in no case, without reference to the Commissioner, remit repayment of a loan; and he may recommend remission only in cases where the recovery of the loan in full would occasion serious hardship.

(ii) Remission may be sanctioned by the Commissioner up to the amount of loan a Collector may sanction, and by the Board up to the amount a Commissioner may sanction. Larger remissions shall, in all cases, require the sanction of the Local Government.

22. (i) If, at any time, it is proved to the satisfaction of the Collector that any part of a loan has been misapplied, he may, after recording in writing the grounds of his decision, and subject to the control of the superior Revenue authorities, proceed to recover the whole amount of the loan, with such interest and costs (if any) as may be payable in respect thereof.

(ii) Before determining to take action under clause (i) of this rule, the Collector shall take into consideration the expense of supervision, even when that may have been supplied by the debtor himself.

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## FORM F.

(SEE RULE 16, p. 123.)

Table showing repayment of Loans under the Land Improvement Loans Act, 1883. Interest  $6\frac{1}{4}$  per cent.  
 per annum: period of grace  $2\frac{1}{2}$  years.

## EQUATED YEARLY PAYMENTS.

Amount of Loan.	YEARS.									
	1	2	3	4	5	6	7	8	9	10
Rs.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.
50	58 3	30 0	20 9	15 14	13 2	11 4	9 14	8 15	8 2	7 9
100	116 7	60 0	41 3	31 13	26 3	22 7	19 13	17 13	16 4	15 1
200	232 13	119 15	82 6	63 10	52 6	44 15	39 10	35 10	32 9	30 2
300	349 4	179 15	123 9	95 6	78 9	67 6	59 6	53 7	48 13	45 3
400	465 11	239 14	164 12	127 3	104 12	89 13	79 3	71 4	65 2	60 4
500	582 1	299 14	205 15	159 0	130 15	112 4	99 0	89 1	81 6	75 5
600	698 8	359 13	247 1	190 13	157 2	134 12	118 13	106 15	97 11	90 6
700	814 15	419 13	288 4	222 10	183 5	157 3	138 10	124 12	113 15	105 7
800	931 6	479 13	329 7	254 6	209 8	179 10	158 6	142 9	130 4	120 8
900	1,047 12	539 12	370 10	286 3	235 11	202 2	178 3	160 6	146 8	135 9
1,000	1,164 3	599 12	411 13	318 0	261 14	224 9	198 0	178 3	162 13	150 10

Amount of Loan.	YEARS.									
	11	12	13	14	15	16	17	18	19	20
Rs.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.	Rs. A.
50	7 1	6 10	6 4	5 15	5 12	5 8	5 5	5 2	5 0	4 14
100	14 1	13 4	12 9	11 15	11 7	11 0	10 10	10 5	10 0	9 12
200	28 2	26 8	25 2	23 15	22 15	22 1	21 5	20 10	20 0	19 8
300	42 3	39 12	37 11	35 14	34 6	33 1	31 15	30 15	30 1	29 4
400	56 4	53 0	50 4	47 14	45 14	44 2	42 9	41 4	40 1	39 0
500	76 5	66 4	62 13	59 13	57 5	55 2	53 3	51 9	50 1	48 12
600	84 7	79 8	75 5	71 13	68 13	66 3	63 14	61 14	60 1	58 8
700	98 8	92 12	87 14	83 12	80 4	77 3	74 8	72 3	70 1	68 4
800	112 9	106 0	100 7	95 12	91 12	88 4	85 2	82 8	80 2	78 0
900	126 10	119 4	113 0	107 11	103 3	99 4	95 13	92 13	90 2	87 12
1,000	140 11	132 8	125 9	119 11	114 11	110 5	106 7	103 2	100 2	97 8

## CHAPTER III.

### RELIEF OF INDEBTED AGRICULTURISTS.

[*Extracts from the Proceedings of the Governor General's Council,  
dated the 20th June, 1878.*]

#### BOMBAY INDEBTED AGRICULTURISTS' RELIEF BILL.

The HON'BLE MR. COCKERELL said that, the proposal to legislate on this subject was one of the results of the investigation conducted, and the report made, by the Deccan Riots Commission in regard to the very serious disturbances which took place in certain districts of the Bombay Presidency about three years ago.

\* \* \* \* \*

The investigation instituted by the Commission had elicited a mass of valuable information in regard to the dealings between the ryot and the money-lender, and as to the condition and circumstances of the agricultural industry generally in the Deccan districts. The fact of the extreme indebtedness of a large section of the agriculturists in the districts in which the investigation was made had been conclusively established: nor was this general state of debt, though it had assumed much larger dimensions of late years, of recent origin; it had existed in some degree almost from the time of the conquest of the Deccan and its annexation to British territory. There had, however, been intervals of prosperity: the settlements of 1836-37 recognized for the first time, or created, the agriculturist's proprietary interest in his land, and this gave him a considerably enhanced credit with the money-lender; then the construction of railways and public works, and the stimulus given to the cultivation of, and trade in, cotton throughout these districts by the American War, followed in succession, causing a free expenditure of money and consequent rise in the value of agricultural produce. This tide of prosperity began to ebb after 1866-67, and by 1870 prices had fallen, and an adverse state of things set in, which culminated in the disturbances of 1875. The small ryot's condition had been rendered worse further by a marked increase of population without any corresponding expansion of the area under cultivation,



or the productive capacity of the land ; he had also contracted habits of increased expenditure on personal comfort, which in his less prosperous circumstances he was loath to forego.

As an illustration of the extent of indebtedness and hopeless embarrassment which had been reached in the case of some of these ryots at the time of the outbreak, he (MR. COCKERELL) would quote some statistics furnished in the Commissioner's Report. The particulars in this respect of some twelve villages selected at random had been recorded, showing an aggregate book-debt of nearly two lakhs of rupees, whilst the revenue assessment of the debtors' lands amounted to about rupees 10,000, and their proprietary interest in the same was estimated to be equivalent to ten years' revenue ; so that the total debt in these villages was double the full value of the entire land belonging to the debtors. This would seem obviously to point to the conclusion that the consideration actually passed to the debtors in these must have been wholly disproportionate to the sum of their recorded obligations ; for under no other hypothesis could the money-lending creditors carry on their business, where the value of the security was so much below the outstanding debts represented by it, without absolute ruin.

This conclusion, as to the extreme disparity between the extent of the accommodation actually obtained by the borrower and his recorded obligation in respect of it, was fully corroborated by the facts which had been recorded by a member of the Commission in regard to this question. He (MR. COCKERELL) would cite a particular case—an extreme one certainly, but one that had been brought to light in the course of the enquiry. A ryot had borrowed rupees 10, and at the end of ten years from the date of the loan, his account with his creditor stood thus : he had paid rupees 110 and still owed rupees 220. So that in the short space of ten years, through the process of repeated renewal of bonds in which compound interest at high rates was added to the principal, his debt had been made to mount up to thirty-three times the sum actually borrowed by him.

The causes of this extreme indebtedness had been recorded in much detail in the report of the Commission, and the possible effect of the Government revenue assessments and the state of the law applicable to the relations of creditor and debtor, in conducing to the embarrassments of the agriculturists, had formed the subject of close enquiry and full discussion, not only in the general report, but also in

the separate minutes or memoranda which had been recorded by some of the members of the Commission. Foremost amongst the causes of the existing complications were (1) unfavourable conditions of soil and climate; (2) increase of population in excess of any increase in the local supply of means of supporting such population; (3) the obligations of ancestral debt; and (4) the money-lender's custom of inordinately enhancing the original debt by charges of compound interest at high rates, and constant exaction from the debtor of fresh bonds or other instruments of obligation.

An additional recorded cause of the general increase of debt amongst the ryots of late years was the greater facility of obtaining credit on inadequate security, brought about through the more active prosecution of the money-lending business by a lower class of *sowkars*.

\* \* \* \* \*

As the ryots in these districts held their lands under direct engagement with the Government, the possible connection of the revenue system with, and its partial responsibility for, the poverty and embarrassments of the people became an important subject of enquiry. The report of the Commission, whilst it did not show that the assessment of the land fixed at the latest revision of settlements pressed with undue harshness upon the ryots, expressed the opinion that, in the peculiar conditions of the Deccan, as regards climate and the productive capacity of the soil, the fixity of the Government revenue demand operated adversely to the direction of keeping the cultivator free from the need of recourse to borrowing. A more elastic system under which the demand would better correspond in point of time with his own realization of profit from the land, without at the same time introducing to too great an extent the element of uncertainty as to the amount of the demand, would, it was represented, be more suitable to the exigencies of the case. The present state of the law relating to the administration of justice and the procedure of the Civil Courts, in so far as it governed or affected the dealings between the *sowkars* and the ryots, was fully considered and dwelt upon in much detail in the report of the Commission. It was held that the difficulties of the ryot had been greatly increased in his earlier borrowing transactions with the money-lender through the change in the Law of Limitation as regards the period allowed for suing on contract-debts which was introduced by the Act of 1859. Previous to the operation of that

enactment, the law gave a period of twelve years, and in practice it was found that the creditor was content to allow debts to run on without any settlement of accounts, and bearing simple interest at the ordinary rate for ten or eleven years; whereas after the change in the law, the custom of coming to a settlement and renewing bonds on the terms of adding interest to the amount of the original obligation every second year gradually sprung up and had become one of the chief causes of the ryot's embarrassments. At each recurring renewal of a bond or other instrument of obligation, the opportunity of enhancing the proportions of the previous debt by the addition of fictitious charges of various kinds was largely taken advantage of by the money-lender, and the effect of a renewal, even where no additional consideration was given, was frequently to double the previous debt.

The mode of dealing with cases between the *sowkar* and the ryot when brought into Court, and the whole procedure of the Civil Courts in reference to such cases, were wholly to the advantage of the creditor. He could, by collusion with the Court's officers, delay or prevent the service of the usual process giving notice of his claim being about to be adjudicated; and where this fraud was not resorted to, the ryot, from his incapacity, through ignorance, to set up an answer to the plaintiff's claim, or his inability to give the time required for a possibly prolonged attendance at a distant Court, put in no appearance; and so it resulted that, in the case of an overwhelming majority of suits instituted by the money-lenders, the Courts granted *ex parte* decrees.

It was shown further that the *sowkar*, having thus obtained a decree without any examination of the circumstances of his claim, had thereby acquired a fresh instrument of oppression and exaction; for under the the pressure of the process issued by the Court in execution of the decree, he could extort from his judgment-debtor almost any terms that he chose to impose upon him, the fear of having to go to jail upon the issue of a warrant of arrest being sufficient to induce the latter to agree to anything.

That warrants of arrest were largely applied for with no *bona fide* intention of imprisoning the debtor, was clearly established by the very small proportion of cases in which such imprisonments had followed on the issue of warrants of arrest; for, seeing that the average ryot would only in the gravest extremity voluntarily

expatriate himself for any considerable period, the hypothesis that he could evade a real and active pursuit with the object of apprehending him was wholly untenable. Ample evidence was elicited in the enquiries of the Commission to show that the worst twist was given to the ryot's coil of indebtedness after his creditor had obtained from the Civil Court a decree against him; for the decree formed the basis of a fresh agreement and starting point in a further chain of embarrassments, in which the terms exacted from the debtor were more oppressive than those which marked the stages of bond-renewals to avoid limitation.

To remedy this state of things, the report of the Commission recommended two projects of special legislation: one, designed to protect the debtor in his early dealings with his creditor and mitigate the difficulties of his position during the first stage of those dealings, *i.e.*, the period before the institution of a suit against him in the Civil Court; the other, for the amendment of the existing law relating to the execution of decrees.

\*            \*            \*            \*            \*            \*

In addition to these legislative proposals, the Commissioners further recommended, in view to checking the prevalent practice of granting decrees *ex parte*, the establishment of special Courts for the trial of small causes, which should hold their sittings in the villages in or near which the persons against whom suits were instituted resided, so as to bring the administration of justice as near as possible to the home of every person sued in connection with his borrowing transactions, and that the Native Judges of the regular Civil Courts should be employed in making tours of inspection of these special village Courts within the local limits of their jurisdiction respectively, so as to insure regularity and uniformity of practice in their procedure and action.

\*            \*            \*            \*            \*            \*

In the opinion of the Bombay Government, there was no other way of acting on the rather vague suggestions of the Commission, that greater elasticity in the regulation and recovery of the revenue demand was needed, than reverting to the old system of taking the Government revenue in kind—a retrograde course which that Government could never agree to. A fluctuating demand, on the other hand, under which the revenue-payer would never know what

claims he might have to meet, would, by introducing the element of uncertainty into the relations between the Government and the ryot, produce a greater evil than that which it was designed to counteract.

Some reference had been made by the Commissioners to the system of revenue administration obtaining in Madras, where similar ryotwari settlements prevailed; but it was shown in the minute recorded by a member of the Bombay Council which accompanied the letter of the Local Government above mentioned, that in point of fact the grant of remissions in seasons in which, through drought or other untoward circumstances, there was an extensive failure of crops, to which the report of the Commission had made allusion, was as much the practice in the revenue administration of the Deccan districts as in that of the Madras Presidency.

As regards the effect of the present law and system of administration of justice in bringing about or contributing to the state of things brought to light through the investigation of the Commission, the Local Government were clearly of opinion that the change in the Law of Limitation introduced in 1859, which so materially shortened the period within which suits upon breach of contract would lie, and the procedure of the Civil Courts under which so many decrees were given on an entirely *ex parte* view of the money-lender's claims, were the causes of much of the ryot's embarrassments. They accordingly expressed their concurrence in those protective measures advocated in the report of the Commission, which embraced,—(1) the establishment of public notaries for the preparation and registration of instruments to be executed by the ryots in favour of the money-lenders, by way of security for the repayment of loans; (2) the enforcement of the grant of receipts for money paid, statements of account, and pass-books by the *sowkar*, on the requisition of the ryot; and (3) an improved mode of trial of suits upon money claims by the Civil Courts; and they pressed upon the Government of India the expediency of reverting to the old Law of Limitation in force previous to 1859 in respect of suits upon contracts.

The Local Government further, in connection with the recommendations of the Commission regarding an improved method of adjudication of claims for the recovery of debts in the Deccan districts, indirectly invited a declaration from the Government of

India as to how far definite proposals for an increase of expenditure on judicial establishments would meet with favourable consideration; but as regarded the scheme submitted by the Commission for the amendment of the law relating to the execution of decrees, they were not generally in favour of the proposal for the abolition of personal arrest and imprisonment for debt, nor did they approve of the suggested limitations in regard to the sale, by the order of Civil Courts, of immovable property in satisfaction of a decree for money; whilst in respect of the further suggested enactment for preventing the improper use of a decree by the judgment-creditor, they expressed no opinion.

The whole matter rested in this state until the question of further action was taken up by the present Government of Bombay, who early in the current year addressed the Government of India, submitting fresh legislative proposals for effecting the following objects:—

*1st.* (a) The enforced examination by the Civil Courts of the merits of every claim for which it was asked to give a decree, whether any defence was made to such claim or not.

(b) The disallowance of the obligation of any person to discharge ancestral debts, unless such person in the Court's presence expressed his readiness to accept responsibility for such debts.

(c) The disallowance of the compound interest included in any claim, as well as all interest in excess of a sum equal to the principal represented in such claim.

*2nd.* The declaration of the insolvency of any debtor upon his personal application, otherwise than after his arrest in execution of a decree against him.

*3rd.* The prevention of the sale of any land by order of a Civil Court in satisfaction of a decree for money, unless the land had been specifically pledged as security for the debt, and the contract under which it was so pledged had been reduced to writing, and the written instrument embodying the same duly registered.

Thus far he (MR. COCKERELL) had very briefly summarised the facts and circumstances leading up to the motion now before the Council, by way of explanation of the reasons for the special legislation now proposed. It only remained for him to state the objects of the Bill

which he was asking leave to introduce. They were three in number, namely :—

1. To empower Courts having insolvency jurisdiction to declare a person to be insolvent on his personal application, although he might not have been arrested in execution of a decree.

2. To limit the power of the Civil Court in respect of the sale of immovable property in satisfaction of a decree for money to cases in which the property was specifically pledged as security for the claim decreed.

3. To enforce the reduction into writing of all contracts so pledging immovable property, and the registration of the instruments embodying such contracts.

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[*Extracts from the Proceedings of the Governor General's Council, dated  
the 17th July, 1879.*]

#### THE DECCAN AGRICULTURISTS' RELIEF BILL.

The HON'BLE SIR T. HOPE said that the riots have been followed by investigations in various forms. A Special Commission, in the first place, was without delay appointed by the Bombay Government. It was composed of two European officers, MESSRS. RICHEY and IZON, of the Revenue and Judicial Branches of the service, MR. SAMBHUPRASAD, a distinguished Native Administrator, and a civilian from the North-Western Provinces (first MR. AUCKLAND COLVIN, now employed in Egypt, and afterwards MR. CARPENTER). Their report, in five volumes and above 1,500 pages, is a very able survey of the difficulty in all its aspects. Besides this, the riots gave a special direction in Bombay to the enquiries into the working of the Civil Courts then going on throughout India in connection with the amended Civil Procedure Code under the consideration of this Council, which eventually became law as Act 10 of 1877; and a judicial officer, MR. WILLIAM WEDDERBURN, was deputed to report on the subject. Further, other circumstances led in 1878 to the condition of the peasantry in the four districts of the Deccan being subjected to a close investigation, in which the most experienced officers of the Bombay Presidency took part, and which is summed up in a Minute by SIR RICHARD TEMPLE, dated October 29th, 1878. The famine Commission also this year obtained a good deal of valuable evidence, to which they have been so good as to allow me free access. Finally, the question has been very ably and instructively discussed by the Press, both in India and in England. It would be impossible for me, on an occasion like the present, to summarize all these enquiries, or to state separately the opinions of all the principal authorities. I can only lay before the Council what seem to myself, by the light of this mass of evidence and of my own knowledge and general experience, to be the condition of the people in the disturbed area, and the causes which have operated to produce it, and then explain the measures by which the Executive Government propose that relief should be afforded.



The Central Deccan, which is the locality principally distressed, though unfortunately not the only one, and to which the present Bill is intended to apply, consists of four 'districts' or executive collector's charges, namely, Poona, Ahmednagar, Sholapur and Satara. The three first named became British territory in A. D. 1819-21, but Satara not till A.D 1849. Their area is 21,000 square miles, and their population three-and-a-half millions; that is to say, the population of Scotland, located in two-thirds of its space. Mountains and forests occupy much of the country, so that the actually cultivated area gives about six acres per head of the agricultural population. The State is the landlord; the tenure *ryotwari*, on the Bombay system of permanent occupancy, with revision of assessment every thirty years. The peasant-proprietors themselves cultivate about three-fourths of their land and sublet the remainder. The assessment or rent they pay to the Government is at average rates of from seven annas to twelve annas per acre, which is equivalent, on fairly good land, to, from an eighth to a sixteenth of the gross produce, and on the poor soils to much less.

The proportion and extent of indebtedness are not easy to ascertain. In one batch of twelve villages tested by the Commission of 1875, one-third of the peasant-proprietors were found to be very heavily embarrassed; and of these, two-thirds were petty landholders, paying assessments of only twenty rupees per annum and under. Their debts came to eighteen times the average assessment, and two-thirds of this were secured by mortgage of the land. In another batch of seventeen villages in Ahmednagar, forty-three per cent. of the proprietors were deeply in debt, the debts averaging fifteen times the assessment, but reaching forty-five times in individual cases. Only one-third of the debts appeared to be secured by mortgage, but one-eighth of the land had already been actually transferred to the money-lenders; and with regard to much of the remainder, the *ryots* were virtually mere tenants-at-will of their creditors. The Collector was of opinion that, throughout the whole district, three-fifths of the people were so involved that, in ordinary course, it was impossible for them ever to get free. Upon this and much other evidence, I must confess myself unable to share optimistic views of the condition of the people. Supposing only one-third of the proprietors to be irretrievably involved, is a ruined, despairing and embittered population of above a million souls

beneath special consideration? The proportion seems to me, however, to have been nearer one-half than one-third, and to be, moreover, constantly increasing. Finally, it must not be forgotten that the statistics of the Commission, which I have been quoting, are now four years old. Since then, the terrible famine of 1876-77, and the subsequent indifferent seasons have passed over the land, and cannot but have left deep traces behind. True, as it is, that the peasant-proprietary struggled nobly and long to maintain themselves and their dependents without State relief, and vast as was the amount of accumulated savings, in gold and silver ornaments and the like, which they were found to possess, we must not forget that those savings were revealed by their passage to the mint, and that their dissipation must have left at the mercy of the money-lender thousands who were never so before. We may admire the honest pride and fortitude which the peasantry, as a body, displayed throughout their long-protracted trial; but we cannot ignore the obvious effects on their condition.

Granted, however, that a large proportion of the population are deeply involved, we may well enquire whether such a condition is abnormal. It has been said, and in one sense with truth, that 'poverty and debt were the familiar heritage of the ryots before the advent of the British rule.' Our records of the country when first acquired tell of indebtedness extending largely among the population. The ryots, it is said, 'though usually frugal and provident', were in many cases 'living in dependence on the *sowkar* (or money-lender), delivering to him their produce and drawing upon him for necessaries'; and this condition is mainly attributed to the Mahratha system of levying heavy contributions from bankers, to whom the revenues of villages were assigned in repayment, and of collecting the State dues generally through the agency of such capitalists, who recovered in kind what they paid in cash. Indebtedness thus arising mainly from a vicious system of collecting the land revenue paid by all, necessarily extended to a large proportion of the population. But the amount of individual debt appears to have usually been moderate—necessarily so, it may be added, because the security and means of recovery were small, since land was not sold for debts, and little or no assistance in recovering them was given by the State. Very much the same condition of affairs is shown by ample testimony to exist now, to a greater or less degree, in the

Native States of India. I have myself noted it in those of Western India, with many of which I have had considerable official experience. The reply to our enquiry, then, is that, as compared with former times and with Native States, indebtedness now in the Deccan extends to smaller numbers, but is heavier in individual incidence, followed by consequences infinitely more serious, and decidedly abnormal.

Some may feel inclined to question whether, after all, there is any real harm in the present state of things. The institution of private property in land is essential, it will be said, to the well-being and progress of every civilized community, to the encouragement of industry and the accumulation of capital. But it is indispensable that such property should be in the hands of those who by their capital, intelligence and industry are qualified to turn it to the best account. If this condition be not fulfilled, but the land be held by a class who, through their ignorance, improvidence and want of energy, have burdened their heritage with debt which can never be repaid, and thus have deprived themselves of all incentive to labour and all interest in its results, then the only remedy is to promote, rather than to obstruct, a gradual restoration of healthier conditions of society by the bankruptcy and eviction of the incapable. True as such principles undoubtedly are in modern European populations, considerable caution is necessary in applying them to the ill-studied and little-understood problems of Oriental life. Assuming hastily a similarity of premises, we are apt to jump to familiar conclusions, and to inaugurate action wholly inapplicable and pernicious. Much of the difficulty in the present instance arises from such inconsiderate interference in the past. When we overturn by an Act of the Legislature institutions which popular consent has maintained for above a score of centuries, we sometimes forget that we are not the bearers of a political revelation from Heaven.

In the present instance there seem grave reasons for doubting whether the premises upon which a policy of *laissez faire* is based are sound. If the present condition of the Deccan ryots is caused by inherent moral and physical defects, unfitting them for peasant-proprietorship; if they encumber the land to the exclusion of a class of intelligent, enterprising and energetic capitalists, and if the land is such that capital in large single sums can alone effect its improve-

ment, then, indeed, we must perhaps sit down and sit out the process of gradual transfer of the rights of property from the one class to the other, merely softening, if need be, the fall of the sufferers. But consideration will show that no such circumstances exist in the Deccan. The Mahratha *kumbi* is not the defective and useless creature postulated. No such material composed the armies of Sivaji and his successors, which defeated the Moghuls, overran half India, and founded an empire of which the remnants still flourish around us. As a soldier, the Mahratha in olden days was as enterprising as he was hardy, equally able to 'bide a buffet' and to strike a blow. At present, he furnishes material perhaps second to none in India for the purposes of modern war. All representations of him as thriftless, enervated and puny are incorrect. As a peasant-proprietor, he is no unfavourable specimen of the class. MR. CHAPLIN and our other early authorities give him credit for many sterling qualities. He is still represented by the Commission as 'a simple, well-disposed peasant, contented with the scantiest clothing and hardest fare,' not without 'masculine qualities' and 'a stubborn endurance,' though still mostly uneducated, and consequently without a broad range of intelligence. Of course, improvidence and slovenly cultivation may be detected in individuals or particular localities. But we must not expect too much. Under British rule, the *kumbi* has undoubtedly progressed as fast as adverse circumstances allowed. He works his fields to the best of his lights, and in the dry season travels far in search of day labour, or with his cart on hire. During the late famine he displayed resources equally creditable to his thrift and his good feeling. His embarrassed condition seems to be rather his misfortune than his fault, induced by the calamities of the last century, the obligation of ancestral debt, the burden of the land-revenue demand—formerly in amount and latterly in imposition—and the facilities for extortion conferred by our laws upon his creditors.

On the other hand, those into whose hands the land is now observed to be passing are not yearning for it in order to improve it by their intelligence, enterprise and capital. With solitary exceptions, the transferees are the professional money-lenders, who have no wish even to hold the status of landed proprietors, much less to invest their capital in comparatively unprofitable agricultural experiments. Often too they are aliens, who return home after a time.

So far from eagerly getting the land formally transferred to their own names, they show general reluctance to do so. They prefer to keep the ryot on his land, and extract all they can from him : the punctual discharge of their advances is the last thing they desire. As MR. AUCKLAND COLVIN says,—

“ the position is that of a man recorded as occupier of his holding, and responsible for the payment of revenue assessed on it ; but virtually reduced by pressure of debt to a tenant-at-will, holding at a rack-rent from, and sweated by, his Marwari creditor. It is in that creditor’s power to eject him any day by putting in force any one of the decrees he has against him ; and if allowed to hold on, it is only on condition of paying over to his creditor all the produce of his land not absolutely necessary for next year’s seed-grain, or for the support of life. \* \* \* \* He has nothing to hope for,, but lives in daily fear of the final catastrophe. Under a so-called ryotwari settlement it is gradually coming to this, that the ryot is the tenant, and the Marwari is the proprietor. \* \* \* \* The proprietor is irresponsible ; the tenant unprotected. It promises to become, not a ryotwari, but a Marwari, settlement.”

Such conditions deprive the transfer of land from distressed to monied classes of all the glamour with which political economy would surround it. They show that the noble gift of property in land, made by the British Government to the peasantry for their sole benefit, is passing, contrary to their intentions, and in frustration of their objects, to a class unfitted to possess it. As observed as early as 1852 by SIR GEORGE WINGATE, the great author of the gift :—

“ It was never contemplated that the measures intended to secure these benefits for the class of landholders should transfer their dearest rights and the possessions that had descended to them from their forefathers to a class of usurious money-lenders, and degrade the former to the position of labourers or of tenants cultivating their former lands at the will of the latter.

In short, the second of the premises on which a policy of *laissez faire* would rest is as unsound as the first. In the words of MR. PEDDER, a gentleman who has long made a special study of this subject, \* \* \*—it cannot be too clearly understood that only in the dream of a visionary will the English agricultural system of large landlords, capitalist farmers of large farms, and peasant-labourers for wage, ever be substituted for the *petite culture* of India. Happen what will, each ryot will till his petty holding ; but he may be, as we have made him in Bombay, its proprietor ; he may be, as in the North-West, a member of a proprietary cultivating community ; he may be, as in Rajputana, the customary tenant of an hereditary lord ; or, he may be, as I fear he is becoming, the praedial serf of a money-lender.’

Only one of the three premises mentioned above remains—that the land is such that capital in large single sums can alone effect its improvement. That is exactly what it is not. There are indeed certain localities, limited in number, where irrigation projects may alter the character of the produce and counteract seasons of drought. But these are far too extensive for individual enterprise. They must be undertaken by joint stock companies or Government, and the latter has them in hand. But the great proportion of the cultivated area is such, that the most it is capable of, can be made out of it either by mere careful tillage and economy of stable manure, or by petty improvements, such as, for instance, digging a well, banking up a stream or watershed at certain seasons, making a supply-channel from a neighbouring canal or river, or altering the level or inclination of a field—by action, in short, of exactly the kind which the peasant-proprietor, standing on his own land, fully realizing its capabilities, and feeling pride and pleasure as well as utility in developing them to meet the growing needs of himself and his children, is at once the most competent and the most likely to apply. That he has so improved his estate since it came into his hands when he could, despite all the adverse circumstances by which he has been met, is proved by the increase in wells and the reclamation of unassessed waste within holdings during the last thirty years. Whether he shall pursue these inclinations freely, or continue, as at present, thwarted and check-mated at every turn, it now mainly rests with us to decide.

To the question, therefore, whether there is, after all, much harm in the present state of things, we must, perforce, answer that the harm is of the greatest. To a peasantry such as I have described, expropriation means discouragement, despair and exasperation. To the money-lending class, it means the acquisition of what they are unfitted to use and do not particularly desire to have, of what yields them at best a precarious profit, not exceeding that which reasonable rates of interest, combined with easy recovery, would produce, but wrung forth with trouble, anxiety, expense, popular execration, and even personal danger. To society, it means the discouragement of labour in extracting wealth from the soil, the application of capital in disadvantageous and comparatively unproductive channels, and the fomentation of disorder and outrage. As reported to the Bombay Government in 1858 by Mr. J. D. INVERARITY, the Revenue Commissioner—

‘the question is one of vital importance both to Government and the people. Even the passive society of the East cannot bear so great a burden without making

from time to time convulsive efforts to shake it off. These efforts must increase in frequency and strength, unless the legislature seriously takes up the evil and applies the knife to it.'

Assuming, then, that indebtedness to an unusual and extreme extent is the condition of a large proportion of the people in the British Deccan, we must enter into a critical examination of its probable causes before we can hope to apply an effective remedy. These causes are numerous, and complicated both in themselves and in their action and reaction upon each other. They may be conveniently classed as 'normal' and 'special.'

The normal causes are those which may be found at work, more or less, at all times, and some in all parts of India, others only in certain localities. First of these stands *poverty*. It is obvious that where there is a peasant-proprietary, though the stimulus to individual exertion is considerable, and in India the Hindu joint-family system tends to prevent minute subdivision, the individual capital cannot be great, and misfortunes comparatively small will throw even a thrifty and industrious person into the hands of the money-lender for temporary loans. Besides this, the *kunbi* of our Deccan labours under the special disadvantage of a soil mostly indifferent, and a rainfall so precarious that he hardly gets a full crop once in three years. Finally, the obligation to pay a father's debts, laid by Hindu law upon a son without any equitable restrictions, imposes a burden oppressive at all times, and too often aggravated by fraud in the creditor and ignorance in the debtor. The Commission, in fact, go so far as to term ancestral debt the 'chief cause' of the *ryot's* embarrassments. Next to *poverty* comes *ignorance*, which renders the unlettered peasant unable to read and often to understand, the documents and accounts in which he is vitally concerned, or to state and substantiate in a Civil Court a good defence when he has one, and thus makes him a tempting subject for every kind of roguery. *Social observances*, such as, marriage, birth and funeral expenses, also swell the roll of obligations; but being connected with religion, they are to a great extent unavoidable. If occasionally excessive in prosperity, they are reduced in bad times. The Commission consider that in amount they are generally not larger than the *ryot's* income, if otherwise only fairly taxed, would justify, and that undue prominence has been given to them as a cause of his ruin. *Imprudence* must be admitted to contribute its share to the catastrophe; but it consists, as the Commission

remark, 'rather in the short-sighted improvidence of an ignorant class, ready to relieve present necessity by discounting future income on any terms, and unable to realize the consequences of obligations foolishly contracted, than in an extravagant expenditure and misapplication of income.' To this may be added an honest and confiding, rather than vigilant, temperament. A soil yielding but one crop, and therefore the whole year's income at one period, a climate so capricious as to preclude at seed-time any safe estimate of what the harvest, if there be one, will be worth, and prices varying above cent. per cent., as they twice have done in this century, might well derange the calculations, and produce the bankruptcy, even of sober men of business.

Besides these normal causes conducive to indebtedness, there exists a long array of *special* ones, some general in their operation, others peculiar to the Bombay Presidency or the Deccan alone. These I propose to notice in four groups—namely, those increasing credit, diminishing ability to repay, proceeding from the revenue system, and comprised in the term 'arming of the money-lender.'

*Increased credit* obviously flowed primarily from our establishment of a settled government, and the consequent immunity of the ryot from being plundered and murdered by hostile armies, or drawn from his fields, perhaps killed in battle, on his own side, as also from the grosser forms of private crime. A like effect followed our land-settlements. The meaning of the phrase 'land revenue' varies greatly in different parts of India. In Bombay the State is the landlord, entitled to the entire rent—that is, to the whole net produce or surplus after deducting the cost of cultivation and of the subsistence of the peasant and his family. The State has no intermediary or landlord to think of, to whom a certain proportion of the rent must be left. It may relinquish to the peasant-cultivator as much or as little of the rent as it chooses. The Native governments preceding us relinquished but little, and the cultivator was rack-rented. Hence, even a small debt pressed heavily, and complaints of indebtedness were general when we acquired the country. Gradually we reduced our land-revenue demands, producing immediate relief and recovery of agriculture, until by the revenue survey system, founded by GOLDSMID and WINGATE in 1838-40, and gradually extended throughout the Presidency, we levy, says MR. PEDDER, only one-half, *at most*, of the net produce or rent, thus leaving the cultivator a liberal margin



upon which to borrow and repay. But we went further than this. Under the Native government a cultivator could not, according to custom, be ejected as long as he paid the revenue demand; but that demand was so high that his right of occupancy was worth little or nothing and was, besides, mostly not recognized as saleable. The land was not his to sell, being deemed the property of the State. Under our settlement, however, 'this right of conditional occupancy' (to quote Bombay Act 1 of 1865) 'is declared to be a saleable and transferable property.' Though the land is still termed "Government land," the occupant has acquired a tenant-right far wider than that of Ireland, and has virtually become proprietor, while the Government retains only a rent charge, variable once in thirty years, within certain prescribed limits. The right of property thus granted acquired simultaneously a considerable value through the reduction of the revenue demand and its invariability for thirty years. The gift, intended to enrich the ryot, increased his credit along with his means, thus exposing him to the loss, not only of the extra share of net produce bestowed, but of the land from which a livelihood had hitherto been secure.

Fast upon these additions to solvency and credit came days of brilliant but ephemeral prosperity. Commencing with 1850, railways, roads, bridges and other public works poured millions into labourers' hands, while a series of good seasons gave the best encouragement to agriculture, and brought almost every available acre under the plough. Then came the American war, raising to almost fabulous rates the prices of cotton and other produce. These circumstances had a double effect: many ryots paid off, or greatly reduced their debts: many more, both of these and others, increased their expenses, and some even borrowed largely upon the strength of increased incomes which they supposed would last for ever: all learned a higher standard of comfort and new wants, which they could not relinquish with readiness equal to the subsequent rapid contraction of their means. A further expansion of the ryot's credit was induced by greater facility in obtaining loans, owing to two reasons. The arming of the money-lender, to which I shall presently allude, rendered frauds and legal recovery of advances easier. Also, the general prosperity increased the capital of money-lenders for investment and the number of persons competing in the business. Money was lent recklessly, on unsound credit; money

was lent designedly to secure the unwary ryot as a bondsman for ever.

*Diminished ability to repay* arose partly from greater pressure on the land by the population, which had grown 45 per cent. in the thirty years ending with 1875. The proportion of 167 souls per square mile becomes extremely heavy after making allowance for mountains, forests, &c., and for the defects of the cultivable soil and the climate. But even the cultivable area cannot be, on an average, as productive as in former days. When only a half of it was cultivated, the best soils were chosen, fallows were readily allowed; the waste land and forest supported cattle freely; the stable manure was sufficient. Now all is reversed. The waste land has disappeared; the cattle and manure are insufficient in proportion; the jungles have become reserved forests; the poor soils reduce the average; and the general result is a lower yield per head for subsistence or repayment of debt. Again, the ryot's solvency was reduced by a great fall in prices after the close of the American war. Between 1836 and 1866 prices rose from fifty-six to eighteen *seers* per rupee: between 1866 and 1874 they fell again to fifty *seers*. With the various causes of low prices; with questions such as those of the effect of levying revenue in money instead of in kind; of the sufficiency of the circulating medium, or of the action of the so-called 'Indian tribute,' I am not now concerned; for our present purpose, to note the fact of the fall is sufficient. A series of bad seasons has, likewise, supervened. Finally, the effect of an absence of stimulus to exertion in lessening ability to repay must not be overlooked. Where the ryot is hopelessly involved, and all produce goes to the creditor, a bare subsistence being given back, what inducement can there be to add to the latter's gains? The ryot pays off less; his debt on paper increases, and what more? He thinks it 'as well to be hung for a sheep as for a lamp.'

*To our revenue system* must in candour be ascribed some share in the indebtedness of the ryot. Time would fail me were I to attempt to enter here into the elaborate question of the pressure of the land-revenue demand, nor does my subject require that I should do so. The Commission's report and the other enquiries to which I have referred contain the fullest information on the subject. Suffice it to say that it is amply proved that the riots had no immediate connection with the revision of assessment, which was neither

imposed nor contemplated in many of the localities where they occurred. Still less can the general indebtedness of the ryot be ascribed to the weight of the assessment, whether unrevised or revised, since the proportion of the net produce taken is low in itself; very low for a *landlord* to take; far lower than that prevailing in 'alienated' British villages and adjacent foreign States. I am here, of course, speaking broadly, irrespective of individual instances of over-assessment, which in so vast an undertaking may not improbably have occurred. But it seems likely that indebtedness arising mainly from other causes, normal or special, may have been aggravated by our rigid system. If any considerable increase at a revision were gradually worked up to in the course of two to five years, the ryot would have time to readjust his expenses to his means instead of being taken by surprise, and perhaps driven to the money-lender. Again, if the recovery of instalments were more coincident with the time when the ryot realizes on his produce, instead of falling sometimes too early and sometimes too late, and so the land-revenue were more in practice (what it is in law) a first charge on the latter, much temporary borrowing, fraud in crediting produce, and eventual Government process for recovery, might be avoided. Some debt, too, may be caused by the fear of eviction—a mode of recovering the revenue for which a substitute is much needed. Moreover, though the system of taking revenue in kind, besides involving the injustice of assessment on the gross produce instead of the net, is so open to fraud, when adopted on a large scale, as to be impracticable, its object might be attained, in localities subject to drought, by such suspension of the revenue demand as to spread over three or four years, according to the seasons, the aggregate amount to be recovered in that period. Finally, in times of famine, suspension of demand might be systematically granted, as of late it has been by SIR RICHARD TEMPLE, and even total remission, which is not inconsistent with the Bombay settlements. And, above all, whatever relief is deemed reasonable should be granted in time.

*The arming of the money-lender* is a general term which I shall apply to the process of increasing in numberless ways the legal power of creditor over debtor, which has been synonymous with the elaboration of our Indian law procedure. In our early judicial dealings with our newly-acquired possessions in the Bombay Presidency, we combined as far as possible the Native model in form with European common

sense and equity in practice ; but gradually the system was made more regular and rigid. MOUNTSTUART ELPHINSTONE'S Code of 1827, however, still contained much of the old leaven, such as arbitration courts, usury law and a long limitation for suits. Only gradually did creditors perceive and work up to the advantages the law had given them. At first the debtors complained of usurious interest only. From 1843 to 1850 the Court's influence became rapidly more apparent. Attachments, and the extortion of new bonds with a premium for forbearance, increased. From 1850 to 1858 credit and frauds much expanded. Numerous public officers pointed out the mischief which was going on ; none foresaw more clearly than SIR GEORGE WINGATE how the benefit of his settlement was being turned into wrong channels, or pleaded more earnestly, though in vain, for prompt and effective remedies. While affairs were in this state, the legislature stepped in to aggravate the evil. In 1859 the period of limitation for suits was reduced and the first Civil Procedure Code was passed, followed by the Stamp Act in 1860.

The condition then consummated, which has lasted with but slight variation for about twenty years, may be thus briefly summarized as it appears in the Deccan. The procedure is highly elaborate and technical ; the penalties for contravention of it, severe, and litigation, dangerous without the guidance of a pleader, whose services are costly and interests often at variance with those of his client. The procedure is the same for a debt of Rs. 5 and Rs. 5,000, except in the rare instances where Small Cause Courts are established. Stamp and court expenses have nearly doubled. Arbitration has been gradually shouldered out, partly by the superior prestige of the Courts, partly by the stamp-duties, partly by its disadvantages for the money-lender. Suits may be heard *ex parte* in the absence of the defendant, and are found to be so, in the four Deccan districts, in above half of the cases. Great weight is attached by the Courts to bonds, and they are therefore largely, almost exclusively, depended on. However fraudulent, extortionate or in excess of consideration a bond may be, the burden of proof lies on the debtor, and in practice his defence is generally hopeless. Payments on a decree made by the debtor out of court were (till 1877) ignored, and were therefore obtained, wherever possible, by the fraudulent creditor. The reduction of the limitation period for bonded debts from twelve to six, and in some cases three years, and for simple money debts, from six to three years, respectively, has

subjected the debtor to compound interest, frequent suits, extra cost and a vast increase of his liabilities. The power of obtaining arrest and imprisonment gives the creditor the means of extorting almost any terms for his forbearance in exercising it. Of all the weapons he has obtained, this has been proved to be the most misused. The power of sale in execution extended, till 1877, to everything the debtor possessed: since then certain bare necessities have alone been exempted. Land remains saleable, whether ancestral or acquired, subject to certain provisions for saving it analogous to an *elegit*, which have hitherto proved inoperative, but are now being amended. Of all sales it is a characteristic that the property, through technical difficulties, constantly goes for a mere song, and the creditor is the purchaser. Decrees were, till 1877, interminable, and the Commission found numbers to be of twenty years' standing. Now they may be executed for twelve years. A Sub-judge mentions one executed *nine* times. If the persecuted debtor turned towards the law of insolvency, he, till quite recently, found it little more than a name. Until actually arrested or in jail, he could not resort to it at all; and whether, after doing so, he escaped its pitfalls and two years' imprisonment or not, his subsequently acquired property and earnings were liable (unless his debt was under Rs. 100 and the judge chose to discharge him) until the last pice due, with interest, had been repaid. Finally, the increase of work entailed delay, with loss of time and money, in the disposal of cases, while financial reasons led to reduction in the numbers of the Courts, and consequently to their greater remoteness from the ryot's home. And all this is the more important, in that a vast increase of litigation has followed the new law, so that in 1876 there were 37,128 suits, and in 1878 (after the famine) 27,577, disposed of in our four districts alone.

The tendency of the change of relations thus gradually brought about by the law will be seen to have been all one way in favour of the party possessing the most intelligence and money. Even of old, the superiority of the money-lender over the ryot was considerable, though the former had little power of compulsion; but by the law this superiority has been infinitely increased. The likening of the contest between them to one 'between a child and a giant' is no figure of speech; yet the law presumes them both to be equal! That the superiority is fully and often fraudulently availed of is proved by the

vast increase of litigation just mentioned ; by the evidence of judicial and revenue officers and of numberless debtors ; by the scrutiny of accounts by the Commission, and by the use in 1874 of some 150,000 warrants as threats only. The general result is that through these undue powers the ryot is enslaved by a vast amount of debt, which has been much enhanced by our legal system, and in part was never incurred by him at all. In concluding this sketch, it seems scarcely necessary for me to add that the law, and not the Judges, are to blame. Some of the most valuable proofs of the defects of the former are derived from judicial officers, Native as well as European ; and I fully agree with MR. AUCKLAND COLVIN that it is 'very much to the credit of the subordinate judicial administration that it has expressed itself so clearly as to the position which it is compelled to occupy.'

Having thus enumerated the various causes of the ryot's indebtedness, I will briefly classify them according to the possibility or expediency of remedial measures. As causes regarding which little or no special action is practicable we may put down all normal ones. Ignorance, improvidence and extravagant ceremonial or social expenditure can never be eradicated from the world, either in the Deccan or elsewhere, though time, experience and education may reduce their strength. An agricultural population everywhere is comparatively ignorant ; they are found so even in England under a compulsory educational system, much more in India, where compulsion cannot be thought of. But village-schools are exceptionally numerous and efficient in the Bombay Presidency ; cultivators' children form 21 per cent. of the pupils, and we may hope for gradual improvement in this respect. Comparative poverty must continue the lot of a peasant-proprietary whose soil is poor and climate capricious. Periodical absorption of savings by famine can, at least, be only diminished in degree by palliatives of partial applicability, such as forest conservancy, railways and irrigation, which, under SIR RICHARD TEMPLE'S vigorous administration, are being promoted as rapidly as means allow. Prices must take their course.

As causes regarding which interference is undesirable may be mentioned the increased credit due to orderly Government, property in land and competition of money-lenders, and the lessened ability to repay arising from the diminution of waste land for fallows and grazing by the extension of cultivation and forest reserves. The raising of the land-assessment to the level of Native States in order

to stimulate exertion, and the lowering of it so as to pay private debts at the expense of the community in general, are equally out of the question.

Respecting the remaining causes, action, either executive or legislative, seems open to us. *Executively*, some little might probably be done to relieve pressure of population by favouring emigration to other districts. Then, though the idea of Government Agricultural Banks appears to me to be unsound in theory and unworkable in practice, the opening of local loans in small amounts, as in France, might offer to bankers an alternative for indiscriminate lending on usury, and to cultivators an investment preferable to ornaments. The system of advances by Government for land improvement, also, might be simplified.\* Again, relief might be afforded by modifying, in the directions I have already indicated, the mode in which our land-revenue demand is imposed and levied. Stamp and process fees and *batta* seem also capable of revision. Finally, there are exchange and cognate financial questions. But I must not dilate upon these executive remedies, which are beyond the sphere of this Council. I have touched on them merely in order to show that I am not so simple as to suppose that all the ryot's difficulties will be removed by the passing of the Bill before us. *Legislatively*, what we can do, what is proved by over-whelming evidence to be the thing required, what we undoubtedly ought to do, promptly and effectively, is to restore, as far as may be, the rude balance between debtor and creditor, which has been disturbed by our own legal institutions. We may take back many of the weapons inconsiderately placed in the money-lender's hand and shown to have been misused; we may check the undue credit arising from unjustifiable facilities for recovery; we may increase ability to repay by removing discouragements to industry; we may obey the long-neglected proverbial mandate to hear both parties; we may substitute for the blind and ruthless operation of legal machinery the intelligent dispensation of justice between man and man.

As introductory to a fuller definition of the principles upon which our proposed measure should rest, and to a detailed explanation of the Bill itself, it may be instructive to survey, briefly, the relations of debtor and creditor as they were found on the introduction of British rule, and as they may now be seen subsisting in some of the best administered Native States. For the former period I can quote no better sketch than that given in the despatch of the Secretary

of State dated December 26th, 1878, which has recently become public.

‘Under Native Governments, it seems no assistance was, ordinarily, afforded by the State to a creditor for the recovery of his debts. No Court of Justice was open to him, and he was left to his own devices to extort what was due, Government winking at very forcible measures that were occasionally employed. The result was not so bad as might have been expected. It speaks well for the national character that contracts were rarely repudiated. And the Commissioners observe that in these proceedings honesty was the best policy for the ryot, and caution was a necessity to the money-lender.’

In order to state correctly the present practice in Native States, I have made special enquiries in four cases. As to Hyderabad, HIS EXCELLENCY SIR SALAR JUNG has favoured me, through the Resident, SIR RICHARD MEADE, with a valuable memorandum and summary of regulations. From Bhaunagar, a large State in Kathiawar, which was, till lately, under joint-administrators, English and Native, during the minority of the Thakur, and of which a graphic account by SIR DAVID WEDDERURN appeared last year in the *Fortnightly Review*, I obtained a note through MR. PERCIVAL. The system in Morvi, another Kathiawar State, is described in communications from the administrator, MR. SHAMBHUPRASAD, who was a member of the Deccan Riots Commission. About Baroda full information is forthcoming in the administration reports of SIR T. MADHAVA RAO and letters of some private Native friends I have there. In all these States, civil suits for debt are comparatively rare. The limitation period, where there is any definitely laid down, is twelve and six years. The Hindu rule of *dam-dupat*, or disallowance of interest at any time in excess of the principal, is observed in Baroda, Bhaunagar and Morvi. In Hyderabad usurious interest is summarily cut down to a reasonable rate. Imprisonment for debt is not allowed in Morvi, nor, apparently, in Bhaunagar. In Baroda it is forbidden altogether during the cultivating seasons, and very sparingly used at other times. In Hyderabad it is reserved for cases of contumacy and fraud. As to the sale of a ryot's land and house for debt, both are exempt in Bhaunagar, and the former (if not both) in Morvi. In Hyderabad the sale of either is said to be resorted to in extreme cases only. In Baroda only such portion is saleable as may be in excess of what is indispensable for the residence and support of the ryot and his family, and sales are not favoured by the Courts. The sale of movables is also under characteristic restrictions. In Baroda the ryot's implements



and cattle necessary for cultivation, cooking utensils and clothes indispensable for daily use, 'the ornaments which a married woman must have on her person as long as her husband is alive' (even if not hers, but her husband's), and two months' corn for the ryot and his family are all exempt. In Bhaunagar only agricultural stock and implements in excess of what is necessary for cultivation, as also the produce, may be sold; and in Morvi the rule seems much the same. In Hyderabad the reservations embrace cattle and implements necessary for agriculture, seed-grain for the next season, grain for subsistence for six months, and necessary apparel and cooking utensils. In all the States the fixing of instalments is common, and, whatever may be the standard rules promulgated through a desire to imitate our judicial institutions and to obtain credit for well-organized government, a summary inquiry into the facts of the case, with scrutiny of accounts, and a more or less rough-and-ready adaptation of the creditor's demands to the debtor's means, appear to be the practice. This practice, being supported by popular opinion, is probably less affected in individual cases by corruption, partiality or oppression than might on general grounds be expected. Having held for many years intimate relations, official and otherwise, with Native States, which in Bombay form one-third of the Presidency, I can say with confidence that, making due allowance for the growing mischievous tendency to copy the British system blindly, the picture just presented is, on the whole, fairly typical of them all.

This picture may, at first sight, seem to exhibit conditions under which either the ryot can get no credit or the money-lender no returns. As a matter of fact, however, neither result occurs, because all the parties concerned—debtors, creditors and rulers—thoroughly understand the limits to their several actions which are essential to their several ends. No doubt the ryot has a hand-to-mouth sort of existence; but even this is endurable, combined with immunity from eviction. I have come upon a passage in SIR T. MADHAVA RAO'S Administration Report of the Baroda State for 1875-76 so ably describing the position that I must ask leave to quote it at length:—

Sales must not be made so rigorous as to crush or impair industrial energy or to induce its emigration. The Civil Courts have to be specially careful in regard to the last mentioned point, which mainly concerns the ryots. These have frequent dealings with the *sowkars* whose exacting tendencies are well known. The Civil Court should take up such a position between the ryot and the *sowkar* as freely to allow benefits to

pass, but effectually to arrest mutual injuries. The ryot here can never, as a rule, altogether dispense with the services of the *sowkar*; for the seasons are not so regular nor are the means of irrigation so extensive as to ensure equability or constancy of production. Again, the land-tax is in most cases fixed, and absorbs a considerable proportion of the produce; and, again, the prices of produce fluctuate, changing the incidence of the tax on the produce from year to year. In other words, while the outturn of the land is necessarily varying, the ryot has to pay a fixed and considerable tax, which must come from the land. In other words, again, the exchequer has to draw a constant and continuous stream out of a fitful supply. The *sowkar* by his interposition meets the mechanical necessity of the problem. He is the receiver of the fitful supply, and enables the ryot to pay the *sarkar* equably. He often performs another useful function, namely, he enables the ryot also to draw from that fitful supply an equable subsistence for himself and family. It is thus to him that both *sarkar* and ryot are indebted for equalising to each, their annual receipts from a fluctuating source. He, therefore, fulfils very beneficial duties, and deserves to be conserved as an almost indispensable part of the rural organization. At the same time, we are bound to see that he does not override the interest of the ryots. Let the Civil Courts enable the *sowkar* to recover his just claims from the ryots. But the Courts should not permit the *sowkar* to press the ryots to the point of crushing. This point should be well defined and ever kept in view. No process of the Courts should, without the concurrence of the revenue-officers of the *sarkar*, deprive the ryot of his land, of his agricultural cattle and implements to the extent necessary for the cultivation of that land, of his cottage, and of food and raiment according to the necessity of himself and family. These should be left to the ryot, and, as a general rule, placed beyond the grasp of the *sowkar*. It should be understood that the first demand on the produce of the land is that on account of the *sarkar* tax; the next is that on account of the subsistence of the ryot and his family; and the last is that on account of the debt due to the *sowkar*. The surplus which may be forthcoming in good seasons after meeting the first two demands may be made available to the *sowkar* for the recovery of his advances made to or for the ryot in bad seasons. This being understood, the *sowkar* will easily limit his advances to the prospects of such recurring surplus, and will not go beyond. This principle of adjustment may be expected to work well and to the advantage of all the parties concerned, provided that the land-tax is not so excessive as to trench upon the subsistence of the ryot and the remuneration of the *sowkar* in an average year. As a rule, the principle is not novel in Native States, and has been long in operation, more or less. Our new Civil Courts should recognize and respect it, and by no means set it aside. After what I have stated, I need hardly say that our Courts should not imprison the ryot on account of debts due to the *sowkar* and consign industrious hands to idleness, unless where the debtor may be fairly presumed to possess the means of payment and to withhold payment from a refractory spirit.

The *Quarterly Review*, in an able and interesting sketch of the Deccan published last April, further truly describes the useful functions of the money-lender in relation to both the State and society:—

The village banker is essential to the social system of the country. At once the purchaser of rural produce and the local agent of the central mercantile firms, alike

the village shop-keeper and money-lender, he enables the peasantry to derive full benefit from a good season, and to moderate the recurring disasters of drought and flood. Without his aid the rent would not be realized. His functions in normal times are most important, but in the abnormal times of famine they are indispensable. Then the banker and shop-keeper is stimulated to double activity in both capacities. He advances from his stores, food, seed, stock, and even money to the peasantry, who can offer nothing but their credit in return. By relieving the better classes of the community he lessens the pressure on the public purse. But he does more than this. \* \* \* Experience has proved the advantage of leaving the transport and distribution of food-supplies to private trade. \* \* \* It is the *sowkar* who spans the gulf which separates want from plenty, and fulfils the functions of distribution which no State agency can perform!

The problem before us is how to keep the money-lender in his place, to encourage and support him in all useful functions, but to restrain him, as he is restrained in Native States, from becoming the enemy and oppressor of the poor. The leading principles of our new measure, then, should be to give both sides fair play, instead of setting the two classes by the ears; to diminish the risks of fraud in borrowing and extortion in repaying; to diminish the risks of loss in lending and excessive delay in recovery; to obliterate any stigma resting on our judicial institutions. We must foster due credit, check that which is undue, and allow free scope to all civilising processes and healthy relations between capital and labour. We must hold the ryot responsible in our Courts for what he has really borrowed, not for what he has not, and make him repay by his own exertions all that he reasonably can repay, not set him free, by sudden, one-sided or 'heroic' remedies, to enter on a fresh career of indebtedness. In short, we must see the parties as they really are, in a condition of Oriental, not of European, civilization, and deal with them by the Indian experience of success in past generations and failure in the present, rather than by the intrusion *per saltum* of alien institutions which are in their own land the result of centuries of experience under totally different conditions.

I will now endeavour to set forth, as clearly and fully as time and the occasion permit, the principal provisions of the Bill I am introducing, premising that, as the latter is intended to supplement, modify and dovetail into the Civil Procedure Code, and it therefore in some parts presents to the unskilled reader a confused and imperfect aspect, I shall discard its arrangement, and endeavour to express in plain English the effect which its provisions (coupled with the code) are intended to produce.

The first object aimed at is to establish precautions against fraud by either debtor or creditor in their original transactions with each other, and so keep them on good terms and out of Court, as far as possible. The Commission thus enumerate the chief frauds which are practised :—

By creditors : (1) forging bonds ; (2) withholding the consideration mentioned in bond ; (3) obtaining new bonds in satisfaction of old bonds and of decrees, and nevertheless enforcing the latter ; (4) not giving credit for payments ; (5) refusing to explain or wrongly representing their accounts to debtors.

By debtors : (6) tendering in evidence false receipts and false evidence of alleged payments ; (7) pleading that bonds are false when they are really genuine.

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The next step contemplated is that, whenever serious misunderstanding unfortunately arises between money-lender and ryot, either party should be able to resort to a friendly non-judicial authority bound to use his best offices to reconcile the two, and that no litigation should be commenced without a certificate from the Conciliator (as the authority constituted by chapter VI will be termed) that his endeavours in this behalf have failed. Such Courts of Conciliation were advocated by SIR JOHN STRACHEY just twenty years ago, and by MR. CUST in 1870 in the *Calcutta Review*. On the present occasion, their success in France was brought forward last year by SIR ERSKINE PERRY in some Notes which have been published in India ; and the subject is suggested for consideration in the Secretary of State's despatch already referred to. For details of the French system, derived from personal observation during a residence in France, I am much indebted to MR. FITZPATRICK, the Secretary to the Government of India in the Legislative Department. The proposed Conciliators will so far differ from the French *Juges de Pair*, that they will not have, in addition to conciliatory functions, a petty judicial jurisdiction (up to 100 francs, equal to Rs. 50), nor will they be able to compel the attendance of the defendant before them ; but they will, in consequence, be unable to exercise undue pressure, which in India might perhaps under some circumstances be apprehended.

Closely connected with the subject of conciliation is that of Panchayats, or arbitration by non-official persons or bodies, such as the Poona Arbitration Court, and of incorporating such arbitration, with more or less assistance and control, into our judicial system. The question is a difficult one in some aspects. All that I am now able to say is that it is under careful consideration. \* \* \*

Supposing that, notwithstanding all the preceding precautions, the dispute unfortunately develops into litigation, the Bill next endeavours to place the Courts of law within easier distance from the homes of the people, and to make them more absolute, less technical, less dilatory and less expensive. I may here mention that, out of 4,650 villages in our four districts, only 29 per cent. are now within ten miles of their Courts; 35 per cent. are from ten to twenty miles off; 24 per cent. from twenty to thirty miles; and 12 per cent. between thirty and sixty miles—distances which, in the absence of railways, represent a considerable inconvenience and loss of time to those obliged to attend. In pursuance of the objects just named, chapter V empowers the Local Government to appoint any Patel of a village whom it deems competent to be village-munsif for his own village, or, if desired, for other villages also within a radius of two miles. The munsif's jurisdiction will be limited to suits for money not exceeding ten rupees, and will generally follow the model of the Madras village-munsifs system, constituted under Madras Regulation 4 of 1816, except that the munsif will not have, as there, a further jurisdiction, by consent of parties, extending up to Rs. 100. The munsif's decision will be final, except in case of corruption, gross partiality or misconduct proved before the special Judge, to whom I will presently refer. This Madras system is well worthy of attention. It is a remarkable fact that these munsifs dispose of nearly one-fourth of the whole civil litigation of the Presidency. In other words, some 45,000 suits, for which the people in Bombay might be dragged to our regular Courts, with all their attendant delay, cost and harshness, are in Madras quietly disposed of at the people's own homes without any one of these evils. Nearly the whole of these suits are for sums not exceeding Rs. 20, and nearly half for Rs. 5 and under; but the returns do not show how many of them are for Rs. 10 and under, and therefore tried without the consent of both parties. It has been surmised that many of the disputes here dignified

by the name of 'suits' are so petty, that in Bombay they are never brought to a regular Court at all ; but the general statistics do not bear this out, as in the Bombay mofassal in 1877 there were 144,412 suits to a population of 15½ millions, while in Madras there were only 190,290 to above 31 millions. Again, I understand from MR. CARMICHAEL, Member of Council at Madras, who has kindly given me much information, that the bulk of them are not between usurers and ryots. But the fact remains that a very inferior agency can dispose successfully, without appeal, of suits not lower in value, though differing somewhat in nature, from those with which we have to deal. Although, however, village-munsifs may thus be a fairly efficient institution in Madras, where they are a survival of ancient times, and where society is still in a comparatively simple state, it would be impossible at the present day to constitute them by law throughout all villages or village-circles in our Deccan districts. The people are now too independent, too active-minded, too irreverent to accept implicitly the decision of village seniors as such, or, as a native newspaper puts it, 'in the present times of freedom and liberty, when even children do not obey their parents, the village headmen have no authority and influence.' Even if we, in Bombay, could successfully impose on our hard-worked and ill-paid *patels* this, to them, novel function, there is the further difficulty in their case that the bulk of our petty suits are brought by money-lenders, with whom the *patel* would too often be, by want of education or by absolute interest, unqualified to cope. Our advanced conditions postulate a more skilled judicature, better Judges, and, consequently, fewer of them ; and these the Government must in the main provide. At the same time, there can be no harm in taking advantage of the present opportunity to empower the Government to invest with petty jurisdiction up to Rs. 10 any village *patels* whom it may here and there find to be qualified by education and character. We may hope that the number of such will gradually increase.

Next above these new Munsif's Courts come the existing Courts of Subordinate Judges, who are all trained officers, divided into two classes, with proportionate powers, and receiving salaries of from Rs. 200 to Rs. 800 per mensem. These Courts it is proposed to strengthen in two ways. Their number will be increased from 24 to 36, thus diminishing their local jurisdictions and the distances

to them from the people's homes ; but this, being an executive measure, needs not to be provided for in the Bill. Their powers will, moreover, be considerably increased. By chapter II of the Bill, all subordinate Judges in the four districts will be invested with what are termed small-cause-court powers, but enlarged so as to include mortgage-cases of the class in which agriculturists are so commonly involved. And by chapter IV they will all receive jurisdiction in insolvency. The question of how far the summary jurisdiction, not open to appeal, which the small-cause-court model implies, might safely be entrusted to the two classes of subordinate Judge, has received careful consideration in connection with the opinion of the Secretary of State in paragraph 33 of the despatch: 'I am inclined to think that the principle of summary jurisdiction without appeal might be conferred experimentally on all civil Judges in the Deccan with great benefit.' It is considered that such jurisdiction may be conferred on the first class subordinate Judges up to the full limit allowed in the Mofassal Small-Cause-Courts Act, namely Rs. 500, and on the second class subordinate Judges up to Rs. 1000 absolutely, and up to Rs. 500 by consent of the parties (on the analogy of the higher jurisdiction of village-munsifs in Madras). But three special safeguards are proposed in chapter VII. *Firstly, inspection.* A special Judge will be appointed to inspect, supervise and control the proceedings of the subordinate Judges, munsifs and conciliators under the Act in all the four districts, and see its new principles and policy effectively carried out. The special Judge will be aided, in each pair of the four districts, by a special assistant Judge or subordinate Judge, who will during the greater part of the year be engaged in travelling about, inspecting and supervising all subordinate Courts. In Bombay the Collector and his assistants similarly move about, inspecting and controlling the revenue and magisterial administration, mixing with the people, and, in particular, examining the civil work done by *mamlatdars*. Long experience has proved that the system produces excellent results. *Secondly, revision.* The power of revision vested in the High Court by section 622 of the Code of Civil Procedure is extended, on the analogy of section 295 of that Code, to the special Judge, who will be enabled to call for and examine the record of any case and correct failures of justice, as also similarly to deal with cases called for and referred to him by his assistants just mentioned. The powers of the High Court under the

same section will remain intact. *Thirdly, sitting 'in banco.'* The special Judge and the assistants with his authorization are enabled to stay the proceedings in any case pending in a subordinate Court, and to sit with the Judge as a Bench to try it. The power of withdrawing a case and trying it himself, or transferring it to another Court, which the district Judge possesses under section 25 of the Code of Civil Procedure, will also be exercised by the special Judge, and by his assistants with his authorization. These provisions will enable important cases to be tried by superior officers or a Bench, and promote that exercise by such officers of their personal example, and that enlargement of their practical experience, which are thought so desirable by the Secretary of State.

In concluding this part of the subject, I should explain that the amended jurisdiction will, for convenience' sake, supersede altogether that under the Mofassal Small-Cause-Courts Act, and thus litigants who are not agriculturists will, in money cases, obtain throughout the four districts the special advantages designed for the latter. Also no special provision is made for subordinate Judges moving about and sitting at different places, because they can be required to do so under the existing law.

The procedure followed by the Courts under their new jurisdiction will be pretty nearly that of Small-Cause-Courts, which again differs but little, except as to recording evidence at length, from that of the Code of the Civil Procedure. One exception, however, is so important as to require special mention. The Commission pointed out that the proportion of cases decided in Bombay *ex parte*, or in the absence of the defendant, vastly exceeded that in any other part of India. In the four districts the proportion ranged in 1876 from 60 to 74 per cent., and last year from 57 to 66 per cent. This has been ascribed to a variety of causes, of which the chief probably are ignorance of the ryot that he has a defence, want of means to pay a pleader, conviction that the Court, for want of time or other reasons, will not go into the merits of his case or look behind the bond, fear of irritating his creditor by a defence or fraudulent non-service of summons. The various provisions of the present Bill, however, completely alter the position. The obligation laid on the Court of going into the whole merits of the case, and, behind the bond, if necessary, to which I shall presently allude, will remove the first three of the above causes of backwardness on the ryot's part, and will probably lead to his more frequent voluntary appearance. But



that obligation can scarcely ever be successfully performed in his absence and without his help; and it is therefore considered indispensable to make it incumbent on the Court ordinarily to exercise, in all cases of a defendant's non-appearance, the power of compelling him to attend, now vested in it by the Code for exceptional use. Compulsory attendance will meet the other two causes of absence above mentioned. Any hardship which it might be supposed to involve will be more than balanced by the consequent better hearing of the case, and will, moreover, be much lessened by the proposed bringing of the Court nearer to the debtor's home.

Closely connected with the question of procedure is that of how far effect should be given to the suggestion of the Secretary of State that possibly it would be desirable to exclude professional pleaders from the 'courts with summary jurisdiction and without appeal up to a limited amount' which he desires. Upon this point we have two precedents. The French Code excludes all skilled advocacy from the Courts of the *Juges de Paix*, whether in conciliation or trial of suits, in the following most stringent terms:—

'Aucuns avoués, greffiers, huissiers et ci-devant hommes de loi ou procureurs ne pourront représenter les parties aux bureaux de paix.'

The Madras Regulation for village-munsifs excludes professionals, but allows the deputation of a relative, servant or dependant—so that for instance, a *sowkar* could send his *gomashtha*, and a ryot could send or bring with him a clever son or nephew, educated in a Government school. It may be true that where a case, involving even a moderate amount, is intricate, owing to mortgages or other exceptional circumstances, a competent pleader may be of much use both to the parties and the Court. On the other hand, it must be admitted that a pleader is a weapon at the command of the rich alone (one subordinate Judge even states that a pleader who often took ryot's cases would lose his best customers); that in simple suits a pleader can often add nothing of value to what is in evidence, but only wastes time and introduces confusion; and that the presence of pleaders pre-disposes some Judges to decide on what counsel put before them instead of going independently into the merits. Upon a balance of such considerations, the draft Bill follows the Madras law in excluding pleaders, but admitting non-professionals, in all cases before a village-munsif or conciliator. It also attempts to check the unnecessary employment of pleaders in higher Courts, by excluding pleaders'

fees from the costs awarded in cases before a subordinate Judge not exceeding Rs. 100, unless the Court certifies that professional assistance was necessary to the proper conduct of the case. The appointment of a pleader by the Court in cases where the debtor needs counsel but cannot obtain it, is also provided for. This has been suggested in several quarters, and seems reasonable.

I must here venture to express my regret that a material simplification of the civil procedure with a view to saving delay and expense has not been found to be feasible. I see from official returns that in the Bombay Presidency in 1877, the average duration of uncontested suits was 132 days, and of contested suits 272. It is no doubt true that the intricacy of a suit has no necessary connection with the amount in issue, and that a mortgage for Rs. 50 may present the same features as one for Rs. 5,000; and it may be argued with much show of reason that a Procedure Code should provide for all possible circumstances, and be of general application. At the same time, looking to the fact that, out of about fourteen hundred thousand civil suits of all kinds disposed of annually by the Courts of all grades in British India, some twelve hundred thousand, or 85 per cent., are for sums under Rs. 100, and six hundred and thirty thousand, or 44 per cent. for sums less than Rs. 20, I cannot but feel, and I think the people feel too, that our Civil Procedure Code, with its six hundred and fifty sections and all that they involve, is in minor cases a burden almost too heavy to be borne. I trust the day may come when not only Deccan ryots but all India will obtain some relief in this respect.

Having thus noticed the proposed reorganization of the Courts, I proceed to explain some important changes contemplated in the substantive law which they administer. These group themselves round two main heads—the definition of a debtor's liability and the mode and extent of its enforcement.

A court proceeding to determine the amount of a debtor's liability is met *in limine* (in our four districts at any rate) by the undeniable fact that, as MR. PEDDER expresses it, 'the passing of a bond by a native of India is often of no more value as proof of a debt he thereby acknowledges than the confession by a man under torture of the crime he is charged with.' The Commission urge two points,—that the money-lenders have learned, through our system, to use and rely upon bonds almost exclusively, and that

their bonds are mostly no correct representation of actual transactions. In close connection with this difficulty about bonds is that of usurious and of compound interest, whether only levied in the account, or also provided for in the bond. That the money-lenders do obtain bonds on false pretences ; enter in them sums larger than agreed upon ; deduct extortionate premiums ; give no receipts for payments and then deny them ; credit produce at fraudulent prices ; retain liquidated bonds and sue on them ; use threats and warrants of imprisonment to extort fresh bonds for sums not advanced ; charge interest unstipulated for, over-calculated, or in contravention of Hindu law, and commit a score of other rogueries—these are facts proved by evidence so overwhelming that I scarcely know whose to quote out of the five volumes composing the Report of the Commission. Hence arises the question whether, as the Secretary of State expresses it, ‘the Courts should be obliged to enter into the merits of every money-claim, whether for principal or interest, as they deemed just, and should in no case give compound interest, or a larger amount of interest than the principal sum.’

The answer in the affirmative has been maintained, in various quarters of not inconsiderable authority, to be in accordance with sound general principles of equity. SIR ARTHUR HOBHOUSE, in a note on the execution-sale of land dated April 28th, 1874, when alluding to some remarks by ‘a man like SIR JOHN STRACHEY, who treats the subject with equal sobriety and ability,’ continues :—

‘From my point of view, I say that, if what he has said, or the major part of it, be now true, it can only be met by a large increase of correctional power over contracts to be vested in judicial tribunals and strengthened by a usury law. In our own country the Courts of Equity invented laws for the protection, not only of persons of weak character and immature age, but of expectant heirs, of reversioners—in fact, of all persons placed under temptation to make improvident bargains. When they came across the usury laws they made them subject to the more sweeping law created by themselves, and moulded them so as to produce fairly reasonable, though not very legal, results. They laid hold of mortgages under which the mortgagee became absolute owner if the debt were not paid by a certain day, and declared that the parties did not mean what they had said, but that, notwithstanding the absolute forfeiture, there remained an equity of redemption in the mortgagor. \* \* \* I do believe that sensible Judges, armed with a large power of moulding improvident bargains, and strengthened by a usury law in the back-ground, may administer more than a trifling palliative.’

SIR GEORGE WINGATE wrote thus in 1852 :—

'It remains to be shown how it is that the creditor in our Provinces has acquired a degree of power over his debtor which is wholly unknown in native States. This power, it is clear to me has been conferred by our laws, which enable the creditor to obtain a decree against a debtor for whatever may be written in his bond, and enforcement of that decree by the attachment and sale of whatever property, movable or immovable, his debtor may possess or acquire. \* \* \* The first remedy I have to suggest is as follows. \* \* \* The enactment of a law to permit the Court to decree in all cases, on equitable consideration, whatever rate of interest it may deem proper, but that in no case shall the total amount of interest exceed the principal: and that the Court shall also in all cases be at liberty to fix the amount of the principal on equitable considerations with reference to the amount which it may consider to have been actually received by the debtor, and irrespective of the sum entered in the bond or acknowledgment of the debt.'

MR. PEDDER says :—

A bond should not be considered sufficient proof of a debt unless its antecedents will bear the light, and show that the consideration for which it was passed was a fair as well as an actual one. \* \* \* \* \*

It appears to me that some limitation of the rate of interest and some restriction on grossly unfair stipulations in contracts, as contrary to justice and public policy, are practicable and expedient.'

From 'The Land and the Law,' a well-known pamphlet by the HON'BLE MR. JUSTICE WEST, of the Bombay High Court, I take the following excerpts :—

'If, on the one hand, therefore, the State must needs lend its aid to the creditor as an essential condition of material progress, it must, on the other hand, assign bounds and conditions to this aid, without which it will probably become an instrument of social and political mischief. Particular classes in England supposed to be specially subject to imposition or unfair usage,—as seamen and miners—are protected against disadvantageous bargains. The truth is recognised and acted on that there is no real equality, even of the roughest kind, between them and their employers. Still less can such an equality be assumed with safety in a community split up into sections, divided by the impassable barriers of caste and hereditary occupations. The extremes of astuteness and gullibility are thus fostered and brought into contact. \* \* \* At an earlier stage, borrowing at interest in England, as elsewhere, was generally an appeal of helplessness to avarice. \* \* \* There are few who will deny that the India we have to deal with is much more like that earlier England than the England of today. In the case of all obligations for a principal of not more than Rs. 500, the Courts should have full power to treat any interest in excess of nine per cent. as simply penal, and to cut it down to such rate as should, under the circumstances, seem just. \* \* \* Compound interest should be disallowed, consistent as it is with sound commercial principles, in order to make it a disadvantage to creditors to leave obligations unsettled until the debtors are involved beyond redemption.'

But upon this subject not only opinion but precedent are forthcoming. Of the manner in which our Government, a few years ago, deemed it necessary to protect the ryot we have a striking instance in a clause (still unrepealed) of the Bombay Regulation of 1827. It runs thus :—

*Clause 2.*—And in the case of a cultivator of the soil sued upon a written acknowledgment executed at a place which was not at the time of such execution under British jurisdiction, if the circumstances are such as to convince the Court that the creditor might reasonably be expected to possess other proof of the amount besides such written acknowledgment (the consideration received for the same being contested), then the said writing shall not be held conclusive as to the amount, whether the defendant prove a deficiency in the consideration or not, but the Court shall pass a decree for only such amount as the claimant may otherwise prove to be due.

The law which preceded it, Regulation 1 of 1823, was even more explicit :

*Section 36.*—Whenever a cultivator of the soil is sued upon an acknowledgment in writing executed by him before the territory, where it was executed, came into the possession of the British Government, it shall be competent for him to plead that he did not receive a full consideration for the same, whereupon the plaintiff shall be required to prove his debt in the same manner as if no acknowledgment had been executed ; and such sum only as in the circumstances of the case is just and equitable shall be allowed in the decree.

The wisdom of our early legislators in thus dealing with the facts around them was greater than their foresight, which led them to hope that with the planting of the British flag, and the establishment of 'a regular system for administering justice' the causes would pass away by which 'cultivators were easily induced to grant written obligations for larger sums than were due.'

What the Bombay Government of SIR RICHARD TEMPLE have from the first substantially advocated, and what we really need, is something approaching to a restoration of this early law, together with power to cut down unreasonable interest. The Court should set itself to do substantial justice in every case which came before it, instead of being satisfied with the letter of a bond, or the bald assertions of either party ; and it should, of its own motion, make such inquiry as it found necessary to this end. On the one hand, a simple denial of consideration should not throw the burden of proof on the plaintiff, but, on the other, if the circumstances were such that he ought to have clear accounts and evidence, and he failed to produce them voluntarily, or on the Court's requisition, the Court would

draw its own conclusions against him accordingly. If he did not come into Court with clean hands, he would be entitled to little consideration. The Court should not go further in any case or against either side than sufficed to get at the truth of the matter, and to give an equitable decision. There appears no reason to fear that such an exercise of its discretion by the Court would be either unfair to the creditor or demoralizing to the debtor. The objections to usury-laws are well-known and so cogent that only special circumstances can justify special legislation. Even a maximum legal rate of interest, however, had this advantage that, as MR. WEST says, "it set up a standard, and gave fixity to men's vague ideas of what might reasonably be asked for the use of money in those numerous cases in which the loan partook but slightly of the character of a true mercantile transaction." Where the rate of interest is regulated by the ordinary laws of supply and demand, interference is indefensible, unless, as in the case of interest after decree, the security be changed. But where, as SIR JOHN STRACHEY has said, 'the conditions depend more upon the degree of simplicity in the borrower, and of rapacity in the lender, than on anything else,' no such respect need be paid to them—the less so that with Hindus we have the support of the law of *dam-dupat*, and that the security will be greatly increased by the provisions for recovery to be mentioned shortly. It has been urged and with some truth, that there is nothing in the present law to prevent such enquiry and doing of substantial justice; that certain rulings of the Bombay and other High Courts are suggestive of this course and support *dam-dupat*, and that the provisions of the Contract Act as to undue influence are very wide. But, however this may be, the practice of the lower Courts is usually different, and there are good reasons to fear that, unless their duty in this respect be clearly expressed in the law, ignorance of rulings, press of work, indolence or a desire to get through cases rapidly, will, as hitherto, tend to prevent its performance. It may be pointed out finally, that LORD CRANBROOK, besides confirming the sanction given by LORD SALISBURY to the introduction of the Bombay draft Bill containing provisions on the principle above referred to, appears to look with approval on 'extending the powers of Judges to modify the contracts entered into between man and man.' In accordance with this view, the first four sections of Chapter III have been framed, and will apply to all determination of the debts of agriculturists which may

take place under the Act. The history and merits of disputed or doubtful cases will be enquired into, and an account will be taken in a certain way if the Court considers the agreement not fair and equitable. Whether these sections express intelligibly, or will secure effectively, the action needed, seems doubtful; but they can perhaps be improved in Select Committee. Regarding this safeguard and those of registration and accounts already explained, I should perhaps observe that any ingenious person can imagine methods by which debtor and creditor in collusion may evade them. But the same may be said of many other most beneficial enactments. We can only help those who will help themselves; and I believe a large proportion of our Deccan peasantry will take heart of grace to do so.

A second important question affecting the determination of the amount of the debtor's liability is that of the period of limitation. The old law of Bombay (Regulation 5 of 1827, sections 3 and 4) fixed twelve years in the case of debts supported by bond, and six years in the case debts not so supported, as the periods within which civil suits for recovery must be brought respectively. By Act 14 of 1859 these periods were reduced to six and three years respectively, with the further restriction that a debt supported by written contract was to come under the three years' period, unless it was registered. This is the present law, Acts 9 of 1871, and 15 of 1877 having made no material change. There is an almost universal consensus of opinion that, as the Commission say, 'the reduction in the periods of limitation has been the cause of considerable hardship to the debtor.' Under the old law, the debtor was rarely sued or called upon to renew the bond till near the expiration of the twelve years, and then he was, at most, sued under the provision of *dam-dupat* for twice the principal sum lent. But under the law since 1859, the creditor is forced within every three years either to sue the debtor, or to obtain from him a fresh bond for principal and any accumulated interest. In practice, he does so nearly every two years, in order to make sure of not missing the period through any accident or default. To show the difference between the two laws: Rupees 100 at 9 per cent. become Rs. 208 in 12 years; but if the bond be renewed triennially, the amount is raised to Rs. 260. At the higher rates which are but too common the effect is more startling. Rupees 100 at 25 per cent. become Rs. 400 in twelve years; but renewals every two years produce a total of

Rs. 1,139! That these results are actually enforced in practice is amply proved by the evidence taken by the Commission, from which MR. PEDDER (in an interesting article in *The Nineteenth Century* for September 1877) gives a few illustrations. In short, the debtor thus suffers the cost of writing and stamping a new bond; is charged compound interest instead of simple; often has to bear the expenses of a suit; and, finally, is frequently obliged also to submit to a large nominal increase of the principal, as the price of the creditor's forbearing to sell him entirely up, or to have him arrested and imprisoned. It is perhaps unnecessary for me to quote numerous authorities at length to prove these general results. The collective opinion of the Commission has been stated. MR. AUCKLAND COLVIN summarizes the evils, and favours a change. MR. SAMBHUPRASAD has treated the subject with much minuteness, and strongly urges the restoration of the old Bombay law. Revenue and Judicial Officers, both Native and European, take the same view in their letters to the Commission. MR. PEDDER has been quoted already. MR. WEDDERBURN, in a report specially called for by the Bombay Government, advocates a twelve and six years' limit; and it has, I observe, been adopted as desirable at a public meeting of the inhabitants of Poona held not long ago. The Collector of Poona gave evidence to the same effect before the Famine Commission.

The only plea which has, as far as I am aware, been advanced in favour of the three-years' period is that, it obliges the making up of accounts at short intervals, thus enabling the ryot to know how he stands, and preventing his being deeply involved without his knowledge. This objection had, undoubtedly, very considerable weight at the time it was made. Whether the benefit of a short account, thus secured by a three-years' limitation, outweighed the evils of a new bond, compound interest, &c., which it entailed, is a point upon which there may well be difference of opinion. But the whole aspect of the question seems to be changed by the provisions in Chapter 9 of the Bill regarding receipts and statements of account. Taken in connection with section 17, which enables any agriculturist to sue for an account, and to get a declaration of the amount really due to him under all the new and searching provisions of the Act, it would appear that the object of short accounts will now be attained, and perhaps more efficiently than it ever could have been by the indirect expedient of a limitation-law. Under these



circumstances, it is proposed to restore, by section 72, the old Bombay law.

I now proceed to the second head—the mode and extent of enforcement of equitably determined liability. In the execution of a decree by sale of movables, the necessary wearing apparel of the judgment-debtor and his wife and children, his implements of husbandry, and such cattle as the Court may deem necessary to enable him to earn his livelihood as an agriculturist, are now protected by the amended Code of 1877 ; so it has not been thought necessary to go further. As to execution against the person by arrest and imprisonment, I rejoice to state that it is now considered expedient to abolish it altogether. Imprisonment will still be inflicted as a punishment for fraud detected on insolvency ; but that is a totally different thing. The maintenance of imprisonment for debt, as found in the Indian law, is equally indefensible in principle and in practice. As to principle, the Deccan Riots Commission make clear that point, utilizing the opinions of JOHN STUART MILL. Their appendices teem with evidence in detail as to the extortion and wrong of which the warrant of arrest becomes in practice the engine. Unacknowledged payments, fresh bonds for sums unadvanced, life-long slavery, and even female dishonour may all be obtained—the first three constantly, by the mere production of the warrant of arrest without enforcement. They say, for instance, that in 1874 ‘it would seem probable that somewhere about 150,000 warrants had been used as threats only.’ The outcry against imprisonment from officers well qualified to judge of it has been uniform and persistent. Its abolition is unanimously recommended by the Deccan Riots Commission. MR. PEDDER and MISS NIGHTINGALE have in *The Nineteenth Century* brought the evils it causes prominently before the British public. SIR ERSKINE PERRY gives its abolition his ‘unqualified approval’ in a note dated December 1st, 1877. Judicial officers and pleaders take the same view as the executive. Were it even defensible in theory, which we have seen that it is not, the abuses to which, in a country like Western India at least, it is proved to lead in practice, afford sufficient ground for its condemnation in the districts to which the Bill is to apply. The case has already been once laid, though less perfectly and authoritatively than at present, before the Governor General’s Council in the debates on the Civil Procedure Bill. The representations I then

made had the warm concurrence of SIR EDWARD BAYLEY and the learned Advocate General for Bengal (MR. PAUL). The discussions in Select Committee as well as in Council showed that the objections to the measure related less to its principle than to the other arrangements, such as an effective insolvency-law and a speedy recovery of *bona fide* debts, by which it ought to be accompanied. These the Select Committee and the Council could not see their way to, owing to the insufficiency of the judicial machinery in the mofassal; and the matter may be held to have been deferred rather than negatived. But the present Bill provides all these necessary accompaniments for the districts to which it is to apply. Imprisonment was, at best, a barbarous device to meet the case of a debtor's concealing his property or refusing to give it up. Under the draft Bill, it will be quite unnecessary for these purposes, and reserved for cases of flagrant fraud or dishonesty in insolvents. In this altered position, I trust that no hesitation will now be felt by the Council in abolishing a system which has been proved to be grossly abused as an engine of extortion, and is in opposition to the legislation of the civilized world.

The case of execution of a decree by sale of immovable property remains for notice. The problem of whether such sales should be enforced—one of the most difficult by which Indian administration is beset—is entirely the creation of British rule. Although the later Hindu law permitted the sale of land 'on proof of necessity' and Mahomadan law placed no bar to it whatever, the general feeling of the country against alienation of ancestral lands, coupled with the trifling value of the right of occupancy and the political objections to expropriation felt under a Native Government, to which I have already alluded in my sketch of the system of Native States, appear to have co-operated to prevent sales to any noticeable extent. But under our judicial system 'the sale of land registered in the collector's book is' (as observed by LORD STANLEY in a despatch of January 25th, 1859) 'the most ready way of enforcing a judgment: it gives the least trouble to both the creditor and the Court, and holds out every inducement to both to resort to that mode of satisfying the decree in preference to any other, even in the most trifling cases.' The Code provides, indeed, an alternative to sale of the nature of an *elegit*, or temporary alienation, by allowing the land to be placed under the

management of the collector for a term of years, not exceeding twenty, whenever there is reason to believe that the liability can be thereby cleared off. But the sections enacted in 1859 were not efficient for the purpose in view, and therefore little acted on. Those substituted in 1877 accidentally became almost unintelligible and we are now amending them. Practically, therefore, sale has hitherto stood in the Code unfettered. The extent to which this judicial system has been allowed to play varies remarkably in different parts of India. In Lower Bengal a zamindari and certain subordinate tenures are freely saleable, but the tenure of an occupancy-ryot is not; and the local legislature are just now considering whether transfer shall be allowed, provided the purchaser be a brother-ryot and not a money-lender. Saleability in execution will, of course, follow power to transfer. In the Punjab, hereditary or joint-acquired land cannot be sold in execution without the sanction of the Chief Court, or other land without that of the Commissioner. In the Central Provinces and Oudh ancestral property cannot be so sold without the sanction of the Chief Commissioner, or self-acquired property without that of the Commissioner. In Ajmer all sale is absolutely prohibited. In the N.-W. Provinces, Madras and Bombay sales are unrestricted. The position of the question as I have just described it is generally admitted to be unsatisfactory. In a correspondence originated by the despatch of LORD STANLEY already quoted, carried on through the last twenty years, and now here embodied in some four hundred pages of print, the question of a remedy has been discussed by the most able administrators throughout India. The alternatives of making land by law absolutely unsaleable for debt; of enabling proprietors to make it so by voluntary trusts or entails; of limiting sale (as in some native states) to any surplus unnecessary for the subsistence of the proprietor and his family; of replacing sale in execution by usufructuary mortgages for the debtor's life, or a maximum term of years; of restricting sales to specifically pledged land; and of confining the power of sale to the Chief Court of a district—all these have found powerful and zealous advocates. In favour of restriction generally, it is urged that to a community whom a variety of circumstances combine to constrain or tempt into debt, the addition of the land to the security they can offer is no advantage whatever, but the reverse. It merely amounts to a permission to live on capital, instead

of living on income, anticipated perhaps, but still only income. The process of living on capital is but a short one, all the world over. Abolish the whole land-revenue to-morrow, and the process would merely be somewhat prolonged. The inevitable end must come at last, but its concomitants of eviction and penury will, where the evil is wide-spread, lead to large charitable relief in famine—perhaps eventually to a poor law, and are also, in parts of India at least, politically dangerous. But the conclusion of this Council when passing the Civil Procedure Code, as explained most fully by SIR ARTHUR HOBHOUSE in a remarkable speech on March 28th, 1877, was that, though special measures might be admissible in particular localities, the plan of temporary alienation through the Collector for a term of years, whenever the property would be ultimately saved thereby, being in accordance with the past course of legislation regarding land in England, and not inequitable, deserved a fair trial; and that, before going further, an attempt should be made to give life to the intentions of the legislators of 1859, which have to a great extent failed of effect.

My object in this statement of the position of the land question, which I fear may be deemed a digression, is to account for the absence in the Bill of any attempt at a final comprehensive settlement of it, and at the same time to show the connection and admissibility of the two limited measures which are proposed. Section 23 exempts the land of agriculturists from attachment and sale unless it has been specifically pledged. The equity of thus restricting a creditor's security has able champions in the general correspondence already referred to. But in Bombay the question is mainly one of fact, whether the existing debt can be held to have been, on the whole, contracted in view of the security of unpledged land. Keeping in mind the large proportion of such debt which the Commission found to be ancestral, the recent date (1865) of the legalization of transfers of occupancy, the known reluctance of the ryots to pledge their land, and other considerations, the first local authorities have decided that it cannot. I must confess to some misgivings as to how the exemption may work in practice. The money-lender may everywhere make the execution of a bond, laying on the land all his existing unsecured advances, an indispensable condition of further accommodation. At the same time, the exemption rests as to the past upon a perfectly intelligible and reasonable basis, while as to the future, the

proposed village-registration will at least ensure that every ryot when he pledges his land shall understand what he is doing, and insolvency will open to him a loophole of escape when unreasonably pressed by an extortionate creditor, if he prefers that alternative. The second measure, also contained in section 23, is the grant of power to the Court, when passing a decree or subsequently, to direct the Collector to pay off the amount by managing, for not more than seven years, any land not specifically pledged, after deducting a modicum sufficient for the support of the debtor and those of his family dependent on him. This course, which is only a new application of the principle of temporary alienation, will add greatly to the creditor's security, while diminishing the worry and expense to both himself and the debtor; but I reserve further exposition for the Insolvency chapter, where analogous provisions occur.

While thus contemplating the continued recovery of debts from movables and land, however, policy no less than justice demands that the last refuge of an effective insolvency-law should be provided for the debtor. Such a law is really the bottom of the whole matter. Compared with what we mean to compel a man to *pay*, the question of what we shall hold him to *owe* sinks into insignificance. The need for it has been generally admitted for a long series of years, and has led to various legislative efforts and measures. SIR GEORGE WINGATE in 1852 advocated strongly 'the enactment of a simple and equitable insolvent-law to enable a debtor hopelessly involved to free himself from all his liabilities within a limited period'; and, so recently as December 23rd, 1877, he wrote thus: 'Of all the remedies proposed, I estimate the Insolvency Act as of the highest importance, and as likely to prove the most efficacious.' SIR BARTLE FRERE in 1853, when Commissioner in Sindh, issued Rules which worked well, but were superseded in 1861 by the Code of Civil Procedure. MR. WILLIAM FRERE, Member of Council at Bombay, introduced into the Legislative Council there in 1863 a Bill based on these Rules and the Insolvent Act of the Presidency town (11 & 12 Vic., cap. 21), but applicable to the whole Presidency. It was carefully matured in Select Committee, but was eventually withdrawn in 1867 for a variety of reasons, of which the expediency of awaiting the result of contemplated legislation in England was one of the chief. SIR JAMES STEPHEN in 1870 introduced into the Legislative Council of the Governor General an Insolvency Bill applicable to all India. It was

taken almost entirely from the English Bankruptcy Act of 1869; and on circulation to the Local Governments was generally held to be too complicated and unsuited to the circumstances of the Indian mofassal. In 1872 MR. (now the HON'BLE JUSTICE) WEST, Judge of the Sadar Court in Sindh, proposed a Bill with the essential features of the original rules of that Province; but the matter was not proceeded with. The measure generally is also advocated in his well-known pamphlet, 'The Land and the Law.' In 1872, also, the Punjab made a material step in advance in the Laws Act then passed.

Upon the acknowledged harshness of the Indian law of Insolvency as it stood up to 1877, I need not enlarge. The new Code of that year, together with the amending Bill, which will, I hope, be passed at our next sitting, have so far relaxed it, that a debtor arrested or imprisoned, or whose property has been attached, may, by application, obtain a general inquiry into his affairs, a declaration of insolvency, and a release, if in jail (with immunity from subsequent arrest for the scheduled debts) on *bond fide* surrender of all his property. A judgment-creditor also may apply for such declaration. A final discharge may also be granted by the Court at its discretion where the debts do not exceed Rs. 200, and is in any case acquired on payment of one-third of the scheduled debts, if the assets do not produce more, or after the lapse of twelve years. The law is still, however, most defective. Application may not be made by a debtor until process has issued against him; arrest is retained, and imprisonment, though for a shorter period; *all* property, except the movables exempt from sale in execution, must be surrendered; the debtor may be summarily imprisoned for a year, 'at the instance of any creditor,' for concealment or bad faith, while no such penalty awaits the creditor; and, in some cases the debtor's future earnings will be unreasonably burdened, while in others the creditor will not get what might fairly be recovered for him. Finally, the whole becomes a farce through the restriction that the Court may not grant a declaration unless it 'is satisfied' that the debtor 'has not, knowing himself to be unable to pay his debts in full, recklessly contracted debts,' as if persons able to pay in full were the usual customers of the money-lender.

The fact is that insolvency-law for the Indian mofassal made an altogether false start. In England fraud by the debtor is the chief

danger, and even the legislation of 1869 has failed through his ingenuity; in India fraud by the creditor has almost solely to be guarded against. In England insolvency is presumably a man's fault; in India it is presumably only his misfortune. In England embarrassment ordinarily arises from gross extravagance or reckless trading; in India one or more bad seasons, the loss of a bullock or two, or the religious necessity of marrying a child, are its most frequent origin; extortion and fraud by creditors help its onward course. Yet in England insolvency has hitherto been treated more leniently than in India. Misfortune has here been made a crime, for which even life-long slavery might not atone. Surely, we must divest ourselves of much confusion of ideas. Whether a man *is* insolvent or not is a mere question of fact, quite unconnected with the enquiry how he came to be so. How much he *can* repay, without being made a useless or dangerous member of society, is a mere matter of calculation, into which the moral aspects of his past conduct cannot enter. To such enquiries, ideas of revenge and punishment are altogether irrelevant. Imprisonment is only appropriate for concealment, contumacy and other forms of fraud. To declare an agriculturist insolvent when he is so; to set a reasonable time before him during which he shall work himself free and reserve the means therefor; and eventually to start him afresh with the lesson of experience, seem more sensible than to lock him up for a time while his family are starving, and then turn him adrift a beggar. To the creditor certainly the former course will be the more profitable, as also to society.

In accordance with these principles, the Bill, in the first place, provides (section 20) for the numberless petty cases in which the means of the debtor, the claims against him, and his partial or total inability to satisfy them, come before the Court in the course of the suit or application for execution. Where this is so, it is far shorter, simpler and less troublesome to all parties to empower the Court at once to settle the matter than to let it go on through the perfectly useless, but costly and vexatious forms of taking out execution, and applying for declaration of insolvency. Where the case is quite simple, the Court will, therefore, release the debtor from any balance which it is satisfied he cannot pay. When there are several creditors or other complications, and the amount exceeds Rs. 50, it may at once direct the taking of insolvency proceedings. Again, where such

proceedings are instituted, either so or on the application of either debtor or creditor, ascertained insolvency will be at once admitted, and the Court will proceed to turn the available assets to the best advantage. To avoid the frequently ruinous loss through selling movables by auction, the Court may hand over articles at a valuation made by assessors. As to immovable property, any portion specifically pledged for a scheduled debt may be let rent-free for a premium for a term not exceeding twenty years, instead of being sold if the debt can thereby be cleared off. Portions unpledged may be handed over for a term not exceeding seven years to the Collector, who will assign to the insolvent sufficient to maintain himself and those of his family dependent on him, and lease the remainder for the benefit of the creditors. In practice, the lessee will probably sometimes be a creditor, but more often the insolvent himself under due security. If the debts cannot be fully paid off by these measures, the insolvent will be discharged from the balance. The proposal which has been made that the fixed period should be subject to the life of the insolvent has been rejected as too unfavourable to the creditor. The limit of seven years has been fixed after careful consideration of the various proposals relating to temporary alienation contained in the land-sale correspondence already spoken of. If a man's debts are so heavy that he cannot clear them off in this time, it is better that he should get a discharge for the balance, than that he should drag on as a slave without hope of freedom or stimulus to exertion.

Reviewing the Bill broadly, it may fairly be said to secure, to an extent not hitherto attempted, (1) precautions against fraud by either debtor or creditor in their original transactions with each other; (2) interposition of friendly conciliation between disputants, previous to litigation; (3) approximation of the Courts to the homes of the people; (4) some small simplification of procedure and diminution of the expense and technicalities arising from legal practitioners; (5) equitable jurisdiction to reduce all exorbitant, fictitious and fraudulent claims; (6) finality of judicial decisions, subject to adequate safe-guard; (7) prompt and unfailing enforcement, through the collector when necessary, of all adjudicated claims of reasonable amount; (8) discharge of the debtor from such claims, or balance of them, as, after all reasonable enforcement for a long period, could not be fully realized except by demoralization or life-long bondage.



Such a result, while falling not short, in favour of either debtor or creditor, of what is fairly commensurate with the nature of the case, the analogy of law in other countries, the rules of pecuniary need and supply, and the strictest equity, goes no farther in reform than the political necessity of a prompt and effective remedy for the social disorders of the Deccan appears imperatively to demand.

If I am asked what I think will probably be the effects of the measure, and how far I expect it to be successful, I must reply that, although I cannot undertake to answer for all the detailed provisions of a Bill which is the outcome of revision at more hands and authorities than one, I think that it cannot but be most beneficial, and that it will to a great extent meet the needs of the Deccan, provided it be supplemented by executive action in the directions already indicated. Of course, no one expects from it the abolition of indebtedness for all time. The ryots are 'depressed and crushed by a variety of concurrent causes.' With only one class of these, though, perhaps the largest, does the Bill profess to deal, but in a way which may reasonably be rewarded with success. At least, it gives effective help to every ryot who is disposed to help himself. The reorganization of the Courts is favourable to all parties. The relations of debtor and creditor are adjusted on fundamental principles, equitable as between the two, and essential to the cohesion of society. A man should pay what he really owes, and no more; but his creditor should not be allowed to use the State for the purpose of beggaring and enslaving him. On the other hand, we cannot justly and reasonably legislate for the summary relief of the debtor from unjust and extortionate claims, unless we also give to the creditor full and effective aid in obtaining all that is fairly due to him, and reasonably recoverable. A creditor's difficulties when he has got his decree should be reduced to a minimum. If we make the decree a just one, it should be effectively enforceable. Without ample provision on this principle, the destruction of the ryot's credit or his bondage to secret and extortionate agreements must ensue, and all our well-intentioned interference will do harm instead of good. With such provision, the measure will not injure the ryot's legitimate credit, but improve it. Against all prognostications to the contrary, I set the actual facts observable in native states. The ryots there get all the credit that is good for them. I have no faith in the virtues of unlimited 'tick'. Borrowing and lending with a view to securing permanent enslavement will

no doubt be checked ; and so much the better. *Bona fide* debts should be more easily recovered, and more reasonable interest would thus be *profitable*. Finally, a legitimate mode, more practicable than any yet suggested, will be provided for gradually clearing off the mass of existing debt which now weighs upon the people and stops all improvement, while the great institution of a peasant-proprietary, which is at once essentially Indian and considered in Europe the best form of tenure for a free people, will not be destroyed.

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[*Extracts from the Proceedings of the Governor-General's Council,  
dated the 24th October, 1879.*]

DECCAN AGRICULTURISTS' RELIEF BILL.

SIR T. HOPE said :—

Considerable criticism has been directed against section 22, which exempts land from attachment and sale in execution of decrees, unless it has been specifically pledged. In my introductory speech I sketched the position of the land-sale question, and explained the reason for the absence from the Bill of any attempt at a final comprehensive settlement of it, and for considering the restriction of sale to specifically pledged land to be equitable. In the decision of the question I had taken no part, as this restriction had been proposed by the Bombay Government, and accepted by the Government of India and the Secretary of State, before my connection with the Bill commenced. I ventured, however, to express my views as follows :—

I must confess to some misgivings as to how the exemption may work in practice. The money-lender may everywhere make the execution of a bond, laying on the land all his existing unsecured advances, an indispensable condition of further accommodation. At the same time, the exemption rests as to the past upon a perfectly intelligible and reasonable basis, while as to the future the proposed village registration will at least ensure that every ryot when he pledges his land shall understand what he is doing, and insolvency will open to him a loophole of escape when unreasonably pressed by an extortionate creditor, if he prefers that alternative.

My doubts have now been more than echoed by MR. JUSTICE MAXWELL MELVILL and MR. JUSTICE WEST, the former of whom predicts that loans excepting on mortgage, will soon be unknown; while the latter, concurring in this, adds that the mortgagee will, by the operation of the Bill, be driven on to become a purchaser, and the ryot will have no alternative but acquiesce in sale. Here I would only observe that the most demonstrably correct economic calculations are liable to be defeated by moral and sentimental causes, and that it by no means follows that mankind will do what logically they ought to do. It may be that the affection which the ryot bears to his land will lead him to defeat his creditor by insolvency; that the competition amongst money-lenders, which the Deccan Riots Commission report, will check the exaction of landed security; and, best of all, that the difficulties of borrowing will tend to keep the ryot's tran-

sactions within his means. The issue can only be known upon experiment. But it seems clear that the course which has been adopted was the best under the circumstances. No solution of the land-sale question generally admitted to be satisfactory is forthcoming. MR. JUSTICE MELVILL candidly admits that he has not got one to produce; the reservation to the ryot by 'a kind and impartial authority' of the 'minimum of land' requisite for 'a decent subsistence,' which MR. JUSTICE WEST advocates has been severely criticized, directly and indirectly, by very competent authorities. To have postponed relief to the Deccan till this question was settled for all India would have been little less than criminal; to have made no attempt to check the rapid alienation of ryots' lands, by a method equitable in itself and offering the chance of even a limited success, would have been neglectful. At the same time, it is also clear that the land-sale question cannot be put off much longer; and I earnestly hope that what has been written, said and done upon this Bill may accelerate its solution.

I must now notice the important subject of management by the collector, provided by clause 2 of section 22, and by section 29. In my introductory speech I said that—'compared with what we mean to compel a man to *pay*, the question of what we shall hold to *owe* sinks into insignificance'; and, again, that 'we cannot justly and reasonably legislate for the summary relief of the debtor from unjust and extortionate claims, unless we also give to the creditor full and effective aid in obtaining all that is fairly due to him and reasonably recoverable. A creditor's difficulties when he has got his decree should be reduced to a minimum. If we make the decree a just one, it should be effectively enforceable. Without ample provision on this principle, the destruction of the ryot's credit or his bondâge to secret and extortionate agreements must ensue, and all our well-intentioned interference will do harm instead of good. With such provision, the measure will not injure the ryot's credit, but improve it'.

In short, I look upon this provision as the keystone or test-point of the Bill. If it works well, the ryot's credit will be secured on a satisfactory basis: if otherwise, his borrowing, even for reasonable purposes, within the limits of his true means will become most difficult, while the alternatives of absolute non-transferability of land, or eviction and a poor-law, will stare us in the face. I note, on the one hand, that the Póona Sabha, MR. MOORE and MR. NAYLOR doubt the collector's power to

manage vast numbers of small holdings, while the Commissioner and the other two Collectors consulted express no misgivings on the subject. I myself consider that there need be no fear of failure, provided it be, from the first, recognized that the duty is important and difficult, not to be performed by mere perfunctory orders, passed on from the Court to the *kulkarni* through an intervening chain of little-heeding functionaries. Success will, I anticipate, lie most frequently in a pretty close adherence to the system in native states, and to the provisions for security and recovery still extant in our law, though of late years little resorted to. If the ryot be retained as cultivator wherever possible,—if a reasonable rack-rent be imposed, personal security exacted, precautions taken against making away with the crop, aid given when wanted in securing a fair price, and payment required at the time means are forthcoming, I see no reason why satisfactory results should not be attained. But careful supervision by assistant or deputy collectors and *mamlatdars* will be indispensable; and possibly the appointment of a special officer for a few months to start the system in the four districts might be advantageous. These, however, are details, which will, I doubt not, receive full attention from the Local Government. \* \* \*

A consideration of the chapter on Insolvency, together with the sections about going behind the bond, suggests the interesting question as to whether their combined effect may not be to destroy credit, put a stop to money-lending, render the revenue irrecoverable and bring the country to a deadlock. On this point MR. JUSTICE MAXWELL MELVILL, who, I hope I may say without offence, has treated the problem forced upon us with equal moderation and statesmanship, makes the following remarks :—

I presume that the Government is satisfied that the effect of the measure will not be to destroy the ryot's credit altogether, or to induce the money-lenders to close their shops. If this should not be the result, but if, on the contrary, it should turn out that after the agriculturists have been relieved of their existing debts on the easiest possible terms the money-lender will go on lending, not on his own terms but on such terms as may, in the uncertain future, be deemed reasonable by the Judge for the time being, it would indeed be a consummation devoutly to be wished. Regard being had (to use the phraseology of the Evidence Act) to the common course of natural events, human conduct and public and private business, I should be inclined to fear that such happy results as I have last contemplated are not likely to ensue; but it must be admitted that Natives often disappoint our most reasonable expectations, and that the consequences of such a measure as that which is proposed can only be determined by experiment.

What MR. MELVILL himself anticipates is tolerably evident ; though he qualifies any conclusion very much in the way I myself have done when speaking of the possible effects of the restriction on the sale of unpledged land. But, perhaps, I ought to offer some explanation of the grounds on which, subject always to the same qualification, the Government may be held to be justified in anticipating that the dire results just alluded to may not come to pass, and, consequently, in persevering in the measure before us. It is a truism that a thing is worth what it will fetch, and *per contra*, that in the long run, temporary disturbing causes apart, a thing will always fetch what it is intrinsically worth. Now, the Bill does nothing to diminish the intrinsic value of land, but rather the reverse. The value of land depends, at bottom, on the net produce, or surplus after three deductions, for the cost of cultivation, the subsistence of the peasant and his family, and the Government demand.\* Land is worth as many years' purchase of this net produce as correspond with the current rate of interest. And this rate of interest ultimately depends upon the facility of recovery. Now our Bill does not alter the Government demand, or, consequently, the net produce, but it increases the facility of recovery. It must, therefore, increase the ryot's *souml* credit, instead of diminishing it. I will make my meaning clear by illustration. Suppose a ryot's holding yielding gross produce worth Rs. 100, of which Rs. 50 go for the three deductions I have just named, leaving Rs. 50 as net produce or margin on which the ryot may borrow. In view of the provision in the Bill for seven years' management of unpledged lands, the money-lender would be justified in lending on a money bond Rs. 180 if the rate be 20 per cent., Rs. 228 if it be 12 per cent., and Rs. 252 if it be only 9 per cent. Which of these rates he will adopt, or whether he must exact a higher rate still, obviously depends on his chances of getting paid. But these chances are greatly improved by the Bill; for the ryot will strive to pay punctually rather than come under the management of the collector, and the collector's management (if efficient, as it *must be made*) will make loss more improbable still. Notwithstanding all fair allowance

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\* I of course ignore such extraneous value as the land may now possess through the means a hold on it now gives the creditor of commanding the labour of the debtor and his family and other illicit advantages.

—(*Deccan Riots Commission Report, page 60.*)

for risks, lower rates will thus prove as remunerative as the present high ones. For a loan on mortgage, the principle of calculation and the advantage are the same as for a loan on personal bond; but in the end there is this difference, that in the latter case, if the *sowkar* lends beyond the limits, he will lose his money, while in the former, if the ryot borrows beyond them he will lose his land.

All this, it may be said, is very well in theory, but in practice the conditions of advances depend far more upon 'the degree of simplicity in the borrower and of rapacity in the lender than on anything else'; and to this existing uncertainty you have added the fresh one as to what rate of interest each individual Judge will think reasonable. I reply that the former uncertainty will be diminished by the Bill; and that the second will prove more imaginary than real. There will be far less temptation to extortionate bargains and frauds, and far more risk in them, now that the whole history and merits of the case are to be laid bare in court. And the provisions for management and recovery by the collector, standing behind all agreements, will reduce the factor of uncertainty in credit which arises from individual character, and will assist the courts in gradually establishing rates of interest varying within but a moderate range. Their decrees will thus in time afford the advantage, without the well-known evils, of usury laws, of which MR. JUSTICE WEST has well observed in his pamphlet on 'The Land and the Law,' that 'they set up a standard, and gave fixity to men's vague ideas of what might reasonably be asked for the use of money in those numerous cases in which the loan partook but slightly of the character of a true mercantile transaction.'

While thus contending that the Government are justified in believing that the ultimate effects of the Bill will prove beneficial, I do not conceal from myself for a moment that a trying time of transition must intervene before all parties have understood and settled down to their new relations. It is to be fully expected that difficulties between debtor and creditor will arise in many individual cases, and even in villages or *taluqs* generally, and that their effects may appear in the recovery of the land-revenue. But if judicial and revenue officers alike strive to remove misconceptions and fears; if the former are even-handed and temperate in their judgments, and the latter efficient in their management of attached land; and if, I venture to add, the revenue demand can be so timed

and adjusted as not to drive the ryot to the *sowkar*, even temporarily, in order to meet it—then I believe that all trouble will be soon and safely tided over. That the *sowkar* will permanently cease to lend, there need be no fear whatever. The ryot is just as likely to cease to cultivate. The ryot is as necessary to the *sowkar*, who can only employ his capital in agricultural dealings and banking, as the *sowkar* is to him. The pair will not sit down and starve together, with a bag of money between them!

Another large question, which I cannot pass over without remark, is that of the novel provisions for village munsifs and conciliators. It has two branches—the one relating to their *personnel*, and the other to their functions. I will first speak of the *personnel* available for each office. As to village munsifs, it will have been gathered from what I said in my introductory speech that I did not expect that more than a *patel* here and there would be found qualified to be a village munsif. If the suggestion which I put forward in 1863, in 1867, and again in 1871, that after a reasonably distant future date no person should be appointed *patel* who had not received a suitable education, had been adopted, the class would now have stood higher in education and intelligence than they do. But a knowledge of reading and writing is not, after all, indispensable to successful disposal of petty suits, though absence of interest is so; and this is just what will be in *patels* so rare. Now, however, that the restriction of village munsifships to *patels* has been removed and the proposal in the Bombay draft assented to, any person of local influence will be eligible, and the field of selection will be advantageously enlarged. Virtually, it will become nearly the same as that from which conciliators are to be drawn. As to whether competent persons can be found for the two offices, especially the latter, I observe some striking differences of opinion. On the one hand, the Poona Sarvajanic Sabha, MR. BYRAMJI JIJIBHAI in his clear and representative memorial, and a portion of the native press appear to have no misgivings. On the other hand, the Collectors of Sholapur and Satara seem to be pretty much of the opinion of the Commissioner (MR. E. P. ROBERTSON) that too much power will be thrown into the hands of a class quite incapable of exercising impartiality, or of resisting local or personal influence and acting independently and uprightly.' One of the principal native newspapers, too, the *Dnyan Prakash*, which



has produced several very able articles on the Bill, thinks that, though the experiment may well be tried, the difficulties in the way of obtaining proper Conciliators are insuperable. Finally MR. JUSTICE WEST appears almost to question whether half-a-dozen men of integrity and intelligence can be found for Conciliators in the whole Deccan tract. Such an opinion, even if not meant to be taken literally, cannot but arrest our serious attention, coming, as it does, from one who is not only a Judge of the High Court but Vice-Chancellor of the Bombay University. I do not ignore the probability that men qualified in all respects will not be easily met with; but I must confess scepticism as to a population of even three millions and a half (which the four districts comprise) being in a condition verging on that of Sodom and Gomorrah. If it be so, notwithstanding all our education, civilization and vaunted progress, then the inference seems difficult to resist, that our measures for the advancement of Natives to higher positions in the public service are premature. If the population, as a whole, are thus tainted, can our Subordinate Judges, our Deputy Collectors and our Mamlatdars be utterly different from their caste-fellows and kinsfolk? Without pursuing this interesting dilemma, I will only say that, having spent a large share of my time in the Mofassil, and having always mixed freely and confidentially with the people of all classes, I should have no difficulty in finding a sufficiency of competent men in the districts with which I am best acquainted. It is now for those who think similarly to bestir themselves, lest the Native community lose the honourable and beneficent sphere which the legislature lays open for them, and to make good their opinions by presenting suitable persons to the notice of the authorities. And it is for the latter to strive without prejudice to give the experiment a fair trial, remembering that a knowledge of law is unnecessary, and even reading and writing are not indispensable to a successful discharge of the functions in question, in which the layman of age, influence, shrewdness and good temper may easily surpass the highly-trained judge. After all, if a competent Conciliator cannot be found for any particular local area, no one will be appointed, and the requirement of conciliation before suit will not apply there.

•• Turning from *personnel* to functions, I observe considerable confusion and misapprehension of those of Conciliators. A Conciliator is neither an arbitrator nor a judge, either in our Bill or in

France, whence the institution is derived. He is simply a disinterested third party, who is charged to endeavour to bring disputants to an amicable settlement. It so happens that in France the Conciliators are *Juges de Paix*, and so have a jurisdiction to try the more petty of the cases (within, say, rupees 50) in which it is their duty to conciliate. But they conciliate in all the superior cases which they have no power to try. The functions of conciliating and trying are distinct, and have no necessary connexion with each other. Appoint our Village Munsifs or Subordinate Judges to be Conciliators (there is nothing in the Bill to prevent this), and they will be the exact counterparts of the *Juges de Paix*, except in one particular, to which I will presently allude. Some authorities, including MR. JUSTICE GREEN of the Bombay High Court, think that they ought to be so appointed. But others, and especially the Local Government, consider that judicial functions might impart to their recommendations a weight amounting to undue pressure, which parties, and especially the ignorant *ryot*, might be unable to resist. The one particular of difference from *Juges de Paix* to which I referred is the absence of power to compel attendance. Considering the doubt whether competent Conciliators can even be found at all, the Bill follows the opinion of the Bombay Government, thus expressed in SIR RICHARD TEMPLE'S Minute of April 14th, 1879:—

Though he (the Conciliator) would not have the power of deciding, or enforcing his decision if he formed one, still he would, by compelling attendance, be able, if so disposed, to put great pressure on the *ryot* to admit or to compromise the claim. Such power of applying pressure by an educated man of position upon an uneducated and humble man on a claim preferred by a man generally of some education and wealth is a power that ought not to be conferred upon HONORARY CONCILIATION JUDGES in the present state of society in the Deccan.'

I myself doubt whether the want of this power will affect the *status* of Conciliators, as some apprehend. If they can settle disputes equitably, the people, debtors as well as creditors, will readily resort to them. But here, as in the case of giving powers of conciliation to Judges, the Bill presents no obstacle to a change hereafter. The Local Government can, under section 37, give power to compel attendance whenever they think fit.

In connection with Chapter VII, some exception has been taken to the cost of the extra Subordinate Judges' Courts to be constituted, and of the supervising officers. The object of bringing the Courts nearer to the homes of the people might, it is said, be as well, or even

better, attained by making the Courts move about. The existing Judges, it is added, have not got too much to do as it is; and the new summary procedure, with the temptation to refer difficult points to arbitration, will lead to their having still less. That the Courts should move about to some extent would certainly be advantageous; and I hope that the hitherto dormant powers of section 23 of Act 14 of 1869 will now be exercised to enable them to do so. But this can never be more than a limited benefit. There are rarely above two or three villages in a *taluqa* containing suitable accommodation for a Subordinate Judge and his clerks, to say nothing of parties and their witnesses; and even these are often not conveniently accessible in the rains. The presence of a considerable body of strangers, too, is always a source of annoyance and expense to the villagers, even if the calls on them do not exceed those of hospitality. Time would likewise be lost in travelling and settling down at each place; pleaders in non-agriculturists' cases would be inconvenienced, and minor practical difficulties would crop up. It is questionable whether, between waiting till the next visit to the locality to begin, and adjourning till the next visit to complete, any saving in time would result; while, finally, the *ryot* would in very many cases be living no nearer to the selected village than to the Court's head-quarters. As to the other statement, it remains to be seen whether the duty of going more fully into cases will not neutralize any saving in time obtained in other ways. But however this may be, I can see no good reason why the judicial unit of administration should be larger than the executive unit. Every *taluqa* ought, in my opinion, to have its Subordinate Judge as well as its Mamlatdar. If the civil work proved insufficient to occupy the Subordinate Judge's full time, he should be invested with criminal powers. The Mamlatdar and his first *karkun*, being proportionately relieved, could then better overtake the multifarious and increasing duties heaped on them, besides taking back, at a great saving of expense, the registration work, of which they were a few years ago relieved.

I will now notice three subjects, the entire omission of which from the Bill has been the cause of much adverse comment. The first is that of a modification of the rigidity of our land-revenue system. The Anglo-Indian Press, and seven out of the eleven vernacular newspapers of the Bombay Presidency which have noticed the Bill, have commented more or less emphatically on the absence of

provisions in this direction. On the merits of the question in the abstract, it is unnecessary for me to add anything to the few remarks which I had to make, for the completion of my argument, in my introductory speech. But as to its omission from the Bill, I may say that it is held that for whatever action (if any) which may be necessary, no legislation is required, but that if the fact were otherwise, the Bombay and not the Governor General's Council is the place where it should be undertaken. Legislation is unnecessary, because the question is an executive one. The power of fixing the rates of assessment, original or revised, is given to the Bombay Executive Government by sections 100 to 107 of the new Bombay Revenue Code, as it was by the previous law; the power of fixing instalments is so given by section 146; the granting of remissions is equally an executive matter. The regular mode, therefore, of securing all that the advocates of a change of system desire is by executive order, or by rules made by the Local Government under section 214 of the Code. Supposing however, that it were thought proper to tie down the Executive Government in these matters more than it is now tied, then the proper course would be to amend the Bombay Revenue Code; and that is the function of the Bombay Legislative Council, which passed it, not of the Governor General's Council. Our present Bill, I need scarcely say, would not be before this Council at all but that it modifies the Civil Procedure Code, which the local legislatures are precluded by Act of Parliament from touching.

Another omission which has been censured is that of any reduction of stamp or court-fees, process-fees, batta, etc. Here, again, legislation would have been superfluous. In Act 7 of 1870 the Governor General in Council is empowered by section 35 to reduce or remit any of the court-fees mentioned in the schedules; and the High Court, with the sanction of the Local Government, may under chapter IV fix process-fees as it thinks proper. Act 1 of 1879, section 8, contains a similar power to reduce the stamps to which it applies, among which arbitration awards are included. I am not authorized to announce any decision on this subject; but it will be seen from paragraph 16 of the letter of the Bombay Government, No. 2056 of April 15th, 1879, which was published in the *Bombay Government Gazette* of the 30th of July last, that some reductions are looked upon generally with favour. I may add that the regular

inspection of Courts under section 9 of Act 14 of 1869, which is now, as MR. NAYLOR remarks, so little practised, is needed, *inter alia*, to check abuses connected with these charges. In 1876 the Judge of Khandesh brought to light a custom of enhancing the amount payable for stamps by requiring, in certain cases, an application on stamped paper before a witness was examined. He also found that in process-serving, 'in one Court alone as much as 96 days' pay was obtained for 24 days' work, and 102 days' pay for 26 days' work, of the serving establishment.'

The last omission I have to explain is that of any legalization of *panchayats* or arbitration courts—a subject which I mentioned in my introductory speech as still under consideration. A proposal for the definite incorporation of such Courts into our judicial system has been put forward by the Judge of Ahmednagar, MR. WEDDERBURN, with the concurrence of a body of Native gentlemen, including some judicial officers, whose position and attainments entitle their views to the fullest consideration. I must say frankly that I look upon as wholly visionary the idea that it is possible now-a-days to find in every village, or even in every small circle of villages, body of men sufficient in number to allow selection from them by litigants for the formation of a *panchayat*, and at the same time qualified to be arbitrators by influence, intelligence and absence of interest. And even were this otherwise, I should expect that the strict regulations, involving checks and delays, which the proposal just referred to comprises, would practically destroy the freedom, simplicity and promptitude supposed to be the chief recommendations of the *panchayat* system. That the provisions for arbitration in Bombay Regulation 7 of 1827, which succeeded the even more efficient ones of Regulation 7 of 1802, had fallen entirely into disuse before their repeal in 1861, and that the present new 'arbitration courts' are kept at work chiefly by the exertions of a very small number of disinterested and impartial individuals, are facts not very encouraging to a new departure. At the same time, as there undoubtedly is a popular sentiment, originated probably by aversion to our Courts as now conducted, running in favour of voluntary settlements, I personally can see no harm in aiding them by legislation of a purely permissive kind. We might safely revert to pretty much the position of Regulation 7 of 1827. Persons whom the Government deemed of good character and competent, as also the members for the time

being of any well-conducted local arbitration court, might be officially recognized as arbitrators. Such recognition should have the effect (1) that they should be entitled to the aid in their proceedings of issue of process by the Subordinate Judge of the division ; and (2) that any reference for arbitration to them might provide that in the event of any party thereto giving notice, within fifteen days of the date of the award, to the Subordinate Judge of the division that he was dissatisfied with the same, the matter in dispute should be referred back to the same court or arbitrator, sitting with such Judge as president. This would supply the recognition and control for arbitration which its advocates seem to desire, without putting any pressure on parties to resort to it. But even thus much is considered by the Local Government to be undesirable and likely to lead to prejudicial results. As they are, of course, the best judges of the state of affairs in the Deccan, the law will remain as it is. I may, however, point out that there is nothing to prevent parties appointing Village-Munsifs and Conciliators to be their arbitrators and that an explanation making this clear has been added to section 43.

In conclusion, I must observe that it would be premature to indulge in any congratulations upon the passing of this measure, and still more so to attempt to appraise its several parts, to distinguish the several sources whence they may have been derived, and to distribute praise or blame accordingly. It will be time enough to do that, if it need be done at all, when the Act has become an acknowledged failure or success. At present it is the measure of the Government of Bombay (and I am glad to think that through many vicissitudes it has substantially remained so), prepared in general consultation with myself. But I hope that we may augur well for its future from the fact that it not only has the approval of the highest official authorities but has secured, in a degree quite unprecedented, the substantial support of the Press and the public. It is a sincere and carefully matured attempt to solve a difficult problem and to meet a great emergency. If the course of event should prove that we have erred, we shall have erred in good company, and after all possible precautions to ensure success.

## CHAPTER IV.

### RESTRICTIONS ON THE ALIENATION OF LANDS.

[*Extracts from the Proceedings of the Governor General's Council, dated the 27th September, 1899.*]

#### PUNJAB ALIENATION OF LAND BILL.

THE HON'BLE SIR CHARLES RIVAZ said :—

The question of the indebtedness of the agricultural classes in different parts of India has attracted the notice of Government from the early times of British rule, and various schemes have been proposed, from time to time, with the object of protecting land-holders from the effects of debt and the consequent loss of their lands. But, so far as I have been able to ascertain, MR. JUSTICE WEST, of the Bombay High Court, was the first, in a pamphlet, entitled *The Land and the Law in India*, which he published in 1872, to formulate a plan for imposing some definite limitations on the power to alienate land. The theory he propounded was that, although the British Government had, for the most part, divested itself of that exclusive ownership in land which had been recognized as existing under native rule, still it had retained a right of protective ownership; and that, as experience had proved that the principle of free trade in land, which had been allowed to spring up, was not adapted to the present condition of the agricultural population of India, the Government ought, in the exercise of its protective right, to impose limitations on the further application of this principle, and to pronounce all land to be inalienable except with its assent. His proposed scheme, broadly, was that the power of assent should be delegated to Collectors of districts or other local officers, and that only excess land, above what was necessary for the comfortable maintenance of an agriculturist and his family, should be allowed to be alienated, or be liable to attachment and sale in execution of decrees.

In 1875, in consequence of agrarian riots in the Bombay Deccan, a Commission was appointed to enquire into the condition of the agricultural population of that part of India. The result of these enquiries was the passing of the Deccan Agriculturists' Relief Act

in 1879, by which the ordinary civil law in four of the Bombay Deccan districts was, in many respects, amended in favour of agricultural debtors.

In 1881, legislation was undertaken for the relief of large land-holders in Sindh and in the Broach and Kaira districts of the Bombay Presidency, and in 1882, for the relief of encumbered estates in the Jhansi division of the North-Western Provinces. A main feature of all these enactments was that, while the estate remained under Government management, the indebted owner was debarred from alienating any portion of it.

The question of agricultural indebtedness was included by the Famine Commission of 1878 in the scope of their enquiries, and, in their report, they expressed their views on the desirability of protecting agricultural debtors, among other means of relief, by imposing restrictions on land transfers.

In 1886, MR. THORBURN, now Financial Commissioner of the Punjab, then a District Officer in that Province, wrote a book on the indebtedness of the Mahomedan land-holders of the Western Punjab, entitled *Mussulmans and money-lenders in the Punjab*, which attracted the notice of the Secretary of State for India, and on which he asked for the views of the Government of India. In this book, MR. THORBURN recommended, among other measures of relief, that it should be made illegal in the west of the Punjab for any person deriving profits from a shop or from money-lending to acquire any interest in land, except (1) in arable or pasture land in the immediate vicinity of a town or large village, or (2) in manured and irrigated land elsewhere. The then Lieutenant-Governor of the Punjab, SIR JAMES LYALL, in expressing his views on MR. THORBURN'S proposals, said, as regards the particular recommendation which I have just mentioned, that he was disposed to think that it would probably be necessary to take steps to check the alienation of lands to money-lending classes in the Punjab, but that the remedy suggested by MR. THORBURN, namely, to make it illegal for the moneyed classes to acquire lands, other than those of two highly artificial descriptions, seemed to him to be impracticable.

In 1891, a Commission was appointed to report on the working of the Deccan Agriculturists' Relief Act of 1879 and on the desirability of extending a similar measure to other Provinces.



The Government of India, in forwarding this Commission's Report to the Secretary of State in 1894, together with a draft Bill to provide for the relief of the agricultural classes, in which certain changes proposed by the Commission in the Deccan Act had been incorporated, remarked that such legislation would, however, only partially meet the difficulties connected with the general problem of agricultural indebtedness; that remedies of an entirely different kind, including measures for further restricting the right of land transfer seemed indispensable; and that this part of the subject would be separately and carefully considered.

Accordingly, a Circular was addressed to Local Governments in October, 1895, in which it was said that the Government of India were distinctly of opinion that some action in the direction of restriction upon the alienability of land was generally advisable, and even necessary, though the manner and degree of the restriction must vary from province to province. Each Local Government and Administration was requested to take the subject into its most careful consideration, and to communicate its matured views and definite proposals for action in the direction indicated. Two Notes accompanied the Circular, in which the whole subject of agricultural indebtedness in India and the various possible remedies for checking transfers of land were exhaustively explained and discussed.

On receipt of the replies to this Circular, it was decided to deal first with the Punjab, as being the Province where the question of agricultural indebtedness was of special importance in its political aspect, and where it was probably possible to go further than elsewhere in respect of imposing direct restrictions on land transfers. The reply from the Punjab had been to the following effect:—The Lieutenant-Governor, SIR DENNIS FITZPATRICK, recognized that a point might be reached at which the amount of land alienated, and the number of proprietors reduced to the condition of tenants or labourers, would constitute a political danger of formidable dimensions, and that where this danger point was reached, the only remedy was to attack the evil at the root by imposing direct restrictions on alienation—for instance, by prohibiting land-owners of specified castes or tribes from alienating their ancestral lands, without official sanction, beyond their life-time or for a fixed period, to any person not belonging to those castes

or tribes.' While this case was under consideration, a special enquiry, the results of which were highly interesting and instructive, had been made by MR. THORBURN, the Commissioner of the Rawalpindi Division, regarding the indebtedness of the agricultural classes and the amount of land alienations in four assessment circles of that portion of the Punjab; and SIR DENNIS FITZPATRICK came to the conclusion that in one at least of these circles a case for legislation had been made out. He was, however, strongly opposed to a law of general application to the whole Province, and did not propose to go further than to take power by law to apply restrictions on transfer to any particular tract in which a full enquiry might show that they were required.

Both the Financial Commissioners of the Punjab, on the other hand, expressed a decided opinion in favour of restrictive measures of general application, and suggested that all permanent transfers of ancestral land ought to be prohibited unless sanctioned by the Revenue Officers, while temporary transfers ought to be limited to 15 years, the land reverting to the alienor at the end of this period free of all encumbrances. A majority of the Judges of the Chief Court were also in favour of imposing direct restrictions on alienations. My Hon'ble friend MR. JUSTICE CHATTERJEE, after discussing the question in an able paper and pointing out that the customary law of the Punjab enables heirs to set aside many alienations, went on to say that he considered that the great recommendation of a measure directly restricting alienations would be that it would exactly define the limits of the land-holders' power of alienation and would thus have a beneficial effect in checking litigation. He thought that the restriction to life or to 15 years of a land-owner's power of alienating his ancestral lands would be regarded by the bulk of the land-holding class as consistent with the traditions of the Province, and would be agreeable to them. It is not clear, however, whether the Judges advocated a general enactment on these lines, or merely an enabling one, as recommended by SIR DENNIS FITZPATRICK.

The Government of India, in communicating to the Punjab Government the opinion which they had formed on the evidence and recommendations contained in SIR DENNIS FITZPATRICK'S minutes and in the reports of the Judicial and Revenue Officers of the Punjab, expressed their belief that partial legislation would fail in its object,

and would produce more difficulty and jealousy than legislation of a general character. It was said that a strong case seemed to have been made out for prohibiting all permanent alienations of agricultural land, except with the sanction of some duly empowered Revenue-officer, and for restricting temporary alienations to the term of the alienor's life, or with the consent of his heirs to a maximum period of 15 years. In inviting the Punjab Government to consider these proposals, it was suggested that the quickest and easiest way of dealing with them would be to have them discussed by a Committee of selected officers.

Accordingly, the Lieutenant-Governor, SIR MACKWORTH YOUNG, circulated to selected officials and non-officials a series of questions framed on the proposals of the Government of India, and followed this up by convening a strong Committee of Revenue-officers over which HIS HONOUR himself presided. The recommendations made by this Committee were that any permanent alienation of agricultural land to a non-agriculturist, if made without the sanction of the Deputy Commissioner of the district, should be void, but that otherwise there should be no restriction on sales or other permanent transfers; that the definition of an 'agriculturist' should be 'any person who either in his own name, or in the name of an agnate ancestor, was recorded as an owner of land, or as a hereditary tenant in any estate at the first regular settlement,' and that of 'land' as in the Punjab Tenancy Act, that is, all agricultural and pastoral land, whether ancestral or self-acquired; that the only forms of temporary alienations to be allowed in future should be, (1) usufructuary mortgage, with delivery of possession to the mortgagee, for a maximum period of 20 years, and on condition that at the end of the period of mortgage the mortgaged land shall revert to the mortgagor or his successor in interest with the mortgagee debt extinguished, (2) simple mortgage which, in certain circumstances, may be converted into a usufructuary mortgage of the nature I have just mentioned, and (3) leases for 20 years, or for the life of the lessor, whichever is less; that the form of mortgage which is conditional sale be declared illegal with retrospective effect; and, that the hypothecation of a share of the produce of land should be prohibited for any term exceeding a year. The Committee proposed to make their suggested restrictions on alienations general throughout the Punjab, but to give power to the Local Government to exempt any district or part of a district, or any person

or class of persons, from the operation of the restrictions in whole or in part. They also proposed to amend the existing law of pre-emption in the Punjab, to revise the present order of priority of pre-emption which is laid down in section 12 of the Punjab Laws Act, so as to exclude strangers who have bought into the village, and to transfer the hearing of pre-emption cases, both as regards the fixation of the pre-emption prices and questions of title, from the Civil Courts to Revenue-officers.

These proposals of the Punjab Committee constitute the foundation of the scheme which is embodied in the Bill which I am introducing. They have, as I shall explain, been modified in some particulars, but such modifications have been made with the sole object of securing more effectually the intentions of the Committee, and do not affect any question of principle. I turn first to the restrictions to be imposed on sales and other permanent transfers. It appeared to us that the proposal made by the Punjab Committee, that alienations between 'agriculturists' should continue to be free from all restrictions, was open to objection. In the first place, the definition of 'agriculturists' which has been framed by the Committee, or indeed any other practicable definition of the term, must necessarily include numerous classes of persons who, although landholders since the early years of British rule or even prior thereto, are, in reality, primarily traders and money-lenders by nature and profession, and not true agriculturists in any proper sense of term. Moreover, since even the *bona fide* agriculturist is not infrequently also a money-lender, we think it desirable to retain power to prevent such men from buying up land in a village where they would come in as outsiders and constitute a foreign element in the village community. We recognize, however, that we must guard against unduly narrowing the market for free sales, and we propose to attain this object by the following means. On the analogy of section 45 of the Central Provinces Tenancy Act of last year, we are providing that all permanent transfers must receive the previous sanction of a Revenue-officer, but that sanction shall be given, as a matter of right, in cases in which the Revenue-officer is satisfied that the intending transferor is a person who is not a member of an agricultural tribe, or, in cases where the intending transferor is a member of an agricultural tribe, that the transfer is either to an agriculturist, (as defined by the Punjab Committee) holding land as a proprietor or occupancy tenant in the village

in which the land sold or otherwise permanently alienated is situated, or to another member of the same agricultural tribe residing in the same district. Our scheme is thus based in this respect on the feeling in favour of the prior rights of the village community and on the recognition of the principle of tribal organization which are well known powerful factors in the social economy of the agricultural classes of the Punjab. To prevent difficulties or inequalities in the application of this portion of our scheme, power is being given to the Local Government to specify by notification what are the agricultural tribes in each district, and to extend the definition of 'district' in any particular case beyond the ordinary limits of the revenue district.

Next, as regards temporary alienations, while we accept the conclusions of the Punjab Committee that only the two forms of mortgage proposed shall in future be allowed, that existing mortgages by way of conditional sale shall be void, and that leases shall be limited to a fixed term, we have reduced the maximum period of temporary alienation from 20 years as proposed by the Punjab Committee to 15 years. We are providing that any person who has made a permissible mortgage or lease shall be debarred from making any further alienation of his land during the currency of such mortgage or lease, but, after careful consideration, we have decided not to impose any further restrictions on temporary transfers, whether by prescribing an interval between two successive mortgages or leases, or by making the alienor retain a right of cultivation in the alienated land, his rent being fixed by authority, or by prohibiting the mortgage or lease of more than a certain portion of a holding. We are also providing that any permanent alienation made without the required sanction shall take effect as a usufructuary mortgage on the conditions prescribed for such mortgages, and that existing conditional sales and future unauthorized mortgages shall be treated in like manner.

We have accepted the proposal of the Punjab Committee in regard to prohibiting hypothecations of produce.

We are supplementing our proposed restrictions on voluntary alienations by abolishing the sale of all agricultural or pastoral land in execution of any decree or order. Under the present practice, sale of such land in the Punjab in execution of a decree requires, in the case of ancestral land, the sanction of the Financial Commissioner,

and, in the case of other land, the sanction of the Commissioner of the Division. Such sanction is very seldom given; still, as the allowance or disallowance of sales depends on the individual judgment of the Financial Commissioner or the Divisional Commissioner, as the case may be, an undesirable element of uncertainty is thus introduced which it is advisable to remove. Moreover, under our proposed restrictions on mortgages, land could in future only be sold in execution of decrees for unsecured debts, and not for debts secured by a usufructuary mortgage. We, therefore, consider that sales of agricultural or pastoral land in execution of decrees of the Civil Courts should, in future, be absolutely prohibited in the Punjab.

As regards amending the law of pre-emption in the Punjab we agree with the Punjab Committee that an amendment of the present law on the lines they mention is desirable, and will be a useful adjunct to our scheme for restricting land alienations. We propose to deal with this matter separately—after further consulting the Punjab Government—either by revising the present pre-emption sections of the Punjab Laws Act, or by cancelling those sections and framing a new enactment.

On the all-important question whether the proposed Act shall be an enabling Act or a measure of general application, the Government of India adhere most decidedly to the opinion which they expressed, as I have mentioned, in addressing the Punjab Government, in favour of an enactment of general application. It seems to us self-evident that, if any restrictive scheme is to be worked in the partial manner which was so strongly advocated by Sir DENNIS FITZPATRICK, it is inevitably doomed to failure. In the first place, the remedy would not be tried till the disease was very largely beyond cure; and in the second place, if the restrictive measures were confined to scattered tracts throughout the Province, the agricultural population in those tracts would be placed at a very serious disadvantage. Their credit would be injuriously impaired, for the money-lenders, while able to look to the land for their security everywhere outside these special areas, would naturally avoid lending to men who were prohibited from giving such security. The agriculturists in these areas would thus stand apart as a proscribed class, and would naturally resent their position. If, on the other hand, the restrictive scheme be made of general application, there is no reason to suppose that the credit of the general agricultural community will be materially impaired—not

more so, at any rate, than is desirable in their own interests. Take for instance, the case of the occupancy tenants of Upper India. Alike in the Punjab, the North-Western Provinces, Oudh and the Central Provinces, the occupancy tenant is very materially restricted in his powers of alienation ; still it is a well known fact that this class of agriculturists, as a body, is prosperous, and can obtain accommodation from money-lenders on much the same terms as small-proprietors. The fact is that the money-lender must continue to exercise his profession, and the agricultural community must, under the rural conditions of this country, continue to constitute his principal *clientele*. The money-lender plays a most useful, and even necessary, part in the social economy of village life, and no one wishes to eliminate him or to place unreasonable restrictions upon his transactions. If our proposed scheme is made of general application, he will have to adapt himself to the new conditions, and will be easily able to do so. If, on the other hand, the scheme is applied only to selected and scattered areas, the money-lender will clearly be master of the situation as regards such localities.

Such is the plan which the Government of India put forward with the object of checking the transfer of land from the agricultural classes in the Punjab. It certainly goes further in imposing direct restrictions on alienations than has hitherto been attempted in other parts of India, but the circumstances of the Province with which we are dealing are quite special, and I trust that I have shown, although I fear at tedious length, that our scheme is the outcome of very careful investigation and deliberation.

After all, it must be borne in mind that we are aiming at reverting to some extent to a state of things which prevailed in the Punjab before it came under British rule. It is an arguable question whether the right of free transfer of land was recognised under Native rule, or whether it is what has been called the 'fatal gift' of the British Government ; but, in any case, the question is for practical purposes one of mere academic interest, for it is an undisputed fact that in former times the exercise of the right of transfer, at all events in favour of money-lenders or other out-siders, even allowing that such right did exist in theory, was for several reasons exceedingly rare, and we know that even in these days in most Native States alienations of land are either absolutely prohibited or largely restricted. We know, too, that in the Punjab the custom of transferring land

did not gain a footing for several years after the annexation of the Province, but that, as land has increased in value and become more attractive as a profitable investment, the number of transfers has increased correspondingly and is still increasing. In a letter addressed by the Punjab Government to the Government of India in 1888, during the Lieutenant-Governorship of SIR JAMES LYALL, it was said that 'after allowing for the greater accuracy of the statistics of later years, SIR JAMES LYALL considers that the statements of sales and mortgages from 1866 to 1886 show a large gradual increase in the area sold and mortgaged in the Punjab,' and that, 'in both the east and west of the province there are districts where the transfers to money-lenders are serious and appear to be increasing and where the fact requires Government to consider if a remedy cannot be found and applied.' In the following year, HIS HONOUR the present Lieutenant-Governor, then Financial Commissioner, recorded his opinion that 'the only safe conclusion is that there is year by year a gradually increasing amount of land being sold and mortgaged.' These opinions have been confirmed as districts have come under settlement during the past ten years, and the question of transfers has been specially investigated by the Settlement Officers, while the enquiries made by MR. THORBURN in 1895, to which I have already alluded, showed that in one out of the four circles with which he dealt, the amount of the cultivated area which had been purchased or was held in usufructuary mortgage by money-lenders was as much as 28 per cent., while in another circle it was 20 per cent. These facts speak for themselves. The Punjab is pre-eminently a land of yeomen and peasant proprietors, and the expropriation by the money-lending classes of these sturdy land-holders—men who furnish the flower of the Native Army of India, and who look forward, amid all the hardships and glories of a military career, to spend their declining years on their ancestral acres—has, under the influence of conditions which have sprung up under British rule, been progressing, as I have shown, in different degrees of rapidity in all parts of the Province. The sole and entire object of the measure which I have been explaining is, while affording ample facilities and a sufficient market for unobjectionable transfers, to arrest the further progress of this mischief, and to check, by remedial action, an ever-increasing political danger; and I venture to express a confident hope that our scheme will be received in this spirit by those in whose interests it has been devised.



HIS HONOUR THE LIEUTENANT-GOVERNOR said :—It is unnecessary for me to allude to the history of this important and much pondered measure, as this has been fully detailed by my Hon'ble friend Mr. RIVAZ. I shall confine myself to indicating briefly, what I believe to be the principal object of Government in prosecuting, through infinite varieties of opinion and shades of controversy, the course which has at last landed us in our present position, and to an expression of opinion as to the suitability of the lines on which, as explained by the Hon'ble Member, the Bill has been framed.

The object, in which all are agreed, is to provide a corrective for the result of our own acts, to mitigate the almost revolutionary effects of British rule as applied to land tenures in the Punjab. In conferring or confirming an almost unlimited proprietary right in land, in separating the judicial machinery from the executive, in encouraging free resort to the Courts, we have for five decades been pouring new wine into old bottles; some of the flasks are cracking, some have already burst. The State must needs be prepared to undertake some risk in this process, which has been accompanied with many extraordinary and beneficial developments, but if it is too rapid, there is something worse than danger to be faced, and that is positive unfairness. If the processes of law which are incidental to land cases are beyond the comprehension of the average land-holder; if they are too drastic to permit of the continuance of methods which though halting and imperfect are sanctioned by ingrained habit and long established custom; if they place the more astute money-lending class in a more advantageous position than the unsophisticated rustic: then the unfairness becomes marked, and interference becomes necessary. There is now a consensus that this is the case, and the Legislature is being invoked to remedy the evil. As to the limits of such interference there are, as I have already said, infinite varieties of opinion. There are also various methods of interposing: one has passed the stage of discussion and has taken shape in the amendment of the Contract Act, with the express purpose of placing the money-lender and the agriculturist on a level in the Courts; one has been dealt with in the discussions on the present measure, but has been dissevered from it, owing to its complexity, and will probably form the subject of legislation hereafter—I allude to a proposal to amend the law of pre-emption. Except as regards matters of procedure, the Bill which is now about to be introduced comprises, in all probability, all the

remaining methods which are applicable or in any way advisable. The main features have been sketched by the Hon'ble mover, and consist of the restriction of the power of alienation of land by sale or perpetual lease, and of the prohibition of all usufructuary mortgages, except what I may call the automatic repayment mortgage, where after the expiry of the term of mortgage, which is limited to a maximum of 15 years, the land reverts to the mortgagor, with the mortgage debt extinguished. The second of these provisions has my unhesitating concurrence. It is, in a way, the sheet anchor of the measure, as preserving the credit of the agriculturist. In regard to the restriction of sales, it would be tedious, as well as unnecessary, for me to explain my personal attitude. The measure as now proposed is a compromise, arrived at, after the fullest consideration, between two sets of opinions, and, like most compromises, deliberately and thoughtfully adopted, probably represents the best counsels. In the first place, there is nothing absolute about the restrictive provisions. The person who lies under the greatest disability under the proposed Bill, can obtain a dispensation from its provisions, if due cause be shown. Then the market for sale of land will be fairly open under a system which permits transfers to any agriculturist of the village or any member of the same agricultural tribe in the same district, it being understood that the word 'tribe' is used in its widest signification, and that the 'district' may be wider than the Revenue District, if reason exists. And I concur with the Hon'ble mover that in these provisions there lies, to some extent, a reversion to a state of ideas which was prevalent in the early days of Punjab administration, and is still widely recognized in Native States.

Therefore, with due reserve as to details, I support the Bill which is now before the Council, believing it to be in many respects one fraught with great benefit to the Province, while those provisions regarding which there is most room for difference of opinion embody the result of one of the most laborious and protracted investigations ever conducted by the Government, and I feel it to be my duty to accept them.

[*Extracts from the Proceedings of the Governor General's Council,  
dated the 10th August, 1900.*]

#### PUNJAB ALIENATION OF LAND BILL.

THE HON'BLE MR. RIVAZ said :—

I think it will be convenient if, in presenting the Report of the Select Committee on the Punjab Alienation of Land Bill, I explain somewhat fully the alterations which we propose to make in its main provisions.

The Bill which I introduced in this Council last September imposed restrictions on permanent and temporary alienations of land in the following manner. In the first place, as regards permanent alienations, that is, by sale, gift or exchange, the proposal in this respect of the Committee of Punjab Revenue officers which, was convened by His Honour the Lieutenant-Governor in July, 1898, was that any permanent alienation of agricultural or pastoral land, as defined in the Punjab Tenancy Act, to a non-agriculturist, if made without the sanction of the Deputy Commissioner of the district, should be void, but that otherwise there should be no restriction on sales or other permanent transfers. I explained, when introducing the Bill, that the Government of India were unable to accept this proposal in its entirety, because it seemed to them that to allow permanent alienations, free from all restrictions, between so-called agriculturists was open to objection on two grounds. Firstly, because the definition of 'agriculturist' as framed by the Punjab Committee, that is, 'any person, who either in his own name, or in the name of his agnate ancestor, was recorded as an owner of land, or as a hereditary tenant in any estate at the first regular settlement,' or any other practicable definition of the term, must necessarily include numerous classes of persons who, although landholders since the early years of British rule or even prior thereto, are primarily traders and money-lenders by nature and profession, and not true agriculturists in any proper sense of the term ; and, secondly, because even the *bona fide* agriculturist is frequently also a money-lender, and it was desirable to retain power to prevent such men from buying up land in a village where they would come in as outsiders and constitute a foreign

element in the village community. In modification, therefore, of the proposals of the Punjab Committee on this all-important part of the scheme under consideration, the Bill, as introduced last September, provided that all permanent transfers must receive the previous sanction of a Revenue-officer, but that sanction should be given, as a matter of right, in cases in which the Revenue-officer was satisfied that the intending transferor was a person who was not a member of an agricultural tribe, or, in cases where the intending transferor was a member of an agricultural tribe, that the transfer was either to an agriculturist (as defined by the Punjab Committee) holding land as a proprietor or occupancy-tenant in the village in which the land sold or otherwise permanently alienated was situated, or to another member of the same agricultural tribe residing in the same district.

Of these provisions we propose the following modifications. In the first place, in deference to a strong body of opinion, on this point, we think that the sanction of a Revenue-officer need not be obtained in cases where such sanction must be given as a matter of right. This was only intended as a precautionary measure, and we agree, on the whole, with those who think that the advantage to be gained in this respect would be outweighed by the inconvenience which would be caused to those with whose free right of permanent alienation there is no necessity for interfering. In one respect, however, we propose to restrict the free right of alienation by members of non-agricultural tribes, namely, when a member of such a tribe acquires land hereafter as an 'agriculturist' from a member of an agricultural tribe. We think it obviously necessary that a member of a non-agricultural tribe should not have the power to sell, or otherwise permanently alienate, without sanction, any land acquired under such conditions except to another agriculturist in the same village, or to a member of an agricultural tribe, and we propose to make provision accordingly. Then, as regards permanent alienations by members of agricultural tribes, we have been unable to accept a suggestion which has been put forward that no restriction should be placed on such transfers between members of any agricultural tribe, because we think that the widening of the market of free transfer to this extent would be open to the second objection which I have mentioned as applying to unrestricted transfer between agriculturists, namely, that the door

would thus be opened to the money-lender who belongs to an agricultural tribe buying up land in a village where he would come in as an outsider. At the same time, we recognize the force of the objection which has been taken that if free transfers are limited too strictly to within the same tribe, the market, in the case of some small tribes, will be undesirably narrowed. We propose therefore to meet this objection by empowering the Local Government, with the sanction of the Government of India, to group together, when thought advisable, small and what may be called cognate tribes in the same district or in a group of districts, and to allow permanent alienation without restriction within such groups.

As regards permanent alienations, therefore, the scheme of the Bill, as amended by the Select Committee, now stands thus ;

‘Any member of a non-agricultural tribe may, without sanction, make a permanent alienation of land to any person, except in respect of any land which he acquires hereafter as an ‘agriculturist’ from a member of an agricultural tribe. In this one case he will only be able to alienate, except with the sanction of the Revenue-officer, to another ‘agriculturist’ in the same village or to a member of some agricultural tribe.’

‘A member of an agricultural tribe may, without sanction, make a permanent alienation of land to a member of the same agricultural tribe, or, in certain cases, to a member of any other agricultural tribe included in the same group as his own tribe in the same district, or, if so notified, in a group of districts. In all other cases, every permanent alienation of land by a member of an agricultural tribe will require the sanction of the Revenue-officer.’

We have revised the definition of ‘agriculturist’ so as to enable the Local Government, in cases where the first regular settlement has been made within the past thirty years, to go back to the record of some previous settlement ; we have amplified the definition of ‘land’ ; we have included ‘exchanges’ in, but excluded gifts or bequests for religious or charitable purposes from, the definition of ‘permanent alienation’ ; we have made clear that the right of unrestricted purchase allowed to an ‘agriculturist’ as such can only be exercised in the actual village or villages in which he has acquired such status ; and we have also

made clear that the action of a Revenue-officer, when granting or refusing sanction to a permanent alienation, is purely executive, and that any such order sanctioning an alienation is no bar to a suit on any question of title, or to any question relating to any reversionary right, or right of pre-emption, in a Civil Court.

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I come now to temporary alienations of land, that is, alienations by means of mortgage, lease or farm. The Bill as introduced allowed for the future only two forms of mortgage, namely, either a usufructuary mortgage, with delivery of possession to the mortgagee, for a maximum period of fifteen years, and on the condition that at the end of the period of mortgage the mortgaged land would revert to the mortgagor or his successor in interest with the mortgage-debt extinguished, or a collateral mortgage which, in certain circumstances, might be converted into a usufructuary mortgage of the nature just mentioned. These provisions were in accordance with the recommendations of the Punjab Committee, except that the maximum period of mortgage was reduced from twenty to fifteen years. Existing mortgages were not interfered with, except when any such mortgage was by way of conditional sale. In these cases, the mortgage was to be null and void, but the Revenue-officer was empowered, on the application of either party, to order the mortgagor to execute a fresh mortgage of the usufructuary nature just mentioned, for a period of a fifteen years, or for such less term as the Revenue-officer might consider equitable. We now propose the following modifications of these provisions.

In the first place, we think that, except as regards conditional sales, which ought, in our opinion, to be absolutely prohibited, there is no reason to impose any restrictions, whether as to form or period, on mortgages made by any member of a non-agricultural tribe to any person, or by a member of an agricultural tribe to a member of the same tribe or of a tribe in the same group. Then, in deference to the opinion expressed by a large number of the officers consulted on the Bill, we have extended the maximum term of usufructuary mortgage to twenty years, as was originally recommended by the Punjab Committee. We also propose, in adoption of a valuable suggestion made by MR. DOUIE, the present Chief Secretary to the Punjab Government, and supported by the Lieutenant-Governor, to

allow a third form of mortgage, whereby the mortgagor will retain an inalienable right of cultivating occupancy of the mortgaged land as the mortgagee's tenant, on payment of a fair rent which will be determined, in case of dispute, by a Revenue Court under the provisions of the Punjab Tenancy Act. A mortgage in this form may be made for any such term as may be agreed on, but the mortgagor will only be liable to ejection from his cultivating occupancy if he uses the land in an improper manner, or, if his rent is payable in kind, if he wilfully fails to cultivate the land, or if a decree for an arrear of rent has been passed against him and remains unsatisfied ; but, even if so ejected from his cultivating occupancy as a tenant, the mortgagor will retain the equity of redemption of his proprietary right on payment at any time of the original mortgage-debt. We also propose to give power to the Local Government to allow other forms of mortgage, at its discretion, in addition to the three forms just specified, so as to permit the use of any existing local kinds of mortgage which are of an unobjectionable nature. As regards conditional sales, we propose, as I have already mentioned, to absolutely prohibit the future use of this kind of mortgage in respect of land owned by any class of persons, and, as regards existing mortgages of this kind which have been made by any member of an agricultural tribe, we propose, in modification of the provision in this respect of the Bill as introduced, to allow the mortgagee to elect either to keep his present mortgage with this particular condition struck out, or to apply to the Revenue-officer to give him instead a usufructuary or collateral mortgage in one of the forms to be hereafter allowed by the Bill, on such conditions as to the amount of mortgage-debt and period of mortgage as the Revenue-officer may consider reasonable. Except in the cases which I have just specified, no existing mortgages will be interfered with in any respect.

As regards mortgages, therefore, the scheme embodied in the Bill, as amended by the Select Committee, stands thus :

Any member of a non-agricultural tribe may mortgage his land in any form and on any conditions he pleases except by way of conditional sale. So may a member of an agricultural tribe when the mortgage is to a member of the same tribe, or of a tribe in the same group. But in all other cases a mortgage by a member of an agricultural tribe will have to be in one of the three forms which I have explained, or in some other form permitted by the Local Government,

Existing mortgages will not be interfered with in any way, except when any mortgage which has been made by a member of an agricultural tribe contains a condition which is intended to operate by way of conditional sale. In this one class of cases the mortgage will be revised or altered in the manner I have described.

The conditions which will apply to all mortgages made under our proposed enactment, and those which may be inserted by agreement between the parties, are specified in clauses 7 and 8 of the Bill. Some of these conditions I have already mentioned in explaining the forms of mortgage which will be permitted, and I need only say further under this head that, in the case of term-limited usufructuary mortgages, the mortgagor will be able to redeem his land at any time during the currency of the mortgage on payment of the mortgage-debt, or of such proportion of it as the Revenue-officer may consider to be equitable, and that in no case will the mortgagor be deemed to bind himself personally to repay the mortgage-money.

As regards leases, we have amended the provisions under this head of the Bill as introduced by (1) including temporary alienations of the nature of a farm in the proposed restrictions; (2) extending the maximum period of a lease or farm to twenty years, and excising the condition that, if the alienor dies within this period, the lease or farm will terminate; (3) limiting the restrictions to cases where the lease or farm is by a member of an agricultural tribe to a person who is not a member of the same tribe or of a tribe in the same group. Thus the restrictions on leases and farms are brought into harmony with those on mortgages.

We have made provision for allowing a person who has made a temporary alienation by mortgage, lease or farm for less than twenty years to make a further temporary alienation of the same land during the currency of the first transaction for a term not exceeding twenty years in all, but have retained the provision of the Bill as introduced which bars a further alienation of the same land during the currency of a mortgage, lease or farm, when the first temporary alienation has been made for the full term permitted.

We have retained the provision which enables the Revenue-officer, either of his own motion or on the application of the person entitled to possession, to eject a mortgagee, lessee or farmer who



remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm.

We have also retained the provision of the Bill as introduced that a permanent alienation which requires sanction, but which is made without sanction, shall be treated as a usufructuary mortgage made in the first form prescribed by the Bill, and we have further provided that any mortgage made by a member of an agricultural tribe in any manner or form not permitted by the Bill shall be revised and altered by the Revenue-officer so as to bring it into accordance with such form of mortgage permitted by the Bill as the mortgagee may appear to be equitably entitled to claim, and that any lease or farm made by a member of an agricultural tribe to a person other than a member of the same tribe or of a tribe in the same group for a longer term than twenty years shall be deemed to have been made for only twenty years.

As regards the restrictions on hypothecations of agricultural produce by members of agricultural tribes which were included in the Bill as introduced, we have, in modification of the absolute prohibition of such transactions, proposed to allow alienations or charges of this description to be made for a period not exceeding one year, or in special cases for a longer period with the sanction of the Revenue-officer.

We have retained the provision which forbids the sale of land in execution of a decree or order, but have so far modified such provision as to make it applicable only to land belonging to a member of an agricultural tribe, and we have also made clear that the prohibition only applies to a decree or order of a Civil or Revenue Court. The prohibition as to sale will not, of course, extend to temporary alienations of land for satisfying a decree which are made by the Collector, when so authorized by the Civil Court, under section 326 of the Code of Civil Procedure.

We have retained but amplified the clause which prohibits the registration of any instrument contravening the provisions of the Bill; we propose to prescribe that transactions which require the sanction of a Revenue-officer shall not be entered in the record-of-rights or in the annual record under the Punjab Land-revenue Act, until proof of such sanction is produced; and we have provided for the proceedings of Revenue-officers under the Bill being regulated

by the procedure of the Punjab Land-revenue Act. We have also made clear that matters which the Local Government or Revenue-officers are empowered to dispose of under the Bill shall be excluded from the jurisdiction of the Civil Courts, and, in order that all proceedings before Revenue-officers under the Bill may be dealt with promptly and inexpensively, we propose to exclude legal practitioners from appearing in such cases.

The last point which I need mention is that we propose no alteration in respect of the general application of the scheme embodied in the Bill, subject to any territorial or personal exemptions which the Government of India may from time to time make on the recommendation of the Local Government.

I trust, my Lord, that I have succeeded in showing that, while the Select Committee have not altered the Bill which I introduced last September on any important point of principle, their proposed modifications of, and additions to, some of its provisions will have the effect of placing the scheme under consideration on a broader and more elastic basis. As regards the main object of the Bill, namely, the restriction of permanent and temporary alienations of land by the agricultural classes, the scheme, as it now stands, will, as regards sales and other permanent transfers, while adhering to the principle of limiting the market of unrestricted transfer to within the same village community or agricultural tribe, enable the Local Government to meet the case of any tribes which are too small to provide any real market of sale within the tribe, by grouping them with other cognate tribes within the same district or a group of districts ; and, as regards temporary alienations, the maximum period for which self-redeeming usufructuary mortgages and leases may be made has been extended from fifteen to twenty years, while another form of usufructuary mortgage is proposed under which the mortgagor may mortgage for any period he pleases, but on condition of retaining a cultivating right of occupancy in the mortgaged land on payment of a fair rent, and preserving his right to redeem the proprietary right whenever he may be able to do so.

[*Extracts from the Proceedings of the Governor General's Council,  
dated the 19th October, 1900.*]

PUNJAB ALIENATION OF LAND BILL.

• HIS HONOUR THE LIEUTENANT-GOVERNOR (SIR M. YOUNG) said :—

While congratulating my Hon'ble friend MR. RIVAZ on having safely piloted this Bill through troubled waters and on having greatly improved its form in the process, I am bound to confess that I find it impossible to speak with much confidence as to its probable effect. Throughout the discussions which have taken place regarding it, I have been conscious of seeing more clearly the objections to drastic legislation than the arguments in favour of it. I have been more in sympathy with the Punjab Revenue authorities of the past than with newer views. Fifteen years ago SIR CHARLES AITCHISON, writing of this subject, held the opinion that 'so far as the evils complained of are inherent in the character and traditional habits of the people, or in the gradual extension of law and systematic government over a country governed more or less irregularly, little if anything can be done to improve the position of the agriculturists.' Two years later COLONEL WACE, one of the most thoughtful and experienced Revenue officers whom the Punjab has produced, wrote in this connection that 'we cannot succeed in protecting people against themselves; nor ought we to hamper those who are thrifty by restrictions intended for the protection of those who are not.' SIR JAMES LYALL in 1891, though strongly impressed with the dangerous rapidity with which transfers of land were proceeding in the Punjab, thus expressed himself: "No one ventures to say that we can go back from the gift of proprietary right, and it is generally admitted that it existed before our time, and that what we have really done is to make it more valuable, and thereby to promote its being encumbered and eventually transferred." He confined his recommendations to measures designed to check the progress of transfers so far as it is due to the action of our laws and Courts. His programme consisted of an Act to be framed for the Punjab on the model of the Deccan Agriculturists' Relief Act of 1879. He sketched the outlines of the measure which he proposed and asked for early leave to assemble a Committee of Punjab officers to draft a Bill on those

lines. No action up to date has been taken on these proposals, and the letter forwarding them remains unanswered. Personally I should have been content to follow SIR JAMES LYALL'S programme. But restriction of the power of alienating land had no place in his scheme, nor did he ever contemplate such direct interference with the discretion of proprietors. The initiative in this respect was taken by the Government of India in 1895, when the Governor General in Council announced the distinct opinion that some action in the direction of restriction upon the alienability of land is generally advisable and even necessary throughout India. As explained by the Hon'ble Mover in his speech in this Council on the 27th September, 1899, this opinion was framed in connection with, though not in consequence of, the recommendations of the Commission appointed in 1891 to report on the working of the Deccan Agriculturists' Relief Act of 1879 and on the desirability of extending a similar measure to other Provinces. What led the Government of India to this conclusion has not been explained. The idea did not emanate from the Local Governments, and up to the present time I believe no province except the Punjab has been asked to consider it. I shall probably not be far wrong if I say that MR. THORBURN'S advocacy of the cause of the indebted peasant of the North-West Punjab against the money-lender had a good deal to say to it, while the distinguished Punjab officers who at that time and since have been connected with the Supreme Government have greatly influenced the decision. Be that as it may, the proposal to restrict the alienation of land in the Punjab was made to SIR DENNIS FITZPATRICK in 1895 by the Government of India and not initiated by the Punjab Government. In reply SIR DENNIS FITZPATRICK committed himself to the opinion that, if an overwhelmingly strong case were made out in regard to any particular tract, legislation empowering the Local Government to interfere with alienation in that tract would be justifiable, and having satisfied himself that such a case had been made out in regard to at least one assessment circle of one tahsil in the Gujranwala District, he founded on this conclusion a recommendation for an enabling Act restricting transfers, not for an Act applying throughout the Province.

The reply to SIR DENNIS FITZPATRICK'S proposals was received in April, 1898, after I had succeeded to the Lieutenant-Governorship of the Punjab. The conclusions framed by the Government of India were set forth in that reply and consisted of two main propositions:

first, that a strong case seemed to have been made out for prohibiting all permanent alienations of agricultural land, except with the sanction of some duly empowered Revenue-officer ; and, second, that the legislation for giving effect to this view should be general and not partial in its character, in contradistinction to the proposal of SIR DENNIS FITZPATRICK. I was invited to summon a Committee of selected officers to advise me in framing my conclusions upon the scheme of the Government of India, and this I did after circulating to selected officials and non-officials a series of questions framed on its proposals, and submitted the resolutions of the Committee with my own opinion, not quite so soon as I was asked, but still within four months of the date of the letter calling for it. The proceedings were conducted at high pressure, but the subject was familiar to all of us, and my own opinion, which had been formulated and recorded nine years previously, had not changed since that time in any material degree ; and, had I felt myself at liberty to do so, I should have reiterated my former views and advocated resort to the less drastic measures proposed by MR. ELSMIE and myself as Financial Commissioners in 1889, and amplified by the then Lieutenant-Governor, SIR JAMES LYALL. But there were two reasons against my taking this course. The first was that the Government of India with those opinions and many more before it had committed itself to a definite preference for interfering with the right of alienation, and, although I was freely invited to express my opinion, I felt I should only be justified in placing myself in opposition to its views if absolutely sure that the policy was mistaken, and that the measure could not be adapted to the Province in any form without serious risk. I was not prepared to go so far as this. In stating my second reason I have to make an admission. The officers whom I nominated to the Committee represented the best experience available, and a very strong embodiment of it. I did not pack my jury, but just took the best officers I could bring together. And they were unanimous in accepting the main features of the Government of India scheme. Under these circumstances, while giving full expression to my personal doubts as to the wisdom of the measure, I considered it the more important part of my duty to give it the best shape possible, and this was what I endeavoured to do in conducting the proceedings of the Committee, and in drafting the opinion which I submitted to the Government of India. I regret that that opinion has not been formally placed before the Members of Your Excellency's Council. It would have rendered

the explanation, which I have felt it my duty to give, unnecessary. It would have made it clear that while the measure now before the Council goes beyond the utmost recommendations of the Local Government itself, it has the support, on the one hand, of the deliberate judgment of the Government of India, and, on the other, of a strong body of opinion within the Province; it would have shown that while I was personally very doubtful, and even apprehensive, of the effects of such a measure, I had waived my personal opinion, and confined my efforts to shaping it so as to conduce in the best possible manner to the end desired. This attitude has been described in one quarter, which I am bound to regard with veneration, as 'correct.' It will no doubt be described by others as timid. I do not much care what is thought of it, but I am anxious for reasons which I will explain that my position should be made quite clear. That position is described in the following extract from the opinion already mentioned :—

Assuming that the Government of India have determined to adopt stringent measures for checking the alienation of land, and to make those measures of general application to the Punjab, subject to special exemptions, I recommend that the scheme accepted by the Committee for dealing with permanent alienations, of which I have given some account above, be approved. I believe it to be workable, and to be as little open to objection as any which can be devised; while, if successful in checking the transfer of land to the hands of the money-lender without unduly depreciating the wealth of the zamindar or creating wide agrarian discontent, it will be a boon to the country.

This, after the fullest consideration, is all I am able to say in favour of the Bill, and it is on this assumption and subject to this consideration that I shall record my vote in its favour.

But, my Lord, it is not merely for the purpose of justifying my vote, still less with the object of gratifying a not unnatural desire to explain precisely my attitude towards a measure which will affect so closely the vast majority of the people of the Punjab, that I have taxed the patience of the Council with what sounds I fear too much like a long personal explanation. I have a more important object in view. The passing of this Bill is only the first act in a long drama. The working of it will be for many years the subject of anxiety to the Administration. A large number of opinions have reached the Council, some of them professing to come from bodies of agriculturists who are intimately affected by the measure. There are no doubt many genuine sentiments in these papers, but neither the agricultural community nor the village money-lender have really had their say,

nor have they as yet any idea how they will be affected by the measure. Nor, I venture to say, has any Member of Your Excellency's Council. It is only when the provisions of the Bill come to be applied that we shall learn the effect of the experiment. How far they will depreciate the value of land, how far they will be disregarded, how far they will be evaded, how far they will pinch the borrower, or make the lender's trade impossible, will only be revealed by degrees. The venture, which is a bold one, may be successful, or it may be a failure. But failure in legislation is of two kinds. A law may be more honoured in the breach than in the observance, and no great harm is done, though such laws are to some extent a source of weakness to the Administration. But if it actually results in injury to any class of persons, the failure is more serious. And the question whether this measure will cause injury or not depends very largely on the way in which it is worked. The Government of India has retained in its own hands to a large extent the working of the Act. This seems to me not unreasonable in view of the fact that it is the Government of India which is responsible for the enactment. But, when the Local Government proposes rules or notifications under the Act, I hope it will be remembered that the Punjab Committee considered that their proposals embodied the maximum in the direction of restrictions on alienation which could be regarded as either safe or desirable in the interests of the Province, and that, although a strong body of opinion exists in the Province, that interference with the right of alienation is possible and justifiable, those most nearly affected cannot be said to have manifested any desire for such legislation, while the Head of the Local Government, concurring with his predecessors, would have preferred a less drastic measure to that now before the Council.

And now, my Lord, having explained the limitations under which my vote in favour of this measure will be recorded, I propose to make only a few remarks in regard to its provisions. As explained by the Hon'ble Mover in introducing the Bill, the proposals of the Punjab Committee constituted the foundation of the scheme which it then embodied. And subsequent alterations have still further assimilated it to those proposals, while other important additions have been made which in no way militate against them and have my entire concurrence. In one respect, however, the Bill departs from the distinct recommendations made by the Punjab Committee. That

Committee contemplated no interference in respect of alienations of land to agriculturists. The Hon'ble Member in charge of the Bill explained in his speech on the 10th August last why he was unable to accept this view. The reason was because the agriculturist is also in many cases a trader and a money-lender. Accordingly the Bill as introduced in September, 1899, limited the freedom of such transactions to members of the same agricultural tribe residing in the district where the land was situated. The limits of the district for the purposes of this provision might be extended or restricted. The term 'agricultural tribe' was similarly liable to formal definition. The Punjab opinions recorded on the Bill supported almost unanimously the view of the Punjab Committee, and advocated no restriction on alienations to members of an agricultural tribe. In my opinion of the 15th May I strongly advocated this course, because otherwise matters would be made too hard for the small proprietors of small tribes. I pointed out that the main object of the Bill would not thereby be interfered with, while its principal danger would be averted. With reference to this view the Hon'ble MR. RIVAZ explained that the Select Committee had recognized the force of the objection that, if free transfers were limited too strictly within the same tribe, the market in the case of some small tribes would be undesirably narrowed. Accordingly he announced that the Bill had been amended so as to permit of the grouping together, when thought advisable, of small and what may be called cognate tribes in the same district or in a group of districts, and to allow permanent alienations without restriction within such groups. Now, the Bill itself as amended and as now presented to the Council says nothing about cognate tribes. It merely provides in section 4 that the Local Government, with the previous sanction of the Governor General in Council, may determine what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of the Act. I still hold the opinion that the Punjab view is correct, and that the best plan would be not to interfere with permanent alienations by a member of any agricultural tribe to a member of the same or any other agricultural tribe, and that provision in order to meet the Hon'ble Member's objection should, if necessary, have been made in the Bill. But, as this opinion has not been accepted by the Select Committee, I will only record my hope that in working section 4 of



the Bill the Government of India will disregard the suggestion, which is not contained in its provisions, to group only these tribes which are cognate, and will give full effect to the view of the Punjab Government and its officers in considering the recommendations of the Local Government under section 4 of the Bill. I cannot too strongly insist upon the view, that the great danger of the measure consists in the effect it will have on the small agricultural tribes, which will often be found scattered in isolated villages far distant from each other. The machinery for meeting the case of such tribes is provided in the section I have quoted, and I hope it will be freely utilized.

I find it unnecessary to refer to any other provision of the Bill which, on the assumption which I have explained, and subject to the remarks I have made, I accept as the best measure that can be devised for giving effect to the views of the Government of India. I shall direct my best attention during the remainder of my term of office to its working, and earnestly hope that it may conduce more than I anticipate to the welfare of the agricultural population of the Province.

I will only add in conclusion that the legislation of this Bill needs to be supplemented by a system of Agricultural Banks, and that I listened with much satisfaction to the announcement of my Hon'ble friend MR. RIVAZ that the Government of India had such a system under consideration, and that of the Hon'ble Finance Member that he regarded the project with special interest and proposed shortly to take it in hand.

THE HON'BLE MR. RIVAZ said :—

With reference to some of the views which have been expressed in the speeches just delivered, I am afraid that I must ask the Council to bear with me while, at the risk of exposing myself to the charge of wearisome repetition, I make yet a few further remarks regarding that all-important part of our scheme which imposes restrictions on permanent and temporary alienations. I say again that the main object of the scheme is to discourage, as far as possible, members of agricultural tribes from selling their lands. To those who, while agreeing that sales to professional money-lenders ought to be prohibited, yet wish to leave the market of sale unrestricted as regards members of all the agricul-

tural tribes between themselves, I wish to say, how can this be justified? Our sole justification for interfering with the free right of sale which the Punjabi land-owner has hitherto possessed is that he has proved himself incapable of making proper use of this right, and that he has been unable to resist the temptation of raising money on his land, even to the extent of selling it, for purposes of pure extravagance. If, however, we only go so far as to prevent him from selling his land to the professional money-lender, but still allow him to sell as he pleases to any member of any agricultural tribe, what would be the result? To my mind it would certainly be this. We should, by thus partially narrowing his market of free sale, depreciate the selling value of his land to some extent, but not sufficiently so to discourage him from selling except in cases of real necessity. He would still be tempted to sell for purposes of extravagance, but whereas formerly, when he wanted to raise (say) one hundred rupees, he could do so by selling a couple of acres, he would now have to sell three. Would this be a fair way of dealing with the small proprietor? He would certainly disappear under such conditions at a more rapid rate than he is disappearing at present. I am not prepared to say whether the accumulation of large landed properties in the Punjab is, from a political point of view, desirable or not; but I do say most distinctly that it is no part of our scheme to encourage the growth of large properties at the expense of the small proprietor. I repeat that our main object is the preservation, not the extinction of the small proprietor. This then is my objection to keeping the market of free sale as wide as some desire to keep it. If, however, we limit the market, as our scheme contemplates, to the tribe, or, in special cases, to a group of small similar tribes, then I claim that we are really narrowing the opportunities for sale to an extent which will remove the temptation to sell needlessly, yet will afford a sufficient market in cases of real necessity. As I have said before, it is neither possible nor desirable to prohibit sales altogether. The individual must in some cases part with his land, but under our scheme the powerful factor of sentiment comes in, and the land, though lost to the individual, is preserved to the tribe. If, however, in any particular case a man who is compelled by necessity to sell his land is really unable to find a purchaser for it at a fair price within his tribe, the Bill provides a ready remedy. As

HIS HONOUR THE LIEUTENANT-GOVERNOR remarked, in his speech in this Council on the introduction of this Bill a year ago, 'there is nothing absolute about the restrictive provisions. The person who lies under the greatest disability under the proposed Bill can obtain a dispensation from its provisions, if due cause be shown.'

Moreover, it must be remembered that, although our scheme imposes material restrictions on sales, it provides large facilities, larger, perhaps, in my own opinion as the Bill now stands, than is altogether desirable, for raising money on mortgage. In short, the key-note of our scheme is to discourage sales but to provide ample reasonable facilities for temporary alienation.

THE HON'BLE MR. TUPPER said :—

As I have been closely connected with the progress of the present measure in its different stages during the past four years, I am anxious, with YOUR EXCELLENCY'S permission, to take this opportunity of explaining why it has my hearty support.

The reasons for adding to the already existing restrictions on the transfer of agricultural land in the Punjab are both political and economic. While I admit the force of the economic reasons, which have been fully explained to-day by the Hon'ble Member in charge of the Bill and by the HON'BLE NAWAB MUHAMMAD HAYAT KHAN, I wish to say that it is the political reasons which have most strongly influenced my judgment in this important matter.

Here, as often happens in India, the political argument is in a measure an historical argument. It is what I have gathered during the course of my service concerning the political and administrative history of the Punjab that has convinced me of the political necessity of some measure of the present kind.

The written history, the traditions, the existing tenures and the social institutions of the Province combine to suggest the probability that before any authentic and continuous narrative becomes possible the plains of the greater part of the Punjab were peopled by fairly compact emigrant tribes who either occupied the waste or drove out or subjugated previous inhabitants and possessed themselves of the land, practically as its masters, much in the same way as, within historical times, the Bannuchis, the Marwats and the Darwesh Khel Waziris possessed themselves of most of the Bannu district, and the

Yusafzais, Muhammadzais, Khalils, Mohmands and Daudzais established themselves in the Peshawar Valley. When the Delhi empire fell to pieces, and in the Punjab the confusion consequent on its ruin was worse confounded by the successive irruptions of Nadir Shah and Ahmad Shah Durani, many of the tribes of the Western Punjab asserted an independence similar to that with which we are familiar in the case of the Afridis and the Orakzais. Amongst these independent tribes I may instance the Gakkhars of Rawalpindi, the Janjuas of Jhelum and the Sials of Jhang. By this time also the Sikh *misls*, which were in origin predatory bands like those of the Pindaris, were acquiring or had acquired political and territorial power. The independent tribes came into conflict with the now formidable Sikh *misls*, and the *misls* in their turn were incorporated in the vigorous army and the tolerably well consolidated kingdom of Maharaja Ranjit Singh. In the Eastern Punjab the history was rather different. But in the border land between the Sikh and the Mahratta Powers strong Jat villages frequently defied all authority; and the Sikh *misls*, as in the Central and parts of the Western Punjab, acquired dominant authority in the country between the Sutlej and the Jumna. The composition of the Sikh *misls* is somewhat obscure, and the *misls* certainly often included men other than those belonging to the dominant clans; but I think I may safely say that the *misls* were mainly recruited from Jats, that is, from men of those very agricultural tribes thickly clustered in the central Punjab whom it is an object of the present measure to maintain in the enjoyment of their ancestral lands.

Now, one result of all the history is that we still have the lands of the Punjab plains held largely, though not exclusively, by tribes of bold traditions and high spirit, whose courage and love of adventure commands the hearty sympathies of men of our race, but whose inherited qualities, formed in times of war and depredation, are far better suited to success in the field of battle than in the Courts of law. No one wishes men of this type, whose courage in our cause has again and again earned our gratitude, to be dispossessed of their ancestral lands. I say no one advisedly, for I do not believe that even the trading classes, who, by the undesigned effects of our system, are being drawn into the possession of some of these lands, really themselves desire the social revolution which would ensue if we did not interfere to check that process while there is still time to check it with effect. The insidious danger with which the old dominant agricultural

tribes are threatened under our rule is not, I think, due to any deliberate design or wish to oust them from their possessions, but to the scope allowed to perfectly reasonable commercial instincts from the time when law and order superseded the anarchy and turbulence of former days. And these commercial instincts, even though they do not evoke enthusiastic sympathy, we, who belong to a pre-eminently commercial nation, can regard at least with justice and respect.

In truth, the contest between the agricultural tribesman and the money-lender for the sources of wealth which have been so enormously developed in the Punjab during the last half century seems to me to have been quite inevitable. It has been suggested that the present legislation is revolutionary in character and unsuited to the social conditions which exist in the Punjab. I venture to think that the converse is true. The object of this Bill, as I understand it, is to avert a social revolution, not to create one. The Bill is conservative of the possessions and status of the classes who were dominant before our day and still represent by far the most important political forces which we have to take into account in this part of India. It has been cautiously devised by the co-operation of many authorities to suit the peculiar social conditions which have followed upon the regular working of British Law Courts in what was once the kingdom of Ranjit Singh.

It would be possible to take this Bill clause by clause and show how each is intended to harmonise either with the rural economy of the Punjab at large, or with the administrative system which we have established there. I do not propose to occupy the time of the Council with any such detail; but we may take as an illustration a main principle of the Bill, namely, that as between certain classes permanent transfers of agricultural land shall be allowed only with the sanction of a Revenue-officer. Restrictions on the transfer of land are, as my HON'BLE friend NAWAB MUHAMMAD HAYAT KHAN and the HON'BLE MR. FANSHAWE have pointed out, no novelty in the Punjab. There were administrative restrictions dating from 1850, referred to by HIS HONOUR THE LIEUTENANT-GOVERNOR in paragraph 6 of his memorandum on the proceedings of the Simla Committee of 1898, of which the object was really the same as one object of the present Bill, that is, to prevent the transfer of land to strangers unconnected with the village community. There are still the restrictions, arising out of the claims of reversioners under the customary law. There are the

restrictions, which in cases affecting certain classes we are about to make absolute, on the sale of agricultural land in execution of decrees. All these restrictions have failed for various reasons to avert what some of us have at length, after fifty years of British rule, been convinced that it is most necessary to avert—I mean a direct though never-desired and never-intended consequence of the establishment of that rule on the position of the old agricultural tribes.

The early administrative restrictions took their later form in the law of pre-emption. That law in itself was insufficient—for this reason amongst others, that it deals with the issue perceived by the first administrators of the Punjab, the issue between the village-community and the outsider, and does not deal with the much wider issue now seen to have been developed—that between the trading classes and the old agricultural tribes. Moreover, that law, as it has come to exist, actually admits the outsider whom it was the original intention to exclude. This defect will, I hope, be shortly remedied by a Pre-emption Bill to be introduced in the Punjab Council, partly on its own merits, and partly as being supplementary to the present measure. The customary law relating to the claims of reversioners is wholly insufficient, both because its action depends on the interests and even the caprice of individuals, and because, while alienations may be made in case of necessity, necessity has been held to exist in money if wanted for just debts. Finally, the Punjab rules as to sales in execution of decrees have been evaded by resort to mortgages by conditional sale. I do not pretend that the step we are now taking is not a momentous one ; but to my mind it seems just as much a natural consequence of the administrative history of the Province as the retention of the zamindar in the possession of his ancestral lands is a political necessity arising out of its political history. Restriction after restriction has either missed its actual mark or has otherwise failed to secure that retention. Is it not at least reasonable that we should now intervene, and that in the directest fashion by the present legislation ?

As to temporary transfers, if the mortgagor is not a member of an agricultural tribe, or if he is such a tribesman, and the mortgagee is a member of the same tribe, or of a tribe in the same group, there is no change in the law except in so far as the Bill gives power to determine what bodies of persons shall be deemed to be agricultural tribes. In other cases we have been guided by experience in selecting

for adoption those forms of mortgage which are believed to be least harmful to the agricultural debtor ; and because some forms of mortgage and conditions of mortgages not recounted in the Bill may nevertheless turn out to be innocuous, we have guarded the position by enabling the Local Government to add to the forms of mortgage and conditions so enumerated. This is one of the many precautions we have taken to ensure that the Bill shall not jar with the common customs of the peasantry.

Lastly, I wish to express my concurrence with some of the remarks of the HON'BLE THE NAWAB in regard to the trading classes from whom most of the opposition to this measure proceeds. I agree in the assertions made by him and in some of the papers connected with this Bill as to the important and useful place which the village money-lender occupies in the agricultural system of the country. I hope and indeed believe that the more enlightened members of the trading classes, all of whom have benefited enormously by British rule, will recognise that in the present legislation there is neither any hostility to them nor any disregard of their just rights. We do not indeed wish them to supplant the zamindars, and so far as we can we intend to prevent their doing so. But we mean that the zamindars shall pay their just debts ; and I have heard to-day with much satisfaction that measures are in contemplation which will enable men of the trading classes,—or indeed of any class,—who hold decrees in their hands, to get their money for them more easily than is often the case now. I would repeat here the remark that I have made elsewhere that a far-reaching measure of the present kind is the more likely to succeed if it does injustice to nobody. It is not, in my opinion, in any way unjust to the *sowkar*. It leaves open a wide field for the investment of capital in the customary way in mortgages of a suitable description—mortgages which do not need the sanction of any revenue authority but are necessarily subject to the essential condition that the mortgagor who is a member of an agricultural tribe shall not be permanently dispossessed. Is it too much to ask the *sowkar*, who owes so much to law and order and improved communications and the assistance of the courts, to be content without the permanent possession of lands which are in the hands of their ancestral proprietors a strength to the State, but would be in his hands a danger to himself, even sometimes as it is, and more certainly and widely should the law and order on which his tenure depends be

at any time temporarily interrupted? The permanent transfer of the ancestral lands of the agricultural tribes to the trading classes does no good whatever so far as I can see, not even economic good, for the agricultural tribes are the better agriculturists: and on the historical and administrative grounds which I have explained I heartily rejoice that Government has determined as far as possible to put a stop to it.

HIS EXCELLENCY THE PRESIDENT said :—

When the Government of India utilises its legislative power to pass what is certainly a drastic, and has been described in the course of these debates as a revolutionary, measure, affecting any subject, but more particularly affecting the land, there are two questions as to which it should, in my opinion, satisfy itself. The first is—has the existence of an evil, calling for legislative interference, been established? The second is—is the particular legislation proposed the right remedy?

The first of these questions we had answered to our own satisfaction a year ago. A careful study of the reports and returns, extending over a period of more than thirty years, had convinced the Government of India that the alienation of land in the Punjab, practically initiated by the British Power after annexation, is progressing with increased and alarming rapidity; that in consequence of this progress land is passing away from the hands of the agricultural classes whom it is our policy to maintain upon it, and into the hands of classes or persons who, whatever the part that they may play in the economy of agrarian life, are not, in our judgment, either necessary or desirable as land-holders; and that consequently a grave political as well as economic danger threatens the province, which it is the bounden duty of Government to avert. Nothing that has occurred in the interim has tended to shake our confidence in the substantial justice of this conviction. On the contrary, I think that it has been strengthened by the evidence that has since poured in. We have been told, it is true, that there can be no political danger in leaving things as they are, because the discontent of the Punjab peasantry is never likely to take the form of active rebellion. I should be sorry to think that our political objections to a continuance of the *status quo* were supposed to be based upon such fears as these. It is not a disloyal



peasantry that we apprehend. It is a despondent, debt-ridden, expropriated and impoverished land-owning class, particularly a class recruited from the stable and conservative elements so forcibly described by the HON'BLE MR. TUPPER, which would be both a source of weakness to the province and of alarm to the State. Again, it has been said today that the *sowkar* is a very useful and even indispensable factor in rural life, who is quite content if he secures his reasonable profits, and has no *a priori* appetite for land. So far as I can see, the model money-lender whom I have described, and whose utility I do not dispute, will not be at all injured by this Bill. The *zamindar* will still require money, and the *baniya* will continue to provide it. But it is the SHYLOCK, who insists upon his pound of flesh, and who, under the existing system is in the habit of taking it in land, because it is the one security which his debtor can furnish, at whom we aim. A money-lending class I fully believe to be essential to the existing organisation of agrarian life in India ; but we do not desire to see them converted into land-grabbers, either voluntary or involuntary, at the expense of the hereditary occupants of the soil.

I do not, therefore, feel any doubt as to the seriousness of the malady which we have been called upon to diagnose, and for which, if we value our responsibility, it is our duty to prescribe. But there arises the second question, whether we have or have not adopted the right prescription.

Now, there is one objection that has been raised to our Bill which would equally apply to any Bill. It has been said that social customs and institutions cannot be changed by arbitrary dispositions, either of law or executive authority ; that they should be allowed to work out their own salvation ; and that, in the process of what is described as evolution, but is in reality only blind and irresponsible abnegation of control, the desired reform will some day come. With me this argument carries no weight ; for it is the argument, both of the optimist, in so far as it cheerily but thoughtlessly assumes that things, if left to themselves, will come right in the end, which I may observe in nine cases out of ten is not the case ; and of the pessimist, in so far as it contends that Governments ought not to attempt to solve problems, because their solution is hard ; while it is also in direct violation of historical facts. If successive British Governments had contentedly

accepted the proposition that social and agrarian evils are not to be rectified by legislation, where, I wonder, would the boasted advance of the nineteenth century have been? How would the men in our coal-mines, the women and children in our factories, ever have secured the full protection which they now enjoy? Would labour have emancipated itself from the all-powerful control of capital? Had they not been guaranteed by legislative enactments, where would the valued privileges of compensation for improvements, compensation for accidents, compensation for disturbance, have been? Even in India itself how should we have built up the fabric of social and agrarian rights without the instrumentality of the law? Finally, as regards this particular case of land in the Punjab, I do not see how there can be anything immoral or revolutionary in taking away or modifying a privilege which, it is proved beyond possibility of doubt, was for the most part one of our own arbitrary creation. If it is an improper thing to diminish or destroy proprietary rights in land because it involves an interference with the course of nature, equally was it an improper thing to create them as we did fifty years ago, when they did not already exist. You cannot apply the argument at one end of the scale, without admitting it at the other. This is the answer to the plea of inviolable promises and inviolable rights that was put forward today by SIR HARNAM SINGH. The objections in principle to legislation of this description may, therefore, I think, be disregarded.

There remains the question whether this particular Bill and the methods to which it proposes to give the sanctity of law are the best remedy that could have been devised. I have been a good deal struck in the discussion, both in Council and in print, by the absence of any alternative prescription. Inaction, I may point out, is not an alternative. It is only an evasion of responsibility. It does not, of course, follow, because no other suitable or likely remedy has been pointed out, that ours is the sole or the right one. Such a contention would be both illogical and foolish. But given an evil which all admit, if the method of cure or rather of prevention which is suggested by the responsible physician is questioned either by the patient or by the public, the *onus*, I think, lies upon the latter of indicating a better plan. The fact that in the present case no such rival panacea has been forthcoming leads me to claim that the Government proposal, whether it be sound or unsound, at any rate holds the field.

I now turn for a few moments to the Bill itself. It will not be denied that we have proceeded with the various stages of its growth and enactment with singular care and deliberation. The Bill in its original shape was the outcome of years of patient study. In the form which it has now finally assumed, it also bears the impress of repeated reference, of diligent reconsideration, and of an anxious desire to meet, in no dogmatic frame of mind, the criticisms whether of expert authority or of public opinion. We should, I think, have been very obstinate and unwise had we adhered to every clause, or even to every leading feature of the Bill, as introduced last year. It was emphatically a case in which a reasonable spirit was called for, and in which some concession was required to the arguments of opponents, not for the mere sake of compromise, but in order to bring the measure into closer harmony both with the feelings of the community and with the needs of the case. It is in such a spirit that the Bill has been conducted through Committee by the HON'BLE MR. RIVAZ, on whose behalf it will, I am sure, be admitted by all of his colleagues that if he has been clear as to where to stand firm, he has also known exactly how to conciliate and where to yield. As a result of the labours of the Select Committee, for which I must, on behalf of the Government of India, thank all its members, the Bill now emerges a more efficient, a more elastic, and therefore a more workable, measure. In the old Bill, for instance, the Revenue-officer's authority for every permanent alienation of land was made obligatory even in cases of merely formal sanction to alienation between non-agriculturists. Now this sanction has been wisely dispensed with. Next, we have extended the maximum period of mortgage, when made by a member of an agricultural tribe outside his tribe or group of tribes, from fifteen to twenty years; we have added another form of mortgage which is likely to prove both serviceable and popular; and we have given power to the Local Government to prescribe, in case of necessity, yet other variations. These are only a few among the many changes, and, as I think, improvements which have been introduced into the Bill. I do not say that they have converted it into a perfect measure. I have seen enough of agrarian legislation in the British Parliament to know that it never attains perfection, that it often fails in what are thought in advance to be its most certain effects, and that strange and unforeseen consequences ensue. No doubt our Bill will not differ from English or

Irish Land Bills in this respect. Some of its provisions will not do what is expected of them. Others will meet with a surprising and unexpected vogue. That is the fate of all experimental legislation; and that we are making a great experiment I for one have never denied. Given the desirability of making it, which I have already argued, the utmost that we can do is, as far as possible, to anticipate every likely consequence, and to graft upon it the wisdom of the most expert intelligence.

There are some features in the Bill upon which I admit that the arguments are very evenly balanced. It has been said, for instance, that we have drawn the restrictions too tight, that the phrase 'agriculturist' is too narrow and inelastic a term, and that there should be no restriction upon dealings between members of that class. I am not insensible of the danger of unduly narrowing the market for the compulsory vendor, or again of excluding as a purchaser the *bona fide* cultivator who may not happen to fall within the agriculturist definition. But, on the whole, I think that in these respects we have gone as far as prudence and the main principles of our legislation allow. The embarrassed land-owner should find a sufficiently wide market within the limits of his tribal group; while the category of agriculturists is, as has been shown, neither so rigid nor so exclusive as has sometimes been assumed. Money-lenders are inside as well as outside it; nor need the credit of the debtor be permanently impaired for lack of a partner to the desired transaction.

As regards the future of this legislation, I will not be so rash as to prophesy. I should be treading upon too uncertain ground. One thing only I will predict, namely, that the gloomy forebodings of its opponents will not be realised. The case for the Opposition, as I may call it, has been stated upon a previous occasion in this Council, and again to-day, as well as in a printed Minute of Dissent, by the HON'BLE SIR HARNAM SINGH. If we are to believe the opinions which he has expressed or recorded at different stages, and I quote his actual words, the majority of the peasant-proprietors of the Punjab are to be reduced by this Bill to a state of serfdom worse than that of the Middle Ages; it is to be followed by the impoverishment of millions of men living upon the soil; it is to doom the people to perpetual misery, and to destroy their happiness and contentment; British prestige will be rudely shaken; agricultural credit will be

destroyed; and the progress of the province will be retarded for at least fifty years. Every age and every epoch has had its Cassandra; and I do not complain of my Hon'ble friend for donning the familiar garb. I venture, however, to think that if his superlatives had been fewer, his invective would have been more convincing, and that his vaticinations will be found to have been a good deal exaggerated. If this be so, I am confident that no one will be better pleased than the Hon'ble Member himself. I will not rush to the opposite extreme. I have no intention of claiming that universal peace, or prosperity, or affluence will settle down upon the land in consequence of this Bill. Far from it. There are many questions as to the future to which I should hesitate to give a confident reply. Will this measure really secure to the agricultural tribes of the province the full possession of their ancestral lands? Will it restrain them from reckless borrowing? Will it save them from the mesh of the usurer? Or, while protecting them from usurers of other castes, will it hand over the feebler and less thrifty units in the class to the richer and more powerful members of the tribe? Or, again, will it effectually divorce the money-bags of the province from the one form of investment which has always been dear to successful speculation? It would require a keener insight than mine to answer such questions with any certainty. It may be permissible, however, to anticipate that while all of these consequences will to some extent ensue, no one will follow to the exclusion of the others. The moneyed classes, the *nouveaux riches*, will still have their opportunity of obtaining land, but not on such easy terms as in the past. The agricultural tribesmen will not all in a moment be converted to frugal or provident habits; but the opportunities and the temptations of borrowing will, it is hoped, be less. The weakling and the spendthrift will still go under, and his possessions will pass to his stronger brethren. But the transfer will be more frequently to men of his own tribe or tribal group, and less frequently to outsiders who are not connected either with the traditions or with the traditional occupation of the province. The transition will not be abrupt or sensational. It will be enough if, though gradual, it is sure. I shall myself watch the venture with the warmest sympathy and interest, not merely because I have been head of the Government of India at the time when this Bill has passed into law, nor because I know it to have been framed with the most conscientious regard for the public interest, but because it

is the first serious step in a movement which is designed to free the agricultural classes in this country—the bone and sinew of our strength—from an incubus which is slowly but steadily wearing them down.

## THE PUNJAB ALIENATION OF LAND AMENDMENT BILL, 1906.

### *Statement of Objects and Reasons.*

The first and most important amendment contemplated by the present Bill is the abolition of the statutory agriculturist. This is effected by the repeal of section 2 (1) and of section 3 (1) (b) and the proviso thereto.

The experience gained of the working of the Act has shown that there are grave objections to his existence. The fundamental objection is that the so-called agriculturist is in many cases not an agriculturist at all, and that when he is not a member of a notified agricultural tribe he frequently belongs to the *bania* class whose acquisition of the lands of agricultural tribesmen it is the primary and avowed object of the Act to prevent. In every village where there are agriculturists who are not members of an agricultural tribe, there is a standing menace to the successful working of the Act. If a *bania* has held land for 30 or 40 years in a village, he does not cease to be a *bania*; and if he is a land-owner, it does not follow that he is not also a money-lender. There is nothing in the structure of rural society in the Punjab to separate *banias* who have held lands since the first Regular Settlement from others. At present such a *bania* is in a position of great advantage, because the door closed upon the mass of the money-lending classes is left wide open to certain members of those classes who in the absence of competition of their class have better opportunities now of permanently acquiring the lands of zamindars than they had before the Act was passed.

Agriculturists who are not members of notified agricultural tribes will be found to belong to one or other of the following groups, namely,—I *banias*, that is, village shop-keepers, grain-dealers and money-lenders, whatever their caste or tribe; II Hindu settlers who are not money-lenders; III village menials; and IV tribes practising agriculture, but usually having also various other avocations, such as trade, money-lending, military or other service, and the like. The cases of individuals falling under groups I, II and III could, it is considered, be quite adequately met by the power to sanction permanent alienations conferred on Deputy Commissioners by section 3 (2) of the Act. As regards groups of persons falling under group IV,

there is the power to notify them under section 4 of the Act. They frequently petition to be notified, and the facts are examined from time to time, and if it is possible, consistently with the objects the Act, they are notified accordingly.

The inclusion of the statutory agriculturist has led to great difficulties in the working of the Act. The status is a highly technical one, and the people and many Revenue Officers have had great difficulty in comprehending the exact position which he occupies under the Act. In some districts the records of the first Regular Settlement, or of the Settlement fixed for the purpose of determining who are agriculturists, do not contain the names of all the proprietors or occupancy tenants which renders it difficult to determine whether persons claiming the status actually possess it. A further difficulty has been caused by the necessity of providing that the Revenue Records shall show details of land purchased by agriculturists from members of agricultural tribes for the purpose of checking subsequent sales of the same land,—*vide* the proviso to section 3 (1) (b) of the Act. These difficulties are not of great moment: the real objections have been stated above. The statutory agriculturist appears to have been the mere creature of the fears with which the working of the Act was regarded by those who had no real faith in its principles. The experience now gained shows that those fears were not justified. His abolition is proposed not because the working of the Act shows that he is already absorbing the lands of zamindars, but because the Act gives him the opportunity to do so and because it is a flaw in principle to exclude the *bania* in a great mass of cases and admit him in a comparatively few on the basis of an accidental circumstance unconnected with the structure of rural society in the Punjab, *viz.*, the date of the first Regular Settlement.

It is to be noted also that he finds no place in the Act as modified in its application to the North-West Frontier Province by Regulation 1 of 1904, and the same omissions as are now contemplated have been made in the Bundelkund Alienation of Land Act (2 of 1903).

In connection with this amendment it is intended to repeal the provision in section 4, requiring the previous sanction of the Governor-General in Council before a tribe is notified as an agricultural tribe. The Act is no longer an experiment, and the Local Government may now be well left to decide what tribes shall be notified. The question



has become a purely local one full of local detail, and it is thought that the Local Government may be left to freely exercise the power of admitting tribes to the protection of the Act. Such admissions are now the more necessary in consequence of the abolition of the statutory agriculturist.

It has been decided to include definitely any right of occupancy in the expression 'land' as defined in section 2 (3) of the Act. This is in accordance with the judgment of the Chief Court, No. 11 P. R., 1904, and also assimilates the present definition to that which has been adopted in the Punjab Pre-emption Act, 1905, with the exception that the restrictive words therein are omitted, as instances of occupancy rights may possibly be met with which have been acquired otherwise than under an Act of the Legislature.

The definition of permanent alienation has also been amended so as to include grants of occupancy rights and gifts for religious or charitable purposes. The former amendment is consistent with the decision that 'land' shall include occupancy rights while the latter is proposed in order to avoid a possible evasion of the Act. In the case of *boná fide* gifts for religious or charitable purposes the amended proviso to section 3 (2) provides that sanction thereto shall always be given. The policy of treating these gifts in a liberal spirit and in a manner which is likely to be approved by popular sentiment is thus maintained.

The right of pre-emption given to a landlord in the case of a transfer by his occupancy tenant was expressly saved in the Punjab Pre-emption Act, 1905. The provisions of sections 53 and 54 of Punjab Tenancy Act, 1887, are not expressly saved or repealed in the Punjab Alienation of Land Act, 1900, with the result that the right given to the landlord in express terms by Statute is not taken away and is not, it is thought, even limited by the necessity of obtaining sanction. It is not thought necessary at present to take away the right, but it is thought necessary that the Deputy Commissioner should be kept informed of such alienations in order to check evasions of the Act. By the section it is proposed to insert as section 2-A, it is therefore provided that the provisions of the Act shall apply to these alienations notwithstanding the provisions of sections 53 and 54 of the Tenancy Act, but in the new proviso to section 3 (2) it is provided that sanction shall always be given.

In the cases specified in section 13 of the Act the Deputy Commissioner is expressly empowered to eject the person wrongfully in possession and to place in possession the person entitled to it. No such express provision is made in respect of a mortgagee without possession who may become entitled to an usufructuary mortgage under section 6 (1) (b), nor in respect of a mortgagor who under section 7 (2) may redeem his land. It has been thought expedient to make it clear that a Deputy Commissioner may complete the case without compelling the parties to go to another tribunal before those entitled to possession can enjoy it. The power of a Deputy Commissioner should, however, be so limited as not to affect the claims of persons other than the parties before him who may have obtained possession. Sections 6 and 7 have been amended accordingly.

Section 9 has also been amended to provide for a case which has not been infrequent in practice. A mortgagee put to his election asks for a fresh mortgage which the mortgagor refuses to execute. Matters are then at a deadlock. The mortgagor, it is true, if he refuses the help offered, might be left to his fate and the mortgage might be foreclosed against him precisely as if section 9 (2) did not exist. But the refusal is generally due to ignorance and suspicion, and to leave him to his fate would be entirely to the advantage of the mortgagee. It is an object of the legislation to protect the ignorant mortgagor and to protect his heirs, and to prevent the land going from the family. Power has therefore been given to the Deputy Commissioner to execute the mortgage on his behalf. The case only arises where there is a condition intended to operate by way of conditional sale in a mortgage made before the commencement of the Act, but these will continue to be dealt with for a good many years to come, and the amendment is therefore considered advisable.

A new section has been added after section 21. It follows section 27 of the Punjab Pre-emption Act and enables a Deputy Commissioner to take action in respect of a decree or order of a Civil Court which appears to him to be contrary to the provisions of the Punjab Alienation of Land Act. It will enable a check to be placed on attempts, collusive or otherwise, to evade the Act, and provides a remedy against mistakes of subordinate Courts.

*[Extracts from the proceedings of the Punjab Council dated the  
25th October, 1906.]*

PUNJAB ALIENATION OF LAND ACT AMENDMENT BILL, 1906.

THE HON'BLE MR. GORDON said :—

The Punjab Land Alienation Act which has now been in force since 1900 was the outcome of long years of discussion. Although it had come to be clearly recognised that something must be done to arrest the process of transfer of land from the agricultural population, there was still plenty of room for difference of opinion as to the way in which this object was to be attained. Even the keenest supporters of the present Act, and those who were responsible for it, might well be inclined to entertain doubts as to the precise effects of what was fully recognised to be a legislative experiment of a rather revolutionary character. There was nothing which could give any certain indication of what those effects were likely to be.

Looking back on six years of practical working of the Act, I think we may safely say that it has been a success beyond the expectations of its most ardent supporters. That is a subject, however, on which it is unnecessary for me now to enlarge. The point on which perhaps the most serious apprehension was felt was that the Act, instead of conferring a benefit on the class for whose protection it was meant, would cause serious inconvenience to them by the contraction of credit. It was feared that the money-lending class would not continue, under the altered conditions, to make the necessary advances to the zamindars, and that the latter would not be able to get along without the assistance of this nature on which they had so long depended. We now know that this apprehension has not been justified in practical experience. Unlimited credit has undoubtedly been contracted, the village money-lender is not perhaps now so keen on pressing a loan on the reluctant zamindar, and the latter may find it more difficult to obtain the necessary funds for reckless expenditure. But there is nothing whatever to show that, as a result of the Act, the zamindar has been hampered in his business and in his daily life by the difficulty of getting ready money when he requires it. Looking at the working of the Act in this direction, it may be

said that it has had a tendency to enforce thrift without causing any general inconvenience.

It was inevitable, considering that the present Act was in the nature of an experiment, that some defects would come to light in its working. That so very few defects have been discovered appears to me to demonstrate the wisdom and foresight of those who were responsible for framing the measure. The objects of the Bill which I will presently ask leave to introduce are to effect one alteration which may perhaps be regarded as radical, and to remove certain defects in detail which have made themselves apparent.

One very striking feature of the Act is that, while the non-agricultural classes are excluded generally from the power of acquiring land belonging to the agricultural class, this exclusion was relaxed in the case of a small portion of the former. The relaxation was undoubtedly due to the apprehension I have already alluded to. The genesis of the *statutory agriculturists* may be said to have been the result of the fear that undue economic inconvenience might result from the exclusion *uno ictu* of the entire money-lending class.

Except to the initiated the term *agriculturist* would certainly convey an erroneous impression of what it was intended to cover. The word had come to be used in connection with the revenue statistics of the Province to denote a person whose hereditary occupation was not agriculture, but who had acquired property in agricultural land. We had come to make a distinction for statistical purposes between those who had recently become land-owners and those who had been land-owners for some time. The latter were known as *old agriculturists*, and it was this class in whose favour it was decided to relax the exclusion from the power of acquisition. It was necessary to draw some artificial line of distinction between the two classes of non-agricultural land-owners which we were creating, *i.e.*, those on whom it was considered desirable to confer the power of acquisition because of the fact of their having held land for a long time, and those who had acquired land more recently and were therefore held not to be entitled to the privilege. This was effected by defining in the Act an *agriculturist* to mean any person who in his own name or in that of his ancestor in the male line was recorded as an owner or as an occupancy tenant at the first Regular Settlement of his district. But the framers of the Act did not go so far as to extend

the advantages which the privileged position involved to all who came within the definition, and section 3 (1) (b) permits permanent alienation of land by a member of an agricultural tribe only to a person who 'holds land as an agriculturist in the village where the land alienated is situated.' Thus the privileged *agriculturist* owed his position to two circumstances which might be purely accidental, the point of departure in respect of the original acquisition being taken to be the first Regular Settlement, while the second accident was that of the acquisition having been made in the particular village.

It was not to be expected that a distinction of such a highly artificial nature would be at once understood even by those directly affected. The ordinary zamindar at once grasped the fact that he could not in future make a permanent alienation of his land except to one of his own class; but the privileged *agriculturist* was beyond not only his comprehension, but also as a rule that of the agriculturist himself, and, it may be added, of the ordinary run of subordinate officials who had to deal with the details of the working of the Act. Owing to this and other reasons, it has come about that comparatively little use has been made of the permission to make permanent alienations to statutory agriculturists, while we have the broad fact that, notwithstanding this result, the Act has hitherto worked with all the success that could be desired, and without any of the anticipated economic difficulties in view of which the statutory agriculturist was created.

It has thus been proved in practice that the statutory agriculturist is not a necessity for the working of the Act. It has also been proved that the maintenance of this artificial class is highly inconvenient. The arbitrary line drawn by the Act as to the time before which the qualifying acquisition must have been made works most irregularly. First regular settlements were effected in the Punjab between the years 1837 and 1870, or even later. Each claim to be an agriculturist requires special inquiry, and there are many troubles and uncertainties involved in the determination of the question. Moreover, further permanent alienations by an *agriculturist* alienee are subject to special restrictions, and this involves ear-marking the areas concerned, while there are other numerous complications which need not be detailed. These reasons fully justify the conclusion that 'the confusion and trouble caused by the introduction into the Act of the *statutory agriculturist* are such as would only be justified

by a very much stronger demonstration of the necessity and utility of the provisions (to this effect) than has so far been brought to notice.'

There is the further consideration of the mischievous effects which are likely to ensue unless the *statutory agriculturist* is eliminated. The agriculturist of the Act belongs in the great majority of cases to the money-lending class from whose encroachments we specially desire to protect the Punjabi peasant, and there are indications which clearly point to the necessity of protecting the latter against the statutory agriculturist. There appears to be every probability that, unless we interfere, considerable quantities of land would before long pass from the agricultural to the privileged portion of the money-lending class. There is the further real danger of the privileged *agriculturist* taking over the debts and mortgages of other money-lenders who have not the favoured status and then proceeding to acquire the lands of the indebted peasants.

I should add that when the Punjab Act was extended to the North West Frontier Province in 1904 the provisions relating to the statutory agriculturist were cut out. Again, in the Bundelkhand Act, (1903) there is nothing to correspond to the *agriculturist* of our Act, while in framing the Punjab Pre-emption Act, 1905, we studiously avoided the insertion of any provisions based on the presumption that the statutory agriculturist was a permanent feature in our legislation.

For the reasons which I have detailed, not, I hope, at too great length in view of the importance of the matter, the general conclusion has been accepted 'that the introduction of the *agriculturist* into the legislation of 1900 was unfortunate, and that the artificial provisions then inserted may now be abrogated as being unnecessary, inconvenient and mischievous.' The main object of the present Bill is to give effect to that conclusion.

The opportunity has at the same time been taken to provide for certain minor alterations in the Act which the experience of the last six years has shown to be required. These alterations fall under six heads, concerning—

- (i) the effect of the Act on occupancy rights ;
- (ii) the treatment of gifts for religious or charitable purposes ;
- (iii) the authority required for notifying agricultural tribes.

- (iv) the enforcement of the provisions of the Act regarding temporary alienations ;
- (v) the completion of the existing provisions regarding the conversion of conditional sales into temporary alienations.
- (vi) the relation of the civil courts towards the executive in the administration of the Act.

I will now deal with each of these heads in the order given.

(i) First as regards the question of *occupancy rights*. It was the intention of the framers of the Act that the provisions of the Act should not apply to occupancy rights, probably because it was thought that the Punjab Tenancy Act did all that was required in the direction of restricting the alienation of such rights. In 1904, however, the Chief Court ruled that the definition of *land* in the Act did include such rights, and that decision has been since acted on. It has now been decided to remove all further room for doubt and to confirm the present practice by expressly including occupancy rights in the definition of *land* which the Act contains.

An obvious device for evading the provisions of the Act was for a member of the agricultural class to confer rights of occupancy on a person in whose favour he could not effect an alienation of proprietary rights. It has, therefore, been thought advisable to include the grant of occupancy rights in the definition of permanent alienation given in section 2 (4) of the Act, so that under section 3 such grants may, if necessary, be prevented where the alienee is not a member of an agricultural tribe. I should explain, however, that there is no intention to prevent the Deputy Commissioner sanctioning such alienations where the object is to promote agricultural development by giving favourable terms to new settlers and the like.

Another point in connection with occupancy rights is that under sections 53 and 54 of the Punjab Tenancy Act a landlord can claim pre-emption in the case of a sale of, or foreclosure of a mortgage on, a right of occupancy. These sections afford a possible means of evading the provisions of the Land Alienation Act ; and, while it is not intended to place restrictions on the *boná fide* exercise of the right of pre-emption by landlords who do not belong to the agricultural class, it is considered advisable that such transfers should be subjected to the review of the Deputy Commissioner. While, therefore, on the

one hand, such transfers are made subject to the provisions of the Act, it is at the same time provided that the Deputy Commissioner shall sanction transfers of this nature made *boná fide* by a tenant to his landlord [clauses 3 and 4 (2) of the Bill].

(ii) *Gifts for religious or charitable purposes.*—Gifts of this nature are expressly excluded from the definition of ‘permanent alienation’ in the Act as it now stands, and here again there is an opening for evading the restrictions imposed by the Act. In the Bill this matter is dealt with on similar lines to those applied to the purchase by a landlord of occupancy rights, *i.e.*, the sanction of the Deputy Commissioner will be necessary, but it is provided that sanction must be given to all *boná fide* gifts of this character.

(iii) The permission of the Government of India has been obtained to a change in respect of the authority for notifying agricultural tribes. Section 4 of the Act requires the sanction of the Governor-General in Council before a tribe can be notified as an agricultural tribe. The work of notifying tribes has been practically completed, and the general principles on which they are selected for notification have been determined, so that there is no further object in requiring previous sanction. Clause 5 of the Bill provides for the deletion of the words which make such sanction necessary.

(iv) The fourth point to be noticed is one of some considerable importance in the practical working of the Act. One of the main features of the Act was the limitation of the period of years for which land could be temporarily alienated by members of agricultural tribes to outsiders, and power was given to the Deputy Commissioner to oust a mortgagee or lessee who remained in possession after the expiry of the prescribed period. But two defects or omissions have come to light of which I will notice the more important first. Where a mortgagee under either of the first two forms of mortgage permitted by section 6 is in possession of the land, section 7 (3) permits the mortgagor to redeem the land on payment of the mortgage debt or the proportionate amount of it which the Deputy Commissioner determines to be due. But if the mortgagee declined to receive the amount due when tendered by the mortgagor or to give up possession, the mortgagor would have to face the troubles and expense involved in civil litigation. It is a very common cause of complaint that a mortgagor may be quite ready and willing to make the pay-



ment necessary for redemption, or may even have made it, but finds himself prevented from getting back his land owing to the passive resistance of the mortgagee. It is now proposed (clause 7) to give the Deputy Commissioner power to eject the mortgagee where either (1) it is proved to his satisfaction that the mortgagor has paid the mortgage debt or such proportion of it as the Deputy Commissioner finds to be equitably due, or (2) the mortgagor tenders the amount due.

The other defect is of less importance. Where a mortgage is without possession and the mortgagor fails to fulfil the terms of the mortgage, the mortgagee may apply to the Deputy Commissioner to be put in possession, and the Deputy Commissioner may thereon determine that the mortgagee should be put in possession for a period. But the Deputy Commissioner was not at the same time given the power of enforcing his decision by putting the mortgagee in possession. Clause 6 has been framed to remedy this omission.

(v) The fifth of these minor points in respect of which it is proposed to remedy the defects brought to light in the working of the Act concerns the matter of mortgages with condition of sale. The Act declares null and void a condition of sale in a mortgage made after the commencement of the Act. In the case of a mortgage with condition of sale executed before the commencement of the Act the Deputy Commissioner is empowered to put the mortgagee to his election whether he will agree to the condition of sale being struck out, or will accept a fresh mortgage in one of the authorized forms. It has been found in a good many cases that where the mortgagee accepts the latter alternative further progress is stayed owing to the refusal or neglect of the mortgagor to execute a fresh deed. The refusal might be due to one of several causes; and in particular it would obviously be to the advantage of the mortgagee that the mortgagor should refuse, if the result was to leave the condition of sale effective. It has been considered advisable, in the interests of the mortgagor, to insure that he should not suffer the consequences of his refusal or inaction, and it is accordingly provided in clause 8 that, in such circumstances, the Deputy Commissioner should have the power to execute the deed on behalf of the mortgagor.

(vi) The last point to be noticed concerns the action of the civil courts in relation to the working of the Act. It has been found that in a large number of cases subordinate civil courts have passed decrees

(usually with the consent of the parties) involving transfers of land in contravention of the provisions of the Act. This is a very insidious form of evasion, because the civil appellate court is seldom moved to interfere, and there is no other means of putting the matter right. Either such cases may escape the notice of the Deputy Commissioner, or if they do come to his notice, he finds himself helpless to intervene. It is now proposed to provide means by which (1) the Deputy Commissioner shall be kept informed by the civil courts of all decrees which they pass involving transfers of land from members of agricultural tribes to money-lenders, and (2) he shall be in a position, apart from the wishes of either party, to move the superior civil courts to interfere. Clause 9 of the Bill has been framed with this object. It follows the analogy of section 27 of the Punjab Pre-emption Act, and provides a procedure by which the Deputy Commissioner will be able to bring before the superior civil courts, with a view to revision, any decree of a civil court which appears to him to be contrary to the provisions of the Act.

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## CHAPTER V.

### PROVISION OF BORROWING FACILITIES.

[*Despatch from the Governor-General of India in Council to the Secretary of State for India.—No. 7 (Revenue), dated 31st May, 1884.*]

#### AGRICULTURAL BANKS.

\* \* \* We have the honour to submit, for your Lordship's consideration, a copy of correspondence which has passed between us and the Government of Bombay on the subject of establishing an agricultural bank in the Deccan.

2. The utility of similar institutions in Europe, America and Australia is well known to your Lordship, and we understand that in the British Colonies especially the progress of agriculture and the various enterprises connected therewith have been much advanced by the monetary assistance thus afforded to the cultivating and land-owning classes. There are indications that India, no less than the countries to which we have referred, suffers from want of loanable capital. The rate of interest is extremely high even where the security is of the best description, and the agriculturist when in need of money for the most prudent purposes, has to pay so dearly for a loan that it absorbs the profits of his business. The Deccan Ryots Relief Act, the Jhansi Encumbered Estates Act, and other similar measures of an exceptional character have tended to relieve the peasantry in some localities of a hopeless load of debt; but they have not enabled the thrifty and industrious cultivator to obtain money for agricultural purposes on easier terms or more equitable conditions. We have endeavoured to meet this need in respect of loans for land improvement by advances of public money under the Land Improvement Act; but this is not sufficient. The cultivator requires money from time to time for other purposes, and it has been found that if he can only borrow for one particular object from the Government, he prefers to deal entirely with the money-lender who will lend for all purposes. What is wanted, therefore, is a private bank which will in a measure take the place of the village usurer, but which will at the same time be bound by the articles of its constitution to restrict its dealings to the more solvent cultivators and to supply capital at comparatively easy rates and on equitable conditions.

3. We consider that banks of this kind if they could be successfully started, might be of considerable benefit to the country. There are, however, special difficulties to be encountered in India, which are not met with elsewhere in the way of their establishment. Improvidence of cultivators and uncertainty of seasons are elements which are liable to interfere with a bank's success; and though these difficulties might be met by prudent management, yet the bank could not hope to succeed unless it could start in a field where the agricultural classes were unencumbered with debt, or were enabled to liquidate their existing debts on reasonable terms.

4. When, therefore, we considered the subject in 1882 in connection with the Land Improvement Bill, we came to the conclusion that more assistance must be given by the State to an agricultural bank in India on its inception than is necessary in other countries. More especially is this the case in a part of the country like the Deccan, where the need for a such a bank on the one hand is greatest, and the difficulties arising from the indebtedness of the population and from the precariousness of the seasons are, on the other hand, most serious. If the experiment succeeded, similar banks might probably be started with less aid or without any aid from the State, and the benefits likely to arise from such institutions seemed to us so great that we were prepared to give cordial support to a pioneer bank. We saw that it would be necessary to clear the way for the bank by liquidating the debts of the agriculturists within the selected area, on the understanding that our advances would be taken over by the bank when it started business. We also saw that confidence must be given to the promoters of the bank by allowing it, for a time at least, to recover its loans through the revenue courts, by assigning in some cases priority to its loans, and by remitting stamp duty and other dues for a certain period in its favour. In return for this assistance we considered that the bank should limit its rate of interest to 12 per cent. and that its management should conform to regulations framed by us somewhat on the model of those prescribed for the Credit Foncier in Egypt, with which our colleague, MAJOR (NOW SIR E.) BARING, was well acquainted. On these lines we sketched out a scheme which we thought well worthy of an experimental trial, although we were not prepared to go beyond a limited experiment which might enable us to determine by the trial of practical experience the conditions under which banks of

this kind are likely to be successful ; the real value of the objections which are sometimes urged against them, and the best mode of meeting any difficulties to which their working may be exposed in India.

5. Hearing from Bombay that a number of native bankers in Poona and Bombay were willing to give the scheme a favourable reception, we communicated our proposals to the Government of Bombay for consideration and opinion. That Government stated in reply that the scheme was not impracticable, and that it was willing to try it on a small scale, if the details could be successfully arranged. Two syndicates of bankers had been formed, one in Bombay and the other at Poona, which were each prepared to try the experiment if the Government would accede to their conditions. The Government of Bombay recommended us to accept the offer of the Poona Committee, as their demands were more in accord with our original proposals than those of the Bombay Committee. The Bombay Committee, among other things, asked for a monopoly of the agricultural banking business throughout the Presidency, and for a Government guarantee to its debentures. A further proposal has been made by MR. JAVERI LAL YAJNIK to start a similar bank in Guzerat ; but his scheme has not yet been considered by the Bombay Government, and we only mention it here in order to show that the experiment has excited considerable interest.

6. The Government of Bombay suggested that the experiment might be confined to the Purandhar *taluka* in the Poona district, and reported that a sum of 6½ lakhs would probably be required for the preliminary liquidation of the debts of the cultivators. Voluntary liquidation of the nature suggested by us was considered essential to the scheme, and the Bombay Government agreed with us that legal provision would be requisite in order to place the Government advances in the position of first charges. At the close of the letter the very important question was raised whether the whole of the bank's dues should be regularly recovered by the revenue courts or whether resort to this agency should be strictly confined to cases of default. As it was eminently desirable that there should be no misunderstanding on this important point, we explained our views to the Government of Bombay in our letter, No. 572, of 23rd May, 1883. We stated that the aid of the revenue court could not be given to the bank except on proof that it had attempted to

collect the debt; and that in order to secure due exertion on the part of the bank, it might be desirable to require it to pay fees on all processes issued on its application through the revenue courts. In reply to our letter, the Government of Bombay expressed its entire concurrence with this view, and informed us that the Poona Committee also accepted it, though deprecating any charge on the issue of processes. In regard to this point we may here state that we adhere to our opinion that such fees should be charged.

7. The other questions and demands of the Poona Committee have been carefully considered by us, and, with the consent of the Government of Bombay, we have again consulted SIR WILLIAM WEDDERBURN personally, who is acquainted with the views of the Poona Committee, on all the details of the scheme. We propose now, with your Lordship's concurrence, to sanction the experimental establishment of the bank in the Purandhar *taluka*, and to find the funds required for the preliminary liquidation. As all that we at present propose is the trial of an experiment, we wish to meet the views of the promoters as far as we can, so that the trial may be as fair as possible. At the same time we keep ourselves free to watch its results, and commit ourselves in no way to future action either with regard to the bank which it is now proposed to open, or to any other institution of the same kind. We consider that the requisite legislation should be undertaken by the Government of Bombay (though this may require a confirming Act to be passed by the Viceroy's Legislative Council), and we propose to leave the supervision of the bank in the hands of that Government.

8. The most important question with regard to the aid proposed to be given to the bank is undoubtedly the recovery of the bank's debts through the revenue courts. The objection has been raised that it is undesirable in principle to give extraordinary remedies for the recovery of ordinary debts, and that if the aid of the revenue courts were often invoked, they might incur the disfavour which naturally attaches to the office of debt collector. We are not insensible to the force of these objections: indeed, we should consider (as would also the promoters themselves) the whole scheme to be a failure if frequent recourse were to be had to this extraordinary method of procedure; but the promoters of the scheme say they look to the recovery of their instalments regularly as they fall due from the crop, and urge that the existence of this power will give them valuable facilities

for so recovering their debts instead of allowing them to accumulate till recovery is only possible by sale of the land itself. The expense and dilatoriness of the Civil Court procedure tend necessarily, they urge, to the latter mode of recovery. As they attach very great importance to this part of the scheme, we think that the concession should be granted in a restricted form. We therefore propose to confine the privilege to the case of debtors whose affairs are liquidated by the Government in co-operation with the bank, and to restrict it to a period not exceeding 10 years. This would apparently be accepted by the promoters of the bank, and it is justified by the consideration that the bank takes the place of Government in regard to the liquidated debts of the ryots. Within this period we would allow the bank to recover through the revenue authorities from the debtor and his successors in interest, not only the original advance, but also subsequent loans made to him for whatever purpose by the bank. We would require the bank to furnish proof that it had attempted to recover the debt through its own agents, and we would prescribe light fees on all processes. We would further suspend the the execution of such processes in any season in which the Government may have thought it right to suspend the land revenue payable on the debtor's land. In respect of other debtors, whose affairs had not been liquidated, the bank's remedies would be restricted to the ordinary provisions of the Civil Code. We are also willing to exempt the bank from stamp duty on bonds and documents connected with advances to all classes of debtors, and from Court fees on the institution of civil suits, for a period not exceeding 10 years, to be fixed by the Government of Bombay. We would also for a similar period exempt the bank from registration fees.

9. As to the priority to be given to the bank in respect of its claims, we originally were of opinion that it would be sufficient if the bank were placed in the position of first mortgagee in respect of the liquidated debts which it took over from Government, and also in respect of any loans which were received for, and *bonâ fide* applied to, land improvement. The Poona Committee, however, have objected to this limitation, and urge the impossibility of the bank distinguishing in regard to the purposes to which its loans may be applied; and after fully considering the point, we are now prepared to assent to a provision that, where the bank has under the liquidation proceedings acquired the position of the first mortgagee, it should be given, in

respect of further limited advances made to these clients, the same priority as an ordinary first mortgagee can acquire by stipulation in accordance with Section 79 of the Transfer of Property Act. Provision would also have to be made for limiting the maximum amount of further advances (which we agree with the Poona Committee should in no case exceed 75 per cent. of the security), and for declaring what should constitute notice to subsequent mortgagees.

10. A third concession of some importance asked for by the Poona Committee is that, the Government shall engage not to revise during the next 30 years the land assessment of such villages of the taluqa as are still under the original settlement. We agree with the Government of Bombay that no promise to this effect can be given, since such revision operations as are now going on must certainly be completed. It has since been suggested that, should the bank consider this absolutely necessary in order to give security to their operations, it might be possible to postpone for a fixed period the collection of such of the revised assessments as have not been actually introduced when the liquidation scheme is complete; but we abstain from expressing an opinion on this suggestion, which has not yet been considered by the Government of Bombay; we apprehend, however, that the recently declared policy of the Government of Bombay, in respect to future revisions of assessment, has now lessened the importance of the question, as it practically gives that security to landed property throughout the Presidency which the Committee have asked for in respect of the area selected for the operations of the bank.

11. We need not trouble your Lordship with the minor details of the scheme, which remain very much as they were stated in our letter of 5th December 1882 to the Government of Bombay. The liquidation would be entirely voluntary, and, as suggested by the Poona Committee, might be confined to occupants of land whose assets are at least double the gross amount of the awarded debt. The rate of interest on advances made by the liquidators might be fixed at 9 per cent. with a sinking fund of from 1 to 3 per cent., and it is proposed that the bank should take over the entire amount of the sum advanced by Government on an agreement to repay it within two years, with interest at 4 per cent. The Bank would be at liberty to make loans for any purposes, or to any persons having a transferable interest in land within the *taluqa*, but it would engage to limit the



rate of interest on all loans to a maximum of 12 per cent. and to conform, in respect to other matters, to the rules prescribed by the Government.

12. We have directed the Government of Bombay not to take any further action in the matter until we are acquainted with your Lordship's opinion on these proposals. We do not think that any smaller concessions than those mentioned by us will satisfy the promoters of the bank, and we are anxious to give effect to a scheme which we believe to be advocated on purely disinterested grounds, which can, under the experimental conditions proposed, be carefully watched, and which is likely, if successful, to be productive of much benefit to the country. We view it as an experiment, and we think that, even if the results should not equal the expectations of its advocates, they will at least throw considerable light on the causes and extent of the Deccan ryot's indebtedness, and enable us to determine whether his condition is susceptible of improvement by any action which can be taken by the Administration.

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[*Despatch from the Secretary of State for India to the Governor General of India in Council, No. 95 (Revenue), dated 23rd October, 1884.*]

I have considered, with the attention which their importance demands, the papers which accompanied the letter of your Excellency's Government in the Revenue Department, No. 7, dated 31st May last, regarding the establishment, as an experimental measure, of an agricultural bank in the Poona district.

2. The relief of the peasantry of the Deccan, and indeed of other parts of India, from their indebtedness, is so desirable and so important an object that I should be disposed to entertain favourably any measures for that purpose placed before me by your Excellency. I have, therefore, given the most careful examination to the principles of the project now submitted to me, and to its details, so far as they can be gathered from the correspondence. Some objections to the proposed measures have, however, suggested themselves to me, and they appeared to me to have such force that I am constrained to request your reconsideration of the question.

3. The first observation which occurs to me is that the scheme is scarcely what it purports to be. It is professedly a private enterprise, and it is distinctly stated that from private enterprise

alone is real progress to be looked for in providing the agricultural classes with capital upon reasonable terms. Yet it is impossible to avoid the conclusion that the proposed bank will virtually be a Government institution. Government will provide, in the first instance at least, a large part of the capital (for it is apparent that much of the working capital will be obtained from the sum advanced by Government for the liquidation of the existing debts of the ryots); Government will, at any rate, in the last resort, undertake the collection of debts due to the bank; and the bank is to receive special privileges, and be placed by law in a position which, in my opinion, could be justified only on the assumption that it is to work on behalf of Government for political or social objects rather than to be conducted on ordinary business principles.

4. The scheme, as laid before me, consists of two parts, the liquidation of the existing debts of the ryots, and the substitution of the banks for the *sowkars* in future loan transactions of the agricultural classes.

5. As regards the first, I find it difficult, owing to the deficiency of detailed estimates, to judge of the financial soundness of the scheme. I observe, however, that it is conjectured that about half the ryots of Purandhar are in debt, yet not so completely insolvent as to make any attempt to relieve them hopeless; and that the debts of this moiety might be liquidated for about  $6\frac{1}{2}$  lakhs of rupees. I find, too, that the total revenue of the fully-assessed lands of Purandhar is about 86,000 rupees; but, in as much as the solvent ryots are those with the larger and more valuable holdings, it may be assumed that the assessment on the lands of that portion of the landholders with whom the scheme proposes to deal will reach 50,000 rupees. The total value of the net produce of these lands would, on the "half assets" principle, be about one lakh of rupees; in other words, it would not be safe to assume that in a series of years these ryots could pay in liquidation of debt more than an annual sum equal to their assessment. But it must be borne in mind that the interest on the liquidation advances, independently of the sinking fund at 3 per cent., would amount, at 9 per cent. on  $6\frac{1}{2}$  lakhs, to 58,500 rupees per annum, a sum which, from the figures given above the ryot could not possibly pay. Even supposing that the interest were fixed at only

5 per cent., instead of 9 per cent., so as to admit of the loan of 6½ lakhs being paid off in about 21 years, no margin would be left for the ryots on which to borrow from the bank during that period. And if they can do altogether without borrowing for 20 years, there is obviously no reason for the existence of the bank. It would indeed be simpler, and not more anomalous or hazardous, that Government should advance direct to the ryots the funds needed to relieve them of their present embarrassments.

6. The scheme further proposes that Government shall lend the bank the sum necessary for the liquidation at 4 per cent., the bank charging the ryot 9 per cent. As it is, in effect, contemplated that Government shall both provide and recover these advances, it is not clear why the bank should have a profit of 5 per cent. on the transaction, and why the ryot should not have the benefit of the lower rate of interest.

7. But there appears to be a still graver objection to the proposed operations. The paid-up capital of the bank is to be, it would seem, two lakhs of rupees, of which one lakh is to be invested in Government securities as a reserve fund, and one lakh only to be employed in the business of the bank. But within two years the bank is to repay, with 4 per cent. interest the loan of 6½ lakhs advanced to it by Government for purposes for liquidation, while the ryots will refund that advance only by instalments spread over a long series of years. There is nothing to show the source from which the bank is to obtain the necessary 6½ lakhs. It is apparently intended that it should be by means of debentures, that is to say, by borrowed capital. I do not find it explained what security can be offered to debenture-holders, and it is difficult to understand how the bank could be regarded as solvent even at the outset.

8. Assuming, however, that these very grave preliminary difficulties can be overcome, that the existing debts of the agriculturists have been entirely cleared off, and that they are in a position to deal freely with the bank, I am not satisfied that the business which it could transact would be of such a kind as to meet all the ordinary requirements of the ryots. In the first place, I am informed that the existing *sowkars* are not merely money-lenders, but that they purchase produce, and supply the ryots with a market. I do not understand whether the bank is to undertake this function; and whether it is to become the great dealer in produce for the tract over which

its operations are to extend. If so, the business of the bank will apparently be of a much more speculative and hazardous character than is contemplated by the Government of your Excellency or by the Bombay Government. If not, it is not obvious where the ryots will find their market. Again, it appears to be anticipated by the promoters that the bank will make advances in comparatively large sums at a time, and for special objects, such as agricultural improvements or domestic ceremonies, which are not of constant recurrence. But loans of this character, I learn from good authority, do not form the mass of the transactions of the Deccan ryot with his village banker. He wants, and at present has a running account, on which he draws from time to time for small sums of money, or for the petty articles of his simple needs, and at harvest-time he clears, or tries to clear, by the produce of his fields, the debts thus incurred. It does not seem to me possible that the bank should undertake this petty but necessary kind of business, and, if it does not, the peasant will, in all probability, still deal with the village *sowkar*, but with this consequence, that, as the bank's claims will take precedence over other claims, the *sowkar* will have to protect himself by still higher interest and more oppressive dealings.

9. I observe that the example of land banks in France, the colonies, and other countries has been cited to prove the advantage and the practicability of the proposed scheme. I must, however, remark that the success of banks dealing with farmers and planters, who cultivate for a profit upon invested capital, affords no sure indication of the probable results of a similar institution dealing with ryots cultivating for subsistence, while there is great doubt whether the Credit Foncier of Egypt, which is said to be in many respects an establishment analogous to that which is proposed for the Deccan, has proved, on the whole, beneficial to the fellahs of Egypt.

10. As regards the condition that debts to the bank shall be recovered by the agency of the revenue courts, I attach great weight to the criticisms of the Bombay Settlement Commissioner, to the effect that, should this be done, Government will incur all the unpopularity and odium of collecting debts which, though private obligations, are treated as public demands. It would be out of the question that the revenue officers should undertake this function without satisfying themselves of the justice of the bank's demand, and that they should put in force the summary process of the revenue law upon

an *ex-parte* statement ; and if they are to inquire, however summarily, into the justice of the bank's demands, they will in reality assume the functions of a civil court. Nor are my objections removed by the proposals contained in the Bombay letter of 26th July 1883, which purport to provide that the assistance of the revenue court will be given to the bank only in the last resort. It is evident that the bank will practically have no other agency for the realisation of its demands.

11. It is doubtless a serious misfortune that the landholders in India, even when comparatively prosperous, and able to give good security, are usually unable to obtain the temporary accommodation they require, except at a ruinous rate of interest. I fully recognise that it would be the greatest possible benefit to the agricultural community if the place of the present race of needy and extortionate money-lenders were supplied by banks, or other institutions, possessing sufficient capital, and honestly managed. But I need scarcely remind your Excellency that no amount of support or encouragement from Government can render banking operations successful, whether in India or elsewhere, if they are begun on an unsound basis, and are not conducted on true commercial principles.

12. It appears to me doubtful whether any ingenuity can provide an effectual substitute for the operation of the ordinary laws of trading between the ryots and those, whether *sowkars* or banks, from whom they obtain advances ; and whether, without the stimulus of risk of loss as a result of neglect and want of proper precaution on its part, any bank could carry on its business with success. There is a strong presumption that Government cannot directly do much more for the relief of the agricultural debtor than take care that in disputes between him and his creditors the law shall provide, and the courts shall administer, speedy, cheap, and equal justice, and that the ryot shall be as little liable as is possible, from his ignorance, his poverty, or his position, to be defrauded or oppressed.

13. In the four districts in which it is in force, the Deccan Agriculturists' Relief Act has, I am glad to believe, done something in this direction, and it deserves the careful consideration of your Excellency whether its provisions, or any of them, may be made more widely applicable. But, notwithstanding the immense improvement which has of late years been effected in the efficiency and integrity of the administration of civil justice generally, much remains to be done

towards making it cheap and speedy. Everything which adds to the expense, delay, and difficulty of recovering just debts increases the price at which the money-lender gives his help to the landowner.

14. It is possible that the adoption of an improved system of registration of titles to land might tend to give such further security and greater facility to the business of agricultural banking as would render it practicable for private capitalists to embark therein with a fair prospect of success, on terms which should not be so onerous to the cultivating classes as those to which the latter are now compelled to submit when borrowing from the village *sowkars*. It is, I am informed, in reliance on an effectual registry of titles that the land banks of Europe and the British colonies have been carried on, and although I am conscious of the very different conditions under which an Indian agricultural community exists, yet I recommend this suggestion to the consideration of your Excellency's Government, as possibly affording some opening in the desired direction.

15. With regard to indirect assistance which Government might give to agricultural banking enterprise, I desire to make one suggestion with reference to the question of the ryots' market, alluded to in paragraph 8 above. I understand that in the Central Provinces, and other parts of India, great benefit has followed the establishment of public marts or corn exchanges, where the cultivators can sell their produce for the best price in open market, and thus avoid the necessity of handing it over to a money-lender on account. That sale in open market should be the general practice is, I think, essential to the success of an agricultural bank, and the general establishment of public marts seems to me an object which your Excellency's Government should encourage, and one on which local bodies may with great advantage expend their funds.

16. While I have been compelled to state my conviction that the proposals contained in your letter of the 31st May are not capable of practical application, I hope that your Excellency will understand that I am prepared to give the most careful attention to any scheme for the promotion of the objects you have in view, which your government may suggest after consideration of the objections stated in the present despatch.

[Extracts from the Famine Commission's Report, 1901, Part III,  
pp. 97—102.]

#### SECTION IV—AGRICULTURAL BANKS.

288. We attach the highest importance to the establishment of some organization or method whereby cultivators may obtain, without paying usurious rates of interest, and without being given undue facilities for incurring debt, the advances necessary for carrying on their business. Agriculture, like other industries is supported on credit. "The *sowkar* is as essential in the village as the ploughman," said the Secretary of State in reviewing the Report of the Deccan Riots Commission and the statement is true in existing circumstances. But, owing to causes, which it would be tedious to trace, the *sowkar* or *bania* has, from being a help to agriculture, become, in some places, an incubus upon it. The usurious rates of interest that he charges and the unfair advantage that he takes of the cultivators' necessities and ignorance have, over large areas, placed a burden of indebtedness on the cultivator which he cannot bear. Passed on from father to son, and continually swollen in the process by compound interest, this burden of indebtedness has become hereditary and retains the cultivating classes in poverty, from which there is no escape, that we can perceive, except through state assistance or the discovery of some other means by which the cultivator may get, on easier terms, the accommodation that he needs. But even the fuller measure of State aid in the shape of *takavi* loans, which we shall recommend, will go but a small way towards removing the difficulties of the whole class. Government cannot possibly finance all the cultivators of a district, still less of a province. In the establishment of Mutual Credit Associations lies a large hope for the future of agriculture in India; and from the enquiries we have made there is reason to believe that, if taken up and pressed with patience and energy, such associations may be successfully worked.

289. This question is, we believe, to come shortly under the consideration of the Government of India, but it is necessary that we should call attention to its importance here. The subject was broached by us in all the provinces that we visited, and was everywhere regarded with interest. Moreover, as the Government of the North-Western Provinces and Oudh has actually taken steps to put the principles of rural co-operative credit into practice, we

think it well to offer a few brief remarks on the direction which, in our opinion, a practical scheme of Agricultural Banks should follow.

290. The underlying idea in all Mutual Credit Associations, such as we recommend, is that a number of persons, by combining together, create a new and valuable security, which none of them previously possessed as individuals. Co-operation substitutes for isolated and helpless agricultural units a strong association competent to offer guarantees and capable of inspiring confidence. The advantages of lending to groups instead of to individuals need no demonstration. It is simpler for a creditor to deal with a group of fifty or a hundred associated cultivators than with the same number singly ; it is simpler for him to obtain repayment from the group than from each of the members composing it ; it is simpler for the group to make its own arrangements with each number than for the lender to try to do so. By the same process of reasoning, it is simpler for a Central Agricultural Bank to deal with groups of associated cultivators in each village than to make any attempt to deal with each cultivator singly.

291. To obtain the full advantages that co-operation offers, any group of cultivators, voluntarily associating together to obtain credit on their joint responsibility must agree to abide by certain recognised rules. Notwithstanding the difference between Eastern and Western conditions, the rules of the Raiffeisen credit associations are probably the best that, subject to necessary modifications, any similar association in India could adopt. On this point some further remarks are required ; but before offering them, we desire to remove some misconceptions, which our enquiries have shown to prevail, both as to the scope of village banks and as to the fundamental principles which should regulate their working.

292. It should be understood from the outset, and made perfectly clear to all concerned, that the establishment of a village bank does not imply the creation of an institution from which the villagers may draw money at their discretion. A village bank, based generally upon the Raiffeisen system, admits no one to membership who does not fulfill certain conditions which are essential for the safe conduct of the bank's operations ; it works only for the benefit of its own members, and it grants no loan except for purposes connected with the promotion of agriculture. It is most important that these objects and limitations should be clearly understood, so that there may be no



disappointment afterwards, and no unnecessary alarm caused to the old established village money-lender.

293. We have been told by some non-official witnesses that, if Agricultural Banks do not lend for miscellaneous purposes, they stand no chance of succeeding, and by other witnesses that, if they do lend for miscellaneous purposes and thus compete with the money-lender, they are sure to fail. We think that both apprehensions arise from a misconception of the objects in view. It is not intended to frighten the village money-lender by permitting a village bank to enter into competition with him over the whole field of his business ; still less is it the intention to encourage borrowing for unproductive purposes. No association borrowing on the joint responsibility of its members would be justified in devoting any of its funds to loans for unproductive purposes. It does not consequently enter into the scope of a village bank's operations to lend for marriage festivities or for caste feasts or similar objects. If people wish to borrow money for such purposes, or for any other purpose unconnected with agriculture, they must still go to the village *sowkar* or *bania*. The co-operative agricultural bank only aims at freeing the great business of the cultivator's life from the terrible burden, which now presses on it owing to the usurious interest taken for agricultural loans.

294. To sum up, the objects of an Agricultural Bank of this kind may thus be enumerated :—

- (1) To enable its members to obtain loans at reasonable rates for agricultural purposes by placing them in a favourable position to borrow, and by assisting in the creation of a new credit, which individually they did not possess.
- (2) To provide them with a secure place, in which to deposit their small savings.
- (3) To encourage thrift, by holding up before the eyes of the members the principle that money should not be borrowed unless for reproductive purposes.
- (4) To promote co-operation among the village community in all agricultural affairs.

295. Having thus defined the scope of an Agricultural Bank's operations, we next wish to enumerate the principles upon which they are usually based. They are as follows :—

- (1) There should be unlimited liability : members must be jointly and severally responsible for all the obligations contracted by their society.

- (2) The area in which the village institution works must be well defined and restricted to narrow limits.
- (3) Members must be carefully selected, and none admitted but those of approved character.
- (4) All services in connection with the bank's administration must be gratuitously rendered.
- (5) There should, in general, be no paid-up capital.
- (6) All net profits are payable, not as dividends to members but to the reserve fund, which must be indivisible.

A few words of explanation on these conditions are necessary.

296. Unlimited liability is insisted on, because under such conditions a few ordinary villagers can readily provide a guarantee sufficiently strong to satisfy the requirements of those persons willing to lend money to them at reasonable rates. It remains to be seen whether the principle of limitation by guarantee will not be equally efficient and more acceptable. The feeling of joint responsibility induces each member to exert himself to the utmost to safe-guard the common interest ; it compels caution in the distribution of loans to members, and causes them to hesitate over the introduction of any new members likely to cause loss to the association by unpunctuality or backwardness in making payments.

297. The limitation of area is an absolutely necessary condition in the case of a society which relies so greatly, as a safe-guard against loss, on the bond of common interest, on the influence of social pressure, and on the intimate knowledge the members have of each other's character and affairs. Usually the members of a village bank should all be residents in the same village, or in the same group of villages, provided that no one lives further than three or four miles from the Bank's head-quarters.

298. The selection of members is one of the principal factors in the success of a village bank, which should never contemplate going to law to recover any of its advances. Loans are made to members on their personal security, guaranteed according to the amount of the loan by the security of one or more other members. The greatest care at the outset must be exercised in the choice of the original members. The latter may be safely relied upon to exercise discrimination in the admission of new members, because the loss that

may be caused to the society, by the failure of a borrower and his sureties to fulfil their obligations, will ultimately fall on the whole body of members.

299. Gratuitous services in connection with the bank's business are desirable, because, as the bank works only for the benefit of its own members, and the primary object of the society is to facilitate the obtaining of loans at reasonable interest, any expense would have to be borne by the society and would tend to nullify the object in view. Moreover, such gratuitous service directly tends to foster a sense of public duty and the acquirement of business habits. As a village bank does not meet usually more than twice a month and the proceedings do not occupy more than an hour or so, the amount of labour devolving on the office-bearers is trifling.

300. The formation and indivisibility of the reserve is one of the great sources of strength to a village bank. As the association starts without any subscribed capital, the formation of a continually growing reserve to supplement the guarantee of the associated members is necessary both to enable the members to obtain better terms when borrowing and to safe-guard them from the loss which default on the part of any members might bring upon them. As the members do not associate for the purpose of profit on invested capital, but for the purpose of furthering their common interest, all profits obtained from the bank's operations are carried to a common fund, the joint property of all the members. The division of this fund is forbidden in order to prevent its growth arousing the cupidity of the members, and tempting them to break up their society for the sake of small temporary profit.

301. The village bank organised on the preceding principles must obtain at the outset from some source outside itself the capital with which it has to work. In those European countries where the system of agricultural banking has taken root, village banks are largely financed by Central Banks operating on a large scale; but in India there is no hope, in the beginning, at all events, that these Central Banks or Joint Stock Companies will come into existence. Efforts must therefore be made to create local agencies. It may be that at first such efforts may not be successful, and in this case there would be, we think, no objection to employing State aid to finance experimental village banks. But the object should be to avoid the intervention of the State, except in the matter of audit and supervision.

302. In the tract of country to be served by village banks there doubtless will be found influential landlords, merchants, and others who, apart even from their desire to take part in a movement for the public good, will find it to their interest to lend their aid. It will be possible to organise these gentlemen into a society for the purpose not only of providing funds for financing the village banks, but also for the purpose of stimulating their formation and guiding their action. The money may be subscribed in shares, each of small amount and bearing interest, say, at 4 per cent. per annum. Such a society should be called the Organization Society: and should there be any difficulty in subscribing the requisite capital, there is no reason why, to begin with, the society should not borrow the amount from Government.

303. In course of time, and when village banks have taken root, the Organization Societies in a District or even in a division may be amalgamated; when this happens, the Central Society would take on itself the function of financing and controlling all village banks in its sphere of operation. In this scheme the Organization Society would, in point of fact, be an intermediate stage of development.

304. The duties of the Organization Society may be summed up as follows:—

- (1) To promote the knowledge of the principles of Co-operative banking in the locality.
- (2) To organise village banks and to supervise their working.
- (3) To grant advances to village banks under its supervision.
- (4) To arrange for the proper audit from time to time of the bank's books.

305. In many districts there are large land-lords (we especially instance the Court of Wards, managing estates of disqualified owners) who may themselves wish to establish village banks on their estates and to advance to them, at reasonable interest, the money required for their operations. There is no reason why this should not be done, and why village banks financed by the land-lord alone should not work and prosper. But in all cases, whether the bank is financed by one capitalist, or by a society of capitalists, it is essential to solvent and successful working that there should be strict attention to business methods and regularity. To ensure this, external supervision and audit are essential.

306. The above is only a brief stretch of the principles, organisation and object of village banks founded on the RAIFFEISEN system. It appears to us that there is in every province, which we have visited, a wide scope for the establishment of such banks: some have been already established in the North-Western Provinces and Oudh. In some provinces the hope of successful working is better than in others; but everywhere there is justification for an effort. No doubt such banks may, in the commencement, meet with opposition from the money-lender, who already occupies the field, and they may also meet with suspicion and half-hearted support from those who do not understand their principles. But Indian native life presents us with instances of co-operation for mutual benefit and the principle which underlies the RAIFFEISEN system is not really foreign to the thoughts of the people.

307. The system cannot succeed unless the people themselves aid freely in working it. But, if the experimental banks initiated by the Organization Society take root in any district, the future growth of the movement will be in proportion to the desire of the people to free themselves of their present burden of indebtedness. The system separates the working bees from the drones, and gives the former an opportunity of escape from the disqualifications which now press so heavily on both classes of cultivators alike.

308. The preceding remarks apply to Mutual Credit Associations in their agricultural aspects; the same needs exist and a similar remedy applies in connection with the promotion of rural industries and the relief of artisans. It may, indeed, be possible for one association to combine both forms of relief. But in any case it will be necessary to legislate concerning the privileges which all such associations should enjoy; this matter is, we understand, already under the consideration of the Government of India.

309. There remains the larger question of encouraging land and mortgage banks and private individuals to apply capital to the permanent improvement of the soil. This was considered in connection with Act 19 of 1883, and we desire to mention with approval of its general object.

## CO-OPERATIVE CREDIT SOCIETIES' BILL, 1903.

### *Statement of Objects and Reasons.*

THE object of this measure is to provide the requisite legal basis for the establishment in India of Agricultural Banks, or—to use a more appropriate expression—of Co-operative Credit Societies. Such a scheme for improving the credit of the masses has for some time past been engaging the attention of the Government, the advantages likely to follow the provision of some means of obtaining capital, especially in connection with agricultural operations, otherwise than at usurious rates of interest having, indeed, long been recognized in this country. Legislation is called for not only in order to lay down the fundamental conditions which must be observed, but also with a view to giving such societies a corporate existence without resort to the elaborate provisions of the Companies Act; but it is thought that legislation should be confined within the narrowest possible limits. The Bill has, therefore, been drawn so as to deal only with those points which the Government consider to be essential, and its provisions have been expressed in simple and general terms, a wide rule-making power being reserved to Local Governments, so that what is felt to be of the nature of an experiment may be tried in each Province or part of a Province on such lines as seem to afford most promise of success. An explanation of the more important features of the draft will be found in the annexed notes on its clauses.

### *Notes on Clauses.*

*Clause 3.*—Much importance is attached to the appointment of a special officer in each Province, who should, as Registrar of Co-operative Societies, guide and control such societies, particularly in the early days of the movement. Gradually, no doubt, as experience is gained and the societies are able to stand alone, the fostering care of the Registrar will be less required, and eventually his duties will become for the most part purely official.

*Clauses 5-8.*—The main object is to encourage thrift and co-operation among persons of limited means, and it is not intended that the special facilities and concessions contemplated should be made available for the ordinary operations of capital. The Bill is conceived primarily in the interests of agriculturists, but it is recognized that societies may properly be started among other classes of small means

in towns and large villages. While, therefore, it is proposed to allow urban societies to be promoted on a share basis with limited liability, for rural societies it has been decided to insist upon the principle of unlimited liability. The utilisation of combined credit for the benefit of individual agriculturists is the kind of co-operation which it is desired to encourage, and towards this end the measure is mainly directed. It seems essential that the main qualifications for admission to membership of a society, whether rural or urban, should be laid down by legislation, and it is thought that the most prominent qualification should be residence in the same neighbourhood, inasmuch as it is an essential principle that the lenders should have that accurate knowledge of the circumstances of the borrowers which can only thus be obtained. It is also important that members should be eligible for admission by election only so as to secure that mutual confidence upon which successful co-operation must depend.

*Clause 8.*—As it is desired to foster thrift and mutual co-operation, it is provided that loans shall be admissible to members only, save in the case of urban societies, when it is proposed to allow, subject to the sanction of the Registrar, advances to be made to rural societies in the same district. The question whether pawn-broking should be countenanced has been much discussed, and the conclusion embodied in clause 8 is that it should be prohibited except as regards advances by rural societies on the deposit of agricultural produce.

*Clauses 9 and 10.*—These clauses aim at strictly limiting the number and value of the shares held by a single individual, and rendering shares untransferable until they have been in the possession of the holder for a certain period. The object is to prevent the acquisition of a predominant interest in a society by speculators whose advantage it might be to wreck it, or to use the facilities furnished by the measure to start banks for ends other than those which it is desired to promote.

*Clause 11.*—It is here provided that the interests of individual members in the funds of a society shall be exempt from liability to attachment by civil process. To deposits it has been decided that this exemption should not be extended.

*Clause 12.*—Facilities for the payment of what is due to a member on his death are here provided.

*Clauses 13 and 14.*—The proposal that a summary process for the recovery of loans should be secured in favour of societies has been

discarded, and these clauses are confined to giving them a prior claim as against ordinary creditors on the crops grown, and cattle, etc., purchased with the aid of advances, and also a lien on shares, dividends and deposits.

*Clause 15.*—This provision will render official audit compulsory, and, it is believed, will give the outside public and the members confidence in the management. Even although a society may receive no financial assistance from the Government, yet it will obtain valuable privileges under the proposed Act, and it is but reasonable that it should at the same time be obliged to submit its accounts to some check, which must in this country take the form of an official audit.

*Clauses 17 and 18.*—These provisions as to the dissolution and liquidation of a society call for no special explanation.

*Clause 19.*—Power is here taken to grant by executive order certain exemptions in respect of income-tax, stamp-duties, and registration-fees. In provinces where there are no records-of-rights, the searching of registers kept under the Indian Registration Act, 1877 (3 of 1877), is the only means of ascertaining the existence of encumbrances upon land ; but the right to search free of charge is a privilege which might be used to obtain information required really for private purposes, and power has, therefore, been expressly taken to withdraw it, in case of such abuse, from any particular society.

*Clause 20.*—The Bill does not provide for the grant of financial assistance by the Government ; but it may be necessary to afford such assistance, and the matter is left to be regulated by executive order. The power summarily to recover any advances made in this way, as also any other sums due to the Government, is reserved by clause 20.

*Clause 21.*—The object of the wide rule-making power here contemplated has already been adverted to.

*Clause 22.*—It is proposed, as has also been explained above, that duly registered Co-operative Credit Societies should not be subject to the provisions of the Indian Companies Act, 1882 (6 of 1882).

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*[Extracts from the Proceedings of the Governor General's Council,  
dated the 23rd October, 1903.]*

CO-OPERATIVE CREDIT SOCIETIES' BILL.

SIR D. IBBETSON said :—

One of the most difficult problems with which the small agriculturist is everywhere confronted is, to obtain the money which is necessary for his operations at a reasonable rate of interest. This is a state of affairs by no means peculiar to India. The petty agriculture of Europe is for the most part financed by borrowed capital, and there too the money-lender takes advantage of the exigencies of the cultivator to demand exorbitant terms. In India, however, the problem is aggravated by the fact that Indian rates of interest are to some extent survivals from times when the security which the agriculturist had to offer was of far smaller value than at present, and partly perhaps by the fact that into most Indian contracts there enters an element of oriental hyperbole, for which full allowance is made when the settlement is by mutual consent, but which our Courts of Justice are for the most part unable to recognise.

Some fifty years ago, the establishment of agricultural banks and of co-operative credit societies for small men was initiated in Germany by SCHULZE DELITZSCH and RAIFFEISEN respectively. The experiment passed through twenty years of struggle and uncertainty ; but eventually it succeeded beyond all expectation, the institutions of both classes now exceeding 5,000 in number ; and the example thus set has been imitated, with more or less modification, in many European countries where land is commonly in the hands of men of small means.

Madras was the Indian province in which attention was first turned to the subject. In that province an indigenous institution called a Nidhi had sprung into existence at about the same time as the movement to which I have just referred began. These Nidhis are modelled very much upon the lines of English building societies, and they find their clients among a more educated and advanced class than that of the rural agriculturist, to whose needs their constitution is not well adapted. But the fact that,

notwithstanding numerous failures, and much discredit attendant upon a period of speculation, they have attained a very considerable degree of success, since at present they include some 36,000 members with a paid-up capital of 75 lakhs, is encouraging as suggesting the possibility of establishing true co-operative credit societies among an Indian people.

It was the Madras Government, then, who, towards the end of 1899, forwarded for the consideration of the Government of India a report upon the subject which had been prepared under their orders by MR. (NOW SIR FREDERICK) NICHOLSON, and which is a monument of research and a perfect storehouse of information ; while about the same time MR. DUPERNEX, a civilian in the United Provinces, published a book upon 'Peoples' Banks for Northern India'.

The Government of India fully realised the doubts and difficulties which must attend any attempt to introduce the RAIFFEISEN system into rural India. But they also recognised the enormous advantage which would result to the Indian cultivators if by any means they could be induced to utilise their combined savings under a system of co-operative credit, and so be freed, even partially, from the necessity of recourse to the professional money lender. They therefore referred the subject in its most general form to Local Governments for preliminary consideration and suggestions.

After some intermediate discussion, the opinions of Local Governments were considered in June 1901 by a strong Committee under the presidency of my Hon'ble colleague SIR EDWARD LAW ; and it was on the report of this committee, to which were attached a draft Bill, and draft model schemes of management for co-operative credit societies with limited and unlimited liability respectively, that proposals for action first took a form sufficiently definite to allow of detailed discussion. These proposals were referred to Local Governments for criticism, and it is upon a consideration of the replies which have been received to this reference that the Government of India now propose to take action.

While the subject had thus been under discussion, a certain amount of experience had been gained from experiments which had been made with varying success in several provinces of Northern India. In some cases failure had ensued, or was only averted by official support ; but in a few instances genuine success had been achieved, and real co-operation for the purpose of utilising the combined credit had been arrived at among a cultivating community.

One thing, however, soon became apparent—that no real advance was possible without legislation. The Companies' Act at present in force (Act 6 of 1882) contains 256 sections, and its elaborate provisions, however necessary in the case of combinations of capital on a large scale, are wholly unsuited to societies of the kind which we desire to encourage. The first thing to be done, therefore, was to take such societies out of the operation of the general law on the subject, and to substitute provisions specially adapted to their constitution and objects. In the second place, it was desirable to confer upon them special privileges and facilities, in order to encourage their formation and assist their operations. And, thirdly, since they were to enjoy exemption from the general law and facilities of a very special nature, it was very necessary to take such precautions as might be needed in order to prevent speculators and capitalists from availing themselves, under colourable pretexts, of privileges which were not intended for them. These three ends were the objects which we kept in view in framing the legislation that I am about to propose.

When we came to consider the details of our Bill, we found that we had before us an extraordinary diversity of opinion, which extended in many cases to matters of principle, and which reflected, not only the individual convictions and experiences of the authorities consulted, but also the infinite variety that characterises the conditions with which we have to deal and the material with which we have to work. But such diversity of opinion was only to be expected. The fact is that the whole business is of the nature of an experiment, upon which we are entering with very scanty knowledge and very little local experience, and in which we shall have to feel our way cautiously, and to gain our experience as we advance. We have, it is true, European results to guide us, and European models to imitate. But it by no means follows that what succeeds in Europe will succeed also in India. Nor indeed is it probable that what is best suited to one part of this great country will always be best suited to another. The conditions and the character and habits of the people vary infinitely; and we shall probably find that the institutions which we desire to promote will take widely differing forms among such widely different classes, as, for instance, the yeomen of the Punjab, the ryots of Southern India, and the tenants of Bengal. If an institution of this sort, which depends upon the people themselves combining for their mutual

advantage, is to succeed, it must be, as far as possible, an indigenious and a natural growth. An exotic type may be forced by artificial stimulus to flourish for a while, but we can never expect it to take vigorous root, or to continue to flourish when that stimulus is withdrawn. Certain broad principles must be laid down, and certain precautions must be insisted upon; but within those principles and subject to those precautions, the people must in the main be left to work out their own salvation on their own lines, the function of Government being confined to hearty sympathy, assistance and advice.

Guided by these considerations, we have kept two cardinal objects in view in framing the present Bill. The first is *simplicity*. Some of the schemes which were laid before us were far too elaborate for the comprehension of the classes for whom they were intended, but who certainly could never have complied with their provisions. Simplicity is the first essential for success. The second is *elasticity*. Our aim has been to lay down merely the general outlines, and to leave the details to be filled in gradually on lines which the experience of failure or success and the natural development of the institutions may indicate as best suited to each part of the country. So far, therefore, as it deals with the constitution of the societies, we have confined the provisions of our Bill to those general principles which we consider that all co-operative credit societies should accept as the condition of being permitted to enjoy the advantages afforded by our special legislation. There are other matters in respect of which some guidance and some restriction will be necessary; but we have left them to be dealt with by Local Governments in accordance with local needs, in the exercise of the rule-making power which the Bill confers upon them. If the Bill passes into law, we shall impress upon those Governments that simplicity and elasticity are as essential in the rules framed under the law as they are in the law itself, and that especially in the first instance, and until further experience has been gained, the regulative interference of Government should be limited strictly to essentials, so as to leave spontaneous growth unhampered. Experiment is as necessary within the province as it is within the Empire.

Before turning to the actual provisions of the Bill, it will be well to define as exactly as possible the precise nature of the institutions which we desire to create, and that we shall best do by defining the

precise object with which we desire to create them. That object may perhaps be defined as the encouragement of individual thrift, and of mutual co-operation among the members, with a view to the utilisation of their combined credit, by the aid of their intimate knowledge of one another's needs and capacities, and of the pressure of local public opinion.

The main object of our endeavours is to assist agricultural credit, which presents a far more important and more difficult problem than does industrial credit. But we recognise that artisans, employes on small pay, and other persons of small means residing in towns, may very properly be admitted to the benefits of our legislation. We therefore provide for two classes of societies—*rural*, which are composed of agriculturists (a term which is not intended to include the wealthy rent-receiver), and *urban*, which consist of artisans or other persons of limited means. The members of a rural society may live in a town: so also the members of an urban society may live in a village, but it must be one single village—a condition which will exclude in practice all villages that are not sufficiently large to possess an urban character. In the case of both classes we provide that the members must be small men, for we are not legislating for capitalists; that they must be residents of the same neighbourhood, else the knowledge of one another which is to guide them in their operations will be wanting; that new members shall be admitted by election only, thus securing that mutual confidence which is the only possible foundation of co-operation; that a man must be a member before he can borrow from the society, and must in that capacity have contributed to the funds of the society, since our basis is mutual co-operation; that money shall not be lent on mortgage, so that the capital may be liquid, and capable of ready realisation; that the interest in a society which may be held by a single member is to be limited, in order to prevent an individual from obtaining control; and that shares can be transferred subject only to certain restrictions which are intended to prevent speculation. We provide for a simple form of registration; for compulsory dissolution, subject to appeal to the Local Government, in order to meet the case of fraud, or of bogus co-operative societies which may have obtained the benefits of the Act while not pursuing its objects; and for liquidation under a simple procedure, and subject to appeal to the Civil Courts.

In the case of rural societies we further insist upon unlimited liability, as best suited to the agricultural classes to whom they are

confined and most consonant with the mutual confidence which is to form their basis; we lay down that no profit is to be directly divided among the members, since their object is not to make money but to assist one another, and any surplus that may accrue should either be carried to a reserve fund, or be applied to reducing the rate of interest upon loans; and we forbid the society to borrow money without sanction, for it would often be worth the while of a money-lender to risk his money in order to get a successful society into his power, and so to rid himself of a rival. We prohibit pawn-broking, since the basis of the operations should be personal and not material security; but we allow agricultural produce to be received as security or in payment, and to be converted into money at any time by the society, which will generally be in a position to get a better price for it than an indebted cultivator could obtain.

In the case of urban societies we allow of limited liability and the distribution of profits, subject to the creation of a sufficient reserve fund, and we allow them to lend money to a rural society which is situated in the same district, and with the circumstances of which they have therefore the opportunity of being acquainted.

Having thus provided for the constitution of our societies, and regulated their operations, we proceed to confer upon them certain privileges. We exempt the shares or other interests of members in the capital of a society from attachment for their private debts, thus encouraging thrift, and giving stability to the operations of the society; we relieve societies from the necessity for letters of administration or a succession certificate; we give them a lien upon certain forms of property when created or acquired by means of a loan from them, until the loan is repaid; and we make an entry in the books of a society *prima facie* evidence in a suit to recover money due to it. We take powers for the Governor-General in Council to exempt societies and their operations from income-tax, stamp-duties, and registration-fees; and it is our intention to act upon those powers, at any time in the first instance.

Finally, we provide for compulsory inspection and audit by a Government officer, in order to provide against mismanagement and fraud, to give the members and the public confidence in the societies, and to justify the privileges which we confer upon them; we make Government advances recoverable as arrears of land-revenue; we

confer a wide rule-making power upon Local Governments while indicating certain heads under which it will probably be advisable to exercise it; and we declare that the provisions of the Indian Companies' Act shall not apply to societies registered under the new law.

There are four points of some importance as to which the Bill is silent, but which have been much discussed, and with great diversity of opinion; and I may perhaps briefly indicate why our proposals include no provisions regarding them. The first is, the objects with which these societies may make loans to their members. It has been strongly urged that no loans should be permitted except for productive expenditure, and specially that they should not be granted for such purpose as marriages and the like. We recognise that there is much to be said both for and against the proposal; but we have finally decided to reject it, mainly on the ground that whatever restrictions might be imposed by law, it would be impossible to enforce them, while their mere existence would encourage evasion and deceit. Moreover, we are not without hope that the fact that a society refuses to lend more than Rs. 50 to a member for a marriage, as being as much as he can hope to repay, may not unfrequently lead to his limiting his expenditure to Rs. 50 instead of going to the money-lender for Rs. 100.

In the second place, it has been suggested that a summary procedure for the recovery of debt should be placed at the disposal of these societies. It is true that the recovery of debt by civil suit is a tedious process, and that a society of the sort we are considering is perhaps the least fitted of all agencies to conduct such a suit. But it is a serious matter to place our executive machinery at the disposal of a private creditor. And, above all, such artificial assistance would discourage the exercise of that vigilance and caution upon which these societies should depend for their security. With the local knowledge which will be at their command, they should, if they conduct their affairs prudently, hardly ever need to have recourse to a Court. Their strength should lie in that knowledge, and not in any special process of recovery. In the rule-making section we have authorised Local Governments to provide for the settlement of disputes by arbitration if a society so wishes; and we do not propose to go further.

In the third place, we have been urged to prohibit compound interest. We have had no hesitation in rejecting this suggestion,

Compound interest is a devilish engine in the hands of a creditor whose whole object is to involve his debtor in his meshes. But fairly used, it is just enough; and prompt recovery of debt is essential to the working of these societies. There is a danger that they may be too slack in dealing with their friends and neighbours, and compound interest will provide a useful stimulus to the debtor.

In the fourth place, we have been asked, with the object of giving special encouragement to thrift, to extend to mere deposits made by members with their societies, the same exemption from attachment for debt for which we have provided in the case of contributions that have merged in the capital funds of the society; and the precedent of Provident Funds has been quoted in support of the proposal. We do not admit the analogy. Provident Funds are protected, not for the benefit of the subscriber, but because they form a provision for the widow and the orphan; and we do not think that thrift should be encouraged wholesale at the expense of the legitimate creditor. The exemption for which we have provided is confined within definite limits, and we do not propose to extend it.

Such, my LORD, are the outlines of the legislation which I am about to propose to Council. But legislation is useful only as the basis of subsequent action; and the subject is of such great and general interest and importance that I think I shall be justified in asking the Council to bear with me a little longer, while I briefly sketch in outline the action which we propose to take if our Bill becomes Law. I have said that the whole matter is an experiment, and that we shall have to gain our experience as we go. Under these circumstances it is essential to proceed gradually and with the greatest caution. We cannot hope to escape failures, which will involve loss to individuals; and many failures would set back the cause which we have at heart, while a few successful societies will speedily find spontaneous imitators. If by a stroke of the pen I could cover the country to-morrow with a network of these societies, I should decline to do so until we know more about the forms which will best suit the conditions with which we have to deal. And that knowledge only experience can teach us.

On the other hand, it is abundantly clear that no real advance will be made without the active encouragement and assistance of Government. We propose therefore to ask Local Governments to select a few places in each province in which to try the initial experiments. They should present some variety of conditions, so as to



afford a wide experience ; and an important element in the choice will be the personal character of the District Officer, and the degree in which he possesses the confidence of, and exercises influence over, the people. I shall explain presently how we propose to relieve the District Officer when the societies have once been formed. But it is he who must give the first impulse ; he must explain the new law and preach the new gospel ; he must select the places in which the experiment is most likely to succeed, and must suggest to the people that they should try it, putting it to them as action to be taken, not by Government but by themselves, while explaining how far and in what way Government is ready to help them.

Indeed, the active assistance and support of the District Officer will be necessary in every case, until the new plant has taken firm root and is strong enough to stand alone, and the officer who is in immediate charge must work in constant consultation with him. But we do not propose to burden him with the detailed care of the societies. Hon'ble Members will observe that the Bill provides for the appointment in each province of a Registrar, to whom somewhat extensive powers have been given in order to secure that our legislation is not taken advantage of by bogus societies. We propose that he should be a whole-time officer specially selected for the work, and that to him should be entrusted the care and supervision of all the societies in the province. The advantage of concentrating this duty in a single pair of hands will be, that the experience of all the societies will be placed at the disposal of each, since by watching developments under various conditions the Registrar will gain experience which will render him an invaluable adviser ; he will know what has succeeded in one place or failed in another, and will be in a position to point out defects and suggest remedies, and to prevent the repetition of mistakes. For the first few years at least he will constantly be going round, visiting the societies and watching their progress, criticising and assisting them, but as a friendly adviser rather than as an inspecting officer. As experience is accumulated and the societies gain strength and are able to stand alone, and as their numbers multiply, the 'dry-nurse' element will disappear from his duties, which will become more purely official.

•• I have only one more point to touch upon. The first question that will be asked—that has indeed been asked already—is, what is Government going to do for these societies in the way of financial

assistance? I have already said that we propose to exempt for the present their profits and operations from income-tax, stamp-duties, and registration-fees. We shall also authorise them to open public accounts in the Post Office Savings Banks; and these measures will apply equally to urban and to rural societies. In the case of urban societies we propose to go no further.

As to whether Government should contribute to the capital of rural societies the most opposite and extreme views have been urged upon us. It has been suggested that we should finance them entirely; but such a procedure would be destructive of that thrift and co-operation and mutual self-help which it is our object to encourage. It has been proposed that the distribution of Government takavi advances should be entrusted to these societies; and I think it quite possible that some day we may be able to make use of those among them which have taken root and flourished, and which stand on a strong and independent basis of their own, as valuable agencies for the purpose. But they must learn to swim before they are thrown into deep water; to take care of their own money before they are trusted with much of ours; and to allow them to regard themselves as mere agencies for the distribution and recovery of Government advances would wholly defeat the object of their creation.

From the opposite point of view it has been argued that any financial assistance whatever from Government must obscure the co-operative principle, and weaken the spirit of self-dependence which we desire to foster; and it has been urged that Government should confine itself to sympathy and encouragement and moral support. To this it has been replied, and not without reason, that assistance thus restricted would be but cold comfort. We fully recognise the danger which is pointed out; and we propose so to limit our assistance as to minimise that danger as far as possible, by laying down that it must be preceded by, and must depend in its amount, upon a genuine subscription by the people themselves. But, subject to these conditions, we are prepared to give financial assistance at the start. We believe that such assistance will have a value beyond its mere use as capital on easy terms, since it will be an earnest of the reality of the interest which Government takes in the matter, while the terms to which it will be subject will stimulate the thrift and self-help that are to be a condition precedent. We do not contemplate that our aid will always be needed. Both in the matter of detailed guidance

and of the provision of funds, we shall not feel that we have succeeded unless we eventually find ourselves able to withdraw ; for as has been well said, 'co-operation must be built up from the bottom, and not from the top.' But, for the present, we shall be prepared to advance money to rural societies in even fifties of rupees, subject to the condition that the total advance outstanding shall at no time exceed the total amount subscribed or deposited by the members of the society, or a limit of Rs. 2,000 in the case of any single society. It may be said that the first condition will greatly restrict the advances ; but at any rate they will double the resources at the disposal of the society. During the first three years of the life of any society, the advances will be free of interest, and will not be recoverable except in the case of the society being wound up ; while after that period they will ordinarily bear interest at 4 per cent., and will be recoverable in annual instalments not exceeding one-tenth of the total amount due. The Registrar will have power to suspend the payment of any instalment of capital on payment of any interest that may be due, and such suspension will simply postpone the payment of the suspended instalment and of all subsequent instalments by one instalment period.

Such my Lord, are the outlines of the legislation which we propose, and of the executive action which we intend to base upon it.

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## CO-OPERATIVE CREDIT SOCIETIES ACT AMENDMENT BILL, 1911.

### *Statement of Objects and Reasons.*

WHEN the Bill, which subsequently became the Act of 1904, was published, the following remarks were made in the Statement of Objects and Reasons:—“Legislation is called for not only in order to lay down the fundamental conditions which must be observed, but also with a view to giving such societies a corporate existence without resort to the elaborate provisions of the Companies Act; but it is thought that legislation should be confined within the narrowest possible limits. The Bill has, therefore, been drawn so as to deal only with those points which the Government consider to be essential, and its provisions have been expressed in simple and general terms, a wide rule-making power being reserved to Local Governments, so that what is felt to be of the nature of an experiment may be tried in each province or part of a province on such lines as seem to afford most promise of success”: and these principles were followed in the Act as passed.

2. The adequacy of the existing Act was examined at a Conference of Registrars of Co-operative Credit Societies in 1909, and it was held that the Act still remained in many ways unduly restricted, and that it also required certain alterations in detail which had been suggested by experts since 1904. The Conference of Registrars drew up proposals for the amendment of the Act, and after consulting Local Governments on these proposals the Government of India have prepared the Bill now published. The chief changes contemplated by the Government of India are four in number:—

- (i) The Act of 1904 applies to Societies for the purpose of co-operative credit only, and not to Co-operative Societies of other kinds, such as those established for production or distribution. It has in practice been found that the establishment of Credit Societies has led to the founding of other classes of Co-operative Societies also, and it is advisable that the privileges extended by the Act to Co-operative Credit Societies should be extended to these other Societies. It is proposed therefore that the Act as now revised should be made applicable to all classes of Co-operative Societies—*vide* clause 1 (1) and clause 4 of the Bill.

- (ii) In the Act of 1904 Societies were classified according as they were "Urban" or "Rural" and the principle was laid down that as a general rule rural societies should be with unlimited liability. This basis for distinction was adopted, mainly because it represented a classification which had already been recommended and put in force in the initiation of Co-operative Credit Societies in certain parts of India, but it was at the time criticised as unsuitable by experts, and it has in practice been found artificial and inconvenient. The real distinction is between Societies with limited and those with unlimited liability, and it is proposed in the new Bill to maintain this distinction only while retaining the principle that agricultural Credit Societies must, as a general rule, be with unlimited liability—see clause 4 of the Bill.
- (iii) The Act of 1904 did not contemplate that Societies with unlimited liability should distribute profits. It is still felt that such Societies do not represent the best form of co-operation for agricultural communities, but this form of Society has, in practice, been for some time in existence in several provinces, and Societies of this character, though not of the orthodox type, are recognized to be capable of useful work. Although therefore it is not intended to give them undue encouragement, it is proposed to legalize their existence and to permit an unlimited Society, with the sanction of the Local Government, to distribute profits—see clause 28 of the Bill.
- (iv) A cardinal principle which is observed in the organization of Co-operative Societies in Europe is the grouping of such Societies into Unions and their financing by means of Central Banks. This stage of co-operation had not been fully realised or provided for in the Act of 1904, but such grouping of Societies has already been found feasible in most provinces, and it is now considered desirable to legalize the formation of Co-operative Credit Societies of which the Members shall be other Co-operative Credit Societies—*vide* clauses 5 (1), 6 and 10 (3) of the Bill.

*[Extracts from the Proceedings of the Governor General's Council  
dated the 1st March 1911.]*

CO-OPERATIVE CREDIT SOCIETIES ACT AMENDMENT BILL.

THE HON'BLE MR. CARLYLE said :—I beg to move for leave to introduce a Bill to amend the law relating to Co-operative Credit Societies. When SIR DENZIL IBBETSON introduced the Co-operative Credit Societies Bill in October 1903, he remarked : ' I believe that it would be hard to exaggerate either the importance or the difficulty of the experiment upon which we are about to embark. I feel by no means certain of success. And if we do achieve success, I do not expect to find in it a panacea for all the difficulties of the Indian cultivator. But I am convinced that if we can succeed in inducing him to combine with his fellows to utilise their collective credit for the benefit of each, we shall have done a great deal to lessen those difficulties and to improve his condition. At any rate, I hold it to be the bounden duty of Government to give the experiment a fair trial, and to do all that lies in its power to make it successful. But it must be remembered that success or failure lies in other hands than ours. We can do nothing of ourselves. We can offer encouragement, advice, legal facilities, and executive and financial assistance. It is for the people to decide whether they will avail themselves of our offer. ' The offer has been made to the people, and by the people it has been accepted. While the present Act was under discussion in Council many fears were expressed. There was, said one Indian Member, the want of that one essential quality, namely, co-operation, which has been a prevailing defect of the Indian character from a long time and the cause of many evils. Another Member held that insistence on the principle of unlimited liability was likely to keep away from the new societies those very classes whose help and co-operation would be indispensable. This Member also held that insufficient provision was made for financial resources, and that the absence of some summary procedure to recover the debts due to societies, was likely to interfere with their success. Notwithstanding all these doubts and fears, co-operation has established its footing in India. While the movement is still in its infancy, yet it is a robust and vigorous infancy which gives great promise for the future. It has been found that the root of the matter does exist in India, and

that Indians will co-operate, that unlimited liability is not a bugbear, that societies are succeeding in attracting capital, and that they have not found the absence of a summary procedure an insuperable difficulty in the way of collecting their debts.

According to the last figures available, there are now 3,456 urban and rural societies with a membership of 226,958 persons, and with a working capital of Rs. 1,03,27,743 ; of which, I am glad to say, only Rs. 7,21,775 comes from Government. This is the result of 7 years' working. In Germany there were only 1,729 Co-operative Credit Societies working in 1890, 23 years after the first Prussian Co-operative Law was passed. In Austria the co-operative movement commenced in 1873. After 17 years there was only one RAFFEISEN Bank for 131,000 inhabitants. Here, excluding Native States, we have already in 7 years got approximately one rural Co-operative Society to just over 70,000 people. In Italy the first rural bank was founded in 1883, and it took 24 years to bring the number up to 1,461. Seven years after the movement had commenced, there were only 44 banks. Making every allowance for differences in membership of the societies and for the fact that India has benefited by the pioneer work, specially, of Germany and Italy, and that the pioneer work has been done here by the State and not by individuals fighting against the State, yet the figures I have given testify to an extraordinarily rapid advance.

It may be asked why, if the movement has been so successful under the existing Act, not remain content with it? My answer is that it is largely owing to the very success of the movement that a new Act is required. The success of co-operative credit societies has paved the way for co-operative societies formed for other purposes, and it is difficult to fit them into the provisions of an Act which was not intended for them. In saying this I cast no reflection on the framers of the present Act. It was deliberately resolved to limit the Act to credit societies, and the decision was a wise one, while the scheme was in the experimental stage. But now that the co-operative movement is well established, it is clear that provision must be made for co-operation not merely to borrow, but also to purchase and produce. Moreover it is essential to provide, as I will show later on, for the union of societies in larger bodies so as to secure a large measure of non-official inspection and control and to facilitate the raising of funds. Seven years' experience has brought to light many minor defects in

the Act. The question of the amendment of the Act was very carefully considered before the Legislative Department undertook the drafting of this Bill. Two annual Conferences have considered what changes are needed, and Local Governments have been consulted on a rough draft of a Bill framed at the Conference of 1909.

I will to-day only mention those points in the Bill which are of special importance. I have already touched on the need of providing for Co-operative other than merely Credit Societies, and I need say no more regarding this. Another important change relates to the classification of societies. Under the existing Act the classification of societies depends on whether or no the members of the societies are mainly agriculturists. The main division is into rural and urban societies. In a rural society not less than four-fifths of the members must be agriculturists. In an urban society not less than four-fifths of the members must be non-agriculturists ; and in a rural society, save with the special consent of the Local Government, the liability of the members is unlimited. This classification was objected to at the time by many critics, notably by MR. WOLFF, and experience has shown that the critics were right. SIR DENZIL IBBETSON, when introducing the Bill, pointed out that in the case of rural societies, unlimited liability was best suited to the agricultural classes to whom such societies are confined, and no doubt it is generally the case that unlimited liability is best for a society of small agriculturists, as it ensures caution in admission to membership and strict control over the manner in which loans are spent and the purposes to which they are devoted. All these considerations, however, apply with equal force in many other cases ; take, for instance, a small society of weavers working together in one place whether in the town or in the country. Again, a rural society may consist of a number of well-to-do people who could derive great advantage from co-operating but who are not prepared to undertake unlimited liability for one another's debts. The true distinction appears to be between limited and unlimited societies. In many cases urban societies should be unlimited. In some cases there is no reason why rural societies should not be formed of limited liability.

There is likely to be more difference of opinion regarding the provisions of section 28 of the Bill permitting of the distribution of profits on certain conditions to members of societies of unlimited liability. The distribution of profits is permitted even under the



present Act, but the stringency of the provisions has been much relaxed. It will, I think, generally be recognised that the inclusion of provisions for the division of profits to the members of unlimited co-operative societies tends to bring in influences dangerous to the true co-operative spirit. We must, however, accept facts, and not insist on pushing too far our co-operative idealism. Especially in the Punjab and in Burma it has been found that the possibility of obtaining shares in a society with the prospect of ultimately participating in the profits has induced many who would not otherwise have done so to join the movement.

The last change in the law I propose to notice—and it is one of very great importance—is that which provides for the possibility of grouping all societies into Unions. I will very briefly indicate the great importance of this matter. It is not at all unlikely that it may appear to many who are not acquainted with the subject that it is for the Government to provide for the inspection of societies, and that Government might well be more liberal in its assistance in the shape of loans. In my view it is of the utmost importance to the healthy and successful development of the movement that Government interference and help should be reduced to a minimum. We have, on the whole, been very fortunate so far in securing for the development of the movement officers who have thoroughly sympathised with, and who have a thorough grasp of, the principles of the whole movement. But if co-operative societies develop in the future as fast as they have done in the past, and if Government control continues to be as close as it is at present, sooner or later the whole business of inspection must become departmentalised. In dealing with co-operative societies a mere knowledge of rules is useless. Mere mechanical inspection and control would destroy, and not build up, the co-operative spirit. It is possible to get a few officers with the necessary gifts and knowledge, but if the number of officers to be appointed were large, such special selection would ultimately become impossible; and anything in the nature of Government control by officers appointed *ex-officio*, and not specially selected, is almost bound in the long run to be injurious. On the other hand, if co-operative societies join together to form unions, each of these unions should be able to provide from among their members some men with the necessary knowledge and enthusiasm to guide those who require help. The business of the unions will be not merely to obtain funds to finance the societies

belonging to them, but to see that the societies are conducted on right lines and are not endangering the stability of the whole union. Unions, such as I have described, are also essential to bring co-operative societies into touch with the money market. In many cases, the village societies attract loans locally. But more than this is required; and it is of great importance, for several reasons, that the village societies should be in touch, through their unions, with a larger money market. Among other reasons it is necessary to equalise the demand and supply of loanable capital at different seasons. Probably some may say, 'Why should not Government itself advance the money? The money is safe, and it can be lent at rates which would make the transaction one from which Government would actually profit.' I may at once say that personally I have no doubt that Government could lend, and lend without loss, on a very large scale. But leaving aside the fact that Government cannot take out of the hands of private persons the financing of the agriculture and petty trade of the country, were it to embark on such loans on a large scale, the advances would necessarily be made on more or less hard and fast rules. On the other hand, if societies are obliged like any one else to borrow in the open market, their creditors will exercise a very powerful, though frequently indirect, influence on the business methods of the societies and on the objects to which loans are devoted.

[*Extracts from Sir F. A. Nicholson's Report on Agricultural Banks, pp. 2-7, 10-12 23-25.*]

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#### METHODS AND PRINCIPLES OF ORGANISED CREDIT IN EUROPE.

It is obvious that as all capital is derived from savings, and as all credit should be based on thrift and prudence, the stimulation of thrift and prudence is a necessary antecedent to the grant of credit. It is emphatically *not* the mere outpouring of cheap capital that is required, *not* the mere grant of cheap and facile credit to classes unprepared for the boon : what is wanted is the promotion of facilities for saving, the encouragement of banking deposits, the inculcation of the true objects, uses, and limits of credit ; in other words, the development of the essential national virtues of thrift, foresight, and self-help, through institutions organized for those ends. Hence the object of this study is, necessarily, not mere rural credit-banking, but the promotion and development of all institutions which, while furthering useful credit, base that credit largely, perhaps chiefly, on previous thrift, and are thus able to exercise over their members a beneficent influence in the direction of self-help ; still more specially those which, being based on the principles of co-operation, bring the isolated units of society into association, and, by association, teach the benefit and virtue of mutual assistance in thrift and in credit, in combating improvidence within, and usury without, in developing industry and in assuring to men the full results of their industry, in stimulating men to new ideas of life whether economic, social or moral.

*Credit—Universal necessity for Rural credit.*—The history of rural economy, alike in Europe, America and India, has no lesson more distinct than this, that agriculturists must and will borrow. This necessity is due to the fact that an agriculturist's capital is locked up in his land and stock, and must be temporarily mobilized ; hence, credit is not necessarily objectionable, nor is borrowing necessarily a sign of weakness. But such borrowing may be abused, and indebtedness may be a symptom and a cause of danger, if the conditions of credit are unsound or defective, if borrowing is not a mere temporary, productive mobilization of capital, but the result of ignorance, improvidence, recklessness, misgovernment, social defects, or even social arrangements such as the laws and customs of inheritance.

Credit is a necessity, and borrowing and indebtedness are useful or dangerous in proportion not merely to the use made of the sums borrowed, but in proportion as they are the result of a prudential foresight, or of necessity extraneous to the demands of agriculture.

As a matter of fact the agricultural classes all over the world are in a state of extreme indebtedness, due very largely to causes outside of the demands of agriculture, such as to poverty, ignorance, carelessness, the laws of inheritance, foreign competition, seasonal disasters and epidemic diseases, and the demands of usury; this indebtedness is recognized in Europe as a position of danger, and every country is seeking its remedy, usually in the direction of organized credit. While recognizing, however, the necessity for organizing and cheapening credit, it is obvious that, since indebtedness is not due merely to the action of the usurer, no mere change in the machinery of credit can, of itself, effect a radical cure; it can, *per se*, only palliate the symptoms, or retard the catastrophe.

*The conditions of credit.*—The conditions of credit may be summed up as follows: absolute *proximity* of lender and borrower; complete *security* to the lender as regards the title of the property offered, its freedom from prior encumbrances, the recovery of his capital and interest at due date, inconvenient amounts, with facilities for enforcing such recovery in case of arrears; thorough *safety* and *facility* to the borrower, in his ability to obtain cheap loans, at any time, to an amount proportionate to the security he can offer, and upon terms which will be so equitable in themselves, so convenient as regards repayment, so free from all risk of deliberate entanglement, so based upon published rule; so devoid of any tendency to discount necessity or urgency otherwise than by an equitable insurance; that he can calculate on reaping the full fruits of his prudence, and find, in credit, a powerful auxiliary to his productive powers and stability. In particular, the terms of repayment must be such that he can replace the loan from the profits of the transaction for which it was obtained; an improvement to land must be repayable by instalments over a long series of years; a purchase of stock must be similarly repayable over a shorter series; advances upon crops or for maintenance may be repayable in lump or by instalments according to convenience. It is axiomatic that loans sunk in improvements or enterprises in which the returns are gradual, shall not be repayable except by instalments over a period proportionate to the nature of the enterprise.

Judged by these postulates the regime of the individual money lender is wholly defective ; he satisfies, indeed, the condition of proximity, but it is impossible for him, trading as he does upon his private capital supplemented merely by occasional borrowings, to satisfy the demands for loans at any time and to any amount ; he has no rules save those of his own conscience, and they are variable at pleasure ; he is but too prone—it is the imperfection of human nature—to exact terms high in proportion to the urgency of the borrower's need, and not in proportion to the security offered ; his accounts, if kept at all, are just what he chooses to write and no others, and are subject to no check or audit : he is apt to be swayed by greed, whether of money, land or power ; he can not consent to lock up his capital for a lengthy series of years, or to receive it back in infinitesimal driblets, indistinguishable from the interest with which they are paid. On the other hand, since it is impossible to trust the individual money lender with the powers of distraint or other summary recovery, he is put to considerable expense, delay, loss and fraud in the recovery of his loans, a loss which he recoups with a handsome increment from his clients, so that the punctual and honourable borrower pays for the offences of the defaulter.

It is, then, certain that the substitution of organized credit for that of the money lender is a necessary development of civilization : the individual system is only an elementary stage which must be eventually passed as general wealth, order, business confidence, and habits of association develop. The questions for consideration are the direction in which such credit shall develop, the means by which it can be encouraged, the modes in which it will work, and the effects which it can be made to produce upon the nation.

*The functions of true credit.*—It would be out of place to discuss the remedies for the ill plight of agriculture other than that of the organization of credit ; it is permissible merely to point to the lessons of history as teaching the unexpected and indeterminable difficulties of the social problem, even as regards agriculture. Liberty was granted to the feudal quasi-serf by the admirable legislation of VON STEIN and HARDENBERG, with liberty of action as regards the land ; the unforeseen result is the existing mortgage debt of about £500,000,000 in Prussia alone. Equality was the revolutionary demand, and equal rights of inheritance a natural and just corollary ; again the result has been the overwhelming indebtedness of the

peasant and the infinite *morcellement* of the land even in industrial Europe. The problems threatening Indian agriculture are precisely the same in nature, though not yet in degree. Human nature is everywhere the same, and an uneducated nation largely composed of isolated, ignorant units, suddenly endowed with new rights and new values, suddenly placed under the regime of complete individual liberty of action, will invariably pledge those rights and those values, till it is found that it is only the form and not the fact of servitude and dependence, that has been altered.

When, therefore, we are considering the poverty and indebtedness of the ryot and suggestions for his relief, it is idle, even mischievous, to fasten attention on one cause or set of causes, and equally idle to insist each upon his own special remedy as the one panacea for rural difficulties. The eradication not of indebtedness, but of undue indebtedness, can only be effected by the slow, persistent, simultaneous action of a diversity of active remedies, the nature of which is partly indicated above, but necessarily differs for each community.

But the present study is expressly confined to the remedy found in the organization of credit, a remedy, however, of almost unbounded potentialities, provided that it is so prepared as to contain the alternative and tonic elements of national vigour. The mere supply of cheap capital *ab extra* is no sufficient remedy; it would probably intensify the difficulty by increasing the load of debt; even the supply of such capital by the "organization of credit," *i.e.* by the establishment of banks, is inadequate as a radical means of relief.

It is *not* merely cheap and facile credit that is required; it is a credit which must indeed be cheap and facile in that it shall be ever at hand, but it must be credit which shall only be so obtainable that the act and effort of obtaining it shall educate, discipline and guide the borrower; it should be granted only to those who have learned to think, to plan, to save; the method of providing it must teach the lessons of self and mutual help, and suggest the extension of those lessons to matters outside of mere credit; it must be safe not merely in eliminating the dangers of usury, but in being controlled, heedful, and productive.

Hence, while studying credit and preparing for its organization, the object to be borne in mind is not the introduction merely of cheap capital or of banking credit, but of that system which shall most

readily and thoroughly develop essential national qualities ; those systems of banking are to be preferred which tend in themselves to this result, and the efforts of the State whether in its legislative or in its executive capacity, should be directed towards the promotion of such systems. Not joint stock banks merely, still less State banks, or banks financed by the State for the mere issue of capital, but Mutual Credit Unions, are the desideratum ; co-operative societies, where the isolated learn the value and powers of association, where the ignorant are taught the lessons of business, the reckless learn heedfulness, thrift and prudence, the idle and intemperate return to industry and sobriety ; where the prudent, the sober, the skilful, the well-to-do unite with the poorer and weaker brethren in an association of mutual help and insensible self-development.

Poverty and indebtedness may not disappear even when such systems attain full vigour and extension, but the student not of mere economics, but of national character and development cannot but believe that a nation in which such institutions are matters of course in every village, will be in the way of development as a nation of temperate, self-reliant, independent, yet united men. This is no dream of Utopia, for systems, still in their infancy even though their societies are numbered by thousands, are working on these lines. \* \* \*

It is unnecessary to dwell here in detail on the need for thrift ; it is self-evident, especially in these days of provident institutions. \* \* \*

There is, however, room in India as in the West, for many classes of banks ; the joint stock bank is of value in its command of resources, and in its skilled management ; the co-operative union is a desideratum for every village ; the *Mont de Piete*, probably as a branch of some other institution, is particularly needed in a country where savings are invested in jewellery ; the savings bank whether as a separate entity, primarily for the receipt of deposits, and secondarily as an investor of those deposits in safe loans, the Agricultural Association with a credit *annex*, the land and land improvement bank for the larger estates and enterprises, the village clubs for the purchase and supply of stock, the village granary or *Posito*, storing surplus grain at harvest and lending it out in the cultivation season, will all find place and work in a duly organized system of credit ; it is not

cooperative unions alone that are suggested ; every class of institution affording facile, cheap, and safe credit is to be encouraged. But it is believed and urged that in the co-operative system lies the larger hope for the development of rural society and industry.

*Classification of Credit.*—Credit is classified under three heads: *Real, Chattel and Personal*, corresponding to the three divisions of capital *viz.*, land, goods and ‘character.’ The chief institutions for these three classes are respectively:—(1) the Land Banks of Germany Austria and France, with the Building Societies of England and America; (2) the Monts de Piete of Europe; and (3) the Popular Banks and Credit Unions of Germany and Italy. In the West it is generally found that banks are established for, and largely confine themselves to, a single class of credit; the *Landschaften* and ‘Credit Foncier’ deal solely in real credit; the Mont de Piete is a mere pawn-broking institution, the bill of sale or pledge without delivery being almost unknown in Latin Europe, owing to the state of the law; the Popular Bank or Union which is entirely co-operative, deals chiefly in credit based on ‘character,’ *i.e.* on personal bonds with personal sureties. The English Building Society, which is the original of the Madras Nidhi, almost confines itself to real credit, while the Madras institution deals or attempts to deal with every class.

\* \* \* The following are the banks to be mentioned: (1) Land banks proper; (2) special Land banks such as the Rent charge banks of Prussia and the Peasants’ banks of Russia; (3) Land Improvement banks; (4) Building Societies; (5) Agricultural banks (*Societies du Credit agricole*); (6) Monts de Piete; (7) *Positos* or *Monte Frumentarii*; (8) Popular banks of various types; (9) Savings banks; and (10) Agricultural Association with Credit annexes. \* \* \*

*Popular Banks.*—These are of three great classes, *viz.*, those following the system of SCHULZE-DELITZSCH, of LUZZATI and RAIFFEISEN. All are based on the grand common principle of mutuality or co-operation; they are not joint-stock banks, but co-operative societies; the units of association are men, not shares.

*Schulze-Delitzsch Societies.*—The first class are the well known German ‘*Vorschussvereine* ;’ these were principally started for the artisan, small trading and professional classes, and their Clientele is largely, though not solely, urban. The foundation principles are those of solidarity or unlimited liability, thrift, and the productivity



of the loans granted; the area of operation is indeterminate, and the clientele all who will subscribe a share, subject however to the decision of an entrance committee. Thrift is compulsory, the subscription to a share being a condition of membership; *without thrift, no credit*. Funds are obtained chiefly by deposits attracted by the principle of solidarity; loans are granted chiefly on three months' bills, SCHULZE-DELITZSCH believing that money withdrawable on short notice could only be lent on similarly short terms.

Beginning in 1850 with a single petty tentative society, established solely by the unwearied efforts of SCHULZE-DELITZSCH, a man of very moderate means and position, but of unbounded zeal, energy and enthusiasm, this class is now numbered by thousands; these are grouped in various unions, and these again are linked to a central agency: each bank, however, is wholly autonomous and independent, the unions having only advisory and inspecting powers. A congress meets annually, and there is a periodical devoted solely to the interests of the societies. Audit is provided within the societies by the usual committee of supervision, but by the law of 1889, special external audit is now compulsory, the unions of societies being generally expected to supply such audit.

These societies deal in the aggregate in millions sterling; the 1,076 societies which sent in their accounts in 1892 to the Central Union showed an *own* capital of £7,197,927 including a reserve of £1,473,702, deposits and borrowed funds of £21,951,159, and transactions in advances of £78,080,526 during 1891-92; they had 514,524 members, or 478 per society, of whom about three-tenths were agricultural. Their defect is in the shortness of their loans; even for the current needs of agriculturists three months is insufficient; with however the necessary prolongations of one or two further periods, current needs may be successfully supplied; but for all such purposes as the provision or replacement of stock, for improvements, plantations, buildings and the like, they are obviously unsuited. It is however, perfectly possible to adapt these banks to all rural needs; loans of longer term can safely be granted even under the present system of deposits, and by adopting a system either of long term deposits or of debentures or both, loans of any term may readily be granted.

It is said that these banks frequently lose their mutual character, and become mere general banks, seeking high profits. In order to

develop thrift SCHULZE-DELITZSCH offered the attraction of profits as large as could be made; the societies have been very successful in earning profits, and the investing members, as distinguished from the borrowers, naturally look more to this function than to that of supplying cheap and safe credit. Moreover the Directors have been stimulated by substantial honoraria for their services, until this feature of the banks has become unduly prominent. A co-operative bank which looks chiefly to dividends and director's salaries is only co-operative in name. A similar tendency is observable even in Madras, whenever societies admit dividends and directors' salaries as prominent attractions.

It is believed that loans are chiefly granted for productive purposes; that at least is a foundation principle, since SCHULZE-DELITZSCH desired the material advancement of the people by the development of thrift and productivity.

Members can, of course, withdraw at will, with certain formalities and notice, taking their share values, but not a share of the reserve with them; this is common to all co-operative societies.

Self-help is the motto of these societies which have neither received nor needed any help of any sort from Government, save only that of a law which was based upon their own experience.

*Luzzatti Popular Banks.*—The second class of popular banks is the Italian adaptation of the above. LUZZATI, then a young Professor of Political Economy and recently Minister of Finance, is the founder of this system which has firmly established itself within 30 years, the number of these banks being now (1894) about 900. In 1887 there were 641 banks, of which 541 reported their statistics, namely, members 318,979, of whom about one-third were agricultural, own capital and reserve £4,160,000, deposits, &c., £17,280,000, bills discounted, loans, &c., £57,000,000.

The Italian banks chiefly differ from their prototypes (1) in rejecting the principle of unlimited liability, a share capital subscribed by members only, and a heavy reserve, serving as a guarantee; (2) in keeping dividends and honoraria as low as possible; LUZZATI in fact, considers that the great danger to co-operative banks is not that of failure, but of a success which leads members and directors towards the race for high profits and snug incomes, and he is consequently endeavouring, and with success, to obtain gratuitous or

almost gratuitous administration. In this he is assisted partly by the newness of the banks, partly by the Italian habit of gratuitous public administration as seen in the matter of savings banks, Monti and other benefit societies. Loans are also granted for longer terms than in Germany, but the method is still by three months' bills, periodically renewed, since this method gives the bank considerable control over the utilization of the loans and over the borrowers' punctuality in repayment.

The societies have, of course, a newspaper organ of their own.

The popular banks, both of Germany and Italy, are able to reach the small folk and grant quite small loans; with the RAIFFEISEN societies they form what will eventually be an almost complete banking organization for the smaller folk of the countries through which they are ramified.

*Raiffeisen Credit Unions and Wollemborg Casse Rurali.*—The Raiffeisen system, also adopted of late years into Italy, is entirely rural and co-operative. It is again of German origin, of the humblest beginning, and is due entirely to the philanthropic devotion and energy of a simple burgomeister (village head), 'Father' RAIFFEISEN. These societies are based on the following principles, which are considered absolute: (1) limitation of area, usually to a single village, so that the bank may know and be known of all; (2) unlimited liability; (3) reduction of the share capital—now compulsory by law—to the lowest possible minimum; this principle is expressly intended to arrest any tendency to the seeking after dividends; (4) absolute gratuitousness of administration, only the actual clerical work being paid for, and that on a most economical scale; (5) the utilization of the loans only for productive purpose, the word 'productive' being, of course, interpreted widely, as, for instance, for the maintenance of the farmer pending his crop, the paying off of usurious loans, and the like; (6) a considerable duration of loans, extending ordinarily up to 10, and occasionally to 20 years; (7) repayment by instalments; (8) entire absence of increasing dividends, the shares, of an almost nominal amount, bearing only a moderate interest fixed by the articles, all other profits being credited to a reserve which is not the property of members save in their corporate capacity; hence it can only be spent in works of public utility.

These small and weak societies early found the advisability of grouping themselves for mutual advice and moral support; there are

now several groups, and these again are linked to a central agency. There is also a Central bank for equalizing funds by lending the surplus of some to meet the needs of others. The loans granted by these societies go down to sums that would be considered small even in India where money is so much more valuable, showing that these societies are, as indeed their constitution and membership indicate, the banks of the small rural folk.

RAIFFEISEN desired the moral, even more than the material, development of the rural classes, and endeavoured, therefore, to eliminate the desire for profits, foreseeing that such a desire would infallibly lead to an opposition between borrowing and non-borrowing members, and to the loss of the guiding principle of brotherhood and mutual help, which was the central idea of his system.

His efforts were but slowly crowned with success; beginning in 1849 there were only four by 1868; since that time they have established their reputation and are now developing at the rate of several per day; in September 1893 the original Neuwied group itself completed the number of 1,000, and it is calculated that there are already several thousands in existence.

Their group organization is not so successfully carried out as is desirable, and statistics are very defective; it is stated however, that not a single society has ever become bankrupt, while the vast increase in numbers amidst a poor and conservative clientele, argues their extreme suitability to rural needs. In Italy the work of these societies has been very particularly described by their founder, SIGNOR WOLLEMBORG, and the results as depicted by himself and other reporters are encouraging and stimulative in the highest degree. Both in Germany and Italy these societies have their organ which is devoted to co-operative news.

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*State Banks.*—The establishment of State banks is out of the question; it is impossible and would, if possible, be inadvisable. *Impossible* since, under the postulates of credit—proximity, security of the lender, facility and safety to the borrower—there must be a bank in every village, or minor group of villages; such a ramification would demand an establishment and find work equal to that of the existing Land Revenue Department; it is far more difficult for a great central agency to lend annually to millions of people,

with the hundred inquiries necessary on each occasion, and on the fluctuating security available, than to deal with ordinary land revenue duties. No such organization has anywhere except in India been even dreamed of; not even in France with her centralizing tendencies. Nor, indeed, has the State funds for general dealing in ordinary credit. *Inadvisable*, for if possible, it would render the whole population dependent upon the State; it would enormously develop bureaucratic interference in the everyday affairs of life; it would be an unheard of experiment in State socialism, and would absolutely confirm the already overwhelming tendency of this country to look to the State not only in all emergencies but in the ordinary affairs of life, to consider it as answerable for or bound to relieve its misfortunes and to accept the burden of all its debts and poverty; it would develop, in a high degree, the habit of attempting to over-reach and defraud that entity vaguely known as "Government" which is usually credited with unlimited means and with the ability to overlook individual debts; it would add the odium of the bailiff to that of the tax-collector—*odio vectigali odium fenebre*; it would choke all private enterprise and, still worse, the development of those habits of providence, thrift, self and mutual help which are among the highest qualities of a nation.

*Functions of the State.*—But the State must assist the development of organized credit. The functions of the State in the matter of rural credit are considerable; it must remove all disabilities and obstacles which prevent lender and borrower from meeting on fairly equal terms; it must stimulate competition with the money-lender by suggesting and favouring the establishment of credit associations of various classes; it must legislate for the due formation and management of such associations, with a special leaning to co-operative associations as stimulative of essential national qualities; it should grant certain privileges which cannot be safely entrusted to private individuals; it should provide for efficient supervision; and it may grant some moderate subventions, either as working or as mere starting funds.

The State cannot do much by direct means to place lenders and borrowers on equal terms; education is a chief means, but one of very slow growth. A usury law is generally a mistake, but the modern German form, though perhaps too drastic in its penalties, is a great advance upon those ancient laws which lay down an arbitrary

rate for interest, as to this day in the United States. The German law gives the courts discretion to decide in each particular case whether there has or has not been usury, the circumstances of each contract being considered, and especially any undue advantage which the lender may have enjoyed. A usury law on similar lines may be wholly though temporarily useful. Similarly, it is advisable to insist that all persons habitually dealing in credit as a business, shall keep a fixed set of accounts entered clearly and distinctly in proper books ; the lack of such registers is daily felt.

The real method, however, of bridling the money-lender is by stimulating competition with him ; in Switzerland thirty years ago the complaints against the usurer were as elsewhere ; banks sprang up in obedience to the demand and in consonance with favourable laws of mortgage, registration and other stimulating circumstances ; the result now is that the money-lender is authoritatively declared to be of no account as a factor in general credit, there being about 900 credit banks of various classes to less than 3,000,000, people.

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While it is desirable to develop the suggestive and educative functions of the law and of the executive in the matter of thrift and credit institutions, and to give, by law, certain privileges to societies established to promote national thrift, providence, and productivity, it is to be remembered that neither the existing law, nor the Government, nor the state of society, offers any actual obstacles to the establishment of any class of bank or benefit association ; if the law does not suggest, it does not prevent ; if the executive does not help, neither does it hinder ; if the conditions of society are not all that can be desired, neither are they specially unfavourable. Compared, in fact, with the conditions of Europe, especially in the middle of the century when banks for the people first arose, the conditions of this Presidency (Madras) must be regarded as distinctly favourable. The right of association for any purpose, political, social, or economic is absolutely free ; fiscal burdens are light ; communications, by rail, post and telegraph, are good ; justice is accessible, pure, and fairly prompt, while, in the village courts, this Presidency has at hand an unequalled instrument for the enforcement of small claims and contracts ; education, though popularly backward, has produced a large class of men who are or may become fully acquainted with Western ideas and methods, while sufficiently in touch with the people to be able

to carry those ideas into effect : the ryots themselves are generally shrewd, while the village leaders are accustomed to combined effort and system, as in the difficult task of water distribution from great tanks, compared with which the labour and organization required for managing petty thrift and credit societies, are but small. The success of the Nidhis, even in villages, proves that there is absolutely no necessary hindrance to the successful working of association either in the law or in the conditions of society, although it is most desirable in the interests of further action, that certain positive improvements shall be introduced and privileges granted. What is really wanted is the advent of men of zeal, enthusiasm, devotion and perseverance who will take up the Western ideas and methods, and, by personal labour, solve the difficulties of the problem not on paper but in actual practice ; the philanthropic reformers of the East must sit down in the villages as did their prototypes of the West, and must there establish the petty societies which, as in Europe, shall contain the germ and promise of infinite potentialities. There can be no higher honour for any man than to achieve the role of the SCHULZR-DELTZSCH or the RAIFFEISEN of India, and the possibility of filling that role is within the power of hundreds of men in this Presidency.

[*Extracts from Sir F. A. Nicholson's Report, pp. 93-96.*]

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#### ANALYSIS OF EUROPEAN LAND BANKS.

An analysis of the organization and methods of the various European land banks will give a more complete idea of Real credit in Europe than the description of isolated institutions or separate countries. This chapter refers only to institutions especially established for the granting of Real credit, and not to ordinary banks which merely grant mortgage loans as part of their general business, nor to Savings banks which place much of their deposits in this form of investment.

*Character.*—All institutions for the special grant of Real credit are classified as private or public.

*Class I.*—Private institutions are associations either (*a*) of borrowers, or (*b*) of lenders, that is, they are either associations of mutual credit consisting of landed proprietors united in a society for the purpose of obtaining loans at cheap rates for their members, on the common security of all, or they are ordinary joint-stock companies financed by capitalists, large or small, who are looking for a good investment, and who regard mortgages merely as the means of returning a good interest on their investments. Each class seeks its own profit, which in the former is cheap loans, in the latter high dividends. To a great extent the two classes of institutions are opposed in principle; practically however the second class are able to give cheap loans by reason of the abundance of their funds, and they are obliged to do so by the law of competition. Loans are however probably cheaper on the whole in the former class, since their credit is unlimited, they have no share capital to absorb profits as dividends, and all profits, if any, return to the members. The chief exponents of the former class are the *Landschaften* of Germany and the *Boden credit* institutions of Hungary; of the latter, the *Credit Foncier* of France, and the mortgage banks which have sprung up throughout Europe on the model of the French institution. The Italian banks are peculiar. \* \* \* They are ancient banks which of late years have received special privileges from Government



on condition of devoting a special department to land credit on modern principles as in the French Credit Foncier. These are now known as the privileged land mortgage banks of Italy. They are private institutions, several of them, notably the bank of Naples and Sicily, being without shares and dividends, and based upon an ancient religious or pious foundation. Other banks are of the ordinary joint-stock type, but are not allowed to deal in long-term mortgage loans with amortization, and upon issue of debentures unless their capital is at least £400,000. A new society has now (1890) been promoted by Government with a special law in aid; it is however to be a joint-stock company, but with special privileges and monopoly, and will be similar to the Credit Foncier of France.

*Class II.*—Public institutions are those founded by the State, either by Government or by some local body whether province, municipality or commune. These are but few in number and generally of no great importance. Germany possesses a few, chiefly the banks established to redeem the ancient feudal charges which burdened the peasants. In Switzerland some of the cantons, notably, Berne, have established State banks which are doing excellent work. Moravia was endowed with a similar State bank in 1880. But many of the land banks of Europe are largely controlled by the State; the *Landschaften* of Germany and the Credit Foncier of France are notable examples so that it is difficult to divide banks by a hard-and-fast line.\* \* \* In Russia there are State land banks of four classes: (1) those directly founded by the State, administered by the Finance Minister, and yielding profit to the State; (2) land banks under Provincial Governments directed by the Home Department; (3) institutions founded by communes; (4) institutions under the council of a particular charity under imperial patronage; all these were started before 1852 and little is known of their working. In 1882, a Peasants' land bank was established to provide capital for those peasants who wished to buy out their land; this is essentially a State bank.

*Initiative.*—Generally speaking, all land credit institutions prior to 1850 or even 1860 were due to the impulse of Government, varying from that of *direction* or direct fiat, to the mere passing of laws favourable to their establishment, such laws being frequently necessary by reason of a prior restrictive legislation such as is generally unknown in England and India.\* \* \*

Some banks, however, have had a purely philanthropic or patriotic origin. Apart from the Savings banks—the Italian banks were in many cases works of charity (Monti Pie) and the great bank of Naples is the result of a fusion of seven Monti of old and charitable foundation. The chief land banks of Hungary are patriotic and philanthropic institutions, *e.g.*, the Boden credit institution of Buda Pesth, which was established in 1863 by a number of large landed proprietors who subscribed foundation shares at fixed interest below market rates in order to start the society. It has no shareholders proper, and no dividend, and is very successful in its way. Another society was similarly founded in 1871, and another, specially for the relief of small proprietors, had a similar philanthropic origin in 1879.

The remaining banks, principally those founded in the latter half of the century, are joint-stock banks, due to private initiative, but though very successful, they deal chiefly with urban property; in Germany alone thirty-one were founded between 1860 and 1880, and others since; these come under the ordinary law of the Empire and not under any special law; on the other hand they are not restricted to land mortgage operations unless by their own statutes.

*Principles.*—The foundation principle of the several banks is various; some are based on the principle of mutuality; the Old German Landschaften are the best types of this class, which are generally founded by persons likely to become borrowers, who, in order to obtain cheap credit, unite with an unlimited guarantee, and who divide all profits among themselves usually by reducing the price of loans. They give very cheap credit through having neither capital nor dividends, and through there being no antagonism, but rather identity of interest, between the banks and their clients. Some are Government institutions founded in view of providing cheap capital for agriculture; Russia, the small German States, Switzerland and Austria are the chief exponents of this principle. The modern type is that of the joint-stock bank limited, in which money is invested for the sake of dividends.

*Objects.*—The objects of the societies are diverse; in the Old Landschaften, the chief object was the relief of the “noble” proprietors, who were much distressed by usury and war. The redemption of ancient and oppressive private mortgages by loans from the society at moderate interest and on long term is a second and general object. The relief and development of agriculture (*a*)

by restoring to it the capital diverted by usurious debt, (b) by providing cheap capital for improvements and for family purposes; (c) by bringing into industrial circulation the petty hoards of capital available but unused is a third; a fourth object is the reduction of the general rate of interest by means of institutions of good security working on a large scale with cheaply borrowed capital, thus breaking the monopoly of the usurers, or of other imperfect methods of supply, and governing the rate at which capital could be properly lent. The Credit Foncier of France and the institutions based on its example are noteworthy examples of this class. A fifth object is found only in the modern joint-stock pattern, where capitalists seek a good investment for their funds, and establish banks for the purpose of earning dividends as high as security and competition will allow them. A sixth object is that of loans to public bodies—communes (villages), district boards, municipalities, &c.—for public purposes, the security given being that of the corporate property available, or the local rates and taxes. Here again the Credit Foncier of France led the way and has been followed by societies of that type. A seventh object is found only in a few special banks, *viz.*, the redemption of rent charges, feudal dues, &c., by peasants, especially in Germany, Austria, and Hungary, and the buying in of their lands by the ex-serfs in Russia. An eighth and very rare object is that of dealing solely with petty proprietors; in most land banks no application for a loan will be entertained when the property is worth less than about £83, *e.g.*, 1,000 florins, in many of the banks in fact the minimum loan that will be given is 1,000 florins (rupees); \* \* \*

Real credit institutions in general have, in consequence, done little for the small proprietor. A ninth object is that of lending on urban property either for ordinary loans or for special building purposes; these are all of the modern type, and such operations are expressly excluded from land banks proper such as the German *Landschaften*. A tenth subject is the encouragement of thrift by establishing Savings banks, in which case loans are given on mortgage by the Savings Banks, in order to obtain a profitable investment of their deposits. An eleventh and very important object is that of the new Central banks, formed not to lend direct to borrowers, but, almost solely, to facilitate cheap credit by the issue from a central institution of national reputation, of central debentures in representation of debentures issued by small local banks. A twelfth object is land

improvement, pure and simple; such are the land improvement societies of England, and the Landeskulturrentenbanken of Germany; these are generally, if not invariably, the last development of land credit.

Hence banks which grant land credit are as follows: (1) land credit banks proper, whether mutual, joint stock or State, such as the Landeschaften, the Hungarian Boden credit institution, the Credit Foncier of France and the State Banks of various German States and Swiss cantons; (2) the rent charge redemption banks as in Germany and Russia; (3) communal and benevolent societies of various sorts; \* \* \* (4) the Savings banks; (5) ordinary banks, \* \* \* (6) Central land banks; (7) Land Improvement banks or annexes of banks.

*Capital.*—The oldest forms have practically no original capital; they were assisted at starting by a subvention, at low interest (*e.g.* 2 per cent.) by the State, but they had neither shares nor capital, their funds, beyond the above subsidy which was only intended for first expenses and as a reserve, proceeding entirely from debentures issued in representation of loans granted, at first in immediate representation of specific loans, afterwards, *en masse* in representation of the aggregate of mortgage loans granted by the society. On the other hand, the banks of Naples and Sicily have immense capitals, derived from religious foundations (Monti Pie), but no shareholders, so that they have no dividends to distribute. But, in general, modern institutions are joint-stock companies with a substantial capital, usually partly paid up. This capital may be foundation or ordinary, variable or fixed. Foundation capital is that provided by persons either merely philanthropic or interested in promoting cheap credit; such are the Hungarian banks above alluded to. In the Hungarian Boden credit institution the founders' shares were £417 each, of which 10 per cent. was paid in cash and the remainder in bonds which were merely kept in deposit, and in fact—in that bank—have been returned to the subscribers as not required, owing to the formation of a strong reserve to which all net profits go. This foundation capital bears a *fixed* interest of 5 per cent. which is below the ordinary Hungarian market rate, and has no claim to any dividends out of profits. Foundation shares may be paid off whenever the property of the bank permits it, but are also retained as fixed deposits. The State subvention may be called a foundation share, and, as in the cantonal

banks of Switzerland, frequently takes the form of subscription for shares; in many cases it is paid back when a reserve has been established. Ordinary shares need no remark. In some banks the amount of capital is fixed, so that operations, which are usually limited to a multiple of the capital, are also limited, but in most, the capital progresses up to a certain maximum with the operations; *e.g.*, in the Credit Foncier of France the maximum capital fixed by the statutes is £8,000,000 sterling; the actual capital at any moment must be one-twentieth of the bonds in circulation and is now (1892) £6,820,000, the debentures, mortgage and communal in circulation, aggregating about £120,000,000. In the German and Austrian banks, the necessary proportion of capital to debentures is 1 to 5, 1 to 20, &c. Many banks, even when constituted with a capital of their own, obtain State subventions, *e.g.*, the Credit Foncier of France has a grant of £400,000, but this is usually credited to the reserve.

*Reserve.*—The reserve is an obligatory element in all cases. The German Landschaften provide a reserve from the principal or interest of the State subvention, from profits, from unforeseen receipts, and from profits on the issue of their debentures, from contribution and commission paid by borrowers *ad hoc*, and included in the annuities or deducted from the principal at the time of borrowing. The Hungarian Boden credit institution has, as a reserve, the founders' shares—one-tenth paid up—the Government contribution for the purpose, the whole net profits of the institution, the special guarantee fund, and a percentage payable by the borrower with each annuity. The first two have been described under capital; the third is possible in this institution, since—as there is no share capital—there are no dividends to be paid; the fourth item is derived from a one per cent. deduction from the amount of all loans made at the time of payment, but returned to the borrower with interest after his loan is paid off: the fifth item is a .06 per cent. addition to the annuity. The Credit Foncier of France takes for its reserve from 5 to 20 per cent. of its net profits, and it should accumulate up to a maximum of one-half of the share capital. The employment of the reserve is various; in general it is to guard against unexpected losses; in some cases its interest goes to pay for the administration. The funds of the reserve are usually invested in Government paper or other good securities or in small and safe banking operations of quick return. There are special reserves as noted under the Credit Foncier of France, *e.g.*, to

equalize the proceeds of debentures issued at various rates according to the market; to provide against the loss on repayment at par of bonds issued below par; also for the issue of lottery prizes and bonuses.

*Funds.*—These are provided from capital, from accumulations of profits, from Government loans or grants, from mortgage debentures, from deposits, loans and bank notes. The first three \* \* \* are comparatively unimportant as sources of funds though all important as security; *e.g.*, the capital is usually only one-tenth or one-twentieth of the amount of the debentures issued by the society in the case of the German institutions and the Credit Foncier of France, and in some, as in the Hungarian Boden credit institutions, there is practically no capital, but only a reserve. In the later commercial or mortgage banks the capital is a real working capital, as in the Hypotheken mortgage bank of Hungary where only one-tenth of the nominal and one-fifth of the paid-up capital is used as a guarantee fund (reserve) for the security of its debentures; so in Germany, the banks since 1860 use their share capital in mortgage operations, and with some which have not obtained Government authority to issue debentures, this capital is an important element in their working funds. Such banks can deal only to a very limited extent in loans for long terms repayable by annuities. In Belgium in 1890 the paid-up capital of the four chief mortgage banks varied in actual fact from one-fourth to one-twentieth of the debentures issued, and in Italy in the same year the eight mortgage banks—including the National bank—had a capital of £1,760,000, and debentures in circulation for £28,062,200. As shown in describing the Credit Foncier of France, a certain proportion of its capital, and even of its reserve is used in short-term loans, but this is not its true use; it is a guarantee fund.

*Clientele.*—The oldest banks were formed on the principle that only members might borrow: this is maintained to this day in the *Landschaften* and is continued in all popular banks and mutual credit societies. The question then is, who may become members? In the Old *Landschaften* only “nobles” could be members; the banks were expressly founded for them, the “peasants” being disregarded. Gradually, however, this restriction to some extent disappeared; peasants were admitted—with restrictions—to borrow, and the New *Landschaften* generally admit them. But a restriction is found in the minimum prescribed for loans; in some cases loans may not be given

on property below £83 in value ; generally the loans may not fall below £42 or a considerably higher sum, their minimum being prescribed by the statutes. Even where the minimum loan is fixed at a small sum, in practice the loans actually granted are considerable ; small business is risky, troublesome, and unprofitable to the bank, and is not undertaken. The Hungarian Boden credit society, for instance, had in view the large and medium landholders ; it was founded by rich and patriotic men of the aristocracy, and, by statute, will not lend sums below £83, *i.e.*, practically, on estate of less than 50 acres, though one-third of the whole area of the country is held in estates below 44 acres. As a matter of fact the loans average far above the minimum in this as in almost all other land banks ; even the cheap and popular savings bank of Milan cannot in practice lend in Venetia on estates below 75 acres in area, whatever it may be able to do in its own neighbourhood, while the general average of the Italian land banks is very far above that. Hence the small proprietors are not the clients of the land banks : practically none below the proprietors, who in Germany are known as team-owning farmers, *i.e.*, who hold above 15 or 18 acres, can hope to borrow.

The joint stock banks, such as the Credit Foncier, will lend to any one who can offer good real security, but, as a rule have a statutory minimum for loans, and in practice lend considerably above that minimum. The real peasant class holding below 20 acres, are not reached by the land banks generally ; practically they are financed, as regards mortgage loans, by money-lenders only, and occasionally by Savings banks, except in Switzerland and in some of the very small German States. \* \* \*

*State Intervention.*—The most noticeable feature in the organization of these land banks is the pervading presence of the State, in all degrees, from the complete direction and control found in the State banks, to the general supervision exercised over private joint-stock companies ; the State in no case leaves this form of bank to its own devices, but watches its proceedings with jealous care, and, usually by special law, provides most stringent rules and heavy penalties for malfeasance, or even neglect of regulations. It is true that Continental Europe is accustomed to a general regime very different from that of England and India, where the principle of non-intervention is generally held to be the true gospel in political economy, but in the matter of these land banks the intervention of the State is so

marked as to show that there are particular reasons for it, some perhaps historical in the custom which has continued from last century when Frederick the Great erected the first land credit societies by his simple fiat, some, certainly, in the nature of the operations to be undertaken and the class of people to be dealt with. It is, in fact, held by some European economists, German especially, that the State should undertake banking as it does the Post office, Railways, the Currency, etc. Others, on the contrary, object to State intervention, as savouring of State socialism, as tending to cramp, or even stifle the business energies and independent action of a nation, as developing still further that dominant bureaucratic action which is so all-prevailing and powerful in Europe; as favouring—in the matter of credit—the class of borrowers at the expense of the general tax-payer. Others however believe that, while not bound to direct action, there are conditions which call for State interference in favour of an industry—agriculture—the stability of which is so absolutely necessary to the welfare of a nation, and they would admit or even require State intervention by way of encouragement and promotion, subvention and guarantee, control and supervision, and privileged procedure. These last opinions are almost universal in Europe where the conditions and history of society are so utterly different from those of England, and it will be seen that State intervention in all the last mentioned forms is absolutely universal, not indeed in all forms for all banks, but for all land banks in one form or other.

Government control and supervision in varying degrees are then universal in Europe in the matter of land banks; it is recognised whether in France, Germany, Austria or Italy, that land banks must be controlled or at least supervised by Government authorities; the absolute need of agriculture for capital on moderate terms; the impossibility and danger under existing conditions of supplying it by private lenders; the inability of the people generally, under these conditions, to start and successfully work a land bank without State assistance and guidance; the evil of allowing newly-started banks to risk their credit in loose or misdirected operations with the consequent danger of failure and irretrievable damage to credit in frightening capital from associated and systematic effort; the danger that, without such control, the landowner might find that he had merely exchanged the private usurer for a mechanical screw-vice provided with powers of coercion, specially



supplied, which the usurer lacked, seem to be among the reasons which have determined all European Governments to interfere more or less completely in the guidance and supervision of the land banks. The conditions which existed at the starting of the banks determined this action: the people were either nobles whose position round the throne, and in the then economy of their country, required the support of legally secured credit, or they were poor and ignorant peasants whose very life blood was being drained by private usury; nobles and peasants alike were in the hands of the money-lenders, and were incapable by their sole efforts of extricating themselves or of managing credit associations without supervision. Again, in late years it was necessary, in the still unimproved condition of the petty proprietary who form the great mass of landholders to prevent associations of capitalists from exploiting the country, as the individual money-lenders had done before them; *per contra* owing to the extreme difficulty of dealing successfully with ignorant, suspicious, heavily indebted masses of small holders, Government connection with the banks was needed to give that official sanction and support which in much-governed Europe is the *sine qua non* of rural dealing. Hence the great difference between the history of continental land banking and the banking of England and Scotland, and it may well be that in this, which is found a necessity in Europe—and strange to say—as will be hereafter seen in the most independent of countries, the United States of America, there is a lesson for Indian rural land banking. Free banking suits English and Scotch conditions and the peculiar history and development of society and of economic history in those countries, but is not necessarily suitable to other conditions as in India; nay, it may be a grave error.

#### CREDIT AGRICOLE.\*

In Europe, rural credit is generally divided into Credit Foncier or *immobilier*, and credit *mobilier* or *agricole*.

The latter form of credit includes chattel credit, *i.e.*, the credit based on movables, such as crops, stock, furniture, etc., and personal

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\* In Europe the words 'Credit Agricole' are used in a technical sense; they do not mean 'agricultural credit' *i.e.* credit in general granted to agriculturists, but those particular classes of agricultural credit not covered by land credit,\*\*namely chattel and personal credit.

credit, or that based on a man's *status* and general position, his character, his property and his reputation.

Before proceeding to discuss the 'Credit Agricole', it will be well to rehearse once more the nature of the credit required by the farmer; it is impossible to discuss or devise systems for granting him credit unless his needs are distinctly defined and grasped. For permanent improvements then, whether of irrigation, plantation, building, leveling, and those lengthy operations which convert mere "*anathi tarisu*," or neglected and possibly exhausted dry lands into fertile gardens, long-term loans are needed, in which the capital borrowed may be replaced by small annual instalments from the improved income. This form of credit is based upon the security of the land itself, which remains permanently as the guarantee for the loan. This is the Credit Foncier. But the farmer, proprietor, or tenant, requires other classes of credit; he needs money for cattle, manure, new implements, seed, maintenance, wages, rent or assessment, etc., and for this comparatively short-term loans are necessary, varying in duration according to the class of requirement, from (say) three months to three or four years. Now, unless, as in Switzerland, mortgages are cheap and very accessible, it is obviously absurd to pledge land for a mere passing need. The crops, stock, and personal status of the farmer ought to be amply sufficient for loans necessarily moderate and of comparatively brief term; if credit has been effectively organized in a country, nothing can be simpler than for the farmer to seek his banker and obtain a short loan either on his mere bill or note of hand, or as a cash credit, or by a bill of sale, or in other simple ways. But this is precisely what is universally wanting to the small farmer; universally, that is, on the continent of Europe, where "the ignorant peasants, recognizing nothing save that money is necessary, rush into debt, and fall into the clutches of men who, under pretext of helping them, only desire to cause their ruin and to grow rich at their expense." It is then the organization of this class of credit that remains to be discussed. It will be useful, further to point out that discussions in France have largely turned upon chattel credit, *e.g.*, in giving the farmer a greater borrowing value in his crops and movables by limiting the landlord's privileges over them, in enabling him to pledge his stock, crops, etc., without delivery to the pledgee, etc., while in Germany chattel credit has never attracted much attention; it is the development of personal credit that has there occupied men's minds.

The reason why Germany has relegated chattel credit to a wholly secondary place is (1) that as the landlord has by law the first rights over the crops and stock of the farm up to the amount of his rents, it is impossible to pledge them by delivery to a third party without wronging the landlord, unless with his consent ; (2) that crops and stocks and furniture by their very nature cannot be removed or delivered to the custody of the pledgee without disturbing or preventing the work of the farm. In Germany, therefore, while personal credit largely depends upon a consideration of the possessions of the borrower, those possessions are not themselves given actually in pledge, and chattel credit is practically of little use. This is equally the case in France, but the course of action has been vastly different ; the business men of Germany, abandoning the idea of chattel credit, have sought development of personal credit, while their confreres in France have either unceasingly discussed the possibilities of developing chattel credit, so that the debates on the Credit Agricole in France have been largely synonymous with debates on the restriction of the landlords' privileges as entered in the Civil Code, the pledge without delivery, the assimilation of the present borrower to the *commerçant*, and his subjection to the commercial law and Courts, or they have attempted to provide agricultural credit, which deals with petty transactions over the face of a whole country, by means of central institutions which could not possibly touch the difficulties. Hence the actual result is, that in France, where it is extremely difficult to alter the law, altogether apart from the practical difficulties in the way of chattel credit, the Credit Agricole is, still, a matter of discussion, and the peasant is actually without agricultural credit, except in so far as the usual money-lender will grant it ; whereas in Germany certain practical minds borrowing the principles of association, unlimited liability and local effort from the *Landschaften* of their own country and the Banks of Scotland, have founded the popular banks and credit institutions, which, though not yet fully developed, have, so far as they have gone, solved the problem of credit to the petty proprietor, artisan or tradesman, and while so doing have fostered and are fostering precisely those habits of thrift, temperance, prudence, punctuality, public spirit, enterprise and combination, which are the substructure of all permanent and substantial progress. France has discussed legal improvements and central institutions, the idea of the latter being based on the success of the Credit Foncier, and being equally consonant with the

centralizing ideas and methods which find favour in that country ; such institutions have neither succeeded nor survived. On the other hand, the Germans put all legal questions aside and set to work to develop local societies for mutual assistance and credit, which draw their funds from outside by virtue of unlimited liability (solidarity), safeguard all internal transactions by the local knowledge available to them as a local association or brotherhood, and have eventually supplied by development, the links between themselves united in groups, and between themselves and central societies which grew up to supply a felt want. Not only did they not trouble the Legislature to alter the substantive law of the country, but they themselves were, for many years, to some extent outside the law, as being societies not recognized as moral and commercial entities ; they had no *locus standi* in the Courts and survived at first solely by virtue of their own meritorious management. The general result is that while in France there is—speaking generally—not a popular bank nor a society for agricultural credit, there are in Germany popular banks and credit institutions by the thousand, dealing in rural credit by tens of millions sterling and developing each year not merely in numbers, but in importance and in beneficent influence, while their example has been copied in all other continental countries, and a beginning has, since 1889, been made in France also.

#### POPULAR BANKS.

Under this head will be described those classes of credit institutions which are devoted solely neither to Real Credit, nor to the Credit Agricole ; but which deal simply with credit such as they are able to supply. It is not intended to discuss ordinary banks, but only those particular classes of banking or credit institutions, which have sprung up to meet the wants of the poorer classes, whether urban or rural, and which seem to offer a solution of the credit question in its economic, social, and moral aspects. Such are principally the co-operative credit institutions known generally as ' Popular banks ' in Germany, Austria, Hungary, Italy and Russia, the mutual credit institutions of RAIFFEISEN and WOLLEMBORG in Germany and Italy respectively, certain other Co-operative banks, a few Commercial banks, and the Central banks for linking Popular banks, &c., and supplying them with funds. The first two classes are by far the most important and suggestive for Indian needs.

It is to these banks that attention is particularly directed, for it is on them chiefly that the hope rests of popularizing an organized system of credit. It is these banks which, as the Popular banks of SCHULZE-DELITZSCH in Germany and Austria, and of Luzzatti in Italy, are giving credit to the amount of at least £250,000,000 sterling to small trades people, artisans and agriculturists; which, as the rural loan societies of RAIFFEISEN in Germany and WOLLEMBORG in Italy are extending credit to, and greatly developing the character of, the purely rural classes; which in the form of the 2,300 so-called Building Societies—really Co-operative or mutual banks—in England have about 600,000 members and supply immense credit on real security; which in America, in several thousand similar Co-operative banks, are said to be a financial factor of increasing magnitude, likely soon to overpass the Savings banks, and to form the chief means of granting small loans on Real credit. It is these which supply not merely credit but credit to the very smallest folk. They not merely supply popular credit, but they have democratized credit; their credit is not merely not that dangerous form of easy credit which often ruins, but is strongly educative. It not only does not demoralize or enslave, but directly and indirectly stimulates thrift, foresight, order, business methods, temperance and morality, industrial improvements, habits of mutual association and self-help.

These banks have not merely popularized but democratized credit, which proceeds from the people to the people by the people. Finally, it is this form which has found a beginning in the hundred and odd Mutual Funds (Nidhis) of the Madras presidency, a form of society, which, originating probably in the indigenous Chit association, has developed by the adoption of the English Building Society rules and principles.

It will be seen from the mere names of the above classes of institutions, that one central idea is common to all, *viz.*, that of co-operation or association. That principle is, of course, at the base of most modern banking societies. The Joint Stock bank is the leading feature of recent banking enterprise, and is the latest development from the rudimentary system of the private money-lender working with his own funds, who subsequently developed into the partnership banks which still share largely in this business, especially in country places. But there are two radically different forms of association, the one is the association of lenders or capitalists whether

small or large, numerous or few, who bring their funds together in order to earn the largest possible profits upon them. The primary aim of this form of association is large and safe dividends, any other object being secondary. But the other form is that of the association of borrowers; although in the best types of this form capital is subscribed by every member, the object of the society is profit not through dividends on the capital, but through personal use of the subscribed capital and other capital thereby attracted; it is the profit of the members not as lenders but as borrowers that is sought, and dividends therefore are not only not the object of the society but are opposed to its aims, since high dividends mean unnecessarily high interest on the loans. Many societies, therefore, rule out all dividends, devoting all surplus profits, after the reserve is supplied, to the reduction of interest, or to works of public utility; in others a limited dividend of (say) 5 percent. is allowed, especially on foundation capital; dividends are expressly recognized as temptations to forget the primary object of the societies. Hence, it will be seen that in the first form (lenders) the interests of borrowers and shareholders are opposed, the former requiring low interest, the latter high dividends; in the latter form (borrowers) the interests are identical, since shareholders are borrowers and require low interest first. The two classes of institution may almost be defined respectively as associations of money and associations of men.

This distinction of interests, radical in itself, is not however the only one, perhaps not the most important. It is almost universally the case that joint stock companies are formed on the large scale, establish themselves in a large town, and work from that centre outwards, except perhaps in America where the peculiar institutions known as National banks establish themselves in every small town as independent institutions, or in Switzerland, where the country is in miniature, and "Governments" exist for areas with the population of a very small taluk, and where in consequence small banks start up in every village. But in all other countries joint-stock companies for credit purposes take their rise and first establish themselves in considerable towns, one chief result of which is a large addition to urban business, whether mortgage or personal, but equally commercial and industrial, and, finding sufficient employment for capital; these do not exploit the rural tracts. Hence it results that, except in England where the rural clientele are largely farmers of—to Indian

ideas—considerable capital, or country gentry, the countryman is left without banking facilities.

Again, even if such banks grant credit to the peasantry, they are lacking to a great extent in the educational and even guardian power which the country banks should possess. It is the English country bank, not the great joint-stock associations with numerous branches, which have so long developed and assisted the English tenant farmer.

Hence in the history of rural credit it is noticeable that no banks have reached the peasants proper—Switzerland and perhaps Scotland excepted—unless they were small local institutions, usually co-operative or mutual; even the Savings banks, when they deal in credit, have only partly fulfilled this role unless they were also associations of the above character, or developed them by their side as branches or offshoots. Indeed, except in Scotland, there was up to 1850 practically no banking credit at all for peasants, and it is solely owing to the genius of German philanthropists who were also business men, that such credit is now available in Europe, and combines with credit, an education in many of the finer social and economic faculties.

It is then under the form of co-operative credit and not of joint stock companies, of associations of borrowers, not of societies of capitalists, that rural credit is generally found in Europe.

These banks are now numbered by the thousand; with their aid journeymen become masters, labourers become owners; hopeless debt is banished and the usurer driven out; agriculture and industry developed, and the villages in the poorest tracts become prosperous; the illiterate man turns towards education and the drunkard is reclaimed; the middleman is eliminated; the peasant gets full value for his produce, and pays his rent with ease; village life is stimulated by associated action and by the business education of the bank; punctuality, thrift and mutual confidence are taught; litigation decreases and morality improves; self-help and not that of Government or of philanthropists is the main-spring of action; activity takes the place of stagnation and routine; associated action replaces distrust. This is true, not of a few isolated villages, but in thousands of cases. There are several thousand Co-operative banks in Germany alone, a vast number in Austria-Hungary, and about 900 in Italy; the business done is enormous and in sums extending downward to bills

of less than ten shillings, while it is on record that these societies form everywhere centres of economic and even of moral progress. These are sober facts and not coloured pictures of the imagination. These banks are not all of one type ; in Germany there are the SCHULZE-DELITZSCH and RAIFFEISEN societies with their offshoots ; Italy has developed a type of its own, and Austria-Hungary while imitating those of Germany, has not made unlimited liability a necessary principle. They appear to be capable of assuming various forms according to idiosyncrasies of the several countries ; only in all there must be the common foundation principles of thrift and honesty. They are of great simplicity and are started and managed by the people of small villages. There are no losses when the directors keep the fundamental rules of the society, and avoid speculation or doubtful loans for the sake of extending business or obtaining high interest, for they develop an amount of devotion on the part of their members which prevents them from allowing the banks or their fellow members to lose by their default ; the clientele is of the lower middle and lower classes both urban and rural, tens of thousands of members possessing absolutely no property except their honesty, prudence and capacity for work.

#### SCHULZE-DELITZSCH LOAN SOCIETIES.

*History*—HERR SCHULZE DELITZSCH was a Village Magistrate who, having studied the working classes of the towns and rural tracts, was called to the Prussian National Assembly in 1848. Subsequently troubled by party intrigues he resigned Government service and devoted himself with but slight pecuniary resources, to the elevation of those whom he saw oppressed not merely with want of wealth but with want of the power to perceive, to strive after and to attain better things, a higher social, mental and moral development. Be it remembered that the work of SCHULZE DELITZSCH was in its aim no less than in its results essentially educational in the highest sense of the word and not merely material. The country and the people were habituated to live under Government wardship, and to look to the State for all improvements and for all deliverance from difficulties and misfortunes. SCHULZE DELITZSCH saw that it was essential, if the nation was to become worthy of the name, to turn the masses towards self-help, and to accustom them to rely on their own efforts and their own initiative to work out their national salvation. He



was the more compelled to this as the habit of leaning on the State for help in every difficulty, of blaming it for every misfortune, the habit of submitting to State guidance, regulations and control in all the affairs of life, was receiving fresh development from the growing socialism of the State, which, in the hands of MARX, LASSALLE &c., was assuming its modern form. SCHULZE DELITZSCH conceived this to be a radically mischievous development, and he spent his life in combating it, not by words only but chiefly by his marvellous skill in developing into solid fact the idea of co-operation. He saw, perhaps he was compelled to see, that powerful as is the pen, it is *per se* wholly insufficient, even powerless, to act on the classes who form the mass of the nation, and whom it was his aim to develop. Hence, while incessant in writing, lecturing, exhorting, it was in the creation of successful models by the power of his own individual influence and within his own immediate sphere, that he chiefly trusted. Neither did he attempt a vast agitation nor the institution of a grand society to drive all human ills out of the State; he was content to lay the foundation of a humble village edifice, which, like some Indian fane, should grow from within outwards till it became world famous; he believed in local growth and the development of individual powers inherent in all men, not in the importation of elaborate machinery. He had no universal panacea with which, in half a dozen years, the nation was to be re-created, and poverty, the legacy of a series of generations, the offspring of centuries of error and oppression, the result of social manners, customs and ignorance, the outcome in short of its history, was to be straightway eliminated; he aimed at practical education, and, if his efforts have been crowned with a marvellous and probably unlooked for success, it is but the greater proof of his wisdom in seizing the true idea of progress suited to the conditions and needs of his country, viz., the development of the individual through association, so that the powerlessness, carelessness and ignorance of the isolated worker might give place to the prudence, the thoughtfulness, the credit, the strength and self-reliance, of banded and disciplined groups. Moreover it was not simple credit that he aimed at; credit without a proper knowledge of its use, he rightly held to be an error if not a fatal injury; it was disciplined and safe-guarded credit, credit based on thrift and prudence and having directly a productive object. Nor was it credit only but all the benefits of co-operation at which he aimed. His first association

in 1849 was a Friendly Society for relief in sickness ; his second in the same year was an association of shoe-makers for buying raw material ; in 1850 the first Loan society was formed with ten members, all artisans. The organization of credit was, however, a main object ; he saw that by the aid of a little capital, properly employed, the man of prudence and capacity could often raise himself a stage higher in the social scale, whereas under the reign of usury, borrowing was simply the beginning of ruin, or at best a means whereby the surplus profits of work went to the non-worker. The want of credit may be imagined from the fact that 60 per cent. was common, while a workman borrowing 50 thalers (£7-10) for buying material might be charged 1 thaler a day for the loan, or 730 per cent. per annum. Hence his attempts to form societies both for lending money and for buying raw material. That this usury was not a necessary rate, but the result of mere greed and monopoly is shown by the fact that his petty associations, even at inception when rates were necessarily high, could lend with much profit at 10 to 14 per cent., and speedily reduced their loans to 8 per cent.

In 1849-50 SCHULZE DELITZSCH began his famous work with the above three institutions, all within Delitzsch, a small town of 8,300 people. He added to the above labours that of his pen in the shape of small treatises or tracts, and, in 1854, he started at Leipzig a periodical for a co-operative propaganda, which, in 1861, developed into the now flourishing weekly Journal of Co-operation.

By this incessant individual energy of SCHULZE DELITZSCH whose activity with pen, speech and action was unbounded, thirty mutual credit societies had been started by 1858, and by 1868 his efforts had been crowned with unexpected success, a success won by sheer energy and courage. Not only did his social and political adversaries attempt to crush his efforts, but the money-lenders and brokers from whom he was endeavouring to deliver the working classes united against him ; they prevented his access to newspapers, and thus drove him to establishing his own periodical and to the issue of pamphlets and leaflets. In the early days the police attempted to interfere on the ground that the societies were not legal or recognized by law ; this nearly fatal interference was successfully opposed. His societies in fact under the common law of Germany had no commercial status ; they could only sue and be sued as a society if the deed of constitution was signed by every member, and the result was that

they survived by sheer inherent force and by the extraordinary credit obtained by the principles of their foundation. The societies were not recognized as "commercial", not entering into the category of those recognized by the commercial law. Hence, as mutual societies, they were merely on the footing of ordinary individuals, while if they had dealings of any sort with outsiders, they contravened the law. The German law of 1868 first recognized these societies of unlimited liability as legal entities on a commercial basis.

*Principles.*—These banks start from the fact that capital is necessary to enable labourers and honest men to lift themselves higher in rank, to improve their methods and instruments of their work, to develop their estate, opportunities and capacity; the object of credit is the capital necessary for these purposes; loans for unproductive purposes did not enter into his idea of 'credit.' Credit is, in fact, the power of obtaining capital, and capital is wealth to be used productively. But he had also in view that self-help is the only true source of such credit, and that capital obtained by aid of philanthropy, charity, or even of the State except on a rigid business footing, is an injury; every act of benevolence accustoms men more and more to dependence on charity; every State intervention by way of favour renders men less self-reliant, more helpless in face of difficulty. He disclaimed all external intervention or interference, believing that men associated on his principles were sufficient for themselves, and he proved his theory by his success. Not only did the State not intervene on behalf of his work, but, after European fashion, it attempted to control it by police interference. Fortunately these attempts failed. Not only did the State not give privileges or freedom from taxation, but its laws did not recognize them as civil entities, until the law of 1868 was passed, *i.e.*, until the societies had established their position, they had no legal status, and could not sue in Court or obtain recovery of their dues; their credit was based on their own respectability and solidarity, since not being a recognized entity they could not be sued except individually. Yet they succeeded and were an established success before the law recognized them. SCHULZE DELITZSCH considered that the only province of the State was to remove obstacle, and he invoked its aid for this purpose and not to obtain privileges which he steadily resisted.

In fact the great principle which seems to underlie success in the Credit associations of "small folk" is that of self-help; credit

cannot be successfully given to such folk by large institutions, and credit, which is the result of philanthropic or State effort, is apt to be either abused or abortive; it is abused for it comes in the guise of charity, and is received as a mere surplus of the wealth of others which they can easily spare, with similar subsequent grants beside; it comes from a general and indeterminate fund, which is popularly supposed to be inexhaustible. Similarly, when it is supplied by government it is not only supposed by the borrower to be from an inexhaustible source, so that no one will be harmed if it is not repaid, but it is necessarily surrounded by the lender with so many rules and formalities, that it cannot reach those whom it would benefit. Above all, such credit does not educate; it does not teach the borrower that all capital comes from saving; yet without this lesson credit is dangerous; credit is only safe when it brings with it the lesson that there is no royal road to wealth; the mortgage of the unearned increment, the cheap loan from the philanthropist, the Government *takavi* at charity rates, teach the ryot nothing, while tending to beget carelessness and improvidence; it is the painfully saved surplus from laboriously won earnings that is the true educator. "If he is to value a gift, he must be his own benefactor; if he is to deal scrupulously with it he must be its guardian"—(WOLFF). "The only true secret of assisting the poor is to make them agents in bettering their own condition"—(Archbishop SUMNER).

As a rule, too, these banks are local, and a marked feature if not a principle, of their establishment is the limitation of their area of operation. The Schulze Delitzsch banks do not indeed recognize any limit, but in practice it seems that each bank operates in a small area; in the Raiffeisen banks this is an absolute rule. Hence there arises that local knowledge by the bank of its members, by the members of the bank and of one another, which seem essential to success in bringing credit to small agricultural folk. A further principle is that of association with unlimited liability—a principle which gives the maximum of credit possible in the absence of material pledge—compels the admission only of the more prudent and thrifty, binds the members together in a spirit of fraternity, and at the same time ensures that loans will only be advanced and spent for productive or useful purposes. The result of this solidarity of members known to be *prima facie* prudent and laborious, coupled with the material

results of their thrift in the shape of share capital and reserve, is not only an abundant credit as shown by the deposits, which average about three times the share capital and reserve, but a large freedom both from losses or from serious failure. Losses in general have been trifling, and such as are incidental to all credit operations, while the general annual profits have been good; but it is doubtful if this solidarity is essential to success. In Austria it is not compulsory, and only half the societies have adopted it; in Italy, where the success approaches that of Germany, it is practically unknown in the Popular banks; the new German law of 1889 cancels the former postulate of unlimited liability for co-operative societies, and grants an option between three different methods.

*Methods.*—The method is that of an association, each member subscribing a share, and thus realizing a share capital to serve both as guarantee and as a lending fund, as well as to enforce thrift; the association is one of unlimited liability, by the guarantee of which and of its shares, outside capital is attracted, which is lent out on short-term loans to members only. The profits are credited to the share capital, after allotting a certain amount to a reserve, and to the payment of the directors and staff. Members can withdraw at pleasure, but can enter only after scrutiny by the society. No local limits are prescribed, but the office is usually placed in a town or large village.

*Formation of a Society.*—Seven persons at least must unite to form a society; these must draw up the statutes (Articles of Association), the general subjects of which are laid down in the law. A board of directors and a committee of supervision must also be elected by the general body. The statutes, with the names of the directors, must then be registered in full in a register of societies kept in that Court of the district which keeps the commercial register. The statutes are examined and certified by the Court, which also publishes an abstract of them. Only after the above registration does the society acquire a legal existence, and it is then considered as a “commercial” or trading personality, subject to the provisions and with the rights granted by the Code of Commerce.

*Clientele.*—Any one may be a member, who can prove that he is worthy of being such; candidates must show that they are prepared to join in the principles of self-help and thrift; admission is granted only after enquiry into the character and

circumstances of the candidate by the directors or committee of supervision. As candidates are generally from the same village, petty town or neighbourhood, this is easy enough. Every member must sign a declaration of adhesion to the conditions of the society. The classes aimed at as clientele are those who having no material capital, save perhaps some tools, yet possess a moral capital in their honesty, industry and skill; those particularly in view were the urban artisans, and small traders and agriculturists were not specially provided for; but nearly one-third of the members are agriculturists. \* \* \*

*The Banks in relation to Agriculture.*—SCHULZE DELITZSCH started his banks chiefly for artisans, tradesmen and such like, and without special reference to agriculture: nevertheless they have done a good deal for the agriculturists. He recognized that agriculture requires loans of considerable duration, while his own banks were restricted to three months' loans, though with possible prolongations, and he carefully distinguished between the needs which should be satisfied by Real credit, and those for which personal credit would suffice. His own formula was that "the term of loan should be in harmony with the reproduction of the capital lent"; hence, for all purposes for which three or six months would not suffice, *e.g.*, land-improvements, purchase of stock, &c., in which the capital is more or less fixed and is reproduced only by instalments, he considered that Real credit was necessary, such as the *Landschaften* provide, *viz.*, long-term loans repayable by moderate annuities, and financed by the issue of mortgage debentures to an amount corresponding in the aggregate to the mass of mortgages held by the bank. He consequently desired and proposed (1867) a law which should give—without special privilege—to any institution which should provide proper guarantees and fulfil certain conditions, the right to issue "Pfandbriefe" (debentures), subject, however, to the control of the State; these institutions should rather be Co-operative associations than Joint-Stock banks, the associations consisting of the land proprietors of any given area. For all short term needs, "personal" credit as granted by his Popular banks would suffice. His projected law was, however, not taken into consideration, and long-term credit of the *Landschaften* type is still a desideratum for the ordinary German peasant; long-term loans up to ten and even twenty years being, however, to a small extent granted by the *Raiffeisen* societies. \* \* \*

*Defects.*—These are (1) the shortness of the loan term, which renders societies less useful to agriculturists; (2) indefiniteness of area leading to a loss of the co-operative bond such as is felt when the area is limited, and to a difficulty in obtaining information as to the borrowers and sureties; (3) the entire absence of control over the use to which the loan is put, whereby the societies lose a principal safeguard for the value of their money, and miss some of the great functions of co-operative credit, viz., the education of the borrower and the development of production; it is even said that petty usurers obtain loans to no small extent and lend out the proceeds in their own business; (4) the pursuit of dividends, which though tending to develop thrift, tend at least as much to injure the borrower, and to divert societies into dangerous paths of business.

#### RAIFFEISEN CREDIT UNIONS.

The Raiffeisen societies are due, as in the case of their rivals, to the philanthropy, prescience, courage, perseverance and skill of one man, RAIFFEISEN, a man of slight estate, a burgomaster or village mayor, of very poor health, with no particular property, but of unbounded energy. He has been called the SCHULZE DELITZSCH of rural Germany, for he has done for agriculture,—though as yet on a much smaller scale owing to the inherent difficulties of the case—what his contemporary did for the towns. Struck by the misery, isolation and want of capital among the peasantry, by the shameless and fearful usury of the private money-lenders, by the absence of association and public spirit in the cultivating classes, and by their need for elevation not merely in the material but on the moral side, he set himself alone and unaided, to develop a scheme for supplying the needs he saw. Like SCHULZE DELITZSCH, talking and writing were with him merely subsidiary to action, and that action was his own, and not another's; he asked for no aid but that of his own will, his belief in his cause and his confidence in the dormant capacities of the peasant; he formulated no great scheme, nor called on others or Government to do so, but began work in his own village, with the inspiration of his own ideas and of the needs around him. He had no ideal *entourage* for his work; on the contrary, the country round Flammersfeld is represented as very poor, the men of scanty means, ignorant, very superstitious and overwhelmed by debt, and his first attempt at co-operative effort was on the occasion of a great famine

“which decimated the people”; on that occasion, “the usury was frightful and bread and potatoes—the ordinary food of the peasantry,—were not to be had.” By personal effort he united some of the better class in a ‘Co-operative society,’ which imported grain direct, ground, baked and distributed it and brought down local prices by 50 per cent. ; he also obtained potatoes both for food, and as seed when spring arrived. This was in 1848. In 1849, he started an association of the better classes, who contributed funds with which cattle were bought by the association, and resold to the ordinary peasants who repaid the amount with interest in five years by easy instalments ; this was to obviate the ‘*Usure sur le betail,*’ one of the worst forms of usury found in Europe, the cattle dealer often exercising the right of taking back his cattle—which remain his till the value is fully paid up—if a single instalment of the heavy price is in arrears, and no return is made of prior instalments : subsequently this took the form of an ordinary loan society, the money and not the cattle, being made over to the peasant, who therewith bought cattle outright for cash. In 1854 RAIFFEISEN founded a society not only for granting credit, but for educating orphans, for supplying labour to men out of work, for buying cattle and for erecting a library. This was unmanageable and was wound up in 1864, and in that year, the first regular loan society, under the rules, which, in the main, govern these Credit Unions, was founded at Heddesdorf, a village of the Neuweid Union, of which RAIFFEISEN was the burgomaster. It is only from 1864, therefore that these societies took their origin. Till 1868 it stood alone, 5 were then newly started and 22 in 1869. Until, 1879 progress was slow, but from that time the increase has been very rapid. \* \* \*

Before proceeding to further details, it should be mentioned that RAIFFEISEN, to whom this organization of rural credit was solely due, was forced by ill-health to retire from public service about 1860. Though sick and nearly blind, he then devoted the remainder of his life to this work, dying in 1888 after his societies formed an established and successful system. Curiously enough, his work, though in Germany, has been attacked by business men and others, on account of the Christian and philanthropic tone which pervaded his writings and his works, as though a system, admittedly successful from a business and economic point of view, were the worse, nay even objectionable, for having as motives of action, principles based



otherwise than on the desire for gain. Had the societies been based and worked on a charity foundation, the objections might have been understood, but they are not only business associations, but business successes, and are not open to the reproach of being benevolent institutions, they are real associations of self-help and self-education of the highest character.

*The Conditions.*—It is worth while to note carefully the conditions under which RAIFFEISEN began his work, and the conditions of the problem ; it is too common in thinking of Europe, to think of its general civilization, its wealth, culture and education, and to apply these vague notions to minimize the difficulties of the European problem, and to exaggerate those of India. The peasantry of Europe are not the cultured classes, who give the tone and name to European civilization and progress ; they are often but barely instructed, while their prejudices, conservatism and narrowness of idea are proverbial ; they are not wealthy but excessively poor ; are much in debt and ravaged by usury to a degree, of which this presidency (Madras) as a whole, knows comparatively little ; what can be expected of them when the vast bulk own less than 7 acres per family, and a large proportion much less than that ; vast areas of Europe are bleak and infertile, repaying labour with but a bare livelihood often of the meanest kind, so that the small peasants obtain a poor subsistence even in good years, while droughts and floods, hail, frost, blights, and cattle disease are common fatalities. Moreover, RAIFFEISEN began his work more than forty years ago and Europe was not then even as now ; the peasant had long suffered from other evils, such as from the want of communications and of good markets, from general ignorance, from most conservative ideas and practices, from the poorest methods of farming, from feudal disabilities and customs, which the laws of the earlier part of the century had so partially relieved that a fresh set of laws was necessary, ending in 1850, to relieve them. Hence, it must not be imagined that the task of starting credit societies or rural banks among the peasantry was one whit easier in Europe than in the Madras Presidency ; on the contrary, so hard was it that it took nearly twenty years to establish more than the first such bank, while the whole of France, the bulk of Germany, Austria and Italy, the whole of the Iberian peninsula and the whole of Russia are still almost unsupplied, in fact, with rural banks for the peasant, for even the 2,000 or so Raiffeisen societies which have established themselves

since 1868, when their real development began, are but a trifle even in Prussia alone with its 54,000 communes.

RAIFFEISEN was the burgomaster of a village—afterwards of a group of villages—in one of the poorest parts of Germany, the Westerwald; it had but a “barren soil, scanty means of communication, bleak surroundings, indifferent markets.” Nature had proved a very step-mother to this inhospitable bit of territory, upon which the half-starved population—ill-clad, ill-housed, ill-fed, ill-brought up—by hard labour eked out barely enough to keep body and soul together, with the support of the scanty produce of their little patches of rye, buckwheat or potatoes, and the milk and flesh of some half-famished cattle, for the most part ruinously pledged to the Jews. “That reference indicates a peculiarly sore point in the rural economy of Western and Southern Germany, which led RAIFFEISEN to become an economic reformer. In this country we have no idea of the pest of remorseless usury which has fastened like a vampire upon the rural population of those parts. Even the gombeenman cannot compare with those hardened blood-suckers. The poor peasantry have long lain helpless in their grasp, suffering in mute despair the process of gradual extinction. My enquiries into the system of small holdings in those regions have brought me into personal contact with many of the most representative inhabitants—heads of agricultural departments, judges, parsons, peasants. And from one and all—here, there, and everywhere—have I heard the self-same ever repeated bitter complaint, that the villages are being sucked absolutely dry by the ‘Jews’. Usury laws, police-regulations, warnings and monitions have all been tried as a remedy, and tried in vain.” (WOLFF.)

It was this miserable district “where every little wretched cottage and tumble-down house was mortgaged and most of the peasants’ cattle belonged to the Jews,” that was severely visited by the famine of 1846-47, and it was the misery of the people that moved RAIFFEISEN to action. Such were the conditions of the country and of the people, and no more unpromising field could have been selected. And the conditions of the problem were no less difficult, viz., to supply *within*, confidence, courage, the spirit of ‘thrift, of self-help and of mutual help through association to a peasantry so enfeebled, suspicious and dispirited, and to inspire *without* such confidence and credit that, upon the guarantee of such a peasantry, external capital should be attracted in sufficient quantities to free the

peasants from debt and to supply them with funds for maintenance and production. This is the problem, such are the conditions, which RAIFFEISEN had before him, and, in his solution of it in its most unpromising form, he has solved the problem so successfully, that the system is now developing with immense rapidity, so that the end of next decade may easily see at least 5,000 rural banks of this class in full operation. For India the solution of the problem presents an absorbing interest, for there are few, if any parts more difficult, to deal with, than the scene of RAIFFEISEN'S first success, while in this presidency (Madras) alone there are 10,000 villages far more suitable than Flammersfeld. But the conditions of the country and of the peasantry do not exhaust the factors of the problem, there must be imported into it for its solution, the energy, skill and devotion of promoters of the Raiffeisen stamp ; so difficult is the problem that it has nowhere been solved, save by such imported elements, and it is well to recognize this at the outset ; given a SCHULZE DELITZSCH or a RAIFFEISEN, and they will bring bread out of stones, credit out of poverty, isolation and ignorance ; without them or some similar influence the problem remains insoluble.

*General Results.*—The increase in numbers has already been mentioned, and it should be noted that this enormous increase has practically been obtained since 1868 when the societies first began to develop.\*\* MR. WOLFF considers that there are probably above 2,000 including those that have seceded on minor points only. As 1,730 were entered in a report for 1889, and they are said to be increasing at the rate of at least one or two per diem, this seems a moderate estimate.

The loans granted are small ; in 1887 in three societies taken at random, 200 loans were granted for £3,094 or £15-10 each ; of these 35 were below £5, and averaged about £2 ; 139 were below £25, and averaged £9-8 ; only 26 were above £25, and none was above £112-10. It is clear that these societies have the true peasantry as their clientele. \* \* \*

*Principles.*—There is little difference between the aims and objects of SCHULZE DELITZSCH and RAIFFEISEN, and that which has been said above of the former applies equally well to the latter ; they differ only in the less essential matters of method, and in the clientele which they had in view ; the former founded popular credit for all classes, but especially for townsmen, tradesmen, artisans, &c., while the latter

had in view simply the peasantry and rural classes. As in the Schulze Delitzsch societies, so in the Raiffeisen Unions, the principles of action are those of self-help, association, solidarity, prudence, thrift and public spirit, to which, however, RAIFFEISEN added unselfishness, in that dividends are forbidden; all profits, less fixed interest on the very small shares—introduced only in obedience to the law—go to a common fund to be used for purposes of general utility, and not for private gain. RAIFFEISEN, like SCHULZE DELITZSCH, demanded no privileges for his societies, but was content to base their success on honest, energetic and prudent action. In the words of S. WOLLEMBORG, who, in Italy has founded similar institutions, he believed that, “when a whole class—the peasantry—is in danger, when the need is general and abiding, no kind of mere assistance, whether from the State or from individuals, is of any avail; rather is it mischievous, for it not merely leads men to count habitually on such succour, a succour which must fail at last, and render more acute the consequent distress, but it gradually stifles the feeling of self-reliance and personal responsibility.”

Whether he was right in rejecting or in not seeking temporary aid for nascent institutions, is arguable; success may have been delayed by the great difficulties of the start; on the other hand, when achieved it was undeniably due not to external aid but to intrinsic merit. In actual fact, two or three advances have been made from the State apparently as encouragement or premia and as aids to audit.

A great deal has been made of the differences between these and the Schulze Delitzsch societies; but on analysis both seem to have similar aims; thrift and the promotion of general well-being is the common aim of both; but while SCHULZE DELITZSCH places thrift and saving prominently forward as the chief factor of credit and of progress, RAIFFEISEN, while anxiously promoting thrift, desired to guide the peasantry towards unselfishness and public spirit rather than to individual profit. SCHULZE DELITZSCH encouraged thrift and attracted capital by giving dividends as large as possible, so that there is a tendency to opposition between borrowing and non-borrowing members, and possibly to unsafe extensions of credit and enterprise. RAIFFEISEN allows no dividends, but only market interest on deposits, and all further profits go to a reserve; there is but small share capital which is intended (1) for the ordinary purposes of a reserve, (2) for purposes of public utility. Exaggerated views prevent the partizans of either side from doing justice to the other; both are doing a great work,

and while the Schulze Delitzsch banks are far ahead in numbers and operations, the Raiffeisen societies deal with problems of far greater difficulty, *viz.*, the advancing of small loans for long terms to men who, though they possess some property, obtain their profits only in small instalments, and after considerable delays, and with a certain amount of precariousness and uncertainty; the men themselves moreover, are more difficult to deal with than the comparatively businesslike artisan and tradesman class. Hence a considerable divergence in methods as well as difference in results.

The principle of solidarity is common and essential to both: in the one it is simply a means of obtaining credit, in the other it is not only that, but a bond of brotherhood.

*General Features.*—The chief features are (1) that the society is absolutely local, the limits of a commune (village) being strictly maintained as the limits of membership and of operation, (2) that the administration is equally local, members alone being eligible for appointment, and is absolutely gratuitous, (3) that there is but small share capital, all funds being borrowed on the guarantee of solidarity and eventually of the reserve, (4) that there are, therefore, no dividends to pay, and all profits go to the reserve, (5) that only members, who must be residents of the commune, can get loans, (6) that loans may be of long term, extending to ten or even twenty years, and (7) that, as far as possible, all funds are the result of local thrift.

*Local Character.*—A Raiffeisen bank is simply a village society of agriculturists, labourers, and shopkeepers united for common interests; at first a few of the better class unite; these by example and precept, draw in others. The first steps are hard, but once fairly started, there is little difficulty, as the advantages are manifest to all. It is considered that the village should have not less than 400, nor more than 2,000, inhabitants; several small villages may unite if too small for a separate society. This principle of restricted area is deemed essential: the bank is thus at the borrower's doors. It can be administered gratuitously and by the most trusted men of the community; it has a perfect knowledge of the candidates, and can reject all unworthy of the honour who would be likely to discredit the society; it tends, therefore, directly, by reason of the advantages of membership, to encourage or to incite men to industry, thrift and sobriety; as a priest of the Rhenish provinces once said: "The bank has done more in my parish for morality than all my sermons"; it

has a perfect cognizance of the solvency and status of would-be borrowers, and it can and does examine the purpose of every loan and enforce its due employment, for in a village all is open to the eyes and ears of all; it establishes among the members the bonds of confraternity and tends to substitute association for suspicion, healthy and active communal, yet personally free, action for individual isolation and inertia; it forms a centre of local progress and reform. All are admissible, even the poorest, who satisfy the administration that they are worthy of membership, and, as will be seen in Italy, the mere possibility of joining a society has reclaimed men from drunkenness and extravagance, and has given them an impetus to sobriety, industry and even to education in its ordinary sense.

*Objects of a Society.*—These are well expressed in section 2 of the model Articles :—

“The object of the society is to improve the situation of its members both *materially* and *morally*, to take the necessary steps for the same, to obtain through the common guarantee the necessary capital for granting loans to members for the development of their business and their household, and to bring idle capital into productive use, for which purpose a Savings bank will be attached to the society.

“The Society will also have in view the objects mentioned in clauses 2 to 6 of Article I of the Law for Co-operative Societies of 1st May 1889.”

The objects mentioned in the last sentence are—

- (1) The supply of raw materials (*e.g.*, manures, wool, coal &c.).
- (2) The sale in common of the products of agriculture and industry.
- (3) Co-operative production and sale.
- (4) The purchase, wholesale, of food-stuffs and agricultural necessities and their retail sale to members.
- (5) The acquisition of implements or machines necessary for agriculture and industry and their use in common.

These objects cover a wide field, and, if carried out, would develop agriculture beyond belief; it is claimed that these societies are actually developing in the direction here indicated, as will be seen below.

It should be noticed that in fulfilling the object of improving production, a prime necessity was that of “freeing the members

from the grasp of the usurer" and one principal result has been precisely this; the usurer *has* been ousted, and the people set free to develop their farms or industries. No previous liquidation was asked for or needed; the member was a neighbour, his character was known, the use to which he intended to put the loan and his power of repaying it was examined, the money was advanced and the thing was done.

The following paragraphs are taken partly from the Model Articles of Association, partly from other sources: Articles, of course, differ in various societies, but are generally similar to those mentioned.

*Members.*—All adults of either sex, in full possession of their civil rights, may become members; admission is sanctioned by the directors, with an appeal to the committee of supervision in case of rejection. A member may withdraw or be dismissed; the statutes detail the circumstances in each case. It may be noted that dismissal is necessitated by the removal of the member to a village outside the society's sphere of operations, or if he joins another society of unlimited liability, in which case, of course, the original society might lose its lien over the member's property.

Members have the right of voting at the general meetings if present in person; females have no right to take part in such meetings, but may vote by proxy. Every member is entitled to ask for a loan. They are bound to answer in all their property for the debts of the society, to pay up their shares, to obey the rules, and to watch over the interests of the society in every way.

*Administration.*—Naturally the best men of the village form the original members, and therefore the original administration; the burgomaster (village head), priest, school-master and bigger peasants usually form the nucleus. The society has always a board of directors, including the chairman of the association, a council of supervision, a general assembly, and an accountant. Regarding these organs RAIFFEISEN said "the directors decide, the accountant executes, the committee of supervision oversees." The directors elected by the general assembly represent the society, and have the management of affairs, including the admission and exclusion of members, the internal work of the office, the enquiry into, and grant of applications for loans. For facilitating loans each director has a register, persons in his immediate neighbourhood or hamlet

apply to him for loans; on his report the directors consider the application, the object for which the loan is demanded, and the worth of the sureties and of the applicant. The president or his representative, or failing them, a member of the directorate specially elected by them, represents the society in its capacity of member of the Central society. The president has other duties, and is held specially accountable for the cash and the correctness of the books and balance sheet, and for carrying out the decisions of the directors.

The council of supervision has a general control; it is bound to see that the directors observe the rules, and that all resolutions are carried out; it is required to make a quarterly examination of the assets and debts of the society, when the position of each loan, its then value, the use made of the loan, and the status and solvency of the debtors and their sureties are examined afresh. Hence any deterioration of an estate, any misapplication of a loan, any degradation of a debtor or his surety, is at once known, and steps can be taken to safe-guard the society, since the members of the two councils reside in the villages which forms the sole *locale* of the bank. It can, moreover, examine the books, cash and securities at any time, suspend the directors or accountant, and call a general meeting.

The general assembly is the source of all power and is a petty democracy. It decides the general rate of interest to be demanded from borrowers, and is likely to keep this as low as possible, since all the members are probable or possible borrowers, and since there are no dividends to pay to investors. On the other hand, it requires an influential directorate to guide the assembly, *e.g.*, in so fixing interest that profits may accumulate into a reserve as soon as possible, and thus improve the material guarantee for the borrowed capital. No difficulty is found in practice, as the original members, and therefore the original directorate, are the most enlightened and influential men in the village. Meetings must be held at least twice a year, and as often otherwise as the committee or a tenth of the members require. It is usual to require all members to attend on pain of a fine in the absence of a valid excuse; this is intended to develop the personal interest of all members of every degree in the working of their society, and is found very effective. The general meeting in these and other co-operative societies



usually decides matters which, in an ordinary society, are dealt with by directors ; it is a small democracy with direct working powers.

All services rendered by the administration are absolutely gratuitous, only expenses out of pocket, if any, are payable to them ; the area and number of operations being small, and the accounts simple, there is but little trouble. The accountant is the only paid official and must not be a member of either committee ; security, personal or material, is required from him. He is generally the village school-master, sometimes a forest officer, frequently a tax-collector, and the remuneration is small. In India the school-master, or *monigar* or *kurnam* would naturally hold the post. There is an economy about the German and Italian arrangements very striking to an Indian observer, who is accustomed to see every petty Indian association, village union, reading-room, &c., spend much of its scanty funds on establishment.

The accounts are very simple, sometimes rough ; but they are now regularly audited by inspectors sent round from the central office of the group to which each society respectively belongs ; these inspectors pay frequent visits, point out errors, explain the proper methods and forms of book-keeping, and act generally as auditors *ab extra*. Their services are paid for not by each society, but by the central office of the group to which each society subscribes annually.

It will be observed from the above that not only is the establishment of the societies dependent upon local devotion, but that, once started, they bring men together in association and tend to develop in them a most useful and enlightened public spirit ; they are not merely centres of economic but of social and even of moral progress. Moreover, these societies do not spring up from the inherent and active love of progress in the village ; the peasantry of Germany are not very different from other peasantry ; it has been only by the unwearied and incessant devotion and energy of RAIFFESEN and his immediate disciples in this propaganda, that, after many years of effort and example, these societies have won their slow way to acceptance by the villagers. In some cases the suspicion of the villagers was overcome by the fact that their principal men lent money or placed considerable deposits in the nascent bank ; this gave confidence, which, when once given, soon established itself and the position of the society. It is invariably a case of local energy, devotion and honesty.

*Shares.*—Under the law of 1868 it was not clear whether a share-capital was a necessity; it is now placed beyond doubt by the law of 1889, and consequently the Raiffeisen societies which formerly rejected the share system, now require each member to subscribe a small share, which, however, only averages 10s., and may be much lower. Round this question was the principal strife between SCHULZE DELITZSCH and RAIFFEISEN; the former, accustomed only to townsmen, who either had no property but only wages, or who, being in trade, were subject to unseen risks, and who operated in trade matters entirely out of sight and out of the control of the society, obliged his associates to subscribe a considerable share-capital as a proof of their thrift and sobriety, and as a material guarantee for their individual and corporate debts; but the Raiffeisen societies, dealing solely with agriculturists and villagers, required no such security; each member possessed in his little farm, in his cattle and implements, &c., material guarantees far beyond those of any subscribed shares. Moreover, a peasant, even though he possesses property, has seldom any cash in hand, and his savings are necessarily and best invested not in a savings bank but in his fields or farm-yard; finally, every act of a peasant, the state of his crops and stock, his personal possessions, the new dress he gives his wife, nay, every visit to the public house, is perfectly well known to every other villager. For these reasons, RAIFFEISEN considered that a share-capital is not only useless, but mischievous; *useless* for, as calculated, shares of even £3 only add to the guarantee provided by the solidarity of the members of his societies an additional guarantee of 5 or 6 per cent., since the aggregate actual property of each member in land, house, furniture, stock, &c., probably averages £50 in value; *mischievous*, for it keeps money out of the land, members out of the society, and induces a habit of looking for dividends, while the necessity for giving dividends, *pro tanto*, retards the accumulation of the reserve which is a prime necessity. What a peasant wants is often not property but simply cash, he is not a pauper, but he requires floating capital; and to demand a subscribed share, the value of which is to be permanently locked up, may be, in view of his property, an unnecessary burden. RAIFFEISEN, in obeying the law, fixed, therefore, the shares at a very small amount, while encouraging the peasant to place any spare cash in the Savings bank attached to the society, whence it could be withdrawn at pleasure.

As there are, however, shares, there are now dividends or rather interest payable on them ; the rate is fixed annually by the committee of supervision, but must not exceed the rate of interest paid by the society on its borrowings ; the amount is credited to the shares until they are fully paid up. The general meeting may determine that there shall be no dividends.

Shares cannot be transferred or pledged in any way while a member continues in the society ; on quitting it he is entitled to his share value.

*Reserve.*—This consists of the whole net profits after paying the fixed interest on deposits, &c., and the cost of administration. It belongs to the society in its corporate capacity alone, and no individual has any claim to any portion of it. Should it attain an amount larger than necessary, the general assembly can devote the surplus to some object of public utility, such as special beds in hospitals, the improvement of the village, its water-supply, school, &c., or it can lower the rate of interest and commission on its loans. Should the society be voluntarily wound up, the reserve, less any due debts, must be paid into the Imperial bank or placed in some recognized investment, there to accumulate at compound interest, till a new society, under similar rules, shall be established in the same village, when it is to be handed over to them as a nucleus. \* \* \*

In all cases the reserve is banked with the Central bank and cannot be used in the ordinary business of the society. The reserves appear to have been kept down by the low rate of interest and commission demanded from borrowers, who pay considerably less than the members of the Schulze Delitzsch banks.

In spite of the weakness of the reserves, the societies have found no difficulty in borrowing, and all losses have hitherto been successfully met from the reserves.

No entrance fees payable to the reserves are charged to members.

*Funds.*—These consist of the shares, the reserve and the borrowed capital. The first source, as already stated, is insignificant in amount, the reserve cannot be used in ordinary business ; it is on their borrowed capital that the societies work, thus fulfilling the chief function of banks, viz., the collection of small capitals and their distribution for productive use.

The societies have not wanted for capital, except at the very beginning. At first RAIFFEISEN found funds only with very great difficulty and amongst the richer men who were friendly to the enterprise; his first society could find no friends till a particular capitalist came forward and lent about £300; gradually, however, as the security and regularity of the societies became known, money from the country side began to flow in as deposits, so that a Savings bank, open to all persons, and not merely to members of the society, is now the usual adjunct of a society, which draws much or even all of its funds thence. It is found that the funds supplied by members of the association in this way are assuming a larger share of the total funds borrowed, *viz.*, about three-tenths, and that these funds are being received in smaller and smaller instalments, showing that the small peasants have been reached, and that the hitherto inactive dribblets of capital are flowing in to fertilize the very neighbourhood in which they took their rise; these are assisted by the penny (10 pfennig) savings system mentioned above. In some associations the deposits of members receive higher interest than those of outsiders, and a large number are actually financed solely from the proceeds of this savings branch. The confidence of the people in the great security offered by the solidarity of the societies, most of whose members possess some material property, is shown by the fact that in the great war of 1870-71 any amount of funds was offered to the societies without interest, capital seeking security only; it was distinctly proved in the official commission of enquiry in 1875 that the Raiffeisen societies, by the nature of their own organization, though then in their infancy, suffered in time of panic less than any other credit institution, the reason being that lenders were also largely members.

In the infancy of the societies 5 per cent. and even more is paid as interest to lenders or depositors; gradually this is reduced, and most now pay  $4\frac{1}{2}$ , 4 and  $3\frac{1}{2}$  per cent.

*Loans.*—These are for all terms, from a month to ten or even twenty years. Mortgages are not refused, but personal credit is the usual form, one or two sureties adding their signatures to that of the borrower. Cash credits are also granted. RAIFFEISEN, like SCHULZE DELITZSCH, believed in the efficacy of personal security; it brings together the members of a society, and since a member will be very unwilling to cause loss to his immediate neighbours, especially those

who have become security for him, it is one of the most efficacious modes of securing repayment if not punctuality ; but he directed his societies to be very careful not to accept, either as principal or surety, an idler, a drunkard or a spendthrift, and since the societies are purely local, it is easy to avoid such persons ; hence there is not only great security to the society, but a direct inducement to the idle, extravagant or vicious to reform in order to become members of these useful societies. This is no theoretical fancy, but the result of experience ; both in Germany and still more in Italy is the evidence abundant that these societies do reform these very classes ; that they preach temperance and self-control more practically than sermons, is the evidence of priests themselves.

When a peasant desires a loan he applies either to the office or to the director living in his neighbourhood ; enquiry is then made as to the candidate's solvency and his guarantees, and as to the use he intends to make of the money ; if this latter is approved of, the dates and instalments of repayment are settled, always in such a manner—and this is most important—that the periods and amounts fixed shall agree with the probable receipts of the borrower ; the society prefers to increase the duration of a loan, and then to insist upon absolute punctuality—save in cases of disaster, flood, hail or famine, &c.,—rather than to grant shorter terms with probable inabilities and delays. In this way, not only can the society calculate on its returns, but the borrower knows his exact liabilities and that—save for unusual misfortune—he is safe to have means to meet them ; he is also educated in rigid punctuality and foresight.

Short-term loans, *viz.*, those granted up to one year with possible prolongations to two years, or even three, are repayable usually by instalments, as RAIFFEISEN considered this an important principle. Long-term loans, of which those above ten years can only be granted by special arrangement, are always repaid by equal annuities, which include both interest and principal. It was considered advisable by RAIFFEISEN, and his opinion is largely followed, that all short-term loans should be made payable at a particular time of the year, *viz.*, that when the members have generally sold their crops ; this differs for various neighbourhoods between November and the end of December. This practice, however, seems to cause a risk of leaving money unemployed for some months, unless there is competition for loans.

Instalments, or portions of instalments, are received at any time in advance, so as to remove the temptation to spend small sums.

It is an absolute rule that the loan shall be for some useful and productive purpose ; this is, in fact, one of the chief securities for the repayment of the loan—a security entirely lost sight of by those who demand only material and existing securities. When a loan is used only for a productive purpose, including in this definition the payment of previously existing debts which enslave the peasant and absorb his crops, the lender has the best of guarantees that his loan will be repaid ; the borrower is, in fact, in a better position to repay the loan than he was when he borrowed it. To this end, not only must an applicant state the object of his loan, but the truth of the statement must be enquired into by the committee by its local member. If the loan is approved of, it must be used for the purpose stated, under penalty of immediate recovery. This is not merely for the protection of the interests of the society but of the member ; it is desired to teach members the due use of credit and to safeguard their true interests ; control of the use of credit is the base of the society's action, and the abuse of this control is checked by the fact that it is the members themselves who control themselves and one another, and that the members are men of similar position and needs.

The duration of loans is chiefly from one to ten years ; the societies being composed of actual agriculturists, recognize that three months are seldom of any use in agriculture ; even the SCHULZE DELITZCH banks, where they devote themselves to the needs of agriculture, find that their short loans require numerous prolongations even up to two years ; the same will be noticed in Italy also. In 245 societies, it was found that of the total outstanding amounts 15 per cent. was granted for periods below one year, 43 per cent. for one to five years, 35 per cent. for five to ten years, and 7 per cent. for above ten years. Again in ten societies taken at random, 71 loans, or 11 per cent., were for one year at most, 442, or 68·5 per cent., for one to five years, and 132, or 20·5 per cent., for five to ten years.

It has been objected, especially by SCHULZE DELITZSCH, that money cannot be lent on long terms (one to ten years) as by the Raiffeisen societies without great risk of bankruptcy unless they can borrow on similar terms. As a matter of fact, the societies do not generally borrow on long terms, their funds are chiefly savings or deposits. SCHULZE DELITZSCH and others proved conclusively that, by theory, this

means bankruptcy, and that the societies could not succeed, but practice contradicts theory—*e pur se muove*. It is only necessary to point to the German Savings banks, with 55 per cent. of their enormous deposits on rural and urban mortgages to disprove SCHULZE DELITZSCH's theory; the savings banks experience of Austria, of Italy and of the United States is equally conclusive. The fact is that the good credit of the societies prevents any lack of lenders; it is said, indeed, that they have more money than they can lend, probably owing to strictness in lending, that these creditors are largely members, that their savings are left for a long time untouched; that, in fact, the banks find that they can place a very large proportion of their funds in long-term investments; finally, that long-term loans are all repayable by instalments, so that the money is continually coming in. It is true that the societies have introduced a rule that repayment of loans of any term can be demanded on four weeks' notice, a facility which is also given to the creditors of the society, but this safeguard is not used in practice except in cases of deteriorations, or of misapplication of the loan, or of serious diminution of the solvency of the borrower from his own extravagance.

Cash credits are not extensively used, RAIFFEISEN being of opinion that they were unsuitable to the smaller class of peasants; they are opened chiefly for the better class. Whether the loans are granted on mortgage, pledge or personal security, the administration is bound to examine, every three months, the solvency of the parties, the condition of the property mortgaged and the use made of the loan; even the habits of the individuals are considered. If necessary, a further security is taken from him, or the whole debt may be demanded in accordance with the terms of the bond.

The right of the society to demand repayment at any time on four weeks' notice is entered in general terms, but is never practised unless the property has deteriorated or the solvency of the parties seriously diminished, or the position of the society, by reason of demands, imperatively demands this extreme measure. The advisability of this clause has been much debated. There can, however, be no doubt but that it is necessary where property is being allowed to deteriorate, or the borrower is evidently becoming insolvent through extravagance, or where he has misapplied money lent for a particular purpose. In the first and third cases the rule is universal in land credit societies, and is especially necessary as a matter of contract where the law, as

in India, does not make the mortgagor responsible for deterioration of the property mortgaged. But the clause seems indefensible where the demand is necessitated by the position of the society ; it is the duty of the society so to arrange its affairs as not to require at call loans which have been laid out perhaps in improvements yielding slow profits ; such a clause must produce a sense of uncertainty, and might be means of harassing debtors disagreeable to the directorate.

As pointed out above, the loans are usually small ; some fall as low as 10 or 20 shillings, showing the class of peasants who are admitted as members. The largest number of loans are those falling between £5 and £25, the average appears to be about £15, or less than half of the average of £33 in the Schulze Delitzesch societies.

The general rate of interest is 5 per cent., with a commission which raises it to 5½ or 6 per cent. It is usual now to take this commission in a single payment on the day the loan is granted ; it is usually 1 per cent. of the total for a loan of one year ; it aggregates 2 per cent. for loans up to five years, and 3 per cent. for those between five and ten years. This commission pays the expenses of administration.

With all the care taken to fix the easiest instalments and dates of repayment, it is found that the unpunctuality of the peasants is a standing difficulty ; they cannot, without vast trouble, be got to understand the absolute necessity of punctuality, and much tact is required to avoid, on the one hand, a sudden severity which would deter them from becoming members and taking loans, and on the other, a lenity which would soon ruin the society. An official Commission in 1875 commented on this fact, and found that the lenity of the administration on this point encouraged the peasants in their faults. \* \* \*

On this point the Neuwied central directorate allege (1) that the loans were frequently granted imprudently by the local societies, chiefly from a false idea of benevolence or compassion ; (2) that bad harvests, especially in the nine districts (e.g., Coblenz), caused much distress and necessary delay.

It seems, however, also true that some local societies shrank from pressing their debtors, fearing to drive them again into the hands of the usurers ; they did not insist on punctuality and thereby strengthened the peasants in bad habits ; also that the debtors had the means of payment, had they been pressed, and did eventually pay up.



It is clear that these faults—undue leniency on the one hand and unpunctuality on the other—may easily wreck the best system. M. LE BARBIER expressly alludes to that idea of peasants (and others) that a society (or a Government) is abundantly rich and can afford to wait for its money, so that unpunctuality with them conveys no sense of fault. MR. WOLFF, while admitting, it would seem, that the peasants are unpunctual, considers that the societies are training them to habits of punctuality by insisting inexorably on payments at date. Here in India, poverty is too frequently urged as a reason for granting a loan of public money, while the ryot—and not merely the ryot—habitually thinks that the Government is boundlessly rich and can afford to wait, or even to lose an individual trifle.

*Other Objects.*—The societies do not merely make loans; they do considerable business in assisting land purchase. In Germany, as in Italy, land is largely sold by public auction, the purchaser agreeing to pay by instalments—a practice which enables him to give a higher price from the ease of payment. For these instalments he gives bonds to the auction-seller, who in turn sells them at a discount for ready money to some money-lender or other capitalist. Should the purchaser fail in any one of his instalments, he finds himself liable to be sold up without mercy, unless he pays a ruinous interest on his arrears. The society intervenes by taking the place of the money-lender at a moderate discount, but requires from the seller a guarantee, usually with personal sureties.

Other objects are the stimulation of, and assistance to, associations for co-operative production, sale and supply; either by the grant of advances or by establishing them as branches, with, however, liability and accounts wholly distinct from that of the parent society. These are becoming very successful, and supply associations are mentioned as doing business up to £2,000 per annum, the capital for which is originally borrowed from the parent society.

The same Article, which deals with these subjects, lays down that the directors shall endeavour to compose differences between the members of the society, and to assist them if they are unjustly injured by third parties.

*General Union and Groups.*—As the societies increased in number and importance, it was felt that they should be linked in groups for mutual support and for supervision, for the chief difficulty in

starting and working these small local societies is not only that of their weakness when isolated, but also that of finding capable men residing within the area; hence the group and union system. Five groups are now in existence embracing probably all the individual societies. In addition to these local groups there is a Central Union for the whole of Germany to which all societies may belong. Of the local groups, Neuweid, the original, will be taken as an example. It was founded by RAIFFEISEN in 1877 with the object of extending, developing, and protecting the local societies. One chief duty is that of instructing the peasants in the proper use of credit; this seems more useful than any other, for cheap credit, without due prudence in its use, means only quicker ruin. Doubtless, too, though it is not so stated, the peasants are taught the arithmetic of credit, *i.e.*, the calculation of profit and loss probable on a given transaction. Instruction in book-keeping and the audit of the accounts is another chief duty; a regular service is organized for this purpose, and the inspectors give free instruction in the subjects to the societies that ask for their services. Another duty recently undertaken is the collection and preparation of systematic statistics; they are still very deficient. A further and most useful development is the purchase of good seed, manure, implements &c., for the local societies upon demand by the latter; *e.g.*, in 1887 the Neuweid Union alone furnished to its members, at cost price, 15,000 tons of manure and forage, and above 1,600 waggons of coal; in the spring of that year, it bought 2,000 tons of nitrate of soda at 88½ marks per ton, the price otherwise being 130 marks, hence a large gain to the members; in 1889 this business had increased, and so again in 1891, a considerable additional business was done. The steady increase of this class of business is highly satisfactory, and it seems that up to 1893 the Union had thus supplied considerably over £500,000 worth of goods. Here, it will be seen, is indicated a rapprochement between the duties of the local societies as credit societies and as Agricultural associations. Finally the Central Union busies itself with the promotion of life assurance, and of assurance against the effects of hail, cattle-disease and other frequent disasters.

The Central Union holds a general assembly every year composed partly of the representatives of the individual societies, partly of delegates from the local groups, which represent the societies belonging to them. Discussions take place, and a representative syndicate or

council is appointed. For business purposes, the Union is divided into sections or district unions, each with the duties of the general Union.

Each local society pays annually 15 shillings as subscription for expenses, including the price of a weekly newspaper (*Co-operative Societies Journal*) intended to contain statistics and facts relevant to the work of the societies.

*Central Banks.*—The want of a Central Bank for the use of societies either in investing or borrowing was soon felt, for it was clear that some societies will, at various periods, have too much and others too little money, a Central bank would bring about an equilibrium. Moreover, a well-established Central bank would be in a position to borrow funds at cheap rates and thus provide for societies in need. At first three Provincial banks were founded for their respective groups, these again established a Central bank. This plan failed, funds being limited to a credit of £7,500 obtained from a Provincial *Hulfskasse* (Benefit fund), and the banks were finally closed as contrary to the then law. The shares are personal, and cannot be transferred without the bank's consent. No societies are admitted as members except those which fulfil *RAIFFEISEN'S* six primary conditions, *viz.*, (1) unlimited liability, (2) the intention of promoting the moral and material welfare of members, (3) the narrowest possible limitation of area, (4) absence of entrance fees, and smallness of shares, dividends on which must not exceed the interest paid by borrowers, (5) gratuitousness of administration, (6) the accumulation of an inalienable reserve.

The Central bank, as far as possible, adheres to the same conditions; it is, however, formed as an ordinary joint-stock bank limited by shares, and its administration is partly paid; the bulk of the responsible work is, however, undertaken by the committee of supervision, which is wholly unpaid. The shareholders get dividends, but not higher than the rate of interest paid to the bank—about 4½ per cent.—by its borrowing members; it operates only with its own members.

In order to procure funds, the Articles provide (1) for the issue of debentures (*Pfandbriefe*) with the permission of Government as required by law, (2) for the receipt of deposits from members or the public, (3) for receipt of commission, and of the difference between interest paid and received.

It appears that the bank is provided with sufficient funds from the deposits of the local societies; these have always found more money than they could dispose of, and this surplus can be deposited with the Central bank at 4 per cent.; the bank lends these deposits to societies requiring funds at about  $4\frac{1}{4}$  per cent. with a small commission.

The bank is authorized to invest its funds (1) in accounts-current with its members (societies), (2) in discounting bills and in loans on pledge, (3) in mortgages or purchase of rent certificates, (4) in immoveable property, (5) in paper issued or guaranteed by the State or a commune.

The Central bank is doing a useful and increasing business; and appears to be solidly based.

Other Unions have followed the Neuweid example in starting Central banks, *e.g.*, Westphalia and Hesse Darmstadt (Offenbach); the Articles, conditions and operations of these are similar to those of Neuweid, but the Offenbach bank is somewhat more liberal in admitting as members societies which do not adhere absolutely to the strict Raiffeisen principles.

In other Unions, the local societies utilize ordinary banks for the deposit of their surplus funds and for obtaining credit.

In Hanover a Co-operative Banking Corporation (Limited) has been formed under the law of 1889.

It has been objected that these banks being specialized for agricultural loans, operations would fail, since they would have to receive and disburse money at given periods, *e.g.*, after harvest and before cultivation, and would not be able to maintain an even current of business. The result, however, proves that these special banks can maintain their position, and though no great profit is made, this is not their object; they were formed as a channel of communication so as to maintain an equal financial level in the various local societies; this object has been successfully achieved.

*Resume.*—There are then in full operation a vast number of very small, autonomous, village loan societies, of unlimited liability and wholly rural, if not agricultural, drawing funds largely from the savings of their members, cheaply, almost gratuitously administered, aiming at the moral as well as the material development of their associates, teaching them the use of credit and guarding them against its abuse. These societies, originally isolated, are now linked in

Unions or groups for mutual support, inspection and instruction, and in order to equalise their funds and provide, if necessary, other funds, a Central bank has been started for each Union which receives and distributes the deposits of the societies which form its sole clientele and body of shareholders. These Central banks have wisely provided in their statutes for obtaining funds *ab extra*, chiefly by the issue of debentures and receipt of deposits, but have not yet had occasion to do so. It is strange if in this organism of village societies, autonomous and independent, yet, as members of one body, linked to, and supported by, Central directorates and banks, there is not a seed which may take root and grow in Indian soil, as it has done in Germany, Austria and Italy.

*Differences between the Schulze Delitzsch and Raiffeisen Societies.*—There has been almost, from the first, a regrettable controversy between the two classes of societies, or between their principal men, a controversy amounting almost to party strife, and as unnecessary as bitter, seeing that both classes are independently useful. It is advisable to mention the points at issue in order to assist the future practice of this country.

Both philanthropists started with the same idea, *viz.*, that of providing cheap capital for those, who were debarred from it by its enormous cost, cheap credit for those, who were exploited by the usurer, their object was to supplant the individual lender by the organized bank. Both saw clearly that thrift is at the base of any possible system; only persons who showed themselves able to save were deemed worthy of credit; saving, moreover, as the only basis of capital, is a *sine qua non*. Here, however, the two systems diverged; SCHULZE DELITZSCH began to foster thrift by rewarding it with dividends and profits as high as possible, thus placing the interest of borrowers in opposition to that of lenders; RAIFFEISEN placed the interests of the borrowers first and allowed no dividends. The difference is considerable, the former tend to become joint-stock societies, in which investments seek high dividends, some societies declaring dividends to members of 30 or even 56 per cent. (WOLFF), a result hardly commensurate with anything but usury; the latter preserve intact the co-operative idea of mutual help, and yet are eminently successful both in attracting abundant deposits at market interest and in helping borrowers, the interest of all members is that of the borrowers, actual or possible, and there is no antagonism between investing and

borrowing members. It must be remembered that RAIFFEISEN aimed directly not at the mere material benefits of association, but at its moral and educative results; thrift was to be promoted not so much to make a man wealthy as to make him a better moral agent, a better member of society: he regarded mutual help, the bond of Christian charity, as the cardinal principle, and the necessary result of his system; SCHULZE DELITZSCH looked more to the material, RAIFFEISEN to the moral and social, results; the former used association to enable the individual to struggle to the front, the latter used the co-operative principle not merely for the individual, but as a beneficent method of increasing the common happiness and welfare. This difference is important, since the desire for dividends leads to speculation for the purpose of increasing profits, especially where directors are rewarded by a percentage. In Madras the Co-operative Funds tend too much to diverge from the co-operative idea of brotherly help, towards that of profits upon investments or as a reward for management. The true co-operative principle worked out in banks is, according to SIGNOR LUZZATTI'S idea, "a bank with fixed dividends on its shares and deposits, all surplus profits going to the reserve; when the latter shall be equal to twice the capital, the shares are repaid, and all subsequent profits are expended in philanthropic or useful objects." (ROSTAND) The external profit in this case is that derived by the borrowers from the cheap and accessible capital which they borrow for productive or useful purposes, the investors, at the same time, get a fixed dividend of interest which is usually somewhat above that of State paper. The corollary of these views is, in the Schulze Delitzsch societies, comparatively large shares with considerable dividends and paid administration; in the Raiffeisen societies very minute shares—and then only in obedience to the law—and no dividends but an inalienable reserve, and wholly gratuitous administration except as regards the clerks.

SCHULZE DELITZSCH, again, started his societies at any given centre with a wholly indefinite area of operation, the larger the area, the better the chance of paying business. RAIFFEISEN, on the contrary, lays down as an *absolute* rule that the area of operation must be small, never exceeding that of a village. The difference here is radical; in the former societies it is far less possible to know, much less to influence, the members individually, to judge of their character and status, to supervise the employment of the loan; in the

latter societies all members are acquainted, the bank's clientele are its neighbours; it can lend upon character, upon the status, both personal and material, of the borrowers and their sureties. Usury can only be fought hand to hand, and it seems likely that only purely local societies can succeed—at least as regards the peasantry.

Other radical differences are as follow: in the Schulze Delitzsch societies, which are largely urban, only short-term loans are granted, three months being the rule with one or two prolongations; in the Raiffeisen societies, which are wholly rural, long loans are the rule, two or three years being the average, and ten years the ordinary maximum. The former societies do not trouble themselves to watch over the use made of the loan, though they satisfy themselves beforehand that it is to be used profitably, the latter consider it essential *to see* that the loan is used productively, and every three months the utilization of the loans is examined by the committee of supervision; the former societies require repayment of their loans in lump, the return being usually speedy, and the result of a particular operation in trade, business or industrial contract, &c.; the latter take their loans, if of more than a very short term, by instalments, per month or per annum; the former, lending only in short loans, have no rule regarding repayment on four weeks' notice; the latter insert, though they hardly use, such a rule to provide against the deterioration of property or the misuse of the loan; the former do an enormous short term business with artisans, tradesmen and a proportion of agriculturists, the latter a far smaller but now rapidly increasing business in long loans almost solely with agriculturists.

So much for the differences between the systems of the two great founders of German co-operative effort. On the other hand, it must be pointed out that their common object was the strengthening and raising of the poor by the means of self and mutual help (*s'aider et s'enter'aider*). They rejected mere benevolence in their methods, for though charity is a high virtue when applied by individuals to individuals, it cannot, or rather does not, in our imperfect conditions, succeed when applied to the relief of classes. Yet it was the mainspring of their own action; SCHULZE DELITZSCH devoted himself with such unselfishness to his philanthropic work that, though voted a statue and a subvention, he left his widow in narrow circumstances, while RAIFFEISEN, who might have pleaded sickness to inaction, used his life so sympathetically and usefully as to win the name of "FATHER"

RAIFFEISEN throughout the country side. It is personal devotion alone which effects great reforms among the poor and helpless.

#### POPULAR BANKS (LUZZATTI).

*Objects and Character.*—The following extract from No.  $\frac{42}{1887}$  of the Foreign office Report explains the objects and character of these banks:—

“Like the Credit Unions founded in Germany by SCHULZE, the Italian Co-operative People’s banks are simply associations, by means of which artisans, peasants, small tradesmen, and, in fact, all classes of persons who, though honest and intelligent, could not otherwise obtain credit without submitting to every form of usury, combine to establish a local self-governing institution of credit to meet their requirements.

“They are based upon the principle of self-help, and aim at developing habits of prudence and thrift in their members, by providing them with a profitable means of investment for their savings, while they seek to put down usury by the facilities which they afford for obtaining loans and advances of money at a reasonable rate of interest.

“The members, being at once the proprietors of the bank and its clients, have a direct interest in its making a profit, and a sufficient inducement to keep the rate of interest charged on loans and advances within proper limits.

“The pecuniary interest of each member in the association, through the shares subscribed by him and his contribution to the reserve fund, offers a *material* guarantee for the punctual repayment of his debts to the bank, and a *moral* guarantee is created by the restrictions imposed upon the admission of new members, and the sale or transfer of shares, which must be submitted to the board of directors for approval.

“In connection with this subject, SIGNOR LUZZATTI observes that ‘in an ordinary joint-stock company the member’s money is the main object considered; but in a co-operative credit association the person of the shareholder is of much greater importance than the share itself, since in the latter society the moral worth of the persons who compose it, united as they are for the purpose of obtaining, by means of co-operation, the credit which they would not find in other



institutions, supplements and completes the material worth of the shares, which are accumulated gradually, and even in some cases by weekly instalments of a few centimes.'

"In order to secure the efficiency of such a moral guarantee, it is most desirable that the members of the association should be well known to each other, especially during the early period of its existence, and that the bank authorities should maintain a strict supervision over the granting of loans and advances.

"The area in which the operations of the bank are carried on must therefore not be too extensive, so that its members may have frequent opportunities of intercourse with it and with one another, and be able to take an active part in its management without personal inconvenience, and SIGNOR LUZZATTI accordingly recommends the conversion of branches of existing banks into independent institutions, whenever their condition is sufficiently flourishing to justify such a course, as well as the foundation, in large centres of population, of small independent banks, side by side with those already established."

[*Extracts from Sir F. A. Nicholson's Report pp. 242-72.*]

### MADRAS LOAN SOCIETIES (FUNDS—NIDHIS).

The leading idea of these Nidhis is mutual credit; a certain number of men form a company under the Companies' Act, and attract other members; these pay a monthly subscription for a given term, at the end of that term affairs are wound up and profits divided. Members may get loans from the society, repaying them with interest by monthly instalments. The idea is sound, but requires development; at present they are of very limited scope and fulfil merely the object of the similar class of Building Societies of Great Britain and the United States, on the model of which, even to the verbal adoption of their rules, they have been founded. It is curious that these societies, as their history will show, might almost have been developed directly from indigenous practices, *viz.*, from the Kuttu-chit system, a fact which forms a striking argument in favour of the suitability of the Fund system to the presidency, and gives promise of its great future development as a method of thrift and credit. The enormous development of the present system in England, and especially in the United States, where it appears to be rivalling the Savings Bank, is a proof of its general suitability to small folk, and it can probably be adapted to suit rural and agricultural needs.

*History.*—The Nidhis, as now found, originated in Madras, in the Fund called the Sadar Court Fund, open to officials only; it seems to have been started about the middle of the century. But the foundation principle, *viz.*, that of association for mutual credit, is found in the indigenous 'Kuttu-chittu' system, which is universal throughout the presidency.

This latter system depends upon (1) association, (2) confidence, (3) honest dealing, and its universality speaks highly for the general honesty of Madras villagers, for the power of the village and caste system to prevent fraud, and for the possibility of a development in Madras of European associations based upon similar principles. Briefly it is as follows; a number of men unite to subscribe periodically a small sum each, say 50 men agree to pay Re. 1 per month for fifty months; each month Rs. 50 are subscribed, and lots are drawn for the total sum; the winning lot takes the pool; next month the

same fifty subscribe, but in drawing for the pool previous winners are excluded ; this continues for the whole fifty months till each subscriber has received Rs. 50. This practice—a necessary system where there is no such thing as even a Savings Bank, and where deliberate hoarding for many months or years is a most difficult operation—gives men the use in lump of a considerable capital, repayable by small and easy instalments ; it is most useful for building houses, starting a shop, buying a pair of cattle or piece of land, &c. ; it is clearly the result of the village self-contained system in a country devoid of banks and communications, and where permanent emigration, even to other districts or villages, was still of late perfectly unknown. It is said that, whether from honesty or fear of the consequences, the system is never abused by winners prematurely withdrawing from subscription. It will be observed that there is nothing of a lottery in this proceeding ; the element of chance appears only in the order in which the subscribers obtain the pool ; every subscriber obtains it in turn, it is not a gambling transaction in which one person obtains a given sum by mere chance to the *loss of others* ; it is no more a gamble than the drawings by which in England, as in Europe, it is decided what particular debentures shall be paid off.

A further development, however, is next found ; the subscribing members, or more usually the promoters of the Fund, desire to obtain definite and increased profits for themselves, drawn from the need of the subscribers ; instead, therefore, of drawing for the pool, it is put up to auction in lump or in lot ; the lowest bidder takes the amount, that is, the one who bids the lowest sum below Rs. 50, say 40, obtains only that sum, but gives a chit or promissory note for Rs. 50, the difference, Rs. 10, is divided as profits among the other members. This is similar to the Building Societies system, where loans are knocked down at auction to the man who bids the highest interest, or the largest premium ; in both cases it is apt to become an exploitation of need or of recklessness, the man most in need of money has to pay as high as possible for the accommodation. It has been common in India, as elsewhere, to get up societies for the sole purpose of providing the promoters with a living ; the so-called “ directors ” get together the subscribers, and withhold Rs. 2 in every 50 rupees as their own remuneration ; these are not regular village or communal institutions but outside speculations : in some cases, the borrowers consequently defrauded the promoters by refusing payment, knowing

perfectly well that it would not pay their creditors to sue them in Court, at a distance of perhaps 20 miles, for sums of only Rs. 20 or Rs. 25, hence the bankruptcy of some such Unions. These Unions are useful and legitimate, but when they are not sustained by village authority, by the power which a local community or caste has over its individual members, they are very apt to fail, for human nature can seldom pass the chance of a good thing at another's expense if there is practically no risk.

The first Madras Fund (Nidhi) further developed the system; about 1850 certain Court and other employes discovered that they were being ruined by usurers, and determined to start a Fund to give persons of fixed income a chance of borrowing at equitable rates. The model selected was the English Building Society so-called. Why this particular class of society was adopted, or who suggested it, is not known, but it is clear from the rules and methods of the Nidhis, which reproduce, in many cases verbally, the rules and conditions of the English exemplars, that some keen-sighted man discovered the suitability of the Building Society to presidency needs; possibly the original idea was actually to provide houses for subscribers. The first Fund was a 'Terminating' Society with a seven years' period; each subscriber agreed to pay for eighty-four months, when the Fund would be wound up and shares repaid at Rs. 102½ per 84 received. From the collections loans were granted to members at 6¼ per cent. interest with penalties for delay; the loans, repayable by the monthly subscriptions, were usually on mortgage, and the order of granting them was determined by lot; the cost of establishment was met from the penalties and from a charge for commission. Branches were subsequently started; these were found expensive, and it was determined to make the Fund permanent, that is, a new series of subscribers were admitted and shares opened every year, and finally every month, so that there was a continuous influx and efflux of members and shares.

The Fund continued in much prosperity and favour till 1872, and many others were started in Madras in imitation of the original; some were genuine Mutual Societies, some were for the benefit of the promoters and directors; some adopted the practice of selling their loans to the lowest bidder, so as to obtain high profits; some charged 10 or 15 per cent. or other high interest on their loans; as in the English Loan Societies, a sound principle was often abused for the sake of gain.

But about 1872 it was discovered that the societies were all illegal and had no civil status, not having been registered according to the Companies' Act, which, though for many years in force, was unknown to the very companies which should have registered; it is a very peculiar fact that at the very head-quarters of trade, the existence of the Act under which companies were bound to exercise their trade was even unknown to them. The result of the High Court's judgment was the collapse of many societies; debtors knowing that the societies could not go into Court refused to pay; even after registration the societies could not sue for acts done before registration, and the result of course was liquidation. Some were re-established and duly registered, but the loss to the various societies was calculated at 20 lakhs.

Other abuses also crept into certain societies; the energetic and honourable men who began the Nidhis died or retired, and in some cases were replaced by unscrupulous, incapable or negligent men; subscriptions were misappropriated: in one fund many thousands of rupees of profits were devoted to the payment of handsome salaries to directors, promoters and staff; many bogus societies were started in Madras and in the mofassil for the sole purpose of enriching the promoters by sheer fraud; splendid promises were made and for a while fulfilled, till confidence produced large subscriptions when the "Fund" closed its doors; impossible profits, such as 2 rupees for every rupee subscribed, were promised; these sham companies even got the nickname of 'Lubbuck' (literally, gulping or devouring) funds, and were a disgrace to the community, and a source not merely of immediate loss, but of much subsequent distrust of Credit Societies.

\* \* \* A large number were started and closed to the ruin of many investors. The following table gives particulars from 1872 :—

Period.				Average number annually in existence.
1872-77	...	...	...	37
1877-82	...	...	...	68
1882-87	...	...	...	157
1887-92	...	...	...	186

In 1872 there were 20 Nidhis; 93 in 1882; 269 in 1886-87; and 135 in 1891-92. In the five years ending 1892 no less than 260 societies disappeared, 181 of which were in Madras town alone.

Doubtless many of these were the irregular and often fraudulent Benefit and Insurance Societies described in the papers read in Government Order No. 3368 Judicial of the 7th December 1885, where one person is mentioned as "director" of six Funds, though he had been "at least thrice punished for theft, misappropriation, &c."; another was a petition-writer, and so on; these were started, received subscriptions and disappeared, the "benefit" being only to the promoters.

For the present study the winding up reports of 70 regular Loan funds taken at random from the registrar's records have been analysed; 42 fell because of the failure of subscribers, especially those who had borrowed, to pay their dues, probably owing to laxity and mismanagement; 9 fell because of the misconduct or fraud of the secretary or other officers; 9 simply decayed, getting no business; the rest from various causes; natural expiry being the reason in only 3 cases. Abuse of powers and embezzlement by the secretary, absolute negligence by directors of the rules of the society and of business methods, disregard by directors of the share-holders, the falsification of accounts and records, dishonest withholding of repayments by borrowers, and negligence in subscription by non-borrowing members, are the chief features of these reports.

The notorious case of a certain "Bank" quite recently started under most excellent auspices in Madras is well known; the rules provided especially for audit, and yet the funds disappeared almost, from the beginning; the resolutions of the general meetings and the petitions put into Court and the proceedings in Court disclose extraordinary laxity and negligence.

The history is very instructive; it shows that, in the infancy of a movement, the energy, devotion, zeal and honour of the early promoters may suffice to thoroughly establish a paying business on just and honourable principles; that success means ready imitation; that in the imitations and even in the originals there is no intrinsic guarantee that the high principles of the original promoters will be sustained; that if the principle of "*laissez faire*" be allowed free course amidst a needy population, much too ignorant of business to be able to guard their own interests, that principle will be abused; that the mere fact of laws, even if suitable, being in existence, is insufficient, unless there is a specific authority whose special duty it is to work or supervise the working of those laws.

The above has been simply a sketch of the development of the Fund idea; as regards the Nidhis themselves, it is found that they have been promoted either by a philanthropic desire to relieve men from usury and provide a means of saving either for specific purposes, such as marriages, house-building, &c., or for general thrift, or by a hope of obtaining profit for the promoters, or by a mixture of both expectations. Individual energy has always been the proximate cause; merchants, officials and vakils have, in most cases, been the active promoters. Sometimes public meetings were called or printed notices issued, but generally it appears that the society developed by simple accretion, not—after the first effort—by an active in-gathering of members.

The history and general principles of these Nidhis having been given, it will be well to describe them further under the following heads, *viz.*, (1) objects, (2) principles and constitution, (3) methods, (4) Government intervention, (5) results, (6) advantages, (7) defects, (8) difficulties.

*Objects.*—These are described as the facilitation of savings, the relief of members from old debts, the deliverance of them from usury, the accumulation of a fund for special purposes, such as marriages, the grant of loans on good security for all purposes, whether for domestic ceremonies or maintenance, for expenditure on jewellery, on house-building and repairs, on land, &c. Members alone are generally contemplated, but, in fact, surplus funds are frequently lent in small lots to outsiders at a somewhat increased rate of interest; in such cases the material security must be carefully looked to, since the society lacks that derived from a borrower's membership. An unexpressed object is also the provision of salaries or profits for the promoters, directors or officers—a perfectly legitimate object, but one that is apt to interfere with benefits to borrowers and members, and tends to departure from the strict rules of the society. The receipt of deposits is not usually a primary object, in some societies it is only of subsequent introduction; in hardly any has it obtained any considerable position. It will be seen that the scope of the societies is limited, they are not Banking societies so much as Mutual Loan societies, and they thus fail in one great function of banking, *viz.*, the concentration of idle hoards for productive purposes.

*Principles and Constitution.*—*Classes of Society.*—There are several classes of Funds, the regular permanent Nidhi, the

Terminating society, the Chit associations of various sorts, and the Benefit societies. Of the Terminating societies there is one which is thoroughly rural, its promoters are village residents, none of whom knows English, its clients are largely agricultural, its original term was for seven years, on the expiry of which it was wound up with a net book profit of Rs. 2,400, of which seven-eighths would, when realized, go to the directors; about half was still outstanding. The society was re-started immediately on a much larger scale embracing distant villages, and is therefore likely to be largely defrauded or to lose heavily. The Chit associations calling themselves Nidhis vary in method, in one town the method is as follows: each 100 members form a class or group; these subscribe 1 rupee each per week; from this Rs. 100, Rs. 5 are deducted as commission to the directors, and the balance, is put up to Dutch auction: the bids go as low as Rs. 74. The difference between Rs. 74 and Rs. 95 is divided among the 100 members of the class. The borrower executes a bond with sureties for the whole sum and repays it by the usual weekly subscription. No interest is charged, but the premium and commission amount to very heavy interest. In case of failure to repay a suit is filed; one of these Funds, started in 1890 at the head-quarters of a District Munsif's Court, had, in less than three years, filed 150 suits; another started in 1891, had filed nineteen in twenty months. The Benefit societies are those which provide money for various domestic and social occurrences by means of subscribed shares, some are, or were, Insurance societies; these have mostly died out, and the so-called Insurance societies described in Government Order, No. 3308, Judicial, dated 7th December 1885, would never be tolerated under the control of a proper law. These societies do not come within the scope of the present study.

The central structure of an ordinary society is that of a terminating society consisting of a maximum number of shares which are paid up by regular monthly subscriptions and terminate with the period for which the society is founded. The society is wound up at the end of the given period, say, forty-five or eighty-four months approximately, each member takes one or more shares for which he pays at the rate of (say) 1 rupee per month; at the end of the period he will have paid up Rs. 45 or Rs. 84, and will be credited with this amount *plus* profit, a share on which Rs. 84 have been paid in eighty-four



monthly subscriptions is usually repaid at Rs. 102-8; the period may be a little less or a little more than the nominal, terminating whenever the shares reach the determined value. It is usual, however, now to make the societies "permanent", that is, fresh series of shares are periodically and frequently issued, and it is these only and not the society which are wound up as each series matures, so that subscribers are continually coming in and going out; this prevents the accumulation of idle funds at a loss of interest as the termination of the period approaches, in order to pay off non-borrowing members, and also permits the entrance of members without the payment in lump of a serious and often prohibitory mass of back dues, it being only necessary to pay such as are due for the prior months of each particular series. It is, however, usually necessary, as each series approaches maturity, to attract deposits at perhaps  $7\frac{1}{2}$  per cent. per annum, in order to pay off matured shares: these deposits are then repaid from future subscriptions, to the detriment, however, of the lending power of the society.

All the societies are called "Limited"; this word is frequently not even understood by the societies, which in many cases have explained that the word means limited to a certain number or to a certain value of shares. Since business is almost limited to the grant of well-secured loans to the maximum amount of the share values, there is no real risk to any member in a decently-managed society.

The essence of the society is mutuality; it is a group of men united to help one another by a common contribution of funds which are to be lent out to members only for their sole benefit, all profits derived from the transactions are to return to the members, so that all benefit: the non-borrowing members by the receipt of profits, the borrowing members by the use of the loaned capital and by a portion of the profits which they have contributed to the society. That is the theory, and with the exception of the British Friendly societies, the British and American Building societies, of which the Madras Nidhi is a copy, and the Raiffeisen and Wollemborg Rural Credit Unions, there are no societies in the world more thoroughly co-operative in theory. It is, therefore, greatly to be regretted that, through want of guidance and explanation, through the total absence of any teaching in the idea and methods of co-operation, through the fact that the only societies available for imitation in this country are trading joint stock companies, through the *personnel* of many of the

promoters and directors who are Madras business men, through the natural and in this case undiverted desire for gain, and lastly through the fact that the only law governing societies is a Commercial or Trading Company law, these essentially Co-operative societies have largely diverged, and are daily diverging more and more, in the path of mere trading societies. The same tendency is observed in the Schulze-Delitzsch societies in Germany, and the inference seems unavoidable that if profits, dividends, and large stipends or honoraria to directors and office-bearers are put forward as attractions to members and administrators, the effort after them will soon become dominant, and substitute the competitive struggle for the co-operative march.

*Methods.*—Under this head will be described the general working of a regular Nidhi, its clientele and administration, its funds, loans, &c.

*Clientele.*—In most cases the Nidhis have been started in considerable towns, Trichinopoly, Coimbatore, Salem, Bellary. Tadpatri, &c., by the official, professional and trading classes; the main rule of the Nidhis, viz., the regular monthly payment itself shows this. It is these classes who are most likely from their intelligence, knowledge and requirements to begin associations of this class. Accordingly it is found that the proportion of members of these classes is, up to date, altogether overwhelming; the following table for the thirteen Nidhis which alone have given information as requested, brings this out clearly :—

NIDHI	Officials	Professionals	Merchants.	Shopkeepers	Artisans	AGRICULTURISTS			Others	GRAND TOTAL.
						Big	Small	TOTAL.		
12 Mofassil	1,084	287	1,151	766	257	200	349	549	474	4,669
1 Madras	1,172	217	628	46	235	81	93	174	545	3,017
Total	2,256	504	1,779	812	492	281	442	723	1,019	7,686

In this table the principal and working profession of each member is given, *e. g.*, a vakeel is a professional man even if he owns land, "merchants" include money-lenders and shop-keepers, "others" includes pensioners who are numerous. It will be seen that the four classes of officials, professional men (vakils, school-masters, &c.), merchants and shopkeepers account for 5,351 out of 7,686, or nearly

70 per cent; even in the twelve mofassil Nidhis they are 3,288 out of 4,669, or slightly over 70 per cent.; agriculturists proper are only 723, or 9·4 per cent. It is clear, then, that the Nidhis of this presidency have so far reached only the official, professional, and trading classes of the towns with a few agriculturists, most of whom also live in the towns. However well adapted their general principles may be to the conditions of this presidency, or however capable of development, the Nidhis have not, during their forty years of existence and twenty years of extension, been able to provide the Madras ryot with any appreciable help.

As a rule there is no condition as to admission except nationality; most admit only caste Hindus; some (Madras town) only Europeans or Eurasians. There is but a single, and that a *very small*, Mahomedan Nidhi in the whole presidency, Madras city included, and the ordinary Hindu Nidhis do not admit Mahomedans, because of the difficulties arising out the Mahomedan law of inheritance. Directors generally have power to refuse admission—a very necessary faculty—so as to keep out objectionable characters. There is no general condition, however, as to character, status, &c.; any man who is willing to abide by the rules, and pay his monthly quota regularly, is an eligible member. The responsibility of members is “limited” to the maximum value of their shares; in most Nidhis no single shareholder can hold more than a certain number—usually twenty, twenty-five or fifty—of shares, only in one—a ‘Commercial bank’—is there no limit, and the maximum held in that society by any one member is 165; in one society 100, and in two others 300, is the maximum allowable. This rule may be evaded by taking shares in the names of relatives. As however—the Nidhis as in Europe, proceed on the democratic principle of “one man, one vote,” irrespective of the shares held, they avoid *pro tanto* any plutocratic preponderance in the governing power.

As a rule Nidhis have but one office, only a very few have branches or agencies; the Hospet Jaya Lakshmi Bhandara has a sub-agency and three branches; the sub-agency is an agricultural Nidhi, practically independent of the original, but the branches work under the control of the latter. Here again, they resemble the general run of the German and Italian Credit Societies.

*Administration.*—A Nidhi is usually formed by a few intelligent persons, generally officials and professional men, uniting to the number of seven at least, and framing or borrowing a Memorandum and Articles of association ; these subscribe a few shares fully paid up, with which to defray preliminary expenses and registration fees ; a prospectus is then issued, and a meeting called by public notice to explain the nature and objects of the Nidhi and a list is opened for members. This or a subsequent meeting appoints the directors and office-bearers, who are, as a rule, of course, the original promoters of the Fund.

*General Assembly.*—Theoretically, the source of power is the members in general meeting ; they elect directors, auditors, &c., and the directors report to them annually ; in practice the directors and office-bearers, especially secretary, are the real society, being, practically, the only ones cognizant of business and of the affairs of the Fund. When the general meeting does attempt to exercise power, experience alleges that it is frequently used badly and ignorantly, a mass of ignorant voters are won over to dangerous business, to mistaken appointments of directors or auditors, unconscious of the true duties of such officers, or of the proper scope of genuine and safe business. The power in Madras and neighbouring districts is generally exercised on the “one man, one vote” principle, hence, the experienced director of many years’ standing has precisely the same theoretical value in the meeting as the newest joined lad or the old market woman with a single share. This is the strictly democratic principle adopted in the Popular banks and Credit Unions of Germany and Italy, which is found to work very well, the power thus given to the mass of members, *i. e.*, to the mass of borrowers, tends—but only tends—to prevent any diversion of the aims or funds of the society towards speculation or towards private interests, or any monopoly, of the administration for purposes of private gain by capitalist shareholders. In the United States, however, it is common, perhaps general, to allow one vote per share, it is argued by writers of the greatest experience that though the “one man, one-vote” principle prevents a few shareholders from combining to control the association, yet, on the other hand, it allows ten men holding one share apiece to have the same voting power as ten men holding ten shares apiece (S. Dexter), and it is evidently considered that a universal and equal vote is, in business matters, a dangerous vote. It is interesting that this

should be the case in the great republic, and shows a curious divergence between the views of business and of politics. It is right to add that a limitation in the number of shares to be held and votes to be given by each share-holder is recommended, also that another American writer of great experience in Building societies (E. WRIGLEY) considers that the stock vote (as many votes as shares) is bad in principle, as "it gives the preference to capital over brains and experience ; it gives the richer members power over the poorer ones ; it tends to destroy confidence, and often leads to fraud and oppression ; it is a great aid to dishonest management and the bane of large corporations of the present day." In certain important groups of mofassil Nidhis, it is customary to allow one vote for every share up to ten, and thereafter one for every five ; this gives a preponderance of power to wealthy shareholders, who moreover are generally those who mostly attend general meetings ; these use the Funds as investments and are often directors. Hence there is a tendency to run these Funds as joint stock companies for the benefit of investors and towards the development of dividends, and this is much complained of by many members. The complaint is precisely that the Fund, under this principle, falls into the hands of a few people who manage everything with a view to their own interests. Experience seems to tend towards the adoption of a modified democratic method ; some Nidhis and many experienced members state distinctly that the "one-man, one-vote" principle is folly, in that the ignorant, unbusiness-like and improvident have the same voting power as the intelligent and prudent business man, with a large stake in the society. To which, however, there is the reply that the poor man is very often as prudent as the rich ; that his solitary share may be his all ; that he is more likely therefore, to insist on prudent management free from all speculative bias, and above all that he is more likely to insist on cheap credit rather than aim at high profits. The experience of Europe is in favour of the democratic principle in these societies ; even poor members thus learn to take a lively interest in a society where their vote is so important, and it is considered that so long as men do not grow wise in proportion as they grow rich, a Mutual association should adhere to this principle, as more consistent with the co-operative formula that a society is an association of men rather than of shares. It is possible that, as in some Nidhis already, a middle way may be found, *e.g.*, in one Fund one vote is given for

every five shares with a maximum of four votes ; in another the maximum is sixteen. Possibly a maximum of five votes, *e.g.*, one for every five or fraction of five shares up to twenty-five would prevent all undue preponderance of wealth while giving to the experienced men, with a considerable stake in the Fund, sufficient voting power to prevent ignorance and inexperience from rash resolutions. The single vote system seems successful in Europe, and is based on the true co-operative principle ; the unlimited stock vote is generally condemned. In Madras and in the mofassil some of the most experienced men disbelieve altogether in the existing voting system, whether the individual or the stock vote system. They recommend that the general meeting should not consist of all subscribers, especially when the society becomes a large one ; a really representative meeting would, in such case, be too unwieldy to manage, while a door is opened to great abuses whenever matters of importance, elections, &c., are concerned. They recommend either a resort to intermediate bodies, each member of which should represent a group of subscribers, or that the general meeting should consist only of shareholders holding above a certain minimum number of shares so that the mass of subscribers have no votes, but enjoy all other privileges. Possibly this latter plan may be advisable in cities with very large societies, but for small societies the individual or the modified stock vote system seems preferable as giving all persons a working interest in the society. It has also been suggested by very experienced and disinterested men, one being chairman of a large Fund directed almost gratuitously, that the executive power of a general meeting should be removed altogether ; it should be a mere meeting to receive and adopt reports ; the real control should be exercised by a board of control of twenty to twenty-five members, chosen at the first general meeting from the men of highest reputation, who would hold office permanently, all vacancies being filled up by the board itself ; this board should control all the operations of the managing committee. Such a board of control was, in fact, in existence, it is said, in the old societies of this presidency, but has for many years been abolished under the ideas engendered by the Joint Stock Companies' Act. The proposal is, to a certain extent, parallel with the practice in the old Land banks of Germany, where the general meeting is of rare occurrence, its place being taken by a council of delegates ; it exactly recalls also the universal committee of supervision in Europe, which, in every society,

controls the work of the managing board, and safeguards the cause of the society.

It is, of course, open to Funds to frame Articles as they please in any of the above directions.

The directorate usually consists, at least at first, of the most experienced and influential men, retiring, as usual, by rotation, but re-eligible. They are now almost always paid, either by a share in the net profits, after the guaranteed interest has been distributed to members, or by honoraria settled at the general meeting ; they usually get sitting fees also. In some the directors are paid at a fixed and often a very large proportion of the profits, in others according to the number of meetings they have attended. In the largest mofassil society working rather as a bank, the president and directors work *gratuitously*, while the secretary, auditors and appraisers each get an honorarium settled at the general meeting ; the staff, of course, is always paid by salary. In Germany the directorate of the Schulze-Delitzsch banks is usually paid both by salary and by a share in the profits ; in Italy this was also the case, but SIGNOR LUZZATTI strongly recommends—and the suggestion is now largely adopted—that their services be given *gratuitously* ; in some of the very largest banks, *e. g.*, Milan, this is pre-eminently the case ; in the Raiffeisen and Wollemborg Loan societies *all* services are *gratuitous* except those of the accountant. It seems to be the rule that in these co-operative Mutual Credit societies in Europe, and in the United States, as also the case of the English Trustee Savings banks and Irish Loan societies under the Act of 1843, the directorate gives its services *gratuitously* ; the Schulze Delitzsch societies are the exception, and the express complaint made against them is that they are tending towards the position of mere Commercial societies, and losing their “mutual” character ; the desire for large profits, and consequently larger “*tantiemes*” to the directors, is not merely keeping up the rate of interest, but diverting the societies from their true role of assisting and guiding the poorer classes. This complaint may or may not be well founded ; the desire for profits does bring about exactly such results in general, and there is a very strong feeling among the promoters of Mutual societies that dividends other than fixed, and wages depending on dividends, are a mistake ; fixed interest and, if necessary, moderate honoraria for expenses out of pocket, are recommended.

Now it is curious that in the earliest societies of Madras (1852) directors did give their services gratuitously; the objects of the Funds were declared to be "mutual benefit," and the most enlightened and public spirited of the members undertook the promotion and direction of these societies for the public good without reward save that of their conscience. It is now made expressly an item of complaint that a struggle for profits and stipends has replaced the old philanthropic public-spirited sense of devotion; that the emoluments of directors have been, hitherto, steadily on the increase, while the posts themselves have become the objects of scramble and intrigue, votes being even purchased, it is said, from the ignorant mass of members; some assert that the class of directors is deteriorating as, indeed, is probable if office is to be chattered for. If it is argued that men require pay for increased work, it is replied that by far the most arduous work was done in founding and nursing the societies at their start, not in the mere carrying on of a somewhat greater volume of business; that the later history of the Nidhis does not show a better class of work than the older, while, in fact, the paid directors have often shown the grossest negligence and incapacity. One large and flourishing society, in fact, though already directed at very low rates, has proposed to abolish directors' fees with the express intention of stopping this divergence from the "mutual" path; the proposal has, however, not been carried; another large society has reduced its directors' fees by one-third. These facts indicate a growing perception that the initiative idea of the societies has been departed from. It may be useful here to point to Europe where, as in the Popular and Saving banks of Italy, especially, Milan, or as in the great Trustee Savings banks and Friendly societies of England, or the Building societies of the United States, an enormous mass of high class work is done without a thought of pecuniary reward by men of great ability and of engrossing private business, who yet give freely of their scanty leisure.

Directors are responsible for all money belonging to the share holders, but only occasionally is security demanded from them either direct or in the shape of inalienable shares as is invariably the case in Europe, where every director and permanent auditor (*censeur*) must hold a number of paid-up shares, which are inalienable, are specially marked in evidence of this, and are deposited in the company's safe. Only the above-mentioned bank has such a rule; in that,



each director, though working gratuitously, is bound to hold twenty paid-up shares, value Rs 1,000, on which he cannot borrow; the secretary (or manager) must similarly hold 100 shares, value Rs 5,000; which are held by the society as security; the treasurer holds shares and has given other security for Rs. 5,000. Some Nidhis require a certain number of shares as a qualification for the directorate, but there is nothing in the rules to prevent such directors from borrowing on such shares.

There does not appear to be any rule, as is general in Germany and Italy, against directors borrowing from the society; in one Nidhi the directors may not borrow upon the shares held by them as a necessary condition of office. In the Building societies of England and America (with exceptions, *e. g.*, California) and the Nidhis of Madras, the directors have all the rights of ordinary members, whereas in the Co-operative banks of Continental Europe, their position is generally held to entail many duties and responsibilities and to debar them from the privileges of credit, except under special safeguards.

*Auditors.*—In most Nidhis audit is, of course, very simple matter, but the larger ones, with thousands of transactions to the value of lakhs of rupees, require most careful auditing. It is usual for the rules to provide permanent as well as special auditors; the former are appointed for a year or term of years, the latter annually; the former are intended to scrutinize the accounts and securities very frequently, *viz.*, daily, twice a week, weekly, monthly, &c., according to the Nidhi; the latter conducts the usual annual examination. Some Nidhis adopt the plan of disallowing any director from being an auditor; in others, the permanent auditor is always a director or member of the managing committee.

*Funds.*—These proceed from the subscriptions of members chiefly, and to a small degree from deposits; the Nidhis do not borrow except by deposits. In one society, which, however, resembles an ordinary bank, there is a capital composed partly of foundation shares, fully paid-up, and partly of the ordinary subscription shares.

The funds derived from shares are, of course, limited to the amount declared by the statutes of the society. These shares have two objects: (1) they are methods of saving and are investments; (2) they are means for (*a*) obtaining, and (*b*) paying off, a loan.

As investments these shares are very good; the lowest fixed interest generally given is  $6\frac{1}{4}$  per cent., *viz.*, 1 pic per month per

rupee paid up. To this, however, may be added additional profits which in certain Funds amount to about 8 annas per share per annum, equal to nearly  $1\frac{1}{4}$  per cent. equated upon the average amount at credit during a term; hence a saving subscriber gets about  $7\frac{1}{2}$  per cent. per annum on his savings. These shares prove, therefore, good, and, if the rules are observed, a perfectly safe investment.

Their chief function in this country is, however, that of obtaining and repaying loans; as a rule only members can obtain a loan, and to become a member a man must take one or more shares, every loan must be a multiple of the share value, *e.g.*, if the matured share value be Rs. 100 and the loan be Rs. 500, the borrower must take five shares; the loan is then repaid by the simple process of regularly paying his ordinary monthly subscriptions, *plus* interest. It is in this insensible and gradual method of repayment that one important advantage of the Nidhis resides.

*Deposits.*—These are generally receivable up to an ordinary maximum of Rs. 5,000 for any one account, the minimum varying from Rs. 25. In some cases they are repayable at call, but this is rare; notice of fifteen days to one month is usually necessary; cheques are not generally in use, but a form of demand with the pass-book as in Savings banks. Repayment of deposits must, by the rules, take precedence of all other demands for funds, so that on a heavy run loans would be impossible for a considerable period. In some Nidhis only fixed term deposits for three, six and twelve months are received. Some Nidhis only accept deposits from shareholders; generally, however, they are taken from any person offering. In some Funds directors are bound to or do lend under the name of deposits whenever the Fund is in need of ready money to pay off matured shares, or to meet demands for good loans. Generally speaking, deposits in the mofussil are made in large sums by a few people; they are not the petty deposits of the masses; in some Nidhis a minimum, *e.g.*, Rs. 25 is prescribed for each in payment.<sup>6</sup> It is, however, said that these deposits are in many cases made by money-lenders; not necessarily professional lenders, but persons who have accumulated or inherited money and utilize it in lending on good security. Some join as directors and deposit funds in order to develop business, so as to obtain profits without individual risks and trouble; others are mere depositors. The connection of money-lenders, at least of this class, with the Funds is noteworthy, especially as so

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much of rural money-lending in this presidency is by the moneyed classes rather than by Marwaris. Interest varies according to term and bank ; 5 per cent. for ordinary deposits, 6 or  $6\frac{1}{4}$  for twelve months' deposits, are moderate rates, and  $7\frac{1}{2}$  per cent. is not uncommon ; in some societies three months' deposits get 6 per cent. and twelve months' deposits, 9 per cent. In one society charitable deposits get  $10\frac{1}{2}$  per cent. The ratio of deposits to capital is usually small ; the highest proportion, with one exception, is one-fourth of the nominal capital ; in many cases it is not above one-tenth to one-thirtieth or even a much smaller fraction of the capital. No limit to the aggregate amount of deposits is generally imposed by the rules ; in one Madras case the deposits are three times the amount of paid-up capital, but this is not an ordinary Nidhi, and is purely European or Eurasian. The small proportion of deposits, considering the very good interest paid and the apparent demand for loans is remarkable.

No special security is offered for deposits ; the status of the society *plus* the reserve, *if any*, and any amount still due upon the shares, are the direct guarantees ; this latter approaches zero as the shares approach maturity, and where a whole series simultaneously matures, deposits have to be attracted by high interest. Deposits are more readily attracted to societies which lend chiefly on mortgages rather than on personal security ; depositors consider such a Fund more solidly established and less risky than those where loans on personal security are the chief feature, while the deposits themselves, being lent on good mortgages, are unlikely to be finally lost. It is probably the absence of material and solid guarantees for the repayment of deposits which prevents their inflow ; the interest is far higher than that of Government paper, and the directors of the bank are locally well known ; high interest is evidently insufficient *per se* to attract deposits. It is also certain that with substantial and permanent reserve and other guarantees, deposits would be attracted not only in larger quantity but at cheaper rates ; with Government paper below 4 per cent., it is difficult to believe that 6 to  $7\frac{1}{2}$  per cent. is necessary in Funds, if well managed, supervised, and guaranteed. A small loss of interest on a good reserve would be far more than recouped by cheap deposits. Another reason for paucity and dearness of deposits is the necessary delay in repayments.

The smallness and dearness of deposits, the want of definite security for them, the difficulty of repayment in case of a run, and

the disorganization of loan operations when deposits are withdrawn, are among the weak points of these societies.

*Reserve.*—This is generally provided for in the rules by an allotment of from one thirty-second of the net profits after deducting all dues to subscribers for repayment of principal and for guaranteed profits; such allotment is usually trifling. It is also to provide by rule that this reserve shall be broken up and divided in whole or in part every three or four years; on examining a large number of balance sheets, it is only occasionally that a reserve is ever mentioned, and, where found, it is usually extremely small. Small as is the reserve at its maximum (usually only 1 or 2 per cent. of the capital), at certain periods it is either *nil* or infinitesimal. Moreover, the reserve is often laid out in charitable investments, probably for the deity or temple which gives its name to the fund; that is not a legitimate use for a reserve.

*Profits.*—In Mutual Loan societies, such as the Nidhis, profits ought to be entirely subsidiary to the main purpose, *viz*, the cheapening of credit; profits are indeed a legitimate means of stimulating thrift, but must not become the chief aim of society, especially when all profits are provided solely by the borrowers and when directors and office-bearers, as such, take almost as large a share (usually seven-sixteenths) as the whole mass of subscribers. After providing the fixed profits according to the rules, all other profits should be kept as low as possible, whereas in the report of certain Nidhis, the annual profit is from 10 to 14 per cent; part of this, of course, goes back to the borrowers, but the bulk is absorbed by non-borrowers, directors and office-bearers, and is unduly high. This divergence from the true co-operative idea is the besetting temptation of Co-operative societies all over the world; in America one borrowing member furnishes the profits for three investing members and for himself; in Madras the tendency is for three borrowing members to furnish relatively small profits for themselves and for one investing member, and relatively large profits for directors. There can be no doubt but that the men who start these Funds are not generally aware of their co-operative origin and development; co-operation in its modern sense is hardly known in this presidency, and the compulsory registration of the Funds under the Joint Stock Companies' Act causes them to be looked upon simply as Joint Stock societies, where profits or investments are a principal object. In all correspondence and in public discussions, these Funds, as well as proposed Agricultural banks, are treated as joint-stock companies or

aggregations of shares rather than as associations of members co-operating for mutual relief.

Profits arise in this presidency chiefly from an unusual source, *viz*, the unpunctuality of the members.

Profit, in fact, is generally obtained from fines, entrance fees and minor payments and from profits on withdrawals.

*Loans.*—The money raised by subscriptions or by deposits is lent out chiefly to members; in Madras city personal security is, in some cases, accepted, but generally only good mortgages and pledges of jewellery or Government paper. In the mofussil, on the contrary, personal security is more common than mortgages, which in some of the largest Nidhis are either expressly excluded, or obtain but a small percentage of the loans, and then only with the addition of a personal surety. The reasons assigned for this difference will be seen immediately; and afford much ground for thought; briefly and chiefly they are that in Madras personal security is shunned because of personal distrust due to a prevalence of fraudulent practices, and to the facilities for bankruptcy, while mortgages are favoured because of a good system of title and of ease in recovery of debts; in the mofussil, mortgages are avoided because of difficulties of title and the effect of the Revenue law for the recovery of arrears, while personal security is accepted because mutual confidence exists between members residing in the same village or town, and intimately known as neighbours. It is, however, curious that even in mofussil Nidhis, mortgages take rank prior to personal security in the sequence of preference, and are granted at lower interest; this is due either to the fact that the rules are borrowed direct from Madras, or to an opinion that mortgages *per se* are safer than personal security; if it is the latter, it follows that mortgages are not largely accepted because of the difficulties of title and encumbrances.

The commercial bill is not in use as a method of credit; the cash credit is also absent.

These loans are granted in the usual way, needing no description; there is a committee to receive applications, valuers and appraisers and a decision. Loans are granted to about half or three-quarters of the estimated value of the property, if mortgages; to a somewhat higher value, if pledges.

Securities are various, *viz*, paid-up or partly paid-up shares, jewels, Government paper, land and house property and personal security,

preference being given in Madras city in the order named. In Madras city mere personal security is strongly objected to and in fact generally refused; it was deliberately stated in two large societies, that in that city it is not safe, owing to the facilities for bankruptcy; no respectable person, it was said, will stand security except for very short periods (three months) since the habit of evading debt has grown up. In the margin of the rules of a large bank which has collapsed, there is a pencil note by a director that the ruin of the bank was due to loans on personal security. This is a very unsatisfactory condition, but in rural parts this want of confidence, these breaches of faith, do not exist to a material degree.

The method of repayment is that of the Building societies; suppose a man has one share payable in eighty-four months at Re. 1 per month; a loan is granted to him for Rs. 100 upon mortgage of a house worth, perhaps, Rs. 150; this loan he repays simply by his ordinary monthly instalments of Re. 1 *plus* interest; at the end of the eighty-four months from the date of his entering the society, his share will, as usual, be worth Rs. 102-8, and his debt is therefore wiped off. If his loan is for Rs. 500 he must take five shares. Hence he is able to pay off his debt by small monthly fractions—a very useful plan to those who get monthly pay.

*Method of allotting Loans.*—Since nearly every member—at least three out of four—of an ordinary Nidhi wishes to borrow, there is much competition for loans. Most of the Nidhis seem to grant loans according to priority of application; a list is made, and members get loans in turn, some Nidhis give directors power in case of pressing need to allot out of turn. It is hardly necessary to remark upon the possible results; the winding-up reports show that officers' and directors' friends are apt to obtain priority, and it is conceivable that if much power is left to a secretary or ill-paid manager, those who obtain his favour in any way, obtain undue priority. Moreover, with the limited funds at disposal, those who are in the greatest need, must frequently fail to get a loan in time to be of use.

Some few Nidhis consequently adopt the auction premium plan, usually that in which the bidder offers a premium of so many rupees for the loan, the highest bidder wins and the premium is deducted from the amount of the loan, with the full amount of which he is, of course, debited.

Some adopt the so-called 'ballot' system, this simply decides the question by lot. At first sight it would seem the best method as avoiding favouritism and the cost of premiums, but it has been largely abandoned in America in favour of the auction system, and the new English Bill of 1893 expressly forbids it in all new societies, because, apparently persons join societies merely to gamble for the lots, which, if they win, they sell at a high price to those in need, thus realizing a heavy profit which should have gone to the society ; in fact a society seems to be often formed by a ring of speculators who gamble for the subscriptions and share the profits.

*Interest.*—The interest in many Nidhis is high ; in some it is, *prima facie*, unnecessarily high, but it must be remembered, in comparing rates with those of money-lenders, (1) that all dealings are, in theory at least, regular and clear and open to complete inspection and audit, (2) that in loans payable by instalments counter-interest at the same rate is allowed on all instalments, while *sowcars*, specially under the 'kanthu' system, allow no interest on instalments, (3) that all borrowers of regular loans are necessarily subscribers who share in the profits of the Nidhi, and thereby obtained a further set off against the cost of their loans. For example, a loan of Rs. 100 is granted at  $6\frac{1}{4}$  per cent. repayable in eighty-four months (seven years) by monthly instalments of Re. 1 each ; in these seven years the borrower will have paid as interest ( $6\frac{1}{4} \times 7$ ) Rs. 43-12. But since he has repaid his loan by the usual subscription of 1 rupee per month, on which interest at 1 pie per rupee per month ( $6\frac{1}{4}$  per cent. per annum) is allowed, he will be credited with  $\frac{84 \times 85}{2}$  pies, equal to Rs. 18-9-6 : hence for the accommodation of a lump sum of Rs. 100 repayable by monthly instalments over seven years, he has paid about Rs. 25, if interest upon interest is neglected. From this again is deducted his share of the "additional profits" due to him as a member.

*Loan values.*—The maximum value of loans to a single person is practically fixed by the number of shares he may hold, since each share is for Rs. 50 or Rs. 100, and fifty shares is the general maximum to be held by one man ; Rs. 2,500 or Rs. 5,000 is the maximum loan. The minimum varies from Rs. 5 upwards. The small loans are usually the special 'small lot' loans bearing high interest and for short terms ; regular loans are not of less value than one share.

*Purpose of Loans.*—This is stated generally as for payment of prior debts, purchase, building or repair of houses, purchase of lands,

trade, marriages and payment of assessment ; usually the order stated is that given above, and the last-named is only mentioned by one Nidhi. In a *very few* cases is the improvement of lands (digging of wells) mentioned but the purchase of lands and of cattle are occasionally stated, the redemption of prior debt is common, and in some cases the repayment of a Government loan is mentioned, probably when a loan has been called in for breach of conditions. It is to be remembered that nearly all these Nidhis are in towns, mostly large ones ; hence, agriculture is seldom represented, and the Government assessments are those due by considerable and absentee proprietors. Nearly all Nidhis expressly state that they do not interest themselves in the purpose for which the loan is required, they look only to the security, this seems to be universal. Even when the form of application contains a query as to the purpose for which the loan is required, it is merely put to guard against any objection by third parties that the loan was granted otherwise than for useful family purposes, or it is, rarely, a relic of a past attempt at control ; two Madras societies stated that this control was once customary, and that formerly loans were only granted by instalments, after ascertaining that the money had been used for the specified purpose, probably house-building. This practice seems to have generally died out, and was only intended to safeguard the security given to the Nidhi, as for instance, when money was granted for repairing a house which was the security for the loan. In this matter the Nidhis have adopted the ordinary commercial practice and fall short of the true co-operative principle of the guided, guarded and controlled use of credit ; it is the influence of the society on its members towards prudence and productive borrowing which is one chief function of the German and Italian Credit Unions, a function entirely missed by societies which care only for the security of their money and the due return of profits.

*Government intervention.*—All societies have to be registered in the office of the Registrar for Joint Stock Companies ; they obtain incorporation by this registration and fall under the operation of the Act. The duties of the Registrar are simply those of registration, the examination of the articles, the issue of a certificate of incorporation, the registration of any changes, the levying of certain fees, the grant of inspection of documents and of copies, and the writing of an annual report, which, however, is not intended to be more than a skeleton of bare facts. District Magistrates



have recently been required to make or cause to be made an annual inspection of the offices of the companies within their jurisdictions and a report on the same : the matters for inspection are simply those of sections 63, 65, and 69 of the Act relating to the establishment of a registered office, the affixing of a signboard, the use of a proper seal and designation on all documents, and the placing in public view of a certain statement in the Fund office ; they should also, in districts where Nidhis are numerous make widely known, probably through their District Gazette, the provisions of sections 82-85 of the Act, relative to the appointment by Government of special inspectors for particular companies on good cause shown by a certain proportion of the members.

The only other Government intervention is that of the receipt of direct taxes under the Income-tax Act and Municipal Act (if in Municipalities), of fees at the registration of a society or of subsequent documents, &c., and of indirect taxes in the form of the usual stamp duties and fees for the registration of documents.

*Use made of the Loans.*—A very large number have been used in house-building, showing that the Nidhis fill a position similar to that of English and American Building societies. The payment of old debts is very frequent, marriage expenses are a considerable item, as also land purchase, land improvement and well-digging are very rare. It is stated by most Nidhis that the grant of cheap loans has done much for the help of the members, but the want of funds is frequently mentioned as a reason for not doing much more. Several Nidhis, especially in the Ceded Districts, state expressly that many of their members have, by joining the Nidhi, “been relieved from the clutches of the money-lender,” and personal enquiry on the spot amply confirms this.

*Results upon members.*—It is asserted that habits of thrift, foresight, business, punctuality, public spirit have been aroused and strengthened : this is probable. On the other hand, very experienced men consider that cheap money has often begotten unthrift and extravagance, and they consider that to attain their full measure of usefulness, the Nidhis should control, in some measure, the purposes to which credit is put. This corresponds with the opinion and practice of the best European authorities and may be taken as axiomatic ; it is not merely cheap credit, but controlled credit that Nidhis should supply. Of what benefit is it to a man that he can

borrow Rs. 1,000 for a marriage on no higher terms than Rs. 500 formerly, if it merely leads him to borrow and spend accordingly? "Lightly come, lightly go," is but the record of experience. Nor is it less embarrassing to owe a bank Rs. 1,000 than a *sowcar* Rs. 500, in case, indeed, of the borrower's death, it may be much more so, from its greater amount.

Unpunctuality is much complained of, especially in the case of members who do not draw regular monthly incomes; this is but natural, and is found in Europe and the United States also, among the non-wage earners, such as peasants, shopkeepers, &c. This fact points to the need for an adaptation of the system to such classes; it is *a priori* impossible that societies started for and by official and other stipendiary classes, should suit those whose incomes are of uncertain date or accrue only at certain seasons. Out of seventy societies taken at random, of which the winding-up reports were analysed, no less than forty-two failed solely or chiefly because of arrears; both benefited and non-benefited subscribers made default, but specially the former.

It seems that punctuality is in India the hardest to learn of all business lessons, and, as has been stated, it is probable that unpunctuality is connived at, if not encouraged, by reason of the heavy penal interest which results; in one Nidhi three-tenths of the income was from fines; in another and very large one the net profits, after deducting guaranteed interest, were practically obtained from this source. Here then is another result of the greed for dividends; if these were fixed and all surplus went to a reserve or to works of utility, it would no longer be the interest of managers to allow unpunctuality, and the Funds would serve the great purpose of instilling the virtue of punctuality into an unpunctual clientele.

*Advantages, actual or possible.*—These will have been understood from the foregoing sketch; they are the introduction of co-operative principles and habits, the stimulation of thrift and providence, the inculcation of business habits and punctuality, the cheapening of credit, the insuring, so long as the rules are observed, that the members will, if non-borrowers, get back their money with interest, and if borrowers, that they are secure from all annoyance so long as they pay their dues punctually, and that all dues will be rightly credited to their accounts; business is extended by cheapening loans, and not by entrapping the unwary and ignorant, profits are to be

sought by the development of cheap credit and not by squeezing the individual debtor; the interest of all members, but especially of borrowers, is, or should be, the primary aim of the directors, and not the development of large profits for the benefit of the directorate and the non-borrowers. Small savings are duly cared for and receive interest higher than can be obtained in the Savings bank; sums nearly as small as savings deposits are received with the educative benefit of compulsory regularity; petty capital is retained in the neighbourhood in which it is saved, and utilized *in situ*; societies and borrowers are in immediate contact, so that the expenses of enquiry and insurance against risks are reduced to a minimum; debts are repaid by a series of small equal instalments, so that, while the borrower repays with ease, the society can recover in the Village Court, and its security increases in proportion as the debt is repaid; all payments are recorded in the member's pass-book so that he can note the amount at his credit, or the balance which he owes at any moment; the accounts of the society are, to a certain extent, published, and audit is not only possible but general.

Such are some of the possible benefits of the Nidhi system and many of these are realized in daily practice, nor is there the slightest room for doubt that these societies, whenever they have been properly worked and supervised, have been of very great benefit to their members in so far as regards the grant of fairly cheap credit, easy methods of repayment, and genuine accounts; it is needless to contrast these advantages with the conditions of private lending.

#### RECOMMENDATIONS.

It remains to consider what form of institution is best adapted in this presidency for rural credit, the difficulties in the way of the banks, and the best means of promoting them and their well-being. The postulates of credit *viz.*, proximity, the security of the lender, and facility and safety to the borrower, will be assumed, as also the correctness of the axiom that credit must be based on thrift, that is, that the thrift of lenders shall provide the funds for the use of thrifty borrowers.

*The form of the banks.*—No central bank, not even a district bank, can satisfy the conditions of 'facility' and 'proximity' when the borrowers are the village folk, the great mass of whom hold lands assessed at less than Rs. 30, nor can they look at rural credit business

when the loans are, as in this presidency, the petty loans evidenced by registration, court and other statistics. The vast bulk of all loans are below Rs. 50 ; even mortgages below Rs. 100 number half the total mortgages and average only Rs. 44 ; the records of the civil courts tell the same tale, since, in this presidency, for 1893, no less than 59·4 per cent. of all suits, exclusive of those in village courts, were for sums below Rs. 50 including the interest claimed ; if village courts are included, the proportion is 68·9 per cent. Again, including village courts which tried 61,000 suits, the percentage of all suits below Rs. 20 was 45·25 per cent., so that nearly half of all suits were below Rs. 20. This being so, it is clearly useless for any bank outside a very small circle to think of supplying the country-side with the credit it needs. Nor is it conceivable that the borrower could obtain from such a bank either facile, cheap or safe credit, the expenses of enquiry, the risks of loss on petty loans to unknown persons, would preclude facility, while the element of safety, would be largely wanting, since 'safety' requires that the destination of the loan shall be a productive one, that it shall be used in production or towards economy, and that money shall only be borrowed for such purpose. Credit banks cannot and do not enquire into the purpose of a loan provided the security is sufficient, whereas it is of the essence of village credit that the lending institution shall be a powerful aid to the borrower in checking extravagance and in suggesting useful outlay.

Nor is it possible that State banks should satisfy the need for rural credit. Still less than Central banks can they satisfy proximity ; their agents indeed may be amongst the people, but a paid agent is merely a machine to pay out, to receive, and to enforce hard and fast rules ; the loans might be made secure to the lender, but solely by the overwhelming powers reserved by the State creditor, while the safety of the borrower, except as regards loans similar to those under the Land Improvement and Agriculturists Loans Acts, would fail of being met, since the State can hardly influence the individual in the matter of prudence in his individual actions. The borrower need not be thrifty, nor would the loan proceed from voluntary savings but from the national taxes, unless the State deliberately utilized the funds of the Savings banks in such loans. But it is difficult to see how the State could ensure that its loans should be granted only to thrifty persons and for

productive use, unless they were limited, as now, to improvement loans; this, however, is not what is meant by 'rural credit.' There are, further, overwhelming objections to general State credit; such are the enormous amount of necessary business with the consequent abnormal development of a bureaucratic agency which, *ex hypothesi* would interfere in the daily affairs of every man's life, the gigantic sums required for the supply of general credit; the development of the habit of leaning upon the State, and of identifying it with the prosperity and misfortune of the people, a tendency to regard the State creditor as a money-lender, who, especially under the popular delusion of the State's illimitable wealth, could bear to lose individual debts; the odium attached to the State as enforcing, as it would be bound to enforce, rigid punctuality and complete repayment of dues; the political objections to a State assuming the position of general creditor with the consequent temptation by its debtors to general repudiation; the interference with private trade and the stifling of all efforts at self-help.

Central banks and State banks being thus found objectionable, it follows that what will be chiefly required for the credit work of the Madras districts, are small, local, locally worked institutions on the lines of the European village institutions; it is Village banks, not District or even Taluk banks, that are required. It does not appear probable that institutions like the great Scotch banks will ever arise to send out their thousand branches and agencies into every village; the genius of the people and the absence of a note circulation by banks seem to rule out this possibility. In the absence of great institutions with the peculiar ability of the Scotch banks, the only alternative is the local Village bank which satisfies the postulates of proximity, security, and facility, and, in one form or another, is found in thousands of instances in Europe and America; such are the small Swiss joint stock banks, the Popular banks and Loan societies, the Savings banks, Building societies, Positos, &c. In one form, moreover, *viz.*, that of the co-operative Village bank, it satisfies the final postulate of true credit, *viz.*, that of 'safety' to the borrower.

The decisive advantages of Village banks are as follows:—  
 (1) their absolute proximity to the borrower, (2) their ability to excite local confidence and consequently to draw in local capital, (3) their exact knowledge of their clients and their influence over them as co-villagers; their consequent ability to prevent fraud and to

dispense with searches in Registration offices ; (4) their power of making the smallest loans and of undertaking operations, however petty, in consonance with village custom and individual needs ; in fact, of *giving preference* to small business ; (5) their ability to dispense with any prior general liquidation of debts such as has been demanded as a preliminary to the establishment even of Taluk banks, they would ascertain in each case the borrower's prior debts, arbitrate with the creditor for a favourable settlement for cash down, pay down the sum settled, and accept the debt as due to themselves ; (6) their ability to work cheaply, almost gratuitously, and thus to provide cheap credit ; (7) their retention of local capital and of all profits thereon within the village, and, in the case of co-operative societies, their retention of all profits for the members and borrowers ; (8) their ability to act as agents and brokers for their members in the sale of produce and purchase of necessaries ; (9) their capacity of acting as village granaries, lending grain for maintenance and seed in ordinary years from their own resources, and, in times of distress, from those resources supplemented by State or other grants ; (10) their ability to act as intermediaries between the State and the individual, whether in matters of loans for land improvements, cattle, &c., or in other agricultural or industrial developments, or in times of seasonal stress ; (11) their power of influencing borrowers towards the true use of credit, and of watching the utilization of loans in accordance with contract ; (12) their ability to prevent fraudulent defaults and collusive sales of property, and, in cases of default, to utilize advantageously the small properties accepted as securities for loans ; (13) their tendency—in the case of Co-operative banks—to group themselves into unions for mutual development, instruction, inspection, and audit ; (14) their steady, educative influence in matters of thrift, association, and self-help by their continuous presence in the village, by their continuous object lessons, and by their frequent, though small, calls upon the activity, thought, and service of their members ; (15) their tendency to develop high forms both of individual capacity, of public life, and of national character.

These village banks, then, may assume several forms : they may, as Joint Stock banks, imitate the ' *minuscules sociétés anonymes par actions* '—the tiny joint stock banks—of Switzerland, with their little knot of capitalists and their share capital of a few hundred pounds, they may possibly assume the form of the State aided

Communal banks of Alsace-Lorraine, they may be Savings banks in origin, dealing in credit merely as a mode of placing their funds either directly to borrowers or indirectly through loans to credit banks; they may be Nidhis either of the present or of a developed type, developed in their power of safely attracting capital, and of giving long-term loans; they may be village granaries storing surplus grain at harvest, and lending it out among the ryots for seed in the cultivation season, they may be Agricultural associations with credit annexes, a most desirable form of institution, or finally, and most desirably, they may be true co-operative societies and banks, operating through, for, and upon, the members, stimulating and collecting their savings, calling forth habits of thrift, economy, and prudence, guiding their outlay into productive channels, giving them credit for productive and useful purposes, promoting co-operative dealings in sale or purchase, and stimulating activity, union and associated action among the too isolated units of village life.

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[*Extracts from the Report by Mr. J. R. Cahill on Agricultural Credit and Agricultural Co-operation in Germany. Cd. 6026 of 1913.*]

#### MORTGAGE (LONG-TERM) CREDIT.

In the number and variety of the agencies through which they can obtain long-term mortgage credit on relatively easy conditions, landowners in Germany, both large and small, enjoy signal advantages as compared with the corresponding classes in this country. Setting aside for the moment the Joint Stock Mortgage Banks, the whole of these agencies are in the nature of governmental, non-profit seeking institutions—using the word “governmental” in a sense that would comprise the State, provincial, district, municipal (or communal) authority as well as those corporations of landowners which rank as public bodies. The various agencies may be divided into three main classes according to the purposes for which their loans are granted. In the first class there are four groups of institutions, namely, the Land Mortgage Credit Associations (*Landschaften*), the State, Provincial, and District Mortgage Credit Banks, the Joint Stock Mortgage Banks, and the Savings Banks, all of which grant mortgage credit without requiring, in ordinary circumstances, any declaration as to the purpose of the loan. The second group comprises the Land Improvement Funds, the Land Improvement Annuity Banks, the Provincial Aid Banks, and the Imperial Insurance Institutions, all of which grant loans mainly for specific land improvement or building undertakings. The third group is that of the Rent Charge Banks, which are concerned with loans in connexion with the creation and equipment of small holdings.

By far the most important class is the first: at the present time the total value of the outstanding loans granted on landed properties by the institutions comprised in it approaches £400,000,000. The Land Mortgage Credit Associations and the Savings Banks are represented in this total by about £170,000,000 each. With the exception of the Savings Banks and of the relatively unimportant Prussian Land Improvement Funds, all these mortgage credit organisations obtain funds mainly (when not exclusively) by the issue of land mortgage bonds. Thus the German landowner, by virtue of his institutional mortgage credit, is enabled to mobilise, as it were,



a high proportion of the value of his landed property by the creation of bonds that flow into the general system of securities, so that instead of only being able, like the English landowner, to provide an individual mortgage security of very limited currency, he possesses facilities for converting a mortgage charge into a security realisable at any time in the general market.

The *Land Mortgage Credit Associations*,—twenty-three in number, of which six were founded in the period 1770-1790, and the remainder between 1825 and 1896, are associations of borrowers for the purpose of procuring loans by the issue of bonds secured by the collective mortgage charges registered against their landed properties. These bonds are not secured by specific mortgage charges, but by the body of mortgage charges of each particular association, supplemented by its reserves and the accumulated sinking fund payments of mortgagors. They are non-profit-seeking organisations, and, except in two cases, they possess no share capital. The Prussian Associations limit their operations to a single Province, extending them occasionally over portions of an adjoining Province or State; the areas of the non-Prussian Associations coincide with those of their respective States.

These associations rank as public corporations (in Prussia their officials have a status similar to those employed by provincial authorities); they are subject to State supervision through a Royal Commissioner, and their articles of association and regulations require the sanction of the Crown or the Minister of Agriculture. They possess certain special privileges, such as the authority to distrain without having recourse to the ordinary civil procedure. They are administered by a Central Board, which includes at least one permanent salaried official who has passed the State examination qualifying for the office of judge. This Board is subject to the control of a Committee or Council of Administration, and of a General Assembly, both elective bodies. Directors are also elected for the chief divisions of the areas of the Associations and a further decentralisation is secured by the District Committees.

A landowner becomes a member of an Association when such an Association acquires a mortgage on his land; membership ceases with the cancellation of the mortgage. Landowners living within the area covered by an Association and fulfilling the conditions imposed by its articles of association, may not be refused loans, and they may claim

them up to the amount for which their estates after valuation furnish the security required by the particular regulations. The earliest Associations admitted to membership only large owners holding under specific tenures, but, especially within the last generation, and particularly as a result of the great Agrarian Conference of 1894, and the subsequent action of the Prussian Government, which urged the individual Associations to devote more attention to the needs of the smaller proprietors, small landowners have been brought within the range of eligibility. That quite small owners may now obtain loans is evidenced by the fact that one Association, lending up to half the value of estates on first mortgage, fixes the minimum loan at £15, some others fixing it at £25; at the end of 1911 one Association had loans outstanding upon 284 properties of under  $12\frac{1}{2}$  acres, another granted (in 1911) 34 loans upon properties of less than  $2\frac{1}{2}$  acres, and 1,480 loans on properties of over  $2\frac{1}{2}$  acres, but not exceeding 25 acres. The maximum limit to the amount to be lent upon estates is fixed by most Prussian Associations at  $\frac{3}{5}$  ths or  $\frac{2}{3}$  rds of their value as a first mortgage charge, in the non-Prussian Associations one-half is the usual limit.

The loans are, as a rule, made not in cash, but in bonds, which the borrower either realises independently, or takes to the Loan Bank of his Association (if such a Bank has been established), the latter selling them on his behalf or making him an advance on their security. Intending borrowers may choose the rate of interest to be paid, the rates most usually open to their choice being 3,  $3\frac{1}{2}$ , 4 and  $4\frac{1}{2}$ , per cent. Bonds of various denominations are issued; there are bonds of £3 15s., £5, £7 10s., £10, £15, £20, £25, and up to £150, some Associations issuing those of £250, and the Central Association those up to £500. These bonds, which are not redeemable by holders, have consistently maintained a strong position in the market; thus at the time of the Napoleonic wars, when Prussian 4 per cent. stock sank to 20, Silesian land bonds never fell below 50.

The loans granted by these Associations are not subject to recall: the rate of interest is as moderate as possible, being closely related to the prevailing market rates for money, and cannot be raised, and while annual payments are required until at least a certain percentage of the capital debt has been accumulated in a sinking fund, repayment may be made by additional instalments at the mortgagors' convenience. Costs arising in connection with valuation and other preliminary

expenses are kept as low as possible, and are often waived by the well-established Associations ; the necessary contributions towards the cost of administration of the Associations are, moreover, relatively inconsiderable, as the office holders, apart from the Syndics, usually give their services gratuitously. Proper consideration of loan applications is secured by the fact that these organisations are thoroughly conversant with agricultural conditions, and are in a position to appraise the value of estates and the business capacity of owners through their local representatives, who are themselves agriculturists and members. Through these local representatives, who as members are directly interested in the Associations are also the good management of their Association, enabled to secure continuous supervision of the mortgaged security without incurring expense.

Of the sixteen *Mortgage Credit Banks*, which have been established for the whole of a *State*, *Province*, or *District* within a Province, and whose liabilities are guaranteed by the public authority of such areas, only one, namely, that at Hanover, restricts its mortgage loans to those on rural property. The original purpose of many of these institutions was to assist medium and small landowners, by loans on reducible mortgages, to redeem burdens or servitudes which still attached to the possession of their holdings at the time when the emancipatory legislation declared such charges to be commutable. They have lost this special character, and have all developed into institutions for mortgage and communal credit. The total of their outstanding loans amounts to about £100,000,000, of which half has been lent on mortgage security. Funds are mainly obtained by the issue of bonds, which are recognized as trustee securities, but working capital is also provided by deposits, payments by borrowers into sinking fund accounts, accumulated funds, and grants or loans from the State or other authority concerned. The bonds of these Banks are, in most cases, redeemable by the banks themselves, (but not by the holders) by drawings, but as a rule a certain period must elapse after the issue of bonds before a Bank may include them in a drawing. Most Banks pay their loans in cash, not in bonds, as in the case of the *Landschaften*.

These banks have served in an especial manner the needs of medium and small landowners, and afforded them facilities for obtaining loans at moderate rates of interest, not subject to recall, and

repayable in small, fixed annual instalments (with power to make additional repayments on giving notice of from three to six months). Sums as low as £15 are lent by at least six of these Banks ; and one Bank grants loans as small as £2 10s. The rates of interest usually range at the present time from  $3\frac{1}{2}$  to 4 per cent. ; and there is, in addition, an annual charge for cost of administration (usually  $\frac{1}{4}$  to  $\frac{1}{2}$  per cent.). Sinking fund payments are compulsory in most cases, and the minimum amounts are variously fixed at  $\frac{1}{2}$ ,  $\frac{3}{4}$  or 1 per cent. Repayment may be made by the presentation to a Bank of its bonds bearing the same rate of interest and the same nominal value as bonds issued to the mortgagor in respect of a loan.

These Mortgage Credit Banks are usually exempted from stamp duties and court fees. They have also the advantage of the co-operation of the local revenue authorities, or other public officials (*e.g.*, officials of public savings banks). Some banks appoint private persons resident in different parts of their areas as their agents, in order to be in a position to obtain further information with respect to borrowers. They are thus enabled not only to secure the necessary local information and supervision, but can also bring credit facilities within the convenient reach of farmers throughout their areas. It is worthy of notice that these Banks do not hesitate to endeavour to attract clients, whether borrowers or depositors, by advertisements in daily and other papers.

There are in Germany 37 *Joint Stock Mortgage Banks* (excluding the Hessian State Joint Stock Mortgage Bank), which are commercial undertakings, constituted, in accordance with the Imperial Mortgage Bank Act of 1899, for the purpose of lending money on mortgage security. Instead of being associations of borrowers, like the *Landschaften*, they are associations of lenders, which were largely modelled upon the *Credit Foncier* of France. The last-named was founded in 1852 ; of the 37 German Banks one was established in 1858, 27 in the period 1862-73, and 8 in the period 1894-96. But, unlike the *Credit Foncier*, which possesses a monopoly for the whole of France, the German Mortgage Banks represent a decentralised system, in which any of the Banks is free to extend its business over the Empire. Their business has greatly developed : thus in 1880 the total of their outstanding loans covered by mortgages on urban and rural property amounted to £77,385,000, in 1900 to £337,882,000 and in 1911 to £554,870,000.

They fall into two classes—"pure" and "mixed" Mortgage Banks. The former, 29 in number, restrict their business to the following: loans on mortgage and issue of mortgage bonds; the acquisition and sale of, and lending on, mortgage security; the grant of loans to public bodies and to light railway undertakings; the purchase on commission of stocks and shares; the collection of bills and cheques; safe-deposit business, and the acceptance of deposits at interest. The "mixed" banks engage in ordinary banking business, but speculative business is prohibited.

All Joint Stock Mortgage Banks require the special authorisation of the State; and are subject to State supervision in every branch of their business, each Bank being assigned a Commissioner who, before any bond is issued, has to certify that it is duly covered, and who, jointly with the Bank, has the custody of all its books, documents and cash in hand.

Only about 6 per cent. (£34,000,000) of the total mortgage loans outstanding at the end of 1911 were secured by mortgages on rural estates, and in 1909, 91 per cent. of the total loans outstanding on rural mortgages had been granted by one Prussian and seven Bavarian Banks. The Act requires that, in so far as bonds are issued upon the security of rural mortgages, half of the total amount of this class of loans, which are advanced by any Bank, must be made subject to annual sinking fund payments of at least one-quarter per cent.; the majority of Banks require such payments in respect of all their rural loans, and fix the minimum at one-half per cent. Rural mortgagors must be accorded the right to repay loans in whole or part before the stipulated period under the sinking fund scheme, and may only waive such right for a period not exceeding ten years from the date of loan. Moreover, although the annual payments on account of interest remain unchanged, regardless of the progressive diminution of the capital debt by payments to sinking fund, yet the interest falling upon the amounts credited to sinking funds is annually applicable to that fund. No agreement permitting a Bank to call in a loan is valid. Minimum loans are fixed by some Banks—the Bank showing at present the largest total of rural loans fixes it at £50; and the maximum loans may not exceed three-fifths of the ascertained value on first mortgage, or, with the concurrence of the State concerned, two-thirds of such value. Loans must be paid in cash as a rule: payment in bonds is only permissible if the

articles of the Bank expressly permit it, and the borrower gives his assent. In the latter event specific authorisation must be entered in the contract for the borrower to repay in cash or in bonds of the Bank, at his discretion. Bonds of various denominations are issued, the minimum nominal value appears to be £5, and the maximum £250. In 1909, 58·48 per cent. of the value of the bonds bore 4 per cent. and 39·65 per cent. 3½ per cent.; since that date bonds have been issued mainly at 4 per cent. Except in the case of six Bavarian Mortgage Banks, these bonds are not recognized as trustee investments, but almost without exception they are accepted as first class security by the Imperial Bank. Mortgage bonds may not be issued to an unlimited extent; pure Mortgage Banks may issue only up to 15 times the amount of their paid-up capital and reserves, unless previous to 1900 a Bank held the right to issue in excess of that multiple, when a maximum multiple of twenty is fixed. Mixed Mortgage Banks are limited to a lower multiple. Adequate publicity is secured by statutory provision, every Mortgage Bank being obliged to publish, not later than in February and August of every calendar year, in the Official Gazette and in the news-papers selected for its regular advertisements, detailed statements showing its position.

*German Savings Banks* are mortgage credit institutions of very great importance for farmers; in 1910 their total investments in rural mortgages may be estimated at £170,000,000. At that date Prussian Savings Banks alone, out of the total of their invested funds, which amounted to £579,000,000, had £115,000,000 outstanding on the security of rural property. They are pre-eminently, especially in Western Germany, the sources of mortgage credit for small and medium farmers, whom they accommodated also at a time when no other mortgage institutions were open to them; and they now provide, in effect, nearly every district with a public mortgage credit institution.

There are no Post-Office savings banks in Germany. The great majority of public savings banks are institutions established, managed or supervised, and guaranteed by the communal, district, or urban authorities, apart from whom they do not exist as legal entities. At the end of 1910, there were 2,844 public savings banks in Germany (excluding Brunswick) with 7,404 branches or agencies, and 228 other savings banks with 294 branches. The total deposits of all these banks reached the substantial sum of £840,000,000; in 1890 and

1900 the corresponding figures were £257,000,000 and £442,000,000. It may be noted in passing that the deposits of English savings banks, Post Office and other, did not amount in 1909 to 30 per cent. of the German total. While German public savings banks do not usually accept deposits of less than one shilling, the maximum deposits receivable in respect of any one account often reach a very high figure. In Prussia in 1909 there were 395 out of 1,506 public savings banks which fixed no limit, and for 291 banks the limit ranged from £500 to £2,500. As a result, these banks tend to be used as deposit banks by the well-to-do classes. Their attractiveness consists not only in the security afforded, but in the relatively high rate of interest paid. Being institutions independent of a central authority they are not obliged to accord a rate of interest fixed for all savings banks, but can fix and vary their rates according to the local circumstances. Thus some find it necessary and profitable to pay  $3\frac{3}{4}$  or 4 per cent., while others obtain ample deposits at 3 and  $3\frac{1}{4}$  per cent. The magnitude of German savings bank deposits is also to be explained on other grounds. Although private banks, both large and small, are very numerous in Germany, great joint stock deposit banks have not as yet attained the same development as in the United Kingdom, where, at the end of 1910, the number of branch banks amounted to 7,151, whereas the total of branches, agencies and deposit offices of large banks in Germany in 1911 amounted to about 1,200. Investment by small capitalists in the shares of joint stock and limited liability companies being less easy owing to the fact that shares of the former may not be less than £50, or of the latter £25, their money is deflected to savings banks. Private insurance, so common as a form of investment of savings in England, does not appear to have developed to the same extent in Germany.

The spread of communal and district banks, which serve more particularly the rural population, has been promoted by the Central Authorities, especially those responsible for agricultural matters, who have also constantly urged these banks to adapt their conditions of loan to suit the farming class. The special advantage of these banks is that they provide farmers with a public mortgage credit institution in their immediate vicinity, and facilitate personal relations between borrower and lender. As a consequence of its local knowledge a savings bank may generally dispense with a special valuation and its attendant costs, which, for a central credit institution,

might be out of proportion to the amount of loan. The cost of supervision is also saved. For the small farmer the procedure proves far simpler than when bonds have to be obtained and marketed, and other formalities satisfied as in the case of the *Landschaften*. Their disadvantages consist in a higher rate of interest, liability to a rise in the rate or to the recall of the loan, and the limited facilities for reducible mortgages. As to the rate of interest: in 1909 the predominant rate of interest payable on the bonds of the *Landschaften* was  $3\frac{1}{2}$  per cent., and on those of the State and Provincial Mortgage Credit Banks  $3\frac{1}{2}$  and 4 per cent., and on those of the Joint Stock Mortgage Banks 4 and  $3\frac{1}{2}$ , whereas in the same year 35.5 per cent., of the mortgage loans made by the savings banks were at 4 per cent., and 55.09 per cent. at over 4 but not exceeding 5 per cent. Loans are liable to be recalled owing to the circumstance that savings banks must be in a position to realise their assets if necessary at short notice; and they reserve the right to raise the rate of interest in order not to be losers in the event of an increase in the rates paid for deposits rendering unremunerative a former rate fixed at a time when the deposit rate was lower. With respect to reducible mortgages there occurs the same difficulty of lending money for a longer period than that for which the lender has received it, but in recent years there has been a considerable increase in the volume of rural mortgage loans granted subject to sinking fund payments. In 1909 nearly 25 per cent. of the outstanding rural mortgage loans granted by Prussian savings banks were granted on these conditions.

Most savings banks restrict their Mortgage investments to property situate in their own or neighbouring districts, or lend less upon a property not within such limits; and a Prussian Ministerial Order enjoined that the lending of money on mortgage security outside the area of the bank should only be admissible when a fixed period of redemption is stipulated, and when such mortgages do not exceed the fourth part of its total mortgage investments. Under present circumstances, the greater part of the money collected within the particular areas is thus devoted to investment within the same areas. Savings banks usually fix the limit of mortgage loans at "from one-half up to two-thirds of the ascertained value of the property. Many banks, however, with a view to encouraging the creation of small holdings and allotments, are prepared to lend up to three-fourths or even five-sixths of the value of newly purchased holdings



situated within their district, provided that at least one-half per cent. of the capital is to be repaid annually ; in special circumstances this sinking fund payment may be waived for a period of two years.

In most Prussian Provinces there are Land Improvement Funds or Land Improvement Annuity Banks, which form in fact branches of the provincial administration. They were founded as a result of the demand by agricultural organisations for the provision of credit for land improvement which should be adequate in amount, not subject to recall, amortisable, and bearing moderate interest. In Saxony, Bavaria, Hesse, and Oldenburg, Land Improvement Annuity Banks also exist. But these institutions have not developed any great volume of business, nor have loans been usually made to individuals, except in Prussia, where, down to the end of 1908, £250,000 out of £565,000 lent had been granted to large landowners holding under family or other special settlements, and an additional £20,000 to other landowners within the same period. In Bavaria and Saxony where these Banks show greater activity, the great bulk of the loans have gone to communal authorities for water supply and for local schemes of drainage and road construction. The Bavarian Legislature has recently (1908) extended the scope of the Bavarian Bank to the loan of money for promoting the production and supply of electric light and power, especially in country districts, as well as the erection of dwellings for rural and other work-people and the settlement on the land of agricultural labourers ; and at the same time the limit of value of bonds (for which the State is guarantor) in circulation was raised from £1,500,000 to £2,500,000.

The Prussian *Provincial Aid Banks* grant credit mainly to bodies of a public or semi-public character—to communes, unions of communes (*Kreise*), school and ecclesiastical organisations, and co-operative societies, especially those for land improvement. In two or three provinces, however, loans on mortgage security are made rather extensively to individual owners. Like the Prussian Land Improvement Banks they are conducted as a department of the provincial government.

Under a Prussian Act of 1850 seven *Rent Charge Banks* were created, each to serve one or more provinces, and authorised to issue bonds to landowners in settlement of charges and servitudes due to them (but declared by an Act of the same year to be commutable) and to collect from landholders thus relieved annuities composed

of interest and sinking fund payments. The special duties thus assigned to them appear to have lapsed with the redemption of the liabilities involved, and the Banks were suspended in 1881. Ten years later they were re-established for the especial purposes of the new policy of settling small and medium holders on the land. Their present functions are :—(1) to issue bonds on certain conditions to vendors upon the sale of their property for conversion into small holdings up to three-quarters of the selling price, and to collect the annuities due thereon ; (2) to make advances in connexion with the creation of small holdings (for paying off charges, erecting dwellings and farm buildings, &c.); and (3) under certain conditions to settle by cash payments with co-heirs to properties coming under the Small Holdings Acts.

These Banks are, in effect, the financial departments of the State organisations, known as the General Commissions, in connexion with the creation of small holdings. The Small Holdings Acts, by virtue of which State credit (that is, through these Banks) is granted, allow any person or body to undertake the division and settlement of a property, but require, before State credit is granted, that plans for division, equipment, settlement, &c., must be approved by the General Commission having jurisdiction. It should be observed, however, that these Banks, which from 1891 to 1909 had issued bonds of the total value of £5,600,000 in respect of small holdings, do not represent the entire extent of State action in Prussia as regards land division and settlement. In the Provinces of West Prussia and Posen, where these Banks do not operate, the Settlement Commission—a State organisation with some 600 officials which was created in 1886 and has been amply endowed with funds—stated at £30,000,000 down to 1911—purchases, divides, and distributes estates, and undertakes all the necessary financial transactions connected therewith.

Finally, under the Imperial Invalidity Insurance Act there exist thirty-one *Insurance Institutions*, each with an independent legal status, and operating within a particular State, groups of States, Province, or District. These institutions receive the contributions of, and pay the benefits to, all persons insured under the Act against invalidity and old age. The Act authorises a certain proportion of the funds to be invested for purposes of general social welfare within the districts of the various institutions ; in 1909, £14,025,000 was invested in loans for the housing of the working classes and £5,143,600

in loans for agricultural purposes. Under the latter heading are included loans for light railways in rural districts, for land improvement, and for the improvement and construction of roads. Loans are usually made to or through non-profit-seeking co-operative societies, employers, or to communes; seldom to individuals. Mortgage security is generally required, loans are subject to recall at three or six months' notice, and sinking fund payments are obligatory, while facilities for additional repayments of debt appeared to be allowed. The predominant rates of interest now charged range from 3 to  $3\frac{3}{4}$  per cent.

Insurance Companies have invested nearly three-quarters of their funds in mortgages, but only an insignificant proportion in rural mortgages; in 1907 only 790 loans of the total value of £2,435,000 were outstanding on rural mortgages, as against £162,710,000 on urban mortgages. Even this small total of transactions is decreasing. Such companies are legally permitted to make loans up to three-fifths or two-thirds of the valuation, but special rules prescribe that they must not, as a rule, lend over £10,000, and in the case of loans of over £5,000, special valuations must be made.

From the foregoing summary of the organisation of German mortgage credit it will be seen that German landowners, both large and small, are amply provided with credit agencies which, mainly of a public character and non-profit-seeking, grant loans up to one-half or two-thirds of the valuation on first mortgage at moderate and unchangeable rates of interest, not subject to recall, and repayable by small annual instalments to sinking funds, with facilities to make additional repayments on giving short notice. The Joint Stock Mortgage Banks form an exception in respect of profit-seeking, but the Mortgage Bank Act secures certain important advantages for landowners; and the savings banks, although in theory they are debarred from granting loans not subject to recall, do in fact lend a considerable amount against reducible mortgages (which are not subject to recall) and, as regards the balance, are seldom forced to exercise their right of recall. Although not aiming at profits, these organisations are able to realise surpluses, the State and other Provincial or District Institutions, as well as the savings banks, contributing considerable sums annually to their guaranteeing authority for public purposes; while the *Landschaften*, especially as a result of ancillary business (*e.g.*, their

Loan Banks), are able to apply substantial sums to the relief of the indebtedness of their members.

The organisation of German mortgage credit presents the further important feature of decentralisation. The savings banks provide nearly every district with a public mortgage credit institution ; and the special organisation or organisations for mortgage credit in each Prussian province, or in each State, bring their services within the convenient reach of farmers throughout their areas by their system of local representatives.

Except in the case of the saving banks, capital is mainly obtained by the issue and sale of land mortgage bonds, for whose interest and capital the particular institution undertakes the responsibility. The *Landschaften* alone appear to leave to the borrower the realisation of these bonds, facilitating this, however, through their loan banks ; the other institutions pay the borrower in cash at a rate slightly below the current market rate, realising the bonds on their own account at the same time or at some suitable future date. The borrower has usually to pay from  $\frac{1}{4}$  to  $\frac{1}{2}$  per cent. as commission for this service. Loans by the issue of bonds are advantageous as not being subject to recall or to an increase in the rate of interest on the part of the lender, and as allowing the borrower to repay his debt by the purchase and presentation of bonds of the same class and issued by the same institution when such bonds are low in price. Their principal disadvantage consists in the possible depreciation in value at the time of loan, although the borrower is liable to pay interest on and to redeem the loan at the amount of the nominal value of the bonds (or must purchase and present such bonds when higher prices prevail).

The organisation of institutional mortgage credit in Germany has been immensely facilitated by the complete system of registration of title in that country. The uniform system, based on the Prussian medel and introduced for the Empire in 1900, provides for obligatory registration of title, priority of each registered charge in the order of its registration, and freedom of inspection of the registers. These registers, drawn up for small areas and maintained by them, describe each estate and recite all personal charges (*e.g.*, usufructuary rights) and other charges ; and in general, no claims against such states not duly registered are valid in a court of law. It may be added that the total costs in connection with the registration or cancellation of

mortgages are moderate. The registration of a mortgage charge for £500 in Prussia costs £2, and its cancellation half that amount, including in each case the notarial and court fees. Compulsory registration of title as it exists in Germany, Austria-Hungary, and Russia, or at least compulsory registration of deeds (as in France, Belgium, Holland, North America, and elsewhere), appears an indispensable pre-requisite for the foundation of a system under which landowners may obtain mortgage credit on suitable terms by the creation of land bonds which would take their place as first-class securities in the open market. In Ireland registration of deeds has been in force since the eighteenth century, and by reason of the transactions under the Land Acts, registration of title has taken place with regard to a great portion of the country; in Scotland there is registration of deeds; but in England the system of registration of deeds appears to be in operation only for Middlesex and Yorkshire, and of registration of title only for London.

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#### PERSONAL (SHORT-TERM) CREDIT.

Under this heading is considered credit based mainly on the security of the general standing of the borrower, or of the borrower and his surety, as well as on an implicit estimate of his or their assets in the event of ultimate default, as distinct from credit based on the definitely assigned security of real property. The former credit tends to have the further distinction of being sought and granted for relatively short terms.

For the provision of this form of credit in adequate amount and on suitable conditions as to interest and repayment, farmers, especially medium and small farmers, require a different credit organisation from that which has been evolved for merchants and manufacturers; and for certain rather obvious reasons. The outstanding feature of the agricultural industry is the length of period of production. Within limits the manufacturer can hasten at will the process of production, and repeat his products, or the trader can restock his store several times within the year; for the farmer the time of beginning and the time of finishing production are fixed by nature. Although the duration of the period of production may be shortened to some extent, artificial hastening processes are not applicable in most cases,

and lack the effectiveness of the machine in industry. In certain important branches of agriculture the period of production may extend over several years : thus a foal requires three or four years, and a calf two or three years before becoming utilisable or marketable. And the returns of agricultural production are more uncertain than those of commerce and industry owing to accidents of harvest, risk of disease, perishability of produce, and other causes. Another peculiarity—making due allowance for depressions and for numerous seasonal trades outside agriculture—is the irregularity of monetary returns from year to year or their tendency to fall in certain months or periods in each year. Unless his farming is mixed the farmer obtains his main receipts in autumn, when he sells his crops. Under these circumstances a banking system which aims at a rapid turnover of funds and grants credits of three and four months, with one or two renewals for like periods, is of very little advantage.

Urban bankers, being naturally more conversant with commercial or industrial undertakings, are less capable of judging the standing of a farmer and his business capacity. Credit implies confidence and facility of supervision ; but the banker is unacquainted with farming, and farms are comparatively isolated units, usually more or less remote from the banking office. Ordinary commercial tests are not often applicable, especially where smaller farmers, whose book-keeping is apt to be very incomplete and unmethodical, are concerned. The same difficulty presents itself as to any proposed sureties, who are also likely to be farmers. Other banking security is often out of the question ; and the procuring and bringing of sureties to the bank involves great possible loss of time and expense. The world in which the banker or bank manager moves is not that of the farmer, so that personal knowledge is infrequent. The whole situation is rendered even more unfavourable by the supplanting of small country bankers by branches of great banks, which are directed on fixed lines from headquarters, and whose managers are frequently changed. Commercial banks cannot, moreover, be brought nearer than small towns ; even a branch office (as distinct from a mere depositing office) entails a minimum expenditure for salaries<sup>o</sup> and office of from £300 or £400 per annum. The smaller farmers offer also little attraction to the ordinary commercial banks as borrowers, and, apart from other disadvantages, pay for the small loans they require an unduly high percentage as interest and commission. As a

result farmers cannot obtain from banks, organised mainly to serve industry and commerce, credit in suitable amount, at reasonable interest, and on the security which they can usually provide.

Yet, while commercial banks have become less satisfactory from the standpoint of the farmer, his need for working capital has greatly increased. More scientific and intensive farming, made necessary by competition which has been facilitated by improved and cheapened transport, refrigeratory processes, and other causes, requires more capital expenditure on labour, fertilisers, feeding-stuffs, and machinery; payment in kind is being gradually entirely superseded by payment in currency, while money wages are higher; and other expenditure, including cash payments to the State and other public authorities, has increased.

German farmers have advanced very far towards the solution of the problem of obtaining adequate credit at moderate rates of interest and on convenient terms of repayment by means of the 17,000 local co-operative banks established and conducted by themselves, such banks being further organised in central co-operative banks. The membership of 14,993 local banks existing on January 1, 1910, totalled 1,447,766 persons, a figure which represented one-sixth of the agriculturally occupied population of Germany in 1907; the total turnover in 1910 of 14,729 societies amounted to £ 261,665,000, and, at the end of that year, the loans outstanding for fixed periods, together with overdrafts, to £ 93,034,000, while at the same date the savings deposits totalled £ 92,429,000, and the deposits on current account £10,865,000. At the end of 1911 there were affiliated to 37 central banks (omitting the Prussian State Co-operative Bank) 17,668 societies of all kinds, of which 14,508 were credit societies; and the total turnover of these central banks in that year amounted to £410,391,000.

Different German co-operators employed the same phrase in giving to the writer the reason for the growth of rural credit societies: "they are the children of necessity (*die Kinder der Not*)". Individual small farmers must, in fact, rope themselves together with more or less stable bonds in order to be able to present to lenders and depositors a security which the latter can accept as a guarantee that their money will be repaid in the ordinary way and without the exercise of legal pressure. And such local associations can lend money to persons not providing "banking security", as they know

their trustworthiness and can judge their business capacity, while supervision is automatically brought into play within their restricted areas of operation. In ordinary commercial banking facilities it is probable that German farmers of the present day are better off than British farmers. As in England the great German Joint-Stock Banks tend to become greater, and their branches or agencies more numerous, but banks working only in one locality, one district, or one province are far more numerous in Germany. There are over 200 small joint-stock banks, besides the urban co-operative banks, about 1,200 in number, and private bankers are estimated by leading writers on German banking to number from 4,000 to 6,000. In nearly every country town in Germany may still be found one or more substantial banking firms; and from these, if only by reason of proximity, freedom of action of managers, relatively good knowledge of agricultural matters and persons (as being often established in country district centres) and of competition among themselves, it might have been expected that farmers could have obtained credit on suitable terms.

Despite this multitude of Raiffeisen banks, their large membership and business, PROFESSOR RIESSER, the most eminent authority on German commercial and industrial banking, writing in 1912, observed that much still remained to be done and must be done in this direction, as "agriculture requires a credit system adapted to the special nature of the conditions of its production." And a distinguished Prussian Minister of Finance, in the course of a parliamentary debate on the budget of the Prussian State Central Co-operative Bank, for whose foundation he was directly responsible, declared: "This must be our goal—to have a co-operative loan bank in practically every parish of the whole monarchy".

RAIFFEISEN (1818-1888), with whose name rural co-operative banks have become associated, began his co-operative career in the winter of 1847-8 with the foundation in a small village of a benevolent society for obtaining corn and potatoes and selling them at low prices to the poorer inhabitants; this society was one of many of the same type founded in Germany about this time, when very serious distress prevailed. Two years later he founded in another village, a society which at first bought cattle and sold them to poorer landholders, but which later lent money on surety directly to the latter for this purpose. Upon his transference as



burgomaster to Heddesdorf, near Neuwied on the Rhine, he founded a third benevolent society with various objects, but especially for the procuring of cattle for, and the granting of credit to, poorer farmers. This society, which gradually became merely a loan society, was composed of well-to-do inhabitants living in or near the village of Heddesdorf, who lent to less fortunate inhabitants of the area, obtaining capital on the security of their collective unlimited liability. The assisted persons had nothing to do with the society, whose members acted as guaranteeing intermediaries between the capitalist and themselves. The first association founded by RAIFFEISEN in which the fundamental co-operative idea of the collective liability of the borrowers themselves appears, was that of Anhausen (1862). There were already in existence co-operative societies with unlimited collective liability, which had been created by SCHULZE of Delitzsch, a small town in the Province of Saxony, for the purpose of procuring credit for their members, who were mainly artisans, small employers of labour, and small shopkeepers. But RAIFFEISEN had in view the needs of agriculturists.

At the present time the majority of Raiffeisen banks in Germany may be said to present the following features:—

Limitation of area, so as to secure mutual personal knowledge on the part of members ;

Low shares ;

Permanent indivisible reserve fund ;

Unlimited liability of the members ;

Loans only for productive or provident purposes ;

Loans only to members ;

Credit for relatively long periods with facilities for repayment by instalments ;

The determination every year by the members of each society of the maximum credit that may be held by individual members at any time as well as of the maximum total of saving deposits receivable and of loans that may be taken up by the society ;

Absence of profit-seeking, dividends if paid being usually limited, as a maximum, to the rate of interest paid by borrowers for loans ;

Office holders, with the exception of the secretary, not paid for their services ;

Promotion of the moral as well as the material advancement of members, and in particular the purchase of agricultural requisites for sale to members and often the procuring of agricultural machines and implements for letting on hire to members.

Compared with the ordinary urban credit societies of the Schulze-Delitzsch type, which were originally organised for the special purpose of furnishing credit to small traders, employers and artisans in towns, many important differences appear. The areas of the banks of the latter kind are not narrowly limited, shares are high, being rarely less than £15, and sometimes reaching £75 and £100; there is no indivisible reserve; loans are usually made only for terms of three months, when they are subject to renewal, and are repayable in a lump sum, dividends, sometimes very high dividends, are paid; regular banking offices are maintained with at least two permanent paid officials, who form the committee of management, while the members of the board of supervision receive remuneration; the banks confine themselves to pure banking business; and their offices are usually in towns. At the beginning of 1912, out of a total membership of 641,429 members in 1,002 credit societies, 26·61 per cent. were returned as "independent farmers, gardeners, foresters, and fishermen." In certain districts farmers are attached in large numbers to these societies, which had spread, notably in the smaller towns of the eastern provinces of Prussia, before the Raiffeisen movement was introduced in those parts. Thus for 85 Schulze-Delitzsch societies in east and west Prussia, having at that date a total membership of 60,391, 29,278 were returned as belonging to the four classes just mentioned; for 34 in Posen 11,136 out of a total 22,233; and for 80 in Silesia 18,451 out of a total of 59,039. In many cases where a noteworthy percentage of such members is returned, they are to a great extent large farmers, the particular society meets the special needs of landowners by making loans for longer terms than the majority of Schulze-Delitzsch banks do, allows easy terms of repayment, and in other ways adopts the usual principles of the Raiffeisen societies. There is also a certain number who become members, not with a view to borrowing, but merely for the sake of investment of savings, either as shares or as deposits, at a high rate of interest—shares are frequently as high as £75, and dividends at 6 or 7 per cent. not uncommon—this is probably

especially true of a large proportion of the women members returned as belonging to this group and who numbered 13,203 out of a total of 170,673, or 7·7 per cent., in 1911.

As it is a principle of the Schulze-Delitzsch system that the area chosen should be of a kind to allow of the development of a regular banking business capable of supporting a salaried staff of at least two persons and of yielding substantial dividends on shares, these societies are established in towns or must cover fairly wide areas. The feasibility of the minute supervision of their credits is thus diminished and their usefulness to smaller farmers seriously impaired. Their large membership renders impossible personal relations between members : in 1911 the average membership was 623, and there were societies with 11,650 members, 8,987 members, and several with from 2,000 to 5,000. Their business attains sometimes immense proportions : some banks visited by the writer showed annual turnovers of £21,000,000, £10,700,000, £6,700,000, and £3,600,000. Their credit is dearer and for shorter periods than that granted by the Raiffeisen banks. They represent in a large measure commercial, profit-seeking undertakings, being rather companies of lenders having as their primary object the earning of dividends rather than the provision of cheap credit. Many have developed into ordinary commercial banks, others have been absorbed or converted into branches of large joint-stock banks. The smaller societies tend, however, by reason of their being localised institutions with organs of administration composed of many persons representative of the various producing classes of members, to be in a better position than proprietary or joint-stock banks to judge the character and standing of such persons, and thus aid small men unable to furnish ordinary banking security. The general unsuitability of this type of society for German farmers is shown by the circumstance that, while they have made no progress in country districts the Raiffeisen type continues to spread in these districts.

The principal functions of Raiffeisen banks are : (1) to meet the needs of their members for supplementary personal credit or current working capital, (2) to promote thrift among the rural population by receiving their savings as well as the savings of non-members and paying interest thereon, and (3) to act in general as the village banker. They are not meant to supply members with their entire working capital but to supplement it ; and, speaking generally, they

supply such credit mainly on personal security and for productive or provident purposes. Loans are also frequently granted for part or full payment for holdings in those parts of Germany where small holdings predominate; and a certain number of credit societies have carried out, with good results, the purchase and breaking up of fairly large properties.

German rural societies, nearly all of which bear the double title of Savings and Loan Banks, derive the greatest part of their working capital, in fact, over 90 per cent., from the deposits of members and of non-members resident within their own areas. Among the advantages they offer to the rural population as savings banks are almost absolute security, attractive interest, and proximity. The security of depositors' money is safeguarded in ordinary circumstances by the fact that the rural society confines its business to a small area and to simple, well-secured transactions; by the regular examination of the state of its business by the board of supervision (whose members bear a special responsibility under the Act); by the general knowledge of the affairs of the society being common to the bulk of the members; by regular outside audits; and if all these should fail, through the joint and several liability incurred by members. This liability is unlimited in the case of 92 per cent. of the societies. The legal provision that the total amount of the savings deposits that may be accepted, and of the loans that may be contracted by a society, as well as the provision that the limits of the advances that may be made to individual members, must be annually fixed by the general meeting of members, prevent the extension of business beyond the collective solvency of the members comprising the society. The history of German rural credit societies has demonstrated the excellence of the security offered: it is affirmed that depositors have never suffered loss. And in the sixteen years 1895 to 1910 only 19 rural credit societies were involved in bankruptcy proceedings: a striking record when it is considered that since 1901 there have been over 10,000 societies and since 1909 over 15,000 societies of this kind in Germany. Compared with other banking and credit undertakings—one German writer has computed the frequency of bankruptcy per 10,000 undertakings over the period 1895-1905 as being fifty-five times more frequent with them than with the credit societies.

These societies pay from 3 to 4 per cent.—at least 70 per cent. appear to pay  $3\frac{1}{2}$  per cent. and over—on deposits; and they endeavour

to obtain deposits not only from members, but from non-members of every age and class. Savings boxes are distributed, savings stamps and savings cards of various values are sold, and every suitable means taken to collect the uninvested money of the community. As a result of their success in this respect the savings of rural communities are utilised for the purpose of further wealth production in the same area.

Local societies are able to grant loans to their members at from 4 to 5 per cent.; rates not exceeding  $4\frac{1}{2}$  per cent. predominate except in the eastern provinces of Prussia, where the population being thinner, and less prosperous, deposits are less abundant, and higher interest has to be paid on them, while the credit of the central banks has to be more frequently invoked. The central banks lend money to credit societies at rates which vary according to market conditions; but the normal rates of interest for advances within the ordinary credit, as allotted periodically to each society range from  $4\frac{1}{4}$  to 5 per cent. A small commission of  $\frac{1}{10}$  or  $\frac{1}{20}$  per cent. is also usually charged yearly or half-yearly on the amount of credit taken up. The local societies generally levy a single commission of  $\frac{1}{10}$  to  $\frac{1}{2}$  per cent. (most usually  $\frac{1}{10}$ ) on the majority of loans; on advances for property purchase or settlement with co-heirs a higher commission is usual. The cheapness of the credit appears more striking when it is recollected that ordinary commercial credit in Germany is dearer than in England.

Loans are secured for the most part on personal bonds backed by sureties, but mortgage security is not uncommon in certain districts. The committee usually asks the purpose of the loan, and usually enters this in the minutes of the transaction. Many of the more developed societies do not ask the question, being only concerned with the standing of the borrower and of his sureties. Although rural societies are developing their loan business on current account, the majority of loans are still granted for definite periods; at the end of 1910 loans outstanding on current accounts granted by 82 per cent. of all rural credit societies amounted in value to about 28 per cent. of their total loans then outstanding. Current account loans are especially prominent in the two provinces of Saxony and Pomerania, where the majority of societies have adopted limited liability as well in the societies with unlimited liability in Silesia and Brandenburg. Care is exercised that loans on current account do not become, in fact,

standing loans. Most societies insist that there shall be a real movement in these accounts by requiring a certain percentage at least of the overdrafts to be repaid into the account within each half-year or year; otherwise they call in the whole amount at once, or reduce the credit, or raise the interest.

As to the loans for definite periods, such periods are determined as far as possible in accordance with the desire and position of borrowers; they are granted usually for at least a year, when they are generally renewed on application; they may run for two, three, four, or five years, but those for longer periods are far from rare. Societies reserve the right to recall loans on notice of from one to three months. Easy terms of repayment are a marked feature of Raiffeisen societies. When arranging for loans borrowers submit to the committee the length of time for which they require accommodation, and their proposed method of repayment; and they are usually allowed to repay in instalments of equal amounts spread over a period of years. It is a not unusual plan to fix the instalments according to the number of years for which the loan is granted; thus where a loan is granted for two, four or five years there is due each year from the borrower fifty, twenty-five, and twenty per cent. of the loan respectively. Borrowers are always allowed to make additional repayments on giving notice—usually one to three months' notice is required—to the society of such intention. Repayments of loans appear to be maintained in satisfactory relationship to fresh loans: in 1909 and 1910 the societies in the Imperial Federation (to which over 80 per cent. of all rural credit societies are affiliated) granted fresh loans of the value of £15,075,000 and £16,910,000 respectively, while the repayments on outstanding loans amounted respectively to £9,270,000 and £10,990,000. In the same years the amount paid in by members on current accounts amounted to £29,878,000 and £33,518,000, while the amounts paid out to members on the same accounts amounted to £30,683,000 and £34,130,000 respectively.

But it may be asked: what course is taken when deposits are insufficient (or even non-existent, as upon the establishment of a society) or when they are ever-abundant? As a rule credit is obtained, or any excess of deposits over current needs lodged, at a central co-operative bank. From the beginning RAIFFEISEN recognized the necessity for combination among rural credit societies so as to provide them with a permanent centre at which depositing and borrowing

might be advantageously transacted by non-profit-seeking organisations which at once understood and took account of the special financial structure of co-operative societies and of the conditions of their business. At the present time over 90 per cent. of the rural credit societies are shareholders or members of co-operative central banks, of which there are nearly fifty (including as separate banks the twelve branches of the Raiffeisen Central Loan Bank) in Germany.

These central banks are organised according to provinces or States. The German Agricultural Central Loan Bank, founded by RAIFFEISEN in 1876, extends its operations over the whole of Germany, but it has decentralised its business by the creation of 12 branches, which limit their operations to fixed areas co-extensive with a province, part of a province, or adjoining provinces, a State or congeries of small States, and which form in fact provincial banks. The other central banks in Prussia are attached to the Prussian State Central Co-operative Bank, which occupies in regard to them in some respects the same position as the Raiffeisen Bank occupies in regard to its branches. The scheme of organisation for Prussian societies is, therefore: (1) local societies balancing as far as possible monetary supply and demand among their members; (2) provincial banks adjusting similarly the needs of their constituent local societies; and (3) larger organisations at Berlin (namely, the State Bank and the Raiffeisen Central Loan Bank) balancing supply and demand among the central banks, obtaining necessary credit, and making necessary investments on the money market, for them.

Outside Prussia no State Central Co-operative Bank has been established, but in all the larger States the central banks are in receipt of State advances or credit to assist them when the monetary demands of the local societies are in excess of the deposits of the latter and of other available capital.

Commercial Banks urge that the granting of loans for the long periods required by agriculturists would not be advisable, as their capital would be unduly tied up. Such banks naturally wish to realise profits by the frequent turnover of their capital; they often operate on small margins; and the bulk of their customers, who are traders and manufacturers, do not as a rule leave money for long periods on deposit with them. Rural co-operative societies are not profit-seeking speculative undertakings; and German rural societies have found that the capital on which they mainly depend, namely,

savings deposits of members and non-members, tends to remain with them for long periods. Should a sudden call come, which they are unable to meet out of their immediate resources, their solvency is practically assured through their central bank; in the last resort only would they be obliged to exercise the right, which they reserve, to call in loans.

No English agricultural credit society established under the Friendly Societies Act—the small number existing have all been established under this Act—may grant on loan to any member, to be held at any one time, a total exceeding £50. German registered credit societies are only restricted to the extent that every society must fix, for each year by resolution of a general meeting of members, the maximum of the total advances that individuals may hold at any one time. Some societies fix this maximum at a very high figure—occasionally up to £5,000 and more; a large number of societies do not allow the committee alone to grant the maximum thus authorised, but require the additional assent of the board of supervision, and often fix a lower figure for the committee alone. The advantage of this facility is that societies are enabled to adapt their credit business to the needs of their members and to the state of development of their own resources. The actual amount of credit extended to individuals is, of course, dependent on the standing, character, and other security furnished by each applicant and the bulk of the loans granted by rural societies are for sums not exceeding £50. Taking as fairly representative of German rural credit societies the 4,000 societies now attached to the Federation founded by RAIFFEISEN, it is found that, in the years 1908, 1909 and 1910, about 45 per cent. of their loans outstanding, which totalled 360,000 to 376,000 (1910), were for sums up to £15, a further 16 per cent. for sums over £15 up to £25, and a further 17 per cent. for sums over £25 up to £50. Ten per cent. of the total were for sums over £100.

It is sometimes contended in England that, as farmers have a considerable reluctance to letting neighbours know that they require credit, they are not likely to borrow from a credit society. Practically considered, such objection should carry little weight. If a small farmer borrows from a bank he must explain his position and bring usually two sureties. These sureties are generally his neighbours and the occasion often the market day, when other neighbours also travel to the particular town. And banking offices in small towns



are wont to be established, not in remote streets but hard by the market places. Further, a countryside is a small world where every farmer knows his fellow-farmer's position or can deduce it from external evidence. In the ordinary German village bank the granting of a small loan does not imply meeting the whole committee; application is usually made to the secretary, and the transaction usually carried through without any further formalities. Absolute secrecy is imposed upon the secretary and other office-holders, and, given the small area, such secrecy is more easily enforced. In Germany it is rather the difficulty of the sureties which holds chief place; many societies with limited liability now assign to members an open credit up to three-fourths of their liability without further security. And, as regards the whole matter of borrowing, it is one of the aims of a rural credit society to bring home to members that farmers, like other producers, require to have credit at their command, and that it is no blot on their business reputation to be borrowers.

As regards the co-operative credit movement in England, the view appears to be not uncommonly held that the predominance of tenancy, instead of ownership, is a chief obstacle to its development; that the collective liability of a society composed of persons who are mostly tenant farmers cannot offer adequate security to depositors or other suppliers of working capital, and that the security offered by the individual borrowing tenant to his society is necessarily weaker.

The decisive importance of ownership in this connexion may fairly be contested. To take the matter of the society. All members are liable to their society either up to a certain fixed amount under limited liability or up to the full extent of their assets under unlimited liability. In the ordinary course the committee and board of supervision of a society will draw up and periodically revise an estimate of the means of each member, based on the valuation of each member's holding, on the rent paid, possibly on the income tax assessment voluntarily furnished to them, on the stock held, or on other supplementary tests of well-being; and in this way the maximum security offered by their members is ascertained. In Prussia, it may be noticed, this valuation, which is undertaken at regular periods (and duly rectified, if necessary, in the intervals), is submitted to the local surveyor of taxes, who is authorised to correct, if necessary, the sum total but not the individual valuations placed opposite the name of each member. But this sum total would

naturally not be taken as representing the ordinary security of the society for the purpose of credit: it suffices that a small percentage be taken. The Prussian State co-operative Bank lends up to a maximum of 10 per cent. of the assests of members as returned and checked by the local surveyors of taxes in the case of societies of unlimited liability, while it grants societies with limited liability an ordinary maximum credit of 75 per cent. of the collective liability of their members. The Raiffeisen Central Loan Bank grants to its societies (all with unlimited liability) in Prussia a normal credit of 10 per cent. of their assests, and to those outside Prussia, where the returns are not usually checked by the surveyors of taxes, a normal credit of 5 per cent. The Saxon and Pomeranian Central Co-operative Banks fix the maximum credit at 75 per cent. of the collective liability of each of the affiliated societies; the latter have adopted a liability limited to £10 or £12 10s. per share held, and their members, speaking generally, are obliged to take up one additional share for every £100 of assessed value over the first £300, so that the maximum credit rests on the security of, roughly, the tenth part of the taxable property of members. It does not appear that any appreciable risk would be involved in giving to a society a maximum credit of five per cent. of the collective worth of its members as returned on the combined authority of the committee and board of supervision. Societies will naturally require a period of notice before resignation of membership may take effect—the German Act fixes the minimum period at three months and the maximum at two years; members, though tenants, will not all be simultaneously desirous of resigning; their leases do not all expire at the same time; and they will not be all in debt with their society or all generally insolvent.

Or another basis might be adopted. When Prussian societies do not furnish a detailed statement of the assests of members, the Prussian State Bank allots to each such society a maximum credit of from £5 to £15, at its discretion, per head for each member; and a South German Bank, in estimating the credits allotable to the rural credit societies in business relations with it, assesses the value of each society, in case it should be necessary to recover any claims, at the rate of £10 per member. The Prussian Bank does not confine its rule to rural societies: urban societies come within its scope. It will hardly be questioned that English rural societies, even those composed entirely of tenants, offer a sounder security on such a basis

than do those urban societies of small tradesmen and artisans to whom the Prussian Bank finds it safe to lend money when organised in a registered co-operative society.

As to the nature of the security obtainable by the society from tenant borrowers, it may be recalled that the aim of a co-operative society is to furnish supplementary working capital on personal security, that is, upon the security of the general standing of the borrower and of his business reputation, supported, if necessary, by sureties, the ultimate security implicitly involved being the realisable value of the assets of the borrower or of those of both borrower and sureties. In Germany this ultimate security consists mainly in property, and in so far members are able to provide a better underlying security. But tenants have leases, and cannot leave at a moment's notice; they possess personal property, stock, machines; their business capacity and character is known in their neighbourhood; and it is always open to them to provide sureties, who need not be members of their society. As societies do not pretend to furnish the entire or major part of members' working capital, but merely to supplement it, the amount of credit which the members may be allowed on these bases is likely to be in keeping with their needs as well as within the limits of safety for the society. The supervision automatically exercisable by reason of the narrow limits of the area of rural societies minimises risk of loss, a risk which is further reduced by the power, to be retained by the societies, to call in their loans at short notice, when there is good evidence of their capital being endangered.

It can hardly be anticipated that co-operative credit societies will increase at first with great rapidity in England. But English farmers are not alone in being highly conservative and distrustful of fresh projects; in Germany the success of the movement was largely the result of the intensive propaganda carried on continuously from many sides as well as of the effective assistance of the State. The same persistent and penetrating propaganda work will be required in England; and progress will probably be slow, as in Germany. There are now nearly 17,000 rural credit societies in that country; but twelve years after (1864) the first Raiffeisen bank was established there were only about one hundred of that type in existence, and in 1890—nearly forty years after—their total number was 1,729.

Among the chief agencies which promoted the movement, apart from the State (including the EMPERORS WILLIAM I and WILLIAM II.,

who showed their approval by donations to the Raiffeisen Central Loan Bank, and rulers of Federal States) and the Co-operative Unions, which have acted in their several districts as the intelligent organisers and advisers of co-operative effort in all its branches, may be mentioned, (1) the agricultural organisations, and especially since their creation under the Prussian Act of 1894, the Chambers of Agriculture in Prussia; and similar bodies in other States; (2) clergymen; (3) teachers and communal officials in rural districts; (4) larger landowners; and (5) various educational institutions.

RAIFFEISEN, the mayor of a small, remote district, was first given the opportunity of putting his ideas into practice outside his own restricted area by the Agricultural association of the Rhine province. His book describing his system appeared in 1866, when he had already founded five credit banks, and attracted in the same year the attention of the Association which was considering means for improving credit facilities for the farmers of the province. In 1868 RAIFFEISEN was commissioned by the Association to establish credit societies within its area, and within a year he founded 12 new societies. Shortly after he was placed in charge of Aid department for Loan Banks established by the Association as a branch of its work. Similar associations throughout Germany took up gradually the active furtherance of the credit society movement.

Unlike SCHULZE-DELITZSCH, who conceived his societies as purely business organisations, RAIFFEISEN always laid stress upon the moral as well as the material aims of his societies, which "rest upon a Christian foundation" and "aim at promoting the moral and material welfare of members." Clergymen of all denominations in most parts of Germany have given their constant and active support to the Raiffeisen banks since their inception. At the present time large number of clergymen are to be found acting as chairmen or members of committees of management and of boards of supervision, and in some cases they undertake the duties of secretary. Rural teachers and communal officials have rendered great services to the Raiffeisen societies, not only by encouraging their establishment and becoming members, but also by accepting in large numbers the most responsible offices such as those of chairman of committee and of secretary. Agricultural colleges of every grade, which are more numerous in Germany than in England, usually include in their curriculum a course of lectures on agricultural co-operation, while at several Universities (e.g., Berlin

Halle) special courses of lectures on co-operation by various professors are given each year.

Larger landowners have also taken a considerable part in the extension of the village banks, not only by promoting their establishment and accepting office, but also to a certain extent by depositing with and borrowing from them. The chairmen of the committee of management of 50 out of 305 Pomeranian societies in one year was a large landowner; in another year out of 720 Silesian societies there were 209 large owners holding this office. In the less onerous position of chairman of the board of supervision they are even more numerous represented; and they are very generally found as ordinary members of both organs of administration of a co-operative society in those parts of the country, that is chiefly in the eastern provinces of Prussia and in the Kingdom of Saxony, where large landowners constitute a noteworthy proportion of all landholders.

Various reasons account for the more limited participation of large holders in the society as depositors and borrowers. Although limited liability is regarded by many very competent authorities in Germany as most suitable in the case of societies which contain a considerable proportion of large holders, unlimited liability has not (since 1889) been a chief obstacle: the difficulty lies mainly in the dislike of a social superior to reveal his position to a committee of two or three of his smaller neighbours or to submit an application for credit to them, as well as in the difficulty for a small local society to grant credit to such members to the extent that may be required, without exhausting their own working capital to the prejudice of their other members, or without risking an unduly high proportion with a single member. In Pomerania and Saxony (province of), as well as in Silesia, a considerable number of large landholders are reported as transacting business with the local societies; in Pomerania out of 376 local societies, all with limited liability, there were 107 which fixed their maximum total loans to individuals at from over £1,000 up to £2,500, 27 at from over £2,500 up to £5,000, and 9 at from over £5,000 up to £10,000. In many cases outside Pomerania, Saxony, and Silesia large landowners obtain their agricultural requisites through the local society of which they are members, and in this way, but seldom otherwise, they often obtain credit from co-operative credit societies. It may be conceded that local credit

societies are less necessary to large than to medium and small holders ; they can usually obtain credit more readily and on better terms than the latter from commercial banks, although in common with other farmers they usually require such credit for longer periods than are customary in commerce. And in Germany, at least, such bank credit is far dearer than co-operative credit, and repayable under more unfavourable conditions. That even large holders in England do not obtain all the credit they need at their banks appears clear from the considerable volume of credit which is at present extended to farmers by dealers and factors for periods of a year or more.

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[ *Extracts from the Proceedings of the Fourth Conference of Registrars  
of Co-operative Credit Societies.* ]

Mr. R. W. CARLYLE, C.I.E., President of the Conference, said that he was glad to report that there was no check in the rapid and satisfactory progress of the movement to which he had alluded last year. The figures had not been finally checked and must be accepted as merely provisional. But they showed that the number of societies of all kinds had risen from 1,357 to 2,008, the number of members from 149,160 to 184,897; the working capital aggregated nearly 81 lakhs of rupees against just over 44 lakhs last year, and the expenditure had increased from less than 47 lakhs last year to more than 84 lakhs. This was only the fourth annual Conference, but these figures indicated that the movement had already progressed far beyond what could reasonably have been expected by those who were present at the first meeting in 1906. The progress made during the year was all the more satisfactory, because the annual reports showed that in most provinces the aim of the Registrars had been rather to foster growth where the seeds of co-operation had already taken root than to attempt to break new ground. It was also very satisfactory that whereas State aid accounted for only Rs. 6,86,143 of the working capital or very little more than last year (Rs. 6,51,816), loans from private persons totalled nearly 25 lakhs of rupees against less than 12½ lakhs at the end of June 1908. Last year in addressing the Conference he had had occasion to point out that the two questions of vital importance to the future of the movement were the best means of providing for the supervision and the financing of co-operative credit societies. In several of the provinces the question of finance seemed to have been solved. He was referring in particular to Madras, Burma and the United Provinces, but so far as he could judge, he did not think it probable that this question would give rise to serious difficulties in the Punjab, Central Provinces or Bengal. He did not, of course, mean that in these provinces very large sums of money would at once be forthcoming, but there was reason to believe that money would come forward quite as quickly as it would be possible to establish properly supervised societies. It was too early to say that the question of supervision had been solved any

where, but the state of affairs in the United Provinces and Madras gave great promise for the future. The reports for 1908-09 served to confirm the opinion expressed by the Government of India in their Circular dealing with the proceedings of the third Conference that the most satisfactory solution of the problems connected with the best means of financing Cash Societies and with future arrangements for audit, inspection and control would be found in the organisation of societies as they increased in numbers into local Unions and in the federation, at a later stage, if necessary, of these Unions into Central Unions. At the same time it was of course possible that in some provinces other solutions might be found necessary or desirable. The great importance of supervision not being confined to Government was well brought out by MR. RAMACHANDRA RAO'S remarks on the danger of insufficient or routine inspection by Government officers, and he thought that there was a real danger that if Government assistance was not kept within moderate limits the whole movement would tend to become departmentalised. He referred to the fact that in many provinces Registrars had found it desirable to confine work to concentrated areas and to avoid establishing isolated societies. There could be no doubt as to the soundness of this policy. It was far easier to establish in concentrated areas Unions which could both finance, and, to some extent, supervise the societies in such areas. Co-operation was, so to speak, in the air. New societies were far more likely to be started and to be run on the right lines from the beginning. He sympathised with the difficulties of the Registrar of Burma who was unable to cope with the demands of the public. He was not sure that the Registrar was not over-anxious as to a number of societies being started without being registered. If such societies sprang into existence it would not be long before the fact that they were not registered under the Act was widely known. A question of great importance was how far societies should endeavour to pay off their members' debts to outsiders. He could not believe that any one who was in debt, both to the society and to the money-lender, could derive full benefit from his society. Of course it was not necessary that the debt should be paid off in one instalment. As long as the society could arrange for the debts of its members being definitely taken over, it did not much matter if the debts were paid off by degrees. He shared the doubts expressed by the registrar of Co-operative Credit Societies



in the Central Provinces as to the advisability of allowing banks to do general banking business as well as co-operative credit work, but he had no doubt the members of the Conference would have something to say on the subject. Another point to which he would draw the attention of members was the question of devising the best means of dealing with Co-operative Societies for distribution purposes. It would be agreed that management was much more difficult in such societies than in small Cash Societies, and the question how far co-operation for credit and co-operation for distribution should be combined was one which deserved careful consideration. The past year had shown that many difficulties still remained to be overcome, but they had reason to congratulate themselves not only on the general progress made, but also on many indications that public interest had been aroused. There was perhaps some danger that they might be urged to move too fast, but the interest which the movement was beginning to excite among the general public was wholly good, and unless this interest increased and spread, it would be impossible to effect that revolution in the economic condition of India which might be expected from co-operative credit work if it continued to progress with the same rapidity as at present.

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[*Extracts from the Proceedings of the Fourth Conference of Registrars of Co-operative Credit Societies, 1909.*]

HOW BEST TO ENCOURAGE THE ASSISTANCE OF NON-OFFICIALS.

The discussion was opened by the following note presented by MR. BUCHAN (Bengal) in which he advocated the formation of District Co-operative Committees :—

“ There is no more important or more difficult question before the Conference than the organisation of the future development of co-operation. We have come to the stage where we must choose between further officialising and more completely popularising the work. Personally I consider it vital to the movement that the propelling power of popular interest and enthusiasm should be applied to it as soon as possible, and our principal efforts should be directed to enlisting and systematising the co-operation of the people in the work of organisation. I offer the following suggestions for discussion :—

(2). There are certain facts which few will question :—

(a) In nearly every province the Registrar has great difficulty in supervising his societies and no time for propagandist work. Honorary organisers have given most valuable assistance, but their number and powers are limited.

(b) It is not a sound arrangement that the Registrar should be a financing agency except in special cases. We want above all things local capital and a machinery for attracting and dealing with it.

(c) New forms of agricultural co-operation (productive and distributive) should be undertaken and are in contemplation. These forms present so many variations dependent on local circumstances and conditions of production, that without active assistance in the districts the Registrar can accomplish very little.

(d) In no country has co-operation become a force until it has become a popular movement. And so it will be in India.

(3) We have to face then three alternatives—(1) stoppage of progress or development without guarantee of safety if our present staff is retained ; (2) considerable increase of staff and further officialisation of the movement, which we want to avoid ; and (3) co-operation with, and extensive devolution of responsibility to, unofficial

agencies, combined with a proper organisation of this unofficial assistance. There can be no question that the last alternative is the best if it is practicable.

(4) From what I have seen of agricultural organisation in Britain I feel sure that we want something on the lines of the Irish Agricultural Organisation Society, only much more localised. We cannot work on a provincial scale yet. A Provincial Bank or a Provincial Union would be handicapped to the point of failure by want of local machinery. It would be safer and more effective to build up to them from below. What I would suggest as a first step is the creation of District Co-operative Committees. Each would consist of a few (not too many) members really interested in co-operation and representatives of different areas. We would thus have virtually a number of honorary organisers in every district, not acting independently, but taking counsel together periodically and working out a common scheme. Each would undertake the preaching of co-operation and formation of societies of different types in his own area. Above all they would tap local sources of capital, which would be one of their chief duties. That they should find funds for their own societies would be insisted upon; and the first operations should be confined to districts where local capital is available. Besides propagandism the Committees would undertake the initial supervision and control of the young societies. But this minute supervision would only be temporary, for they would always work with an eye to the formation of Unions and to the speediest possible autonomy of the groups. So the District Committees and the Unions would be parallel and complementary developments. Their lines, however, would probably converge in time, for the Union on its banking side would no doubt become affiliated to a Central Bank, while the District Committee might develop into a Central Union to which the local Unions on their administrative side would be subordinate.

(5) To begin with, the Registrar and the District Officer would guide these Committees and control them with some strictness. But within definite limits they would be given a free hand. And as the movement gathered strength and the Committees proved their worth the Registrar would gradually withdraw, and in time, I hope, would confine himself to the merely formal duties of a Registrar in other countries.

(6) The actual constitution of the Committees is a matter for arrangement. They might be attached to the District Agricultural

Associations ; but they would probably be more effective to begin with at least, as independent bodies. In any case the District Officer should be Honorary President. He would exercise a very useful supervision without interfering too minutely or making success dependent on his continuance in the district. In time these Committees might become very useful assistants to the Agricultural Department. One of their most important duties would be to develop agricultural co-operation in production and sale ; and it is the experience of every country that the direct linking of the agriculturist with the general market by a co-operative machinery is one of the most effective means of teaching improved method of cultivation, breeding, etc.

(7) Lastly, I think that Government should give some financial assistance to the District Committees. They ought, of course, to be composed of voluntary helpers, but there are bound to be expenses of management which Government might, at least, in part defray. This assistance would probably best be given in the form of a small yearly grant to each district. These grants would not, of course, be permanent, but would be continued until the movement in each area became self-supporting. There can be no objection to this from a co-operative standpoint ; even the violent opponents of State aid make a distinction in favour of Government grants to propagandist effort. Instances might be drawn from many countries. I need mention only the considerable subsidy which up to last year the Irish Agricultural Organisation Society received from the Irish Department of Agriculture, and the proposed grant to British Agricultural Organisation Societies under the recent Development Bill, which I understand is not objected to by co-operators.

I would be glad if this Conference would consider the above rough sketch of the line I propose to take next year. Discussion may elicit a more practicable scheme for enlisting popular interest and support."

MR. GOURLAY (Bengal) entirely agreed with MR. BUCHAN that the movement could never be a real success unless and until it became a national movement. Government had shown the way and had proved the endless possibilities of combination ; but it could not undertake the indefinite extension and supervision of societies, and co-operation would never become a power in the land until it became a really popular movement. The question before the Conference was what practical means could be taken to secure this end. Various schemes had been suggested in Bengal. MR. BUCHAN had just explained one of them

and efforts had also been made to train the younger generation in the principles of co-operation. Co-operative Credit has been included in the syllabus of Political Economy at the University Examinations, and instruction in it was given at the colleges. It would greatly assist them in Bengal, however, if the Registrars would explain what was being done in the matter in other provinces. MR. LANGLEY (Punjab) generally agreed in the ideas expressed in MR. BUCHAN'S note. RAI ISHWAR SAHAI BAHADUR (United Provinces) pleaded for more recognition by Government of the work of honorary organisers. He suggested that certificates should be given to such organisers on the recommendation of the Registrar. KUNWAR MAHARAJ SINGH (United Provinces) said that his experience pointed to the same conclusion. He believed that it would have been an excellent effect if the services of honorary organisers and managers who had year after year done particularly good work were occasionally recognised in an appropriate manner. He also mentioned that some District Banks in his province had adopted the system of giving small tokens of approval such as puggrees, certificates, etc., at their annual meetings to the *Sarpanches* of borrowing societies who had done good work. The system had had excellent results, and he thought that it might be followed with advantage in other provinces. With regard to District Committees, the United Provinces already possessed similar organisations in the Boards of Directors of Central and District Banks. MR. FREMANTLE (United Provinces) criticised MR. BUCHAN'S proposal to form District Committees controlled and guided by the District Officer. The experiment had been tried nine years ago in the United Provinces and had failed. Societies started by prominent men in order to please the Collector would not do any useful work. MR. BUCHAN said that MR. FREMANTLE had misrepresented his scheme. He did not want prominent men. The Committees would consist only of men who were really interested in co-operation. MR. WHEELER (Bengal) agreed with MR. BUCHAN that if the movement was to be a success it must depend on disinterested work, but he disliked Committees. They were too fond of sitting round a table and talking. He had much more faith in individual men working in small local areas in which they lived and were interested. He would recognise them officially. They should be appointed by the Registrar and should be called Assistant Organisers or given some such title. All depended of course on the careful selection of the men. MR. HEMINGWAY (Central Provinces) referred

to the Co-operative Journal which had been started in Madras. He thought that much good would be done by a journal of this kind if the Registrar noted briefly in it the results of his inspections of societies and mentioned by name members of Committees who had done good work. MR. RAMACHANDRA RAO (Madras) said that he had more offers of non-official aid than he could make use of in Madras. MR. CAMPBELL (Bombay) said that his experience was that a society founded on sound lines was the best agent for development. Its influence soon spread, and it led to the formation of other societies in the vicinity. He thought, however, that much good would be done by Provincial and Divisional Conferences. MR. ADINARAYANA CHETTIAR, Secretary of the Salem District Bank, asked leave to make a small suggestion. It would be very popular if a few selected non-official gentlemen in each province who had been of assistance to the Registrar were placed on the distribution list of the Co-operative publications of Government, such as the annual Administration Report on the working of the societies in the various provinces. It would be of great use to non-official gentlemen to get these reports and to be able to keep in touch with the work going on all through India. The Conference cordially approved of this suggestion. As regards the general question, it was felt that no cut and dried scheme could be laid down, and that it must be left to the Registrar and his staff to decide, with reference to local conditions and the degree of development attained, how the assistance of non-officials could best be encouraged.

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[*Extracts from the Proceedings of the Fourth Conference of Registrars, 1909.*]

ORGANISATION OF CO-OPERATIVE STORES IN INDIA.

DEVELOPMENT OF OTHER FORMS OF CO-OPERATION.

These two subjects were referred to a Sub-Committee which was also asked to consider the question raised by KUNWAR MAHARAJ SINGH (United Provinces) as to whether societies and especially District Banks might legitimately engage in other than strictly banking business. The Sub-Committee was composed of MESSRS. BUCHAN (Secretary), ENGLISH, SHIRRAS and SHAMA RAO.

MR. BUCHAN presented the report of the Sub-Committee as below :—

I. *Co-operative Stores.*—The Committee's first recommendation is that the Act be amended as soon as possible so as to make the registration of societies for co-operative distribution, production and sale clearly permissible.

The Committee have come unanimously to the following conclusions :—

(1) That a society which deals solely in stores is not generally practicable in a purely rural district owing to the absence, within a workable area, of a sufficiently large and continuous demand for similar articles; that while distributive annexes to rural credit societies are possible, it is highly undesirable that a credit society should deal in distributive business until it has thoroughly mastered its own special work; and that generally speaking, in view of the different areas which a Credit Society and a store can safely, and ought to, cover, and of the danger of each department damaging the other's credit, it is desirable that the separation of credit and distributive functions should, except in special cases, be insisted upon.

(2) That in small towns, such as the head-quarters of sub-divisions, the formation of stores should not be encouraged unless prices are unduly high and conditions adverse to the consumer.

(3) That in the head-quarter stations of districts and in large towns where the people are mainly wage-earners and artificial conditions have made living expensive, distributive societies should be developed.

At the same time the Committee wish to record their opinion that minute official supervision and assistance in the matter of stores is neither possible nor desirable. These societies must stand on their own strength. Beyond seeing that their rules make adequate provision for the safe and honest conduct of business and carrying out the annual audit, the Registrar ought not to interfere except in very special circumstances. To safeguard co-operative principles and to obviate possible dangers the Committee consider that adherence to the following rules should be strictly insisted upon :—

(a) Credit should be forbidden, and cash dealings only allowed. If a member requires credit he should get it from his cash society.

(b) To preserve the co-operative nature of a society and to prevent any tendency to profit-seeking and traffic in shares the dividend on shares should be limited by rule, shares should be made withdrawable only, and to their number no limit should be placed either by rules or by practice.

(c) To guard against fraud and irregular practices, provision should be made for effective control by the Committee of management; stock-taking should be frequent; and all officers dealing with goods or money should be required to give security in a certain amount.

(d) Speculation in any form should be forbidden. For instance, a society should not be allowed to purchase large quantities of grain at a cheap rate with the object of placing it on a distant market and getting the benefit of the higher price. It should be insisted upon that the sole function of a distributive store is to gauge the wants of the immediate locality and to confine itself to supplying their needs.

(e) As far as possible the Stores should follow the methods of European distributive societies, *viz.*, they should sell at the market price of the nearest large town (thereby minimising competition with the legitimate trader), and after defraying expenses of management and placing 25 per cent. of the profits in the reserve, they should divide the balance between members and non-members according to the amount of their purchases, non-members receiving a lower rate than members.



II. *Other forms of co-operation.*—The Committee consider that all other forms which are practicable in India are covered by the general term "*Agricultural co-operation.*" Agricultural Co-operative Societies fall into three principal classes:—

(1) *Supply, i. e.,* distributive societies for providing the materials of agriculture.

(2) *Productive,* such as co-operative dairies.

(3) *Sale,* such as grain or lac selling societies. The Committee consider that much might be done in every province in the matter of agricultural co-operation. MR. SHIRRAS especially, believes that in Eastern Bengal and Assam there is scope for the co-operative supply of agricultural machinery (provided that sufficient attention is paid to the peculiarities of local agricultural methods), and a promising market for a co-operative dairy in Dacca. At the same time the Committee would draw attention to the intricate and varied nature of the subject. We are not dealing with general agricultural requirements only, which are similar the world over, but with a complex market and the machinery of commerce. Hence there is no fundamental type of society which might be recommended for general adoption. It is possible that each crop and product under the above three heads (supply, production and sale) may have to be dealt with by a different type of society; and success will always be a question of minute attention to details and conditions. The Committee therefore are not prepared to make any specific recommendations. They are, however, strongly of opinion that in each province, with the help of the Agricultural Departments, a survey should be made of the principal crops and products, the methods of cultivation, production and distribution and the conditions of the market for each. And where the enquiry shows that co-operative methods can be used with advantage, they should be applied.

II. (1) & (2).—These special subjects have been covered by the general discussion above.

(3) The Building societies contemplated by MR. SHAMA RAO are constituted on the lines of an ordinary Credit Society, except that their paraded capital and deposits will have to be raised on long terms. Such societies can be registered under the Act, and the Committee consider that they might serve a useful purpose in large towns.

The members are unanimous in recommending that until the co-operative movement is thoroughly established and co-operative

methods fully understood, societies of all kinds should be discouraged from dealing in other than strictly co-operative business.

MR. WHEELER (Bengal) invited attention to the finding of the Sub-Committee that a society which deals solely in stores was impracticable in a purely rural area. So far as his experience went, he doubted if the remark was entirely true, and in any case he ventured to suggest that it required modification. The experience gained hardly justified sweeping generalisations at this stage, and the remark if it received the *imprimatur* of the Conference might tend to discourage experiments which might lead to useful results. The President moved that the words "not generally practicable" should be substituted for "impracticable". MR. BUCHAN said that he had no objection, and the report was amended accordingly.

MR. GOURLAY (Bengal) drew attention to paragraph 1 (e) of the Report and said that the question whether Co-operative Stores Societies should sell to non-members deserved consideration. The first principle of Co-operative Credit Societies with which the movement had hitherto mainly been concerned, was that non-members should be rigidly excluded from the benefits of the society. In the case of Store Societies with cash transactions there was less danger, but he was inclined to think that Store should deal only with members and prospective members. He would explain what he understood to be the usual practice at home. The Store dealt with any one who wished to buy at current market prices. At the end of the year net profits after payment of interest on shares were divided up rateably among purchasers who had purchased goods in excess of a fixed minimum value. A member could claim his rebate in cash or invest it in the business. But as regards non-members, he believed that the rebate could not, as a rule, be claimed in cash, but must be devoted to the acquisition of a member's share. He was inclined to think that the same principle should be followed in India. At the end of two years unclaimed rebates would be credited, as in England, to the reserve. MR. RAMACHANDRA RAO (Madras) was of opinion that dealings with non-members should be prohibited. This was the principle followed in all Co-operative Store Societies in Madras, even in the Triplicane Society in the Presidency town. The societies sold only to shareholders, but the shares were payable in small instalments. The essence of a Co-operative Society of any kind was that its dealings should be only with members. If this principle were departed from it would

be impossible to exclude undesirables. MR. WHEELER (Bengal) agreed as to the importance of having power to exclude undesirables. MR. BUCHAN (Bengal) did not agree. If non-members were excluded, the operations of the store would inevitably remain on a very limited scale, and members would not be attracted. The dealings would be in cash, and therefore in his view the moral character of the purchaser did not matter very much. It would be easy to exclude undesirables from any share in the management which was the really important point. He agreed with MR. GOURLAY that rebates in cash to purchasers who were not members should not be allowed. The rebates should be devoted to the acquisition of shares. MR. PATEL (Baroda) said that the question had been exhaustively discussed by the International Co-operative Union at their Congress at Buda Pesth in 1904, and that the opinion of the majority of the Conference was that there was no objection to dealings with non-members. Other Registrars had not had sufficient experience of Co-operative Stores to express an opinion on the point, and it was decided that until further experience had been gained it would be unwise for the Conference to record a Resolution on the subject.

MR. FREMANTLE (United Provinces) said that experience in the United Provinces had shown that it was not an easy matter to start Co-operative Stores and to supervise their working when they had been started. He suggested that it was advisable that such stores should be started in the first instance on a small scale and only gradually enlarged. MR. BUCHAN (Bengal) entirely agreed.

MR. BUCHAN (Bengal) suggested that it might be considered whether the subject of the co-operative insurance of cattle should not be taken up in addition to other forms of co-operation. The death of cattle was an important cause of indebtedness in some provinces, and perhaps the attention of Registrars might be directed with advantage to the question of devising a practical mitigation of the evil on the lines of co-operative insurance of cattle. MR. GOURLAY (Bengal) said that he understood that the question had been raised by MR. ENGLISH and that MR. ENGLISH was of opinion that a practical scheme could be devised in Burma. MR. FREMANTLE (United Provinces) doubted whether in India Proper any useful results would be attained. Any such insurance scheme, if it was to be a success, would have to extend over an immense area of country. The disease from which they had most to fear in his province was rinderpest, and the most practical

way of mitigating the evil of rinderpest, was preventive inoculation.

MR. HEMINGWAY (Central Provinces) entirely agreed. MR. KING (Bengal) thought that the question was an important one, but that it was more for the Agriculture and Veterinary Departments to deal with than for the Registrars of Co-operative Credit Societies. MR. LALUBHAI SAMALDAS (Bombay) said that in his opinion it would be premature to take up the subject, and the Conference generally agreed in this view.

Mr. BUCHAN (Bengal) drew attention to paragraph II (3) of the Sub-Committee's Report. Until the survey recommended by the Committee had been complete, he did not think that any real advance would be possible. He would suggest that one or two important products should be taken up as a beginning, and the condition of the market studied from beginning to end. He was already enquiring in connection with *ghee*. MR. HEMINGWAY (Central Provinces) thought that the recommendation of the Committee was couched in much too indefinite terms, and he hoped that it would be modified by the Conference. If the Agricultural Department were brought into the enquiry, a very heavy burden would be imposed on it, and he thought that a Conference of Registrars would not be justified in endorsing the recommendation in the precise form in which it had been made by the Sub-Committee, until the Agricultural Department had had an opportunity of expressing an opinion in the matter. MR. GOURLAY (Bengal) recognized the importance of making such enquiries, but the work involved would be very great and the enquiry would take years to complete. Perhaps it would suffice for the present if the Conference contented itself with suggesting that Registrars should consult the Agricultural Departments of their respective provinces with a view to further discussion next year. MR. WHEELER (Bengal) thought that a beginning could be made by Registrars in specified local areas. After some further discussion the following Resolution was passed :—“ With reference to the survey proposed by the Sub-Committee, the Conference recognizes the importance of collecting information concerning the present methods of production and distribution of the principal crops and products of country and the conditions of the market in each case. But it considers that such an enquiry can be taken up only gradually. A beginning however might be made, in consultation, if necessary, with the Agricultural Department, in specified local areas where Co-operative Credit Societies already exist.”

[*Extracts from the Proceedings of the Fifth Conference of Registrars of Co-operative Credit Societies, 1911.*]

#### FINANCE AND CONTROL OF CO-OPERATIVE CREDIT SOCIETIES.

The Committee commenced with a consideration of the Neuweid model of Union and Central Bank. The Central Bank in Neuweid is a Joint Stock Company based on limited liability, which derives its strength from the village societies, which are shareholders. It operates only within the area of the Union which works along with it and it is intended to serve as a common cash box equalising excess and want : the dividend on capital is limited to  $3\frac{1}{2}$  per cent., and all surplus is carried to Reserve. It has the privilege of obtaining advances from the Prussian State Bank. It lends direct to societies at  $3\frac{1}{2}$  per cent. and allows  $3\frac{1}{4}$  per cent. on deposits. It has associated with it 13 provincial branch banks. It deals only with societies—and only societies can be shareholders. The Board of Directors is appointed by the delegates representing each society holding shares. Business is done mainly by means of cash credits with societies.

The societies have formed themselves into Unions, the object of which is to create by co-operation greater confidence. The Union is confined to a Circle equal perhaps to an area of 4 or 5 districts in this country. The object of the Union is to take common counsel, to discuss questions of common interest, to teach co-operative principles and keep them pure, and to affix a hall mark on affiliated societies, which adds much to the confidence felt by the public. Bad banks are excluded and the general standard is raised. The Unions are divided into sections (or sub-union sections) dealing with small areas, each with its own committee and these sections inspect the societies within them on behalf of the Union. Each section employs an inspector and the area is not larger than such an inspector can personally control. The section charges a fee for each inspection to defray the expenses. The German Law, like the Indian, compels societies to submit to inspection, but the law permits inspection by officers appointed by recognised bodies of which the Union is one.

Where the societies have a Central Bank of their own, *i.e.*, a Central Bank in which they themselves hold all the shares, the delegate to the Central Bank and the delegate to the Union are

frequently one and the same person and consequently the two bodies really become closely connected. The Central Bank fully understands the value of the Union's inspection and in all its transactions trusts implicitly to it. There are cases where the Central Bank is an outside body, but there too the value of the Union's hall mark is appreciated and the Central Bank lends almost entirely on the Union's recommendation. The Union itself, however, has no financial constitution, nor does it guarantee the financial transactions of any society. \* \* \*

The Sub-Committee are of opinion that the two questions (a) *Finance*, (b) *Control and Supervision*, should be separately dealt with. With regard to *Control* they are of opinion that if the movement is to be made a success, the societies must co-operate with each other for their mutual benefit in the same way as individuals co-operate in societies. The object of such co-operation will be to take common counsel, to discuss questions of common interest, to teach co-operative principles, and so to maintain these principles pure in the affiliated societies that the fact that societies belong to the federation will affix to them a hall mark of sound co-operation. To accomplish this end the societies must submit to an inspection of their accounts and working by the representative body.

The Sub-Committee are further of opinion that this body may without objection be united with a Central Bank provided the shareholders of this bank are the societies themselves, and they are inclined to agree that this principle should be followed even where a few individual shareholders are introduced into the Central Bank with the object of securing better management. Where, however, the Central Bank is a joint stock concern, the shareholders of which are individuals and not societies, or in which the individual shareholders predominate, there should be a Union of societies distinct from the Central Bank. Several members of the Sub-Committee expressed the opinion that the Union as such should have no financial constitution and should not make itself responsible in any way for the debts of affiliated societies; but inasmuch as three provinces—Madras, Central Provinces, and Burma—have organised Unions which do not finance but yet guarantee, they consider that it would be well to await the reports of these provinces on the working of Unions of this kind during the next year before passing any definite opinion on the subject.

The Sub-Committee are of opinion that Unions of the kind recommended by them, should be confined to an area not greater than a district and, where possible, to a local area less than a district. Such Unions where not united with a Central Bank have no need for a financial basis. The costs involved should be defrayed by a levy *pro rata* on the affiliated societies. They should be managed by a general meeting consisting of one or more delegates from each affiliated society with an executive committee consisting of about five members elected by the delegates. This committee should employ and pay the staff necessary for inspecting the societies and for propagating the principles of co-operation. Ordinarily no society in the local area should be registered by the Registrar unless such registration is recommended by the local Union and the Union should form one of the main channels through which the Registrar exercises his supervision and control of societies. Such Unions should be encouraged to hold local conferences. The name 'Union' should, as far as possible, be confined to such associations and where they are combined with a Central Bank the association should be known as a Central Banking Union. Adherence to these terms will prevent much confusion in reports.

With regard to *Finance* the Sub-Committee agree with the finding of the third Conference that Central Banks registered under the Act should be organised as Joint Stock Companies with limited liability. The shareholders should be the societies alone and the Central Banks should exist wholly for the benefit of their shareholders and should make loans only to societies which are shareholders. Where however it is impossible owing to the backwardness of the people to obtain the necessary business management, there is no objection in the first instance to admitting a small number of individual shareholders, but loans should not be made to such individuals. At the same time the Sub-Committee recognise that there may be circumstances which prevent the formation of such Central Banks and in these cases they consider that there is no objection to a society dealing direct with a joint stock company willing to finance it. The constitution of such joint stock companies however (if formed for the purpose of financing societies) should be carefully scrutinised by the Registrar before registration to insure that the interests of the borrowing societies are safe-guarded. The majority of the Sub-Committee are

of opinion that one of these safeguards should be the limiting of the dividends to 10 or 12 per cent.

The Sub-Committee note that the Central Banks at present in existence check the security of the societies to which they lend by one of three methods—(1) by a special staff appointed and paid for by the Directors of the Central Bank, (2) by accepting the inspection and report of a Union (or where the Union is amalgamated with a Central Bank, the Central Banking Union) of societies, who themselves pay and employ a staff for inspection, and (3) by relying on the inspections and reports of the Registrar and his staff. While recognising that the third method may be necessary in the beginning, the Sub-Committee are strongly of opinion that it should be done away with as soon as possible. Of the other two methods where, as is recommended, the whole or the great majority of shareholders in the Central Bank are societies and the bank deals only with societies, the second, *viz.*, the reliance on the reports of the Unions is preferable. It is better that the inspecting staff should be paid and employed by the Union or Central Banking Union which would collect the cost rateably from the societies than that it should be employed and paid out of the profits of the Central Bank. Where however Unions do not exist, the special staff must be paid by the Central Bank.

As has been said above the Sub-Committee see no objection to combining a co-operative Central Bank with a Union, and such combinations should be known as Central Banking Union.

The Sub-Committee desire to re-affirm the finding of the third Conference of Registrars that the great aim of all Central Banks should be to accumulate local capital, and only in the event of such capital not being forthcoming in sufficient quantity, should money be borrowed from outside. At the same time they recognise the desirability in all cases of a Central Bank having a cash credit account with a Joint Stock Company such as the Bank of Bengal, Allahabad Bank, Alliance Bank of Simla or the Benares Bank.

With regard to rates of interest on loans to societies the Sub-Committee are of opinion that the Central Bank should not reduce these below 9 to 12 per cent. in the first instance, even when it is able to borrow money at 6 per cent. to 7 per cent. The societies as a rule will take money willingly at these rates and it is desirable that



the Central Bank should build up a reserve of its own as fast as possible. It has also to be taken into consideration that the societies should be encouraged to remit all idle money to the Central Bank.

[*Extracts from the Proceedings of the Seventh Conference of Registrars of Co-operative Societies, 1913.*]

#### CO-OPERATIVE BANKS AND POPULAR EDUCATION.

MR. CROSTHWAITE presented the following paper for the consideration of the Conference:—

“The worth of a co-operative society,” it has been shrewdly observed, “is the worth of its members.” “Worth,” from the co-operative point of view, is of two kinds,—moral and material. Now the worth of a new society formed from the poor and illiterate classes—and with such we are generally confronted in the Central Provinces—is crude in quality and doubtful in quantity. Of potential worth there is probably much, of actual worth little. It is the aim of the co-operative movement to develop this actual worth by means of patient and persistent training. To this end every possible means of broadening the minds and widening the outlook of co-operators must be employed. “No co-operation,” says MR. WOLFF,\* “can flourish without education. *We may choose our own methods according to the circumstances of each case.* The great point is that education as such, education as a main item, education in co-operation, in the mechanical services entering into its practice, and education in agricultural craftlore, should be placed prominently in the programmes of co-operation, in the very forefront.”

Certain European co-operative experts whom I have met do not, I am certain, understand how very backward rural India is as compared with even the least advanced of the European countries. As MR. MONTAGU has so well expressed it, we have in India the fifth and the twentieth centuries side by side. And there is far more of the fifth than the twentieth century to be seen in the picture which a Registrar has to study. I am not, however, one of those who hold that education must precede co-operation. On the contrary, I am convinced, after nine years' experience as an organizer of co-operative societies in India, that the desire for “education”—I use the term<sup>e</sup> in its broadest sense—is awakened in a most effective and practical manner by the influence of simple co-operative credit societies.

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\* “Co-operation in Agriculture,” page 346.

Popular education can, in fact, very well commence with instruction in co-operative principles and methods. If European critics only understood the conditions under which we work, and if they were faced with the actual task of organization of India, they would immediately grasp that Indian Registrars are right when they say that "co-operative cloth must be cut according to Indian means." and when the time comes to write the history of the movement in the twentieth century it will be remarked, I think, that whereas co-operative ideas were, in European countries, a product of education, the movement in India was, from the very outset, a means of education,—it was not education's child.

No Registrar who understands his business will try and import an excessive element of officialdom into co-operative institutions, for he knows well enough that success in organization and solid permanent results are not to be obtained by sham co-operation. But a just sense of proportion is necessary to keep the movement on safe lines; and it is of vital importance that those who are at the helm of co-operative policy should remember that in Germany and in England, as well as in other advanced countries, the co-operative movement was of popular origin and was at first opposed by Government. In India, on the other hand, the movement has been directly inspired by Government in order to raise the skill, character, and productive capacity of those persons described in the preamble to Act 2 of 1912 as "agriculturists, artisans, and persons of limited means,"—a wide description covering some millions of people, but still, in my humble opinion, not nearly wide enough, unless, indeed, it is accepted that there is nobody in India whose means are unlimited and that therefore the scope of the Act is as broad as it can be. Unfortunately, amongst the classes especially contemplated by the Act the standard of education is extremely low. But as that standard is raised it is obvious that the prosperity of the country must also rise; for with the growth of skill, character, and productive capacity wants and aspirations will certainly increase. In fact the healthy development of co-operation must induce a general advance in prosperity which will affect all classes in India. The movement is, in truth, calculated to benefit and educate everybody no matter whether officials or private persons and whether within the scope of the preamble to the Act or not. It must be remembered that the Government of India has definitely stated that the organization of

co-operative societies is not to be regarded as part of the ordinary duties of the district staff, though Government has also declared that it fully recognizes that enthusiastic officers can do much to help the movement.\* What I have said so far may not, on first consideration, seem to have much to do with "co-operative banks and popular education." But exactly why my remarks are relevant will be understood when I mention that many of our best co-operative workers in the Central Provinces are Government officers, lawyers, merchants, landlords, bankers, Government pensioners, and the like. If the co-operative movement is to be attractive to men of so many kinds, the field of enterprise which it is to cover must be a broad one. It must appeal to the heart and the intellect and not only to the purse or to a sense of duty.

The mere lending of money is not in itself the aim of co-operative banking. At first, of course, we must be careful not to undertake too much. Ambition we must have if we are to accomplish great things; but ambition must not be separated from caution. Of all forms of co-operation co-operative credit is the easiest, and it is with "credit" that Indian co-operation commenced. The organization of co-operative concerns is, in these modern times, a business in which paid expert service cannot be dispensed with, and it is essential that people should understand that until the credit machinery is running smoothly and regularly, and until its limitations are properly understood by those in charge of it, a great deal of harm can be done to the movement by persuading or allowing men who have only entered upon their co-operative studies to embark on schemes which are too advanced for them. In India, at present, I am afraid that the tendency is to press too eagerly for the introduction of very advanced forms of co-operation, the result being that there is a distinct danger of bringing in too much Government departmental assistance at the expense of self-help.

Now if we fail to insist on "self-help" in one of the many branches which co-operative enterprise may undertake we shall find it difficult to preach "self-help" as regards the other branches. I hold, it is true, that the time when the co-operative movement "will be able to proceed altogether independently of Government will never come. Indeed, when we look at co-operation in other countries we

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\* Government of India (Department of Revenue and Agriculture) Circular No. 5: 299-23 (paragraph 3) dated Calcutta, the 20th March 1909.

find the State an important partner in the movement. A partner, it must be admitted, whose activities are restricted, as a rule, to doing what is necessary to help the people to help themselves. As far as the State and the co-operative movement are concerned, the true art of administration will be found, I suggest, in accurately placing the line which is to separate self-help pure and simple from State aided self-help. This line is by no means immutable, but must, from time to time, be shifted backwards or forwards. At first, it may well be, by far the greater part of co-operative ground will be occupied by State aided self-help. But, if the State wisely administers its aid, the ground will gradually pass over to self-help pure and simple until the duties of the State towards the movement stand out clearly defined in the light of experience. Popular self-help is a delicate plant to grow. It requires expert care and attention and, if forced, it perishes. The difficulty is to hit off the happy mean between a disastrous coddling and an equally disastrous want of supervision and training.

The principles which I would like to see generally accepted are as follows :—

- (i) The progress of our co-operative banks (which include amongst their members and their directors the best educated men available) must not be confined to lending money only, but must extend to the spread of general enlightenment amongst the societies which are members of, and are financed by, the banks.
- (ii) In order to keep the active support of our educated workers we must captivate their imagination and show them clearly that co-operative banks are not intended only for the benefit of certain classes but that they fit into a scheme of general improvement.
- (iii) Government must give the necessary assistance in carrying out this scheme but must not itself undertake too much or too little. Both ways lies danger. Safety can only be secured by correct adjustment.
- (iv) We must be careful not to emulate too hastily certain advanced forms of co-operation in other countries. It is far better to await the results of education in co-operation than to force the pace and make a mock of self-help by running societies with an excessive measure of Government assistance. If a project be such that there

cannot be a fair division of work between officials and unofficials, then clearly it is too advanced and should be postponed until unofficial co-operators are fit to perform their proper share of the task.

I will now endeavour to point out by actual illustration how we have endeavoured to apply these principles in the Central Provinces. In the first place, we have had the greatest difficulties to encounter in the matter of the simple accounts which credit societies must either keep or have kept for them. When we first started rural organization work in 1904 early Registrars were under the impression that we should have no great trouble in finding at least one member of each society who could *and would* keep the accounts satisfactorily. The secretary of a society was to be not only the trusted accountant upon whom the Registrar would depend for his annual returns, but he was also to be the "guide, philosopher, and friend" of the members. The Government Auditor would, it was assumed, go round and audit a very nicely prepared set of accounts. As accounts were (and are still) very simple it was expected that one auditor would be able to deal with a very large number of societies. These were the lines we started work on in 1904. In that year I started a few societies in the Hoshangabad District (they were the first in the Provinces), and I remember that when SIR J. O. MILLER saw them he said they were not co-operative societies at all. But, such as they were, they were the only ones I could get the people to start; and although they were clumsy little birds they prospered and have now grown healthy co-operative wings. It must be remembered, in this connection, that Act 10 of 1904 provided for *free Government audit* and that many people thought that every Deputy Commissioner ought to be the Registrar of his district. I am not going to dwell upon initial mistakes, especially as I made a good number of them myself; still less am I going to point out how clever we, who have benefited by those mistakes, have been in making natural progress. But for the efforts of a succession of able men, who had to carry on the work of the Registrar, in addition to other heavy duties, the movement in the Central Provinces and Berar would not be so far advanced as it is to-day when it is still on the threshold of its existence. The idea that capable Secretaries would be easily and frequently found was

soon exploded. It was then said by some that the Provinces were not ripe for the co-operative movement. It was urged that until the spread of education became far more general it was vain to imagine that co-operative societies could succeed. But others of us held different views ; and we determined to push on as best we could.

Credit societies have money dealings, and where there are money dealings accurate accounts are indispensable. Certain organizers, therefore, formed their societies round the Secretary. And the result was that as tolerably efficient Secretaries were few and far between, co-operative credit societies came into existence which included in membership individuals from many villages scattered over extremely large areas. Now that co-operative principles are better understood I need not explain why mutual societies on these lines proved quite unworkable. In 1907, however, thanks to some very valuable advice from SIR J. O. MILLER, we first commenced (in the Jubbulpore District) to form Raiffeisen societies, without share capital and with unlimited liability and indivisible reserve funds. It was generally expected that the movement would make very slow progress, that it would be long before it could establish itself in the money market, and that Government would, perforce, have to finance the societies. But MR. WOLFF urged that Government money was poison to self-help ; and what MR. WOLFF has to say is always well worth listening to. So we decided to try and do without Government money and at once we had a fresh problem to solve. In order to finance, organize, guide, and control our societies we started "Central Banks." Writing in 1907, in "The Agricultural Journal of India\*" I said, "Nobody pretends that a Central Bank with capital subscribed by the leading men of the tahsil, managed on purely business principles, and existing solely for the purpose of lending money to rural societies, is itself a Co-operative Credit Society in any sense of the term. Yet it exists for the purpose of associating the best business talent available with the co-operative credit movement, and is intimately connected with the scheme for financing and testing the merits of rural societies. The Central Bank should, then, be registered under the Act. Shareholders in the Central Bank can, of course, reside anywhere, but the committee should be chosen from shareholders resident within the tahsil. What is wanted is a committee with good local knowledge of all parts of the tahsil. It will

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\* "Co-operative Credit and the Central Bank," Volume II, Part I, January, 1907.

not only control the internal affairs of the Central Bank, but will consider the applications of rural societies for loans and decide to what extent individual societies are *bankable*. The Central Bank is not only to be the source whence rural societies are to derive their capital, but a means of gauging the worth of newly formed societies. It may be argued that too much power will be left in the hands of the Central Bank, that as 'interest speaks all sorts of tongues and plays all sorts of parts, even the part of the disinterested' the central committee will be able to starve the rural societies and thus kill the movement. To this no present answer can be given. The question is one of confidence, and time alone can prove whether that confidence has been misplaced or not". That was more than six years ago ; and the men I was then writing about were the present Directors of our Central Banks who have proved so well that confidence in them was not misplaced. In 1907 I had only just started the Sihora Central Bank and had formed a few rural societies of the Raiffeisen type. In the Central Provinces and Berar there were, altogether 63 rural societies with a capital of Rs 31,061 and 2,154 members, and 4 urban societies with a capital of Rs 28,509 and 667 members. We have marched some distance since 1907, and there were on the 30th June, 1913 in the Provinces, the Provincial Bank, 25 Central Banks, (with their own Union), 1,360 rural societies, 40 industrial societies and 22 other societies with a total membership of 27,292 and a working capital of Rs 34,37,705. Results such as these could not possibly have been obtained but for (i) the initiative of Government and the help of its officers, (ii) the enormous amount of time and trouble freely given to the movement by our unofficial workers, and (iii) the fact that co-operative credit was welcomed by the people and supplied a pressing need. Behind the figures are very substantial facts produced by careful education in co-operation. There is not a man who has done work for the cause without broadening his mind and his sympathies while acquiring much fresh knowledge. Most of our Directors knew but little of modern banking, and nothing of its distant cousin "co-operative" banking ; and, if I may be pardoned for saying so, many of them, before they became co-operators, were surprisingly ignorant of Indian village life. But active co-operative work takes men out and about, mentally as well as physically. It rouses the spirit of action and of enquiry, and, because men cannot be careless or dilatory in money matters without causing disturbances which it is impossible to conceal,



the power of actually doing things and not merely talking about them must be exhibited. Co-operation gives good men a chance of showing what they can do, it rouses a healthy spirit of rivalry, and it absolutely defeats the man who talks but does nothing. To get good results constant work and unremitting care and attention to business are absolutely necessary. Beyond doubt the institution of co-operative banks has done much to develop the business talent of the Provinces on lines which must have a profound influence on the future.

Then we have our annual Provincial Co-operative Conferences. These give men from the different Banks a chance of meeting each other and comparing views on the numerous questions which are constantly arising in connection with the development of the movement. The arrangements for the first Conference were made by the Registrar. Some doubts were expressed as to whether interest in the movement was then sufficiently great to secure a good attendance. But more than 150 people were present, and the Conference was followed by some very valuable and remarkable results. Now we have a Conference Committee which is composed of un-officials who appoint their own Secretary and arrange all details in consultation with the Registrar. The holding of these Conferences has aroused a spirit of independent self-help which cannot but strengthen the movement.

At first we thought that it was too ambitious to turn our Central Banks into the more advanced co-operative institutions known as "Central Banking Unions." We were strangers to the Joint Stock Banks ; but, in 1909, the late MR. DEANS, Manager of the Allahabad Bank, gave us our chance. And in the Government review of the co-operative work for that year the Chief Commissioner said: "The past year has witnessed an important advance. The Sihora Central Bank has shown that well managed societies may expect valuable support from the Joint Stock Banks and has further justified the claim of the District or Tahsil Bank to a place in the co-operative organization by its work in investigating applications of rural societies for registration. A financing society, working in a limited area, is exceptionally qualified to decide on the fitness and reliability of a borrowing society ; the sum of the local knowledge and influence possessed by its directorate is very large and its own interests demand caution and a close adherence to the principles of co-operative banking in the foundation of its client societies. The Chief Commissioner

sees in this development a very important practical contribution to the vexed question of organization."

Our village societies "with unlimited liability," once started, commenced to improve in quality and to show a spirit that had not been expected to appear so quickly. Accounts remained and still remain the one part of their business which societies are quite unable to manage for themselves. From the ranks of the societies capable men commenced to appear ; and very soon the first type of Central Bank (of which societies were not members) will have vanished altogether. Societies hold shares and are members of Central Banking Unions and they have a voice in their management and votes with which to make that voice heard. I consider this particular advance towards better co-operative organization to be far reaching in its consequences, and, as will presently be shown, it has enabled us to deal with the question of account-keeping in a way which, but for this co-operative development, would be decidedly dangerous.

At first the Directors of our Central Banks employed no paid staff. They had to master the details of their business before they could hope to be able to guide and manage paid staff ; so, with the Registrar's assistance, they did all the work themselves. In all our young Banks we still follow the same plan and allow no paid staff until Directors have acquired solid practical experience. The Auditor on the Government staff assists, of course ; and, as a rule, we find that until Central Banks are advanced enough to employ staff the Government Auditor has to actually write up the accounts of the credit societies as well as audit them. We are fast getting beyond this very elementary stage ; in our well established banks the duties of Government are now confined to supervision and audit. They do not extend to the actual organization of new credit societies and the preparation of applications for registration, for the banks themselves are able to undertake this work. Thanks to the fact that our Central Banking Unions have banded themselves together in the Provincial Union of co-operative Banks, which is a supervisory body formed to protect the movement from rash and unwise behaviour on the part of the individual banks which are (with their constituent societies) its members, we have been able to provide machinery by means of which co-operation may be run on safe lines with the assistance and under the supervision of the Registrar and his small staff. This machinery I will describe later.

In 1910 the movement commenced to grow rapidly. At the close of the year there were 280 rural societies with 7,622 members, 8 urban societies with 1,247 members, and 12 central banks with 804 members. Capital reached the sum of Rs 5,02,080. But this growth brought new difficulties with it. When I became Registrar, in 1911, the movement stood in danger of starvation for want of capital. Deposits were not forthcoming; stagnation threatened. Un-official workers were asking how they could be expected to make bricks without straw, and Deputy Commissioners wanted to know what was to be done. The Allahabad Bank was willing enough to advance money, but the Directors of that institution very reasonably asked, "How is a Joint Stock Bank to judge the solvency of remote central banks which are strangers to it?" The case of the Sihora Bank was exceptional; for Sihora is close to Jubbulpore and to the local agent of the branch of the Allahabad Bank. I had long cherished the idea of a Provincial Bank as the final link between the Central Banks and the money market. But, in 1907, I thought that we might, perhaps, be advanced enough for a Provincial Bank by 1927; for when the Sihora Central Bank started we scraped together with the greatest difficulty, the enormous initial capital of Rs. 2,000. And most of the subscribers were sure that their money was lost to them for ever from the moment they paid for their shares. I had already tried to organize two central banks elsewhere and had failed. Un-official workers were, in those days, very few and absolutely new to the work; and when, in 1909, I spoke to the HON'BLE MR. MUDHOLKAR about my scheme for a Provincial Bank he told me that I would never succeed in floating it unless Government would furnish substantial guarantees. "Give us a Government guarantee", he said, "and Berar will give you as much money as you require". Much the same attitude prevailed in the Central Provinces. However, by 1911 the position had changed. Something had been done to show that these new-fangled co-operative ideas had sense in them and central banks had steadily earned and paid moderate dividends. For the Provincial Co-operative Bank a capital of Rs 5,00,000 was asked for and was speedily over-subscribed. Most of the capital came from Jubbulpore, in which district co-operation was firmly established. A great deal came from Nagpur, thanks to the cordial assistance of SIR G. M. CHITNAVIS; and the rest came from other districts in the Central Provinces. Nothing could be obtained from Berar. The Directors of the Allahabad Bank

were sympathetic; for they wisely perceived that co-operative banks are allies of and not rivals of the joint stock banks, and they accepted the Provincial Bank as the link necessary to complete the chain between the small and distant village society and the great money markets. The Provincial Bank has a strong Board of Directors with whom the Registrar works in close consultation. But at the request of the shareholders themselves, the Registrar has been exercising and must, for some considerable time to come, exercise certain executive powers which are essential to the prompt disposal of business. Here again, it may be noted that the Directors of the Provincial Bank are being brought face to face with numerous problems with which, but for the Provincial Bank, they would not have had any chance of becoming acquainted. Education in co-operation is leading them along fresh and broader paths of knowledge and thought. With the opening of the Provincial Bank to deposits (an event which has quite recently occurred) and the strengthening of its connection with the money market we shall probably be able, before long, to organize co-operative mortgage credit societies for our landed proprietors, many of whom are complaining that co-operation has left them out in the cold. *Whether they will co-operate or not remains, of course, to be seen.*

Before the Provincial Bank started work it was difficult and indeed almost impossible for the Central Banks to accept deposits with safety. Term deposits, if accepted, carry with them the necessity of meeting all obligations to depositors exactly on the due dates. Anybody who has had actual experience of co-operative banking must be aware that the requirements of societies cannot be made to fit in with a bank's liabilities to its depositors. The provision of ample cash reserves or of resources from which cash can at once be obtained to meet withdrawals has to be made before deposit banking can be undertaken. Such provision the Provincial Bank has been able to make; and so it has been possible for our Central Banks to turn their attention to deposit banking. The results have been surprisingly good; and Central Banks have been able to prove that they have the confidence of the public and can obtain large amounts in deposits. Much of the money deposited was lying idle before it was entrusted to Central Banks; and I cannot but point to this introduction of deposit banking as yet another most valuable result of popular education in co-operation. Not only do Central Banks receive deposits; but societies also accept deposits from their own members. Certain minimum annual deposits have to

be made according to one of the bye-laws of societies. Now societies dislike this bye-law, and they try to disregard it. But after a year or so they commence to appreciate it ; and there are now grounds for hope that the practice of burying metallic money in the ground will gradually disappear.

The idea of reserve funds is a novel one to the societies ; indeed it was novel enough to Central Banks, many of which were eager to distribute as much profits in the shape of dividends as quickly as they could. The larger the first dividend the better, they thought, was the quality of their business and the greater the proof of their success. The value of the reserve funds is now more generally appreciated simply because enlightenment has come with the co-operative movement. Another advance which is remarkable is the change in attitude displayed towards borrowing as such. At first Central Banks paid far more attention to the borrower's credit than to the necessity and nature of the purpose for which the loan was required. But Central Banks now understand, and so do societies, that borrowing except for productive purposes is not calculated to induce prosperity and to increase assets. A saner and better use of credit is being made. Education in co-operation has had this amongst other effects on popular character. In some districts, too, a marked decrease in litigation is being attributed by District Judges to the spread of the co-operative movement ; and I know that a healthy public opinion has appeared in villages in which it had either never existed or had been dead or asleep before co-operation commenced. It is not in financial statistics alone that the work which is being done is to be seen. Yet it cannot be too strongly insisted on that vitality depends on successful finance ; not, of course, on the earning of large dividends gained by the exploitation of the borrower to his detriment, but on the effectiveness of that disciplined organization which makes every man feel that he must do his full share of work and acquit himself honourably of his duty. Co-operators have asked for and have obtained public support. They are trustees for public money, and if any of that money is lost, confidence in the movement—I will go further and say confidence in the future of the country—will be shattered.

I have already referred to our Union of co-operative banks. The objects of this Union are, as stated in its bye-laws :—

(i) to provide a regular and efficient system of supervision, audit and control for all banks and societies enrolled in membership ;

(ii) to secure uniformity of practice and unity in effort and in aim amongst all co-operative bodies in the Central Provinces and Berar ;

(iii) to work for the common good of all co-operators and especially to see that co-operative business is conducted on sound, safe and progressive lines.

The Central Banks each elect one delegate who is duly empowered to act and vote on their behalf at the meetings of the Union Congress which is made up of these elected delegates. The Congress elects its own Governor, who may be the Registrar or any other duly qualified person. At present the Registrar is Governor, and, as such, he nominates from the Congress members his own advisory council of four. The Governor's term of office is terminable only by his death, resignation, or the vote of a two-thirds majority of the Union Congress. The Manager of the Provincial Bank is Secretary of the Congress, *ex-officio*. Every Central Bank *must* submit an annual budget to the Governor showing :—

(i) the name and the number of paid servants to be maintained by the Bank and its societies during the ensuing year ;

(ii) the salaries to be paid to such servants (a) by the Bank, and (b) by societies ;

(iii) the approximate sums to be expended on stationery, printing, etc., for the Bank and its societies ;

(iv) the means by which it is proposed to raise the funds to meet these expenses.

Our Central Banks, of course, meet their expenses and pay their Managers, Inspectors, Accountants, etc., from the income they derive from interest ; *not*, it must be noted, from the interest on reserve funds which is left to accumulate in reserve. But the borrowing societies carry the whole of the difference between the rates of interest paid by societies and their individual members, as well as all profits on deposits and on accumulated reserves, to their reserve funds, which we fully recognize must be strengthened with the least possible delay by all the means at our disposal. To this policy we intend to hold fast ; at any rate until reserves bear a far greater proportion to liabilities than they do at present. Meanwhile, until we can prudently devote the income from invested reserve funds to meeting annual expenses, we ask and expect the members of our co-operative societies to assist us in the efforts we are making for them. And Central

Banks have, almost without exception, adopted a simple rule under which each individual member of every society pays an annual Union subscription of Re. 1. This is an absolutely inclusive charge and, in return, a trained and efficient staff is maintained for the special purpose of writing up the accounts of the societies, while all stationery, is also supplied. Under this scheme in our advanced banks, to every circle of 100 societies is appointed a Union Auditor. Union Auditors are under the sole direction, control, and discipline of the Governor of the Union ; by him they are appointed and by him dismissed ; they work under the Government Auditors, and no man can be employed to audit unless he is recognized by the Registrar under Section 17 (i) of Act 2 of 1912. For every circle of fifty societies a Union Mohurir is employed. Union auditors are in a class alone, but they as well as Mohurirs are paid by the societies and in this important respect they are distinct from *Bank* staff (which is, of course, also *Union* staff). No pains are spared to make societies understand that the men they pay are their servants and not their masters. Societies are learning this very readily ; and they are quick to detect and to complain of any shortcomings on the part of their servants. It has already been pointed out that societies have votes in the Bank which they belong to ; and it is this control which societies possess over a Bank's affairs which renders it safe to employ Union staff. Were societies merely the customers of a Bank and not its proprietors I believe that this paid staff would speedily become a colourable imitation of the subordinate Government staff,—the Patwari, the Irrigation Amin, and the rest. Education in co-operation is revealing many things to the humble peasant, and the revelation cannot fail to have a stimulating and purifying influence on rural politics and environment.

The formation of the Union, itself a product of education in co-operation, has had and is having a very satisfactory and remarkable influence on the quality of the work done by co-operative banks. Regularity and strict attention to essential banking detail is replacing spasmodic effort and unpunctuality. Our banks have got far to travel before they are perfect ; but if they ever develop into model institutions, as I hope they will, it is to the Union that they will owe far more than they at present dream. Thanks to the Union an annual increase in share capital is now assured. And to the Union is due the establishment of a Famine Insurance Fund which will

increase steadily as the years pass. Union bye-law No. 13 runs as follows :—

“Every Central Bank shall, with its constituent societies, make an annual contribution to the permanent and indivisible funds of the Union. Such annual contribution shall be a sum not less than 25 per cent. of the annual expenses budgeted for.” Then follow these bye-laws :—

“The annual contributions specified in bye-law 13 shall be allotted to the respective Central Banks making them and Central Banks shall employ the whole of the money so allotted in an increase of their share capital.”

“Share capital thus obtained by Central Banks shall be employed by them in their own co-operative business, but shall be held by them on behalf of the Union and the shares shall stand in the name of the Union.”

“The dividends earned by Union shares shall be paid to and invested by the Governor of the Union in Trustee Securities to form a Famine Insurance Fund to accumulate at compound interest.” “In the event of famine or widespread crop failure and consequent tightness in the money market the financial resources of the movement may seriously contract. To provide for such a monetary crisis the Governor of the Union shall have power to make loans out of the Famine Insurance Fund to the Provincial Co-operative Bank in time of need at the average rate of interest at which the Provincial Bank was obtaining loans from the money market during the preceding twelve months. Such loans shall be of the nature of temporary advances only and the Provincial Bank shall bind itself to recoup both principal and interest to the Famine Insurance Fund as soon as the money market becomes normal again.”

The spirit of these bye-laws is the spirit of prudent co-operators who have not been blinded by a new enthusiasm to their duties as servants of the public. Nor has the Union failed to think of the paid co-operative staff whose lives will be spent entirely in the service of the cause. The Union can employ no servant who is without a Union license ; and this will give the staff a recognized status. There is a Provident Fund too, and to this the Union adds for every servant 10 per cent. of his



salary ; compound interest at 6 per cent. is allowed on these contributions and is credited to each account. Dishonesty and gross neglect of duty are punished by forfeiture of all claims to any share in the Provident Fund. Before full privileges in the Fund are allowed 15 years of approved service must have been completed : while special rewards are promised to service of exceptional merit and length. Such, in brief outline, is the Central Provinces Union of Co-operative Banks which, unless I am absolutely mistaken, will help not a little in the advancement of popular education on practical co-operative lines.

In conclusion I must mention the valuable work being done by co-operative banks in the technical improvement of agriculture and industries. Through the channels opened out by Central Banks, by their agency and with the assistance of their Directors, the experts of the Agricultural and Industrial Department, whose task, as we all know, is one of extreme difficulty, are steadily getting into touch with societies of men willing and prepared (though by no means perfectly prepared) to listen to them. This satisfactory result has been gained because, through Central Banks, communication has been rendered possible with the small individual cultivator or artisan in his isolation, and his ignorance. From their Central Banks, moreover, societies can obtain on equitable terms, the funds for better seed, better implements, and better cattle, and better silk, better yarn, purer metal, without putting their heads into the noose which that universal person, the usurer, knows so well how to slip tight at his own convenience. If lack of wholesome credit stood in the way of agricultural and industrial improvement a few years ago it need do so no longer. And as popular education in co-operative methods progresses the efforts of the Agricultural and Industrial Department must become more and more effective. Our best banks are already thinking of having their own small demonstration farms which can easily be inspected and guided by the Agricultural Department. These farms will adjoin the new buildings which banks must build themselves before very long, and thus situated they will serve as continuous object lessons to the many thousands of cultivators who come to the Central Banks for money. I have already been asked by unimaginative people why co-operative banks should undertake work of this kind. My reply is that in the best and most successful kinds of modern business the science of philanthropy has been found both necessary and profitable. From the purely business point of view I am sure that it will pay co-operative banks to make popular education

part of their programmes. I think I can quite safely go further than that and say that unless co-operative banks do make popular education part of their business they will decay just as rapidly as they have sprung up. I take exactly the same view of the industrial aspect of co-operative work. Commencing, quite simply, with societies for credit and thrift, Central Provinces weavers are turning out better and more marketable stuff and are already buying raw materials wholesale. They have just commenced to think of co-operative sale; and they are asking for the fly shuttle looms they flatly refused to consider only two years ago. Brass and bell-metal workers are difficult people to persuade; but even they are commencing to use stamping presses and improved lathes specially designed for their needs by MR. COVE, Headmaster of the School of Handicrafts in Nagpur. These are encouraging signs; and there can be no doubt that as the co-operative credit and banking machinery becomes more efficient, faster, and less clumsy in operation, co-operative enterprise will extend to the production of superior varieties of wheat and cotton, to the breeding of pedigree cattle, to the control and management of cotton gins to the wholesale disposal of manufactured articles, to the production of pure seed of guaranteed quality and germination. We are already doing something to direct popular effort in these directions. But I hold that Government need be in no hurry to introduce these schemes for they will be found knocking at the door as soon as our banking and credit arrangements are in order.

A little first-hand knowledge of co-operative work has an excellent effect upon those who form, upon theories and book learning, opinions which are too optimistic or too pessimistic. In co-operative affairs simple facts count for so much; and Registrars have to deal with things as they are and not as they ought to be. The interests at stake are so great and so complex that they cannot but be, and must always continue to be, the intimate concern of Government. But as I have already said, the co-operative movement can easily be ruined and the whole structure of our banks and societies can be brought crashing to the ground by either too much or too little control. It is the duty of the Registrar to act as co-operative adviser to Government as well as to the people; it is the task of the Registrar to see that official and unofficial efforts are blended harmoniously together. He must take his good where he finds it; he must know the waters over which he has to pilot the movement; and he must

not allow that aimless drifting which is certain to end on the rocks of monetary loss. It is essential that a Registrar should properly appreciate the means at his disposal and be definite in his purposes and aims. For, when all is said and done, it is the Registrar who has to frame the policy of co-operative banks; and it must be his care to make this policy generous and comprehensive. There has of recent years been much discussion on all sides as to what Registrars should do and should not do. Similarly, there has been much argument as to the exact part which Government should take in the co-operative movement. This paper has been written in the hope that an account of our development and our experience in the Central Provinces may assist in the solution of these problems. I have tried to show that where officials and unofficials have worked earnestly together for the cause, there, and there only, have good results been obtained. Where on the other hand, such co-operation has unfortunately been absent nothing has been accomplished. It appears to me that the future of the co-operative movement in India depends upon the continuance of an equitable partnership between the State and people, and I believe that this will become more and more evident as our co-operative education proceeds. That popular effort will speedily gain in strength and volume must be our pious wish.

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[*Extracts from the Moral and Material Progress Report of India, Decennial Issue, 1913, pp. 249-52.*]

#### CO-OPERATIVE CREDIT SOCIETIES.

The Co-operative movement in India is a recent development, due to action taken by Government. It has hitherto been concerned almost exclusively with credit societies, though activity in other directions is beginning. The movement is not confined to agriculturists, but it was with a view to their benefit, mainly, that societies were started, and the great bulk of the societies are rural. It may safely be said, also, that no line of advance offers greater possibilities in the way of the improvement of agriculture.

The possibility of improving the credit of the rural population in India by the establishment of a system of Co-operative Credit Societies had, at the beginning of the period under review, been for some time engaging the attention of the Government of India. The question had previously been taken up independently in some provinces, and in some cases practical steps had been taken. The most striking development of the co-operative principle on indigenous lines had taken place in Madras, where the *nidhis*, described as mutual loan funds, had attained on the whole a very considerable degree of success, in spite of numerous failures due to fraud, ignorance, the unsuitability of the law, and the absence of supervision. There were in 1901 over 200 *nidhis*, with 36,000 members and a subscribed capital of £1,700,000. They found their clients, however, among a more highly educated and advanced class than the mass of the agricultural population, to whose needs their constitution was not well adapted. In other parts of the country the societies that had been started had hardly passed the experimental stage. In the United Provinces steps had been taken in 1900, at the suggestion of the local Government, to establish societies in many districts; in the Punjab a few societies had been formed about 1898 by district officers on their own initiative, and in Bengal several societies had been started, and appeared to have attained some success under the fostering influence of sympathetic officials.

In 1901 a Committee was appointed by the Government of India to consider the whole subject in the light of reports from the local

Governments and of the experience already gained in the provinces referred to above. The report of the Committee was laid before Parliament. It was now apparent that no real advance was possible without legislation, the elaborate provisions of the Companies Act being wholly unsuited to societies of the kind in question. Legislation was therefore undertaken with the object, firstly, of taking such societies out of the operation of the general law and substituting provisions specially adapted to their constitution and objects, secondly, of conferring upon them special privileges and facilities, so as to encourage their formation and assist their operations, and, thirdly, as a necessary corollary, of taking precautions against the improper utilisation by speculators and capitalists of privileges not intended for them.

*Legislation.*—A Co-operative Credit Societies Bill was accordingly introduced in the Governor-General's Legislative Council in October 1903, and passed into law as Act 10 of 1904. In view of the wide diversity of conditions in India, and the experimental nature of the measure, *simplicity* and *elasticity* were kept in view as cardinal points. Broad principles were laid down, and certain precautions insisted on, subject to which, and to rules to be made by local Governments, in the same spirit, in accordance with local needs, the people were to be left to work out their salvation on their own lines, the function of Government being confined to sympathy, assistance and advice. The object of the Act, as stated in its preamble, was "to encourage thrift, self-help, and co-operation among agriculturists, artisans, and persons of limited means." Local Governments were empowered to appoint provincial Registrars of Co-operative Credit Societies, whose duty it would be to scrutinise applications for registration under the Act. Subject to the provision that any association of not less than 10 persons might be registered by the special order of a local Government, the Act laid down that a society should consist of persons residing in the same town or village or the same group of villages, or, subject to the sanction of the Registrar, of members of the same tribe, class or caste. Societies were classed as "rural" or "urban", and it was laid down that four-fifths of the members must be, in the first case, agriculturists, and in the second, non-agriculturists. In the case of rural societies the liability of members was to be unlimited, unless a departure from this rule were specially sanctioned by the local Government; in the case of urban

societies, liability might be either limited or unlimited, as might be provided by bye-laws or rules made under the Act. Profits, in the case of a rural society, were, in the first instance, to be carried to a reserve fund, or applied to the reduction of the rate of interest, and a bonus might be distributed only when requirements in these directions had been fully met; urban societies were also to carry at least a quarter of the annual profits to a reserve fund. Loans were to be made only to members, or, subject to the consent of the Registrar, to a rural society. Limitations were placed on the interest in a society that might be held by a single member, and on the transfer of shares. Privileges included the exemption of a member's shares or other interests in the capital of a society from attachment for private debts, the grant to societies of a measure of priority over ordinary creditors in enforcing claims on crops, cattle, &c., and provisions for exemption, at the discretion of the Government of India, from income tax, stamp duties, and registration fees. Provision was made for compulsory inspection and audit by the Registrar, for compulsory dissolution, subject to appeal to the local Government, and for liquidation under a simple procedure. Finally, wide rule-making powers were conferred upon local Governments.

The development of co-operative societies during the period under review took place under the Act of 1904, but in the last month of the decade the Act was repealed and replaced by the Co-operative Societies Act (Act 2) of 1912, which introduced important changes in the law. Experience had shown that, in spite of the simplicity and elasticity of the earlier Act, there were certain respects in which it was desirable to extend its scope, and some points in regard to which amendment of the detailed provisions was required. The first change made is indicated by the difference between the titles of the two Acts. With the spread of co-operative credit societies, there had arisen in many parts of India a desire to initiate other societies of a co-operative type, having for their aim the production or distribution of commodities and not merely the provision of credit. The new Act accordingly provides for the registration under the Act of any society "which has as its object the promotion of the economic interests of its members in accordance with co-operative principles," or any society "established with the object of facilitating the operations of such a society." The statutory distinction between "rural" and "urban" societies is dropped, the radical differentiation between societies with limited and

unlimited liability alone being retained. The principle that agricultural credit societies must generally be constituted on the basis of unlimited liability is retained, but with a view to bringing within the provisions of the Act societies that have grown up and done useful work in some parts of the country, the distribution of profits by "unlimited" societies is allowed in cases where this course is sanctioned by the local Government. The fourth new feature of importance in the Act of 1912 is that it provides for the formation of societies the members of which shall be other co-operative societies. The grouping of societies in this way into unions, and their financing by means of central banks, is an essential feature in European systems, and action on these lines had already been found feasible in most provinces of India. The other changes introduced by the new Act were of less importance and do not call for special notice.

*Progress of the Co-operative Movement.*—The provincial Registrars appointed after the passing of the Act of 1904 were expected not only to carry out their formal duties under the Act but also to foster in every possible way the growth of the co-operative movement. In the instructions issued by the Government of India, local Governments were invited to select a few districts in each province in which the experiment might be most hopefully tried, and it was pointed out that it would be advisable to start cautiously and to progress gradually. Stress was laid on the necessity of reducing restrictions to a minimum, so that the people might be encouraged (subject to certain necessary safeguards) to work out the problem on their own lines with such guidance and help as could be given to them.

When the Act was under discussion many doubts and fears were expressed. These have in great part been dispelled by subsequent experience. It has been found that the root of the matter does exist in India, and that Indians will co-operate, that unlimited liability is not a bugbear, that societies have succeeded in attracting capital, and that they have not found the absence of a summary procedure an insuperable difficulty in the way of collecting their debts. Making every allowance for the facts that India has been able to profit by the experience gained in other countries, and that the pioneer work has been done by the State and not by individuals, progress has indeed been extraordinarily rapid. Even so, the movement has as yet touched only the fringe of the vast population concerned.

The lines of development have been different in different parts of India, but the same general questions have arisen. It soon became evident that the future of the movement depended on the successful solution of the two connected problems of finance—*i.e.*, *the provision of funds*—and *supervision*. The main obstacle to expansion in the earliest stages was the difficulty of attracting outside capital, and, on the other hand, the limits of personal supervision by the Registrars were soon reached. The importance of avoiding anything like a general officialising of the co-operative movement has always been kept in view, and development was intended to proceed along lines which would render it possible for societies to provide supervision for themselves. It was recognised that the combination of village societies for the purposes of finance and control was as important as the combination of individuals, and that such combination was intimately connected with the problem of giving them access to the outside money market. Pending the solution of these problems, the policy generally adopted by Registrars was one of consolidation rather than extension. The ideal held up was the formation of societies into local and central unions which would not only finance their own societies but also supervise them and encourage the further growth of the movement. So far as finance is concerned, there are now in all provinces a number of “central” societies, which lend to other societies only, and are established for that purpose. As regards supervision, progress has been made in varying degrees in the direction of the ideal above referred to. “Unions” have been formed in many parts, some of which exercise supervisory functions only, while others, such as the “Central Banking Unions” of Bengal, also finance their affiliated societies.

In Bombay a new departure was made in 1911 in the form of a central bank—the Bombay Central Co-operative Bank—with a Government guarantee for the interest on its debentures. The bank, which was founded on the initiative of leading local capitalists, lends only to co-operative credit societies, subject to the approval of the Registrar, and at a rate of interest which must not exceed 8 per cent. It was registered in October 1911 as an urban society.

A matter to which special attention has been directed is the combination of the efforts of the co-operative and agricultural departments for the development of agriculture. Co-operative work has in many places been brought into contact with that of agricultural associations, seed societies of a co-operative character have been started, and



in many other ways the desired combination has already been brought into play.

Satisfactory features of the general development of the co-operative movement in India have been that only a small proportion of the capital of the societies has been advanced by the State, that the purposes to which loans have been applied have been almost entirely productive, and that loans, generally speaking, have been punctually repaid. The rates of interest charged vary, but are considerably lower than those charged by local money-lenders; it is estimated that, at a low computation, the agriculturists of India are saved £100,000 in interest charges for every £1,000,000 lent out by co-operative societies.

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## EGYPTIAN SYSTEM OF MAKING LOANS TO AGRICULTURISTS.

[*Extracts from the Report on the Administration of Egypt and the Soudan, 1895*]

The Government has done something to aid the cultivators. In 1894, they received advances of 5,000 ardebs of seed (1 ardeb = 267 lbs.) ; in 1895, the quantity was increased to 8,000 ardebs. The reason why advantage is not to a greater extent taken of the offer made by the Government in this connection is, that the cultivators are but too often so deeply pledged to the petty money-lenders that they are unable to resist the pressure, which these latter naturally bring to bear on them, to abstain from asking for advances of seed from the Government.

The remedy which would probably be the most popular amongst the land-owning classes in Egypt, and which has, in fact, frequently been suggested to me by several leading Egyptians, would be to establish a Government Land Bank, which would redeem the whole, or nearly the whole, of the present mortgages, and would for the future advance money at reasonable rates of interest on the security of the land. Those of my native friends who have spoken to me on this subject scarcely appear to realize the grave objections which may be urged against a project of this description, nor the very large amount of capital which would be required to carry it into execution. Apart from the fact that it would result in the Government becoming the creditor of a large part of the population, which is, perhaps, scarcely desirable on political grounds, it is to be observed that, in order to attain the object in view which is, I conceive, to afford permanent relief to the land-owning classes, another step would have to be taken, namely, that all private mortgages upon land, on the security of which the Government had advanced money, should be declared invalid. Unless this were done, a large number of cultivators, after having borrowed at a low rate of interest from the Government, would place second, third, and fourth mortgages on their land on account of loans contracted from money-lenders at high rates. I venture to assert that in a very short time the condition of the land-owning classes, generally, under a system of this sort, would be no better than at present.

I need hardly add that any such radical legislation as the total abolition of the right of mortgage save with a Government Bank is quite out of the question.

There remains, however, another remedy which is more worthy of consideration. I do not say it will save the hopelessly improvident cultivator, but it may afford an opportunity to those who are not hopelessly improvident of saving themselves.

It would be desirable that some respectable banks should take up the class of business now almost exclusively in the hands of the petty money-lenders. I have reason to believe that they have so far abstained from doing so because the business is very troublesome, and more especially in view of the large staff of agents, required—not over lucrative. There can, I think, be no valid objection to the Government acting as pioneer in an enterprise of this sort. Acting on this belief, the Egyptian Government has recently decided to devote £ E. 10,000\* to advances in sums which are in no case to exceed a maximum of 10 in the aggregate, or of £ 2 per feddan†. The rate of interest will be 6 per cent. No advances will be made to proprietors of over 5 feddans. The formalities to be gone through in order to obtain an advance will be of the simplest description.

It has been notified that the Government has no intention of embarking upon banking operations on a large scale. They merely wish to make an experiment in a few selected districts. It will depend on the results of this experiment whether at some future time an endeavour is made to come to some arrangement with a private bank with a view to more extended operations. It is impossible to feel very sanguine of success. All that can for the present be said is that the experiment seems worthy of trial.

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\* £ E. 1 = £ 1 Os. 6d.

† A Feddan is very near ½ = an acre.

[*Extracts from the Report of 1896.*]

“The experience gained has convinced me of the great benefit that an agricultural bank would be to the smaller cultivators. The experiment made this year has not only been a great boon to the villages where the advances were made, but has had the effect of making the money-lenders in the neighbourhood reduce their rates of interest considerably, and has opened the eyes of the fellaheen to the possibility of money being procured at more moderate rates.”

On the whole, I think it may be said that the experiment has proved successful, but I must repeat that it is quite impossible for the Government to undertake operations of this sort on a large scale. It remains to be seen whether any private bank or banks will take the matter up. I hardly feel sanguine that they will do so.

I may mention in connection with this subject that during the year 1896, 8,450 ardebs (an ardeb=267 lbs.) of specially selected seed was sold to the cultivators by the Government at P.T.\* 58 an ardeb. The purchase-money was made payable in three equal instalments spread over the last quarter of the year. Money-lenders were at the same time advancing inferior seed at from P.T. 70 to 100 an ardeb, payable at the time of crop.

It is worthy of consideration whether the system of Government advances of seed should not receive some further extension.

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\* 1 P. T. (Piastra Traffic) = 2½d.

[*Extracts from the Report of 1898.*]

As an experimental measure, the Government at one time advanced £ E. 10,000 in small sums to the fellaheen. The experiment proved sufficiently successful to afford encouragement for private enterprise to enter this field of action. The Egyptian Credit Foncier consented to lower the minimum amount of its advances to £ E. 100. Inasmuch, however, as the advances made by village money-lenders are generally in small sums of less than £ E. 10, it was evident that the limit of £ E. 100 was still too high to reach the majority of those whom it was desirable to relieve.

A further tentative step has now been taken in the direction of dealing with this question. The newly-created National Bank is about to make advances of small sums up to £20 at 9 per cent. interest. Further, the Bank offers advances up to £ 100 at the same rate of interest, to those who wish to pay off their old debts; repayment to the Bank will be made in five yearly instalments due in October of each year, that is to say, at the time the cotton crop is gathered. All such advances will be reported to the Government, who will instruct the tax collectors to enter them on the "Wirde,"\* and effect the recoveries with the taxes.

The 9 per cent. interest will be distributed as follows:  $1\frac{1}{2}$  per cent. will be paid to the local agents of the Bank;  $\frac{1}{2}$  per cent. will go to the tax collectors; the remaining 7 per cent. will be retained by the Bank, which will be put to some expense, notably in the direction of appointing a thoroughly trustworthy European Inspector, who will visit the villages and control the action of the local agents. The services of an official of this description are indispensable.

The experiment will, for the present, be tried in one district only. Should it prove successful, the Bank will be prepared to extend its operations.

As the fellaheen at present habitually borrow money at exorbitant rates of interest—sometimes as high as 40 per cent., and even higher—it is probable that advantage will be taken of the terms

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\* The "Wirde" is the Schedule in the possession of each landowner, setting forth the amounts due for land tax and the dates at which payments should be made.

now offered. But I must repeat what I have said before on this subject, namely, that the measures now in course of execution must still be regarded as wholly experimental. The relations between the money-lenders and the cultivating classes, which are very similar in character in all backward agricultural countries, constitute an economic problem of extreme difficulty. I am not aware that anywhere a thoroughly satisfactory solution of this problem has been found. It is, in fact, impossible to feel sanguine of the success of any protective measures devised with the object of safeguarding the poorer class of cultivators against the consequences of their improvidence. In the present instance, all that is possible is to give the cultivator a fair chance of escaping from his financial embarrassments ; but no measures devised by the Government can prevent his incurring fresh pecuniary obligations of a nature to frustrate the intention of the scheme now contemplated on his behalf. I am well aware of the force of these arguments. They do not constitute a sufficient reason for total inaction ; but they enjoin watchfulness, with a view to deciding, by the light of the practical experience which will eventually be gained, whether it will or will not be desirable to continue the experiments now in course of progress.

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[*Extracts from the Report of 1899.*]

The experiment, however, was sufficient to show both that the fellahen would willingly avail themselves of whatever facilities could be offered for borrowing at a low rate of interest, and that the practical difficulties in the way of recovering the principal and interest, on a number of small loans, though considerable, were not insurmountable.

The next step taken was to induce the Egyptian Credit Foncier to lower the minimum amount of its advances to £ E. 100. This measure was practically unproductive of result, the minimum being still too high to meet the requirements of the mass of the borrowing classes.

The establishment of a National Bank in 1898 enabled a further experiment to be made under circumstances which were more favourable to success. Indeed, one of the main reasons which induced the Government to assent to the creation of this Bank was a desire to facilitate the treatment of the question now under discussion.

The Belbeis district in Lower Egypt was chosen as the field of operations. This district consists of sixty-eight villages. In eighteen of these the land is held by large proprietors. During the spring and early summer of 1899, 1,580 advances amounting in all to £ E. 4,780, were made by the Bank in the fifty villages where the land is held in small lots. These loans were all repayable in the autumn. The result, I am informed by SIR EDWIN PALMER, the Governor of the Bank, "has been thoroughly satisfactory ; the whole of the money due in the year was collected by the Government tax-collectors."

I should explain that the debts of the fellahen may be divided into two distinct categories. In the first place, it is a very general practice amongst the Egyptian cultivators to borrow small sums in the early part of the year and to repay the loan and interest in the autumn, after the cotton has been sold. In the second place, loans larger in amount and of longer duration are, for various reasons, contracted.

It was obvious that very little would be done to relieve the population generally if the Bank confined its operations solely to

the first of these two categories. It is the second class of loan which is most onerous to the population generally, for the rate of interest usually charged by the village money-lenders is so high that the cultivator, having once borrowed money, but too frequently finds himself involved in inextricable financial difficulties as the result of a loan which may originally have been for no very considerable amount of money.

Guided by these considerations, the Bank consented to make 870 loans, amounting in the aggregate to £ E. 26,720, and repayable in five yearly instalments, to the cultivators of the Belbeis district. In all these cases the money was advanced to persons who were already indebted, and who were thus enabled to effect a commutation of their debts on favourable terms.

It is probable that the business has not so far proved sufficiently remunerative to the Bank to compensate for the very considerable amount of trouble and expense involved in dealing with a number of these petty transactions. This, however, is due partly to the fact that the operations have so far been conducted on a small scale. The expenses, which are considerable, owing to the absolute necessity of employing trustworthy and competent supervising agency, will, of course, proportionately decrease as the operations extend.

It was felt, however, that no permanent success could be attained unless the philanthropic considerations which cluster round the treatment of this subject were so far discarded as to place the matter on a sound commercial basis, and thus insure to the Bank an adequate remuneration for their capital outlay. The Government therefore consented to allow the Bank, in addition to 9 per cent., which is the highest rate of interest allowed by law, to charge a commission of 1 per cent., which will go to their local agents in the villages. It is estimated that, of the 9 per cent., which will be received by the Bank, about 3 per cent. will go in expenses, leaving a net profit of 6 per cent., from which, however, any loss incurred by bad debts will have to be deducted.

This arrangement, I hope and believe, is of a nature to interest the Bank in the extension of the scheme. In fact, the Bank has now consented to extend its operations to three more districts. £ E. 100,000 will be advanced in these districts, of which £ E. 25,000 will be devoted to loans repayable within the year. The



balance of £ E.75,000 will be lent on mortgage, the loans being repayable in five yearly instalments.

The popularity of the measures recently taken in the Belbeis district is sufficiently shown by the numerous requests which have been received by the Bank from persons residing in districts which have so far not been comprised within the sphere of operations.

I must, however, repeat the warning which I have given on previous occasions when dealing with this subject. The project is still in an experimental stage. Its ultimate success, considered in the light of a possible solution of a very important and difficult economic problem, depends on whether the majority of the cultivating classes, having once been relieved from any very onerous debts which they may have contracted, will or will not use the comparative financial freedom thus acquired to plunge again into operations from which it will be extremely difficult, if not altogether impossible, to extricate them.

It would be premature at present to express any confident opinion on this point. Such little evidence as is forthcoming, however, rather points to the conclusion that it is erroneous to suppose that the Egyptian fellah will almost invariably incur debt up to the maximum amount of his credit. I do not doubt that a certain number of cultivators, after they have commuted debt on which they are perhaps paying interest at the rate of 40 per cent., or even more, into one on which they will pay 10 per cent., will use the margin of income thus rendered available in order to contract further debt; but I contend that the present scheme may be considered a success if the number of individuals who adopt this ruinous procedure constitute the exceptions rather than the rule.

Much, indeed, has frequently been written and said about the inveterate improvidence of the fellaheen population; much also on the impossibility of saving any one, by legislative or administrative measures, from the consequences of his own folly. I am not prepared to deny that there is much truth in the objections which, on these general grounds, have been occasionally urged against the measures now under discussion. The other side of the question is that, until of recent years, the system of government prevalent in Egypt was certainly not of a nature to encourage thrift. Time will assuredly be required to wean the Egyptian population from habits acquired during the long period when but little respect was shown for the rights of

property, and when the demands of the tax-gatherer were not merely excessive, but also uncertain and capricious. But any one who has seen much of the fellaheen population can bear testimony to the fact that they are a very hard-working and industrious race, who are keenly alive to such matters affecting their own interests as they clearly understand.

I know of no reason for holding that, as a class, they are irretrievably thriftless. In any case, no harm can be done by affording them a fair opportunity for shaking themselves free of the debts by which they are but too often burthened, and thus giving them a starting-point for the exercise of economy in the future. Without, therefore, taking a more sanguine view than would be justified by the present facts of the situation, it is permissible to hope that the arrangements now made will be productive of some real benefit to the mass of the cultivators in Egypt.

Should the operations conducted during the present year afford sufficient encouragement in that direction, it is to be hoped that the sphere of petty loan operations will be gradually extended. In that case, as the sums advanced will be locked up, it will be necessary for the National Bank to increase its capital.

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## THE MAIN FEATURES OF THE EGYPTIAN SYSTEM.

[*Extracts from the Report of 1899.*]

There are, broadly speaking, two methods of dealing with this problem, which, in spite of local differences, presents much the same features in all countries where a backward agricultural population is brought in contact with those modern principles on which the relations between debtor and creditor are based in all civilized countries.

The first is to protect the cultivator from the possible consequences of his own improvidence, ignorance, or carelessness by *protective legislation*, which is devised so that, in one form or another, his freedom of contract is curtailed.

The other is to dispense with all legislative measures of a protective character, and to seek for a solution by giving to the cultivators *facilities for borrowing at reasonable rates*, and thus both affording an opportunity to those who are already embarrassed of shaking themselves free from the grip of the usurer, and at the same time providing a means to those who have so far escaped financial embarrassment of maintaining themselves in a position of solvency.

I need not here discuss the merits and demerits of these two methods. It will be sufficient for my present purposes if I state that the second has been adopted in Egypt in preference to the first method.

There is nothing novel in the principle. Land banks have for a long time past existed in many countries. Such an institution, under the name of the "Credit Foncier," was established some years ago at Cairo. I have explained in my previous Reports that this institution, though in many respects of great utility, did not aid in the solution of the special problem now under discussion, the reason being that the minimum advance made by the "Credit Foncier" was £ 100, a sum in excess of the loans usually contracted by the Egyptian peasantry.

It is in the detailed application of the principle that, so far as my knowledge of the subject enables me to judge, the Egyptian system possesses some novelty. I need hardly add that, in a matter of this sort, the details are of great importance.

Money may be advanced to the cultivators either by the Government or by a private bank.

The objections to purely Government action in Egypt are twofold. In the first place, the Government could not, without much inconvenience, have provided the necessary capital. In the second place, the officials of the Government have not the time to go amongst the villagers and seek out those who are in want of loans. Even if they had the necessary time at their disposal, it is not altogether desirable that they should be employed on work of this sort. Further, they have no personal pecuniary interest in the matter. When it has been publicly notified that, on application to some Government authority at a certain time and place, small loans may be obtained on certain conditions, the Government officials naturally enough, think that they have done all that is required of them. In Egypt a measure of this sort would not suffice to wean the cultivators from their long-established habits. They would continue to resort to the usurer, and to borrow money at, perhaps, 40 per cent. although a notice might be posted in the village informing them that, by walking a few miles, they could, on certain conditions which they would often fail to understand, borrow at 10 per cent. What was required was that some trustworthy agents should seek out clients, and explain to a large number individually the advantages of the plan offered for their acceptance. The Egyptian Government did, indeed, act as a pioneer in this matter. In 1896 it advanced a sum of £ E.10,000, confining its operations to a small cluster of villages. But although the experiment proved successful, in so far as the recovery of the money was concerned, enough was learnt to shew that if the scale of operations was to be extended resort must be made to private enterprise.

On the other hand, the employment of private enterprise is not without its special disadvantages. The main obstacle, which stood in the way of its employment in Egypt, was that no Bank possessed the administrative agency necessary to insure the punctual collection of the interest and capital due on a very large number of petty loan operations. Neither, under the circumstances, could the agency have been created. It was clear at a glance that any attempt to create it would be so costly as to render it necessary to charge a very high rate of interest in order to cover the expenses and leave a fair margin of profit to the Bank. Thus, the main object of the scheme would have been frustrated.

Under these circumstances, an endeavour was made to devise a plan which would combine the advantages and obviate the disadvantages of the two systems. This was done in the following manner. The Bank incurs the whole financial responsibility of the undertaking. It takes all the profits, and bears all the losses. The Government has no direct pecuniary interest in the operations. The Bank, also, through its own agents, does all the work of lending. In every district in which operations are undertaken an agent is appointed, who receives a commission of 1 per cent. per annum on any loan that he may make. These agents are placed under the general supervision of one English inspector. I wish to draw particular attention to this latter detail, as it is an essential part of the scheme. The success, which has unquestionably been attained, is mainly due to the fact that he constantly visits the villages where operations have been undertaken. He speaks Arabic well, and thoroughly understands the habits and customs of the people. He is thus able to control the local agents, both in the interests of the Bank and of the borrower and he is able to explain verbally to the latter the precise nature of the transactions in which they are engaging.

It is only when the stage of repayment is reached that the Government steps in. The tax-gatherers collect the money due to the Bank at the same time as the land tax. Thus the Bank is relieved of all the expenses of collection.

Money is advanced at the rate of 10 per cent. of which, as I have already mentioned, 1 per cent. goes to the local agents in the form of commission. Of the remaining 9 per cent. it is estimated that about 3 per cent. goes in covering the expenses of the Bank, thus leaving a net profit of 6 per cent. from which, however, bad debts have to be deducted.

SIR EDWIN PALMER, the Governor of the National Bank, who has taken a very special interest in this matter, writes to me as follows:—

“The experiment so far has undoubtedly been a success, and the relief afforded to some thousands of fellaheen must have been considerable. The fact that the Bank is prepared to advance small sums at a fair rate of interest has, in the districts where the Bank is working caused a fall in the rate usually charged by money-lenders, and the fellaheen have indirectly benefited in this way too. In one district, the largest money-lender left when the Bank began operations; in another, the Bank was regularly boycotted, and it was impossible to find an

agent amongst the people of the district of any standing, they being nearly all money-lenders themselves. An outsider had, therefore, to be appointed ; he had great difficulties at first, but the people of this district now begin to realize the advantages, and are dealing with the Bank."

I stated last year that I considered the scheme as an experiment. I am still of the same opinion. Some long time must, in fact, yet elapse before it can be considered as having passed out of the experimental stage. Manifestly, the main danger is that the cultivators, being once free from crushing debt, will use the margin of income they thus obtain to incur fresh debt. That some of them will adopt this procedure is highly probable. That the majority will fall into the same error is very far from being certain. Any opinion on this subject at present can be little more than a matter of conjecture. Lengthened experience alone can show whether, now that the taxes are no longer arbitrary and capricious, and the rights of property are, in fact as well as in name, secured by law, the fellaheen of Egypt will abandon the habits of extravagance of which they have so often been accused, and develop national habits of thrift. I can only speak of my personal opinion, formed after long residence in this country. It is that, under favourable conditions for the exercise of economy, the Egyptian peasant will probably prove more thrifty than the English, though less so than the French member of a corresponding class of society. I am encouraged in this belief by the following remarks which have been addressed to me by SIR EDWIN PALMER. "There is," he says, "nothing to indicate that the fellaheen, once relieved of their onerous debts to the money-lenders, are inclined to plunge again into debt, beyond the debt to the Bank ; indeed, the facility with which the recovery of the loans or instalments has been effected would seem to show that this is not the case."

However this may be, it is abundantly clear that the experiment which is one of great interest and importance, is well worthy of a further and prolonged trial.

Before leaving this subject, I wish to make a few remarks, which may be interesting both because they are illustrative of the practices of the village usurers, and because they may serve to explain the advantages of the conditions now offered to the villagers by the Bank.

I have occasionally heard it stated that 10 per cent. is too high a rate of interest to charge, as the fellaheen can often obtain loans at that rate from the local money-lenders.

I have already explained that, in order that these operations should be properly conducted, it is necessary to employ a somewhat expensive agency. I am convinced that there could be no greater mistake than to employ very cheap—and, therefore untrustworthy—agents. I do not think that 6 per cent., including bad debts, can be held to be more than a reasonable profit for the Bank. Moreover I greatly doubt whether the fellaheen would confirm the statement that they can, without the assistance of the Bank, obtain money at so low a rate as 10 per cent. Even the loans, which the small money-lenders make nominally at 10 per cent., generally involve paying in reality interest at a far higher rate, the reason being that, throughout the currency of the loan, full interest is charged on the total sum originally advanced. No allowance is made for a reduction of interest on account of the annual repayments of portions of the capital. I give an illustration of the two proceedings, *viz.*, that adopted by the Bank, and that very commonly adopted by the usurers. Suppose the Bank to advance £ E. 100 for five years at 10 per cent., the instalments due to the Bank would be as follows:—

				Capital.	Interest.	TOTAL.
				£ E.	£ E.	£ E.
1st year	...	...	...	20	10	30
2nd year	...	...	...	20	8	28
3rd year	...	...	...	20	6	26
4th year	...	...	...	20	4	24
5th year	...	...	...	20	2	22
TOTAL—			...	100	30	130

The borrower would thus, in the course of five years, pay £ E. 30 for the use of the money advanced to him.

Under the alternative procedure, he would pay five equal instalments of £ E. 30, making in all £ E. 150, of which £ E. 50 would be on account of interest.

In point of fact, to the fellaheen the Bank's charge of £ E. 30 is equivalent to a loan contracted from the usurer at 6 per cent., and I do not think that money is ever obtained at so low a rate as this.

The contracts with the usurers not unfrequently render it difficult for the fellah, who is already indebted, to take advantage of the terms now offered by the Bank. A common form of contract is that of a loan of £E.100 for ten years. The yearly instalment for repayment of capital and interest is £E.20. Thus, under the procedure I have explained above, in all £ E. 200 is paid in ten years. Supposing now that, in the course of two years, a fellah has paid £E.40, of which one-half would be interest and one-half repayment of capital. It might be supposed that, on payment of £ E. 80, he would be free from the debt. But such is not at all the case. Under the terms of the original contract, he is often debarred from freeing himself unless he pays the difference between £E.200 the total amount which would have been paid in ten years—and £ E. 40, being the sum he has already paid. In other words, in order to liberate himself, he has to pay £ E. 160, *minus* discount at the rate of 7 per cent. on £ E. 160. In cases of this sort the Bank can be of but little assistance.

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[*Extracts from the Report of 1901.*]

The distinctive feature of the Egyptian plan for dealing with this interesting and important subject is that a certain amount of co-operation is established between the Government and the National Bank. The Bank makes the advances, and incurs the whole financial responsibility of the undertaking. The Government, through the agency of its tax-gatherers, collects the money due to the Bank at the same time as the land tax. Thus, the Bank, being relieved of the necessity of maintaining an expensive staff of subordinates, is able to advance money to the peasantry at a relatively low rate of interest.

Since the Bank commenced making these loans in 1899, over 34,000 loans have been contracted; relief has, therefore, been afforded to an equivalent number of small proprietors. There are now 15,269 loans outstanding, for an aggregate amount of £E.402,000; of these, 3,326 are repayable within the year, and 11,943 repayable in five years.

The amount that fell due in 1901 was £ E. 146,000. This sum was due from over 21,000 borrowers. The whole amount, with the exception of £E.600, had been recovered on the 31st December last, and the small sum still owing will probably be collected this year.

The objection to the plan adopted in Egypt is that the class of operation involved is more properly the work of a Land Bank than of an ordinary bank. The National Bank of Egypt cannot reasonably be expected to lock up more than £E.400,000 of its capital in undertakings of this nature. For the moment, the difficulty has been met by the Government advancing £E.250,000 to the Bank. This will, at all events, enable the operations to continue for the time being. Whether any more complete change of system will be necessary must be a matter for subsequent consideration. There can, I venture to think, be no question of abandoning the experiment which has so far proved eminently successful. There can be no doubt that the Egyptian fellaheen begin to realize the advantages of getting money at a moderate rate of interest, and that they are willing to take the opportunity now afforded to them of shaking themselves free from the grip of the village usurers. From all I hear, I do not doubt that it

would be quite possible, were the capital available, to extend very considerably the operations of the Bank. But in a matter of this sort it is as well to move slowly, more especially as careful supervision is an essential element to the attainment of the object in view. I think, therefore, that for the time being it is not necessary to arrange for any more extended operations than those which may be covered by the additional £ E. 250,000 which the Government has advanced to the Bank.

I have, in previous Reports, mentioned that the real test of success which should eventually be applied to the experiment, which has now been going on for three years, is whether the fellaheen will, or will not, use the advantages offered them to incur fresh debts. It is naturally difficult to obtain precise information on this subject. Moreover, sufficient time has not elapsed to enable the experiment to have a fair trial. So far, however, as I have been able to judge, the alleged irremediable extravagance of the fellaheen has, as I anticipated would be the case, been greatly exaggerated. Up to the present time, the number of those who have used their improved credit in order to incur fresh debt has, to the best of my belief, been very small.

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[*Extracts from the Report of 1902.*]

After a prolonged trial, it appeared that the somewhat novel system adopted in Egypt some few years ago had passed out of the experimental stage, and that the introduction of a scheme of a more permanent character than that heretofore adopted was justifiable.

Negotiations having this object in view were set on foot, with the result that on the 1st June, 1902, an Agricultural Bank was started under the auspices of the National Bank of Egypt. All loans outstanding with the National Bank were transferred to the new bank, whose sole business it is to lend money in small sums to the fellaheen. The capital of the bank was fixed at £2,500,000 of which £1,250,000 has been already paid up. Interest at the rate of 3 per cent. is guaranteed by the Government. It was, at the same time, arranged that the rate of interest at which money was advanced to the fellaheen, which had previously been 10 per cent., should be lowered to 9 per cent.

The distinctive feature of the Egyptian system is that, although the whole of the management is in the hands of the bank, the Government tax-collectors collect the sums due on account of interest and sinking fund.

The reasons why the Egyptian system has attained a certain measure of success are mainly two-fold. They are :—

1. That, although the action of the Government has been so far philanthropic that they have wished to benefit a large and important class of the community, the undertaking has in no degree been established on a philanthropic basis. On the contrary, the basis has been strictly commercial. There was, in the first instance, some very natural difficulty in convincing capitalists that the business would be fairly lucrative; but when, by applying the test of actual experiment, this difficulty was overcome, the main obstacle to success was removed.

•2. The supervision, which has been conducted by very carefully selected British agents, has been capable, vigilant, and honest.

When I say that a certain degree of success has been attained in Egypt, I merely mean that, under the new system, it is clear that the fellaheen are anxious to borrow, and that the arrangement for

advances and recoveries has worked well. Before it can be said that the system has been completely successful, it has to be shown that the fellaheen are not, generally, making use of their improved credit to contract fresh debt at ruinous rates of interest.

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## Appendix I.

[*Extracts from a Minute of Sir Richard Temple, Governor of Bombay, dated 30th August, 1878.*]

By our despatches of the 19th January and the 4th February last we submitted to the Government of India a draft Bill for the relief of the indebted ryots in certain districts of the Deccan, together with Minutes and papers relating thereto : among which was a Minute of my own, dated 12th November last.

2. By a despatch dated the 1st July last, the Government of India sent for our opinion a Bill which they propose to be substituted for our Bill, and which we are invited to accept as a satisfactory mode of dealing with the questions at issue.

3. While thankfully admitting the advantages proposed to be given to the ryots by the Bill of the Government of India, I am obliged to represent that this Bill is not sufficient to fulfil the objects which the Government of Bombay had in view when proposing legislation, and therefore cannot be regarded by us as a satisfactory mode of dealing with the questions at issue. In general terms, it must be described as omitting the most essential of the several provisions which we devised for the protection of the ryots, and therefore as taking some of the heart kernel and substance out of our measure. I am sure, therefore, that my Honourable Colleagues will concur with me in submitting a further representation to the Government of India on the subject.

4. Our proposals are justly summarized in paragraph 3 of the despatch of Government of India of 1st July, thus—

- (a) to compel the courts, in cases where agriculturists are sued on bonds or for money due, to go behind the terms of the bond, to enquire into the justice of the claim, and to take into consideration the equity of the interest charged, even though it may have been distinctly agreed to by the defendant ;
- (b) to make it illegal to award compound interest, or more interest than the amount of the principal found to be due ;
- (c) to limit the liability of a ryot for debts incurred by his ancestors ;

- (d) to empower a ryot at any time to claim the benefit of the Insolvency Court, instead of, as at present, only when a decree has been passed against him ; and
- (e) to protect a ryot's ryotwari land from sale for debt except when it has been specifically pledged by him in a bond duly registered, and to require that all bonds for land shall be registered, whatever the value of the land pledged.

7. The most important point of all is stated by the Government of India thus : [See (a) above.]

13. The gist of the matter is this :—The Deccan ryots were sued, still are sued, and will always be sued—unless there be fresh legislation—on bonds which are, in many instances, utterly unjust, though they may have been executed in due form. I mean by “unjust” repugnant to the sense of natural justice as between man and man, that moral sense which is present in the minds of all men whether educated or uneducated. The harassment therefrom arising drove these ryots in 1875 to commit agrarian outrages. A special commission showed after elaborate inquiry that the essential injustice of the majority of the bonds was the root of the mischief. It is clear that this injustice would be demonstrated by any judicial inquiry which might be had regarding the origin, progress and circumstances of the debts. The existing law provides for judgment being given on the bonds only ; that much is certain. Whether it provides for the court, by its own inquiries, going behind the bond is, as we submit, uncertain. The Government of India seems to consider that it does so provide, while apparently admitting that the provision is indirect rather than direct, and must be gathered from scattered rulings and clauses, rather than learnt from positively clear enactment. We submit with deference that the uncertainty is such that the courts practically do not go, can hardly be expected to go, and for the most part are sure not to go, behind the bond. Therefore we urge that there ought to be direct and positive legislation without which the existing evils must be perpetuated.

16. I must next advert to the apprehension apparently felt by the Government of India lest we should by our point (a) (causing the court to go behind the bond) unduly throw upon the plaintiff the burden of proof in cases where no defence is attempted.

17. At present the indebted ryots seldom set up any defence to these claims. They see the futility of disputing the bonds in court, whatever they may think of the injustice. Indeed they have no chance whatever before the law of setting up any defence which the courts could be expected to act upon. But if our point (*a*) be passed into law, they would set up defences fast enough, and this too with some chance of equitable success. In this event it is manifestly just and reasonable that the burden of proof should fall upon the plaintiffs. But in the absence of defence in cases of this sort it seems to me but right that the plaintiff should have to satisfy the court that the bond is a just one. I am unable to follow the reasoning (as above quoted) to the effect that to cast on the plaintiff the burden of proving receipt of the consideration, and the absence of fraud, would afford opportunities of evasion to dishonest debtors, and might thus be an incentive to reckless borrowing. Here we have educated, skilful, and wealthy creditors bringing claims against uneducated, unskilful, and poor debtors. Is it unfair to cast upon such creditors the burden of proving such claims to be just, even if undefended? On the contrary, does not fairness demand that such burden should be cast upon them? In fact, too, these ryot-debtors are not, for the most part, evasive or dishonest debtors; they generally pay all, and much more than all, they really owe! It is this notorious circumstance which underlies the whole argument. The feeling of despair of ever getting out of the money-lenders' books makes them reckless in going on borrowing and borrowing and destroys all hope of independence. Our provisions will not be incentives to reckless borrowing, but will have the very reverse effect.

18. It may be, as apprehended by the Government of India, that our provisions will throw much work on the courts, more perhaps than they can conveniently get through. We are not indeed sure that this will be the result; but if it be so, then it ought not, in our judgment, to be allowed for a moment to prevent the measure being carried. If there were to be some temporary increase of judicial establishments in four districts (the Bill will apply to four districts only and perhaps to some special localities in addition) we shall have to meet the cost from Provincial finance, which we are most willing to do. Even then the cost would probably be counterbalanced by increase of stamp revenue. But the net cost, if any, would be so inconsiderable that we could not venture to urge it in the face of the clear considerations of justice towards so important a class of our peasantry.

19. No doubt, as justly observed by the Government of India our proposal will conflict with section 102 of the Evidence Act regarding the burden of proof. But we submit that this *per se* is no prohibitive reason against our proposal. It certainly renders special legislation necessary, and therefore we have now to apply to the Legislature. The question is one of plain justice in these cases. Once that is determined, it becomes, we submit, the duty of the Legislature to frame a suitable law to supplement the general law.

20. We willingly acknowledge that either by the new Civil Procedure Code, or by the new Bill, an indebted ryot may, by applying for benefit of insolvency provisions, save himself from arrest and imprisonment ; that his implements and agricultural cattle cannot be sold in execution of decree for debt ; that his cottage, his land, his tenure and rights therein cannot be so sold either—all of which constitute beneficial improvements in his condition, for which he may indeed be grateful to the Legislature. We now receive permission to provide by local legislation that he shall not be unreasonably liable for ancestral debts, nor for an usurious rate of compound interest—all which constitutes a still further improvement, and a further cause of thankfulness.

21. Still we submit that despite these various provisions there may be, and will be, very many unjust bonds, to which the ryots will have to submit, unless the courts be not only empowered, but obliged, to go behind the bonds.

22. No exclusion of ancestral debts, no restriction of usurious interest, can prevent bonds being drawn up for a fictitious principal, or in acknowledgment of amounts which were never given by the creditor nor received by the debtor. And it is this concoction, this manipulation, as it were, of the principal, which is one of the strongest elements of injustice in these bonds, which injustice cannot possibly be remedied unless the courts be obliged to go behind the bonds.

23. Again, notwithstanding the humane provisions of the insolvency law, the merciful exemption of implements of land, and of cottages from sale, still there are many domestic articles which cannot be so exempted, which are of lesser importance, and more particularly the standing crop which is of great importance, as it supplies the food of the ryot and his family. What arrangements an insolvent court would make for the subsistence of the ryot cannot exactly be foreseen. Possibly some arrangement would be made, though I am advised that the law does not compel the court to make any such arrangements.



Still at the best the creditor would have a strong and tight grasp on the standing crop. I do not mention the garnered crop, because the creditor would never let it reach the stage of storage without his interposition. He would attack it while it was standing on the ground. He would compel the ryot to hypothecate it for the debt. He would leave to the ryot such subsistence as he (the creditor) deemed fit. The standing crop, being the only food supply of the ryot, is so essential a part of his little possessions that he must pay extreme deference to the creditor who is virtually master of that crop. Then comes the critical difficulty. The creditor presents to the ryot an old bond, which must be paid off immediately, or else renewed on exorbitant terms. At present these bonds, as already stated, are often flagrantly unjust. This injustice will, we hope, be mitigated by legislation, restricting usurious interest—even then there will remain but too much scope for injustice in these bonds. Restrictions on usurious interest may be useful. Still they cannot prevent alterations in the amount of the principal as already shown. Thus the ryot must ‘stand and deliver’ to the bond, under penalty of having his crop attached and his food supply interfered with. The temptation to renew on some exorbitant terms will be generally irresistible. The creditors are notoriously ingenious in framing terms which, though exorbitant, will yet fail to show on the face of them usurious interest or anything else that may be illegal, and will yet evade the just intentions of the law. Then simultaneously with renewal of the arrangement the old bond will be cancelled. The renewed bond will be executed, and will be *the* one formal valid bond, as between the parties, to be presented in court. And the ryot will from time to time be obliged to pay upon that, or else will have his crop attached, and his food supply suddenly stopped. If unfortunately that bond be unjust, as it but too often will be, then the ryot will be, to a considerable extent, the victim of injustice. He will not be indeed so helplessly a victim as he has been heretofore, as he will avoid paying a demonstrably usurious interest; he will be able to save himself from imprisonment and his land from sale. But for fear of his crop and his food supply he will still be, to some considerable extent, a victim.

24. From this oppression he may be saved altogether, and his liability may be limited to its proper proportions, by our proposal (a)—obliging the courts to go behind the bonds. That, at all events, is the most effectual provision that can be devised. And if well and

carefully worked, as it probably would be worked, under a vigilant administration, it will be effectual. If this be enacted, then the Legislature will have done all it can for the ryot in this matter. But if this be not enacted, then the law, notwithstanding the other improvement, will be incomplete for this purpose ; the remedies will be only half measures, and much of the existing evils will remain. In that case we shall have undertaken legislation, and yet have fallen short of our aim, and have failed to effect our purpose. Perhaps even an impression might arise that the existing evils are irremediable, whereas all the time they are remediable as we believe. We have a fair ground for renewing our application to the Legislature, because we are asking not for the recognition of principles which the Government of India disallow, but for the enforcement of principles which they seem to allow.

25. For all these reasons I propose with the concurrence of my honourable colleagues to request earnestly the Government of India to allow the sections quoted in this Minute as taken from our Bill to form a part of their Bill.

26. In conclusion, while exposing certain evils and suggesting their remedy, I am far from implying either that the money-lender is altogether blameable or that the ryot is altogether pitiable. With all his faults, the money-lender is a useful man, and often gives credit when it is most needed. With all his sorrows, the ryot enjoys many of those advantages which peasants most value.

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## Appendix II.

[*Despatch from the Secretary of State for India, to the Governor-General of India in Council,—No. 63, (Legislative), dated the 26th December, 1878.*]

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I forward, for the consideration of Your Excellency in Council, copy of a despatch † which I have addressed to the Government of Bombay relative to a Bill which has been introduced into the Bombay Council for the relief of indebted agriculturists in certain parts of the Presidency of Bombay.

† No. 4, dated the  
26th December  
1878.

3. In my despatch to the Government of Bombay I have expressed at length certain views which have presented themselves to my mind on a consideration of the report of the Commission appointed to enquire into the Deccan riots, and I am desirous that Your Excellency in Council should consider these remarks in connection with further legislation on this important subject.

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[*Despatch from the Secretary of State for India, to the Governor in Council, Bombay,—No. 4 (Legislative), dated the 26th December, 1878.*]

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I have to acknowledge the receipt of the despatch from Your Excellency in Council, dated the 30th September last, No. 11, transmitting for my information copy of a “ Bill for the Relief of Indebted Agriculturists in certain parts of the Presidency of Bombay, ” which has been introduced into your Legislative Council.

2. On the 16th November I despatched to Your Excellency the following telegraphic message :

“ Delay proceeding with Indebted Agriculturists’ Bill. Despatch follows.”

3. I now proceed to state the reasons which induce me to doubt whether the provisions in the measure before me are at all adequate for grappling with the evils which have been so prominently brought to light in the report of the Deccan Riots Commission.

4. When that report arrived in this country in May 1876, Lord Salisbury was so deeply impressed with the distressing picture therein given of the agricultural population in the Deccan, that he awaited with great anxiety some communication from the Government of India as to the steps intended to be taken. But none such having arrived after an interval of nearly a year-and-a-half, His Lordship appointed a Select Committee of his Council to consider the report.

5. The Committee began to sit in November 1877, held several meetings and examined some experienced witnesses well acquainted with the Bombay Presidency ; but before they had terminated their inquiries, a despatch was received from Your Excellency in Council in February of the present year enclosing the draft of a Bill for the relief of Indebted Agriculturists in the Presidency of Bombay, and which you desired to have introduced into the Council of the Supreme Government.

6. That Bill contained three main principles :

- (1) That the Courts should be obliged to enter into the merits of every money claim whether secured by bond or not, and should only award such sums, whether for principal or interest, as they deemed just, and should in no case give compound interest or a larger amount of interest than the principal sum.
- (2) That the principle of the Insolvent Act, as prevailing in the Presidency town, should be applied to the Deccan Agriculturists.
- (3) That land should not be sold in execution for debt, unless specially pledged in a bond duly registered.

Lord Salisbury, although not fully satisfied with all the principles contained in this measure, thought the occasion for attempting remedial legislation to be so urgent that he sanctioned by telegram the introduction of the Bill, being quite willing that the experimental legislation contemplated in the Council of the Governor-General should be attempted. I also am of the same opinion.

7. Leave was accordingly given for the introduction of the Bill into the Council of the Governor-General on the 28th June last, but,

for reasons which have not been transmitted to me, the Government of India preferred, instead of one comprehensive Act, that your Government should pass a law dealing with some minor points relating to interest and to ancestral debts. The bill which I have now before me is the result of the action of the Supreme Government.

8. I can well understand the difficulties which have deterred the Government of India from dealing with this subject as a whole, and which have induced them to leave minor points to be disposed of by the Local Government ; but if the evils sought to be remedied are capable of being eradicated by legislation, I am clearly of opinion that they should not be dealt with piece-meal.

9. The very able report of the Commission and the mass of valuable information contained in the Appendices enable us, I think, to draw the conclusion that some of the great causes which lie at the bottom of the poverty of the Deccan are wholly beyond the reach of the legislator, and are inherent in the national character and in the customs which have prevailed for countless generations. The Deccan ryots, like the general mass of the cultivating classes in other parts of India, are entirely without capital, and are driven on the first bad harvest into the hands of the money-lender, not only for the means to till their fields, but for food to keep themselves and their cattle alive till the crops of the next season are matured. This fact has created the system of borrowing at high interest which prevails so largely amongst the agricultural population, and has made the existence of a money-lender in a Hindu village as essential as that of a ploughman.

10. The normal condition of a Hindu cultivator is much aggravated by local circumstances in parts of the Deccan. The soil is sterile, the climate is precarious, a good crop being in some parts obtained only once in three years, the fall of rain is scanty, the peasantry, though a sturdy and ordinarily a law-abiding people, are described as "utterly uneducated and with a narrow range of intelligence." It is obvious that the causes mentioned in this and the preceding paragraph are not to be easily modified by any legislative act.

11. The districts in which the riots took place came into British possessions in 1819, and at that period and for 20 years afterwards diverse causes, such as the ravages of Holkar's army and the dreadful famine which followed his campaign—a famine which was repeated

two or three times during the first 20 years of the century—the subsequently heavy fall of prices, and the consequently oppressive weight of the old Mahratta rate of assessment which was at first continued by the Government of the day, all these had produced an amount of poverty and ruin which the Settlement officer writing in 1833 found it impossible to describe.

12. The Government of that day, however, made strenuous efforts to better this state of things. They reduced the assessment from an average rate of  $13\frac{1}{2}$  annas to 7 annas, they gave the cultivators for the first time fixity of tenure, and they abolished extra cesses.

13. A Resolution of the Government of Bombay, dated the 30th August 1875, describes the satisfactory results of this new settlement of the land: “In 1838 more than 50 per cent. of arable land was waste; in 1871 only one per cent. Population increased, during the term of the settlement,  $39\frac{1}{2}$  per cent.; agricultural cattle 19 per cent.; ploughs  $22\frac{1}{2}$  per cent.; carts 270 per cent.; and wells 40 per cent. Government land was unsaleable in 1838; during the last five years of the settlement, examination of the registration records showed that it fetched from 10 to 52 times its assessment. Thirty years ago there were no made roads, and communication was costly and difficult; the taluka is now traversed by the railway and by several excellent roads, and the increase in the number of carts indicates the extent to which the people avail themselves of the facilities of communication with markets.”

14. Satisfactory as this picture of progress is (and similar ones may be produced from all parts of India), there is undeniable evidence in the report before me that the very improvements introduced under our rule, such as fixity of tenure and lowering of the assessments, have been the principal causes of the great destitution which the Commissioners found to exist.

15. The saleable value of the land greatly increased the credit of the ryot, and encouraged beyond measure the national habit of borrowing, which I have before observed on. High prices led to extended cultivation, to more expensive modes of living, to larger outlay on the great stimulant to Hindu expenditure, marriage ceremonies. Recourse to the money-lender became then more frequent than before and the class of money-lenders competing for custom increased in most undue proportions. The first fall in prices, and the

first bad harvests, both of which have occurred in these districts; found the cultivators as poor as ever, but encumbered with an additional mass of debt. Still no one would advocate as an amendment of the law that we should abolish fixity of tenure, or increase the assessment on the land.

16. Up to this point, then, I can see no opening on which the legislator can enter with effect. In all civilized societies there is a vast amount of suffering and destitution, very lamentable to contemplate, but which it is wholly out of the powers of the State by any direct action to eradicate. All that Government can do is to take that its own institutions shall not aggravate the misery which so often follows the spontaneous action of the population.

17. This last observation brings me to the consideration of the Bill now before me. Your Government has distinctly perceived that the courts of justice we have instituted, and the law they administer operate most harshly, and frequently with great injustice, on debtors, who form the great bulk of the population. Here, therefore, is an opportunity for the beneficial interference of Government. Both the Bills which I have alluded to above have been framed with the view of mitigating the law, and of extending the powers of Judges to modify the contracts entered into between man and man.

18. I may say at once, after full consideration, that the bill introduced into Your Excellency's Council appears to me to be so dependent upon the character of the Judge, and so likely to be defeated by agreements between helpless debtors and wily creditors, that I cannot suppose it will lead to any substantial results.

19. The question remains as to what shall be done, for it is clear that some alteration in the existing law is imperatively called for. A fitting measure can only be properly prepared in India. For the consideration of the two Governments I proceed to notice the most salient points which have presented themselves to me on this head in the Report and Appendices of the Commissioners and the lines of improvement which have suggested themselves.

20. Under Native Government, it seems no assistance was ordinarily afforded by the State to a creditor for the recovery of his debts. No court of justice was open to him, and he was left to his own devices to extort what was due, Government winking at very forcible measures that were occasionally employed. The result was not so bad as might have been expected. It speaks well for the

national character that contracts were rarely repudiated. And the Commissioners observe that in these proceedings "honesty was the best policy for the ryot, and caution was a necessity to the moneylender".

21. On the establishment of our rule, however, courts of justice were established everywhere.

22. It is abundantly manifest to me, on the evidence collected by the Commissioners, that no evil has been so loudly, and I must say so justly, complained of by the people as the action of the courts. The extreme severity of the law on debtors has been pointed out by the report.

23. The Judges are only the instruments for enforcing the law as it is, and no blame is imputable to them. But the extracts from the statements of the Judges themselves, cited by MR. COLVIN, demonstrate completely that, irrespective of the hardness of the law, they are incapable of administering justice between debtor and creditor.

24. One Judge says—"the Subordinate Judges in the district are much overworked, and really have not time to investigate cases properly and weigh the evidence"; another says, "our Subordinate Judges are too hard-worked to allow, even if they were inclined to do so, of their going into the history of such cases. The court which was inclined to go into the old history of a case would have nothing but the *sowkar's* books to go upon if he produced them."

25. Another Judge enumerates the frauds perpetrated by the money-lenders, and states that they are practised with impunity. When "the deluded *kumbi* \* \* \* is dragged into court he is unable to answer the claims, or if he states a defence he is not in a position to prove it".

26. The Commission also assign another reason for our courts being mere instruments in the hands of the money-lenders, namely, their great distance from the home of the debtor. A money-lender may easily instruct a pleader to take out process against a debtor in a court 40 or 50 miles distant at little cost to himself, but it is ruin for a cultivator, dependent on his daily labour, to absent himself for days together from his field, even if he has a valid defence.

27. Here then it is quite clear we have evils produced by the legislature itself, and which it is within the competence of Government to extirpate.

28. I am extremely unwilling at any time, but especially now, to suggest any increase to the cost of administration; but if it is



made manifest that our courts of justice are inefficient in these special cases, and that our Judges admit they have not time to inquire into the real facts by a thorough investigation, I would suggest that although an addition to the cost of administration is very much to be deprecated, it is imperative to remedy the defects here pointed out. A re-distribution of expenditure might be made, and I observe that it is stated in the Commissioners' report that 88 subordinate courts bring in a revenue of Rs. 16,89,744, and that the expenditure, including salaries of Judges, is only Rs. 6,90,717.

29. Evils such as have been depicted above, arising out of the costliness and inaccessibility of courts of justice, though of a much slighter character, existed in England also, and the remedy suggested was the establishment of Small Cause Courts. This innovation, after having been opposed sturdily for many years, was finally adopted, and has proved so eminently successful that nearly every year witnesses some extension of their powers. In India also the institution has been partially adopted. But it is from France that the most important evidence can be obtained as to the value of local courts. The agricultural population there is more akin than the English to that of India, inasmuch as French landed property is in the hands of innumerable petty owners, who cultivate with their own hands.

30. In that country small causes up to 100 francs are tried in every village before the Juge de Paix. The proceedings are summary, written pleadings are prohibited, and his decision is final on all sums not exceeding 50 francs. The early meeting of the parties before the Judge in order to produce an amicable settlement of the suit, which is so strongly insisted upon by MR. BENTHAM, is spoken of by the French authorities in the highest terms.

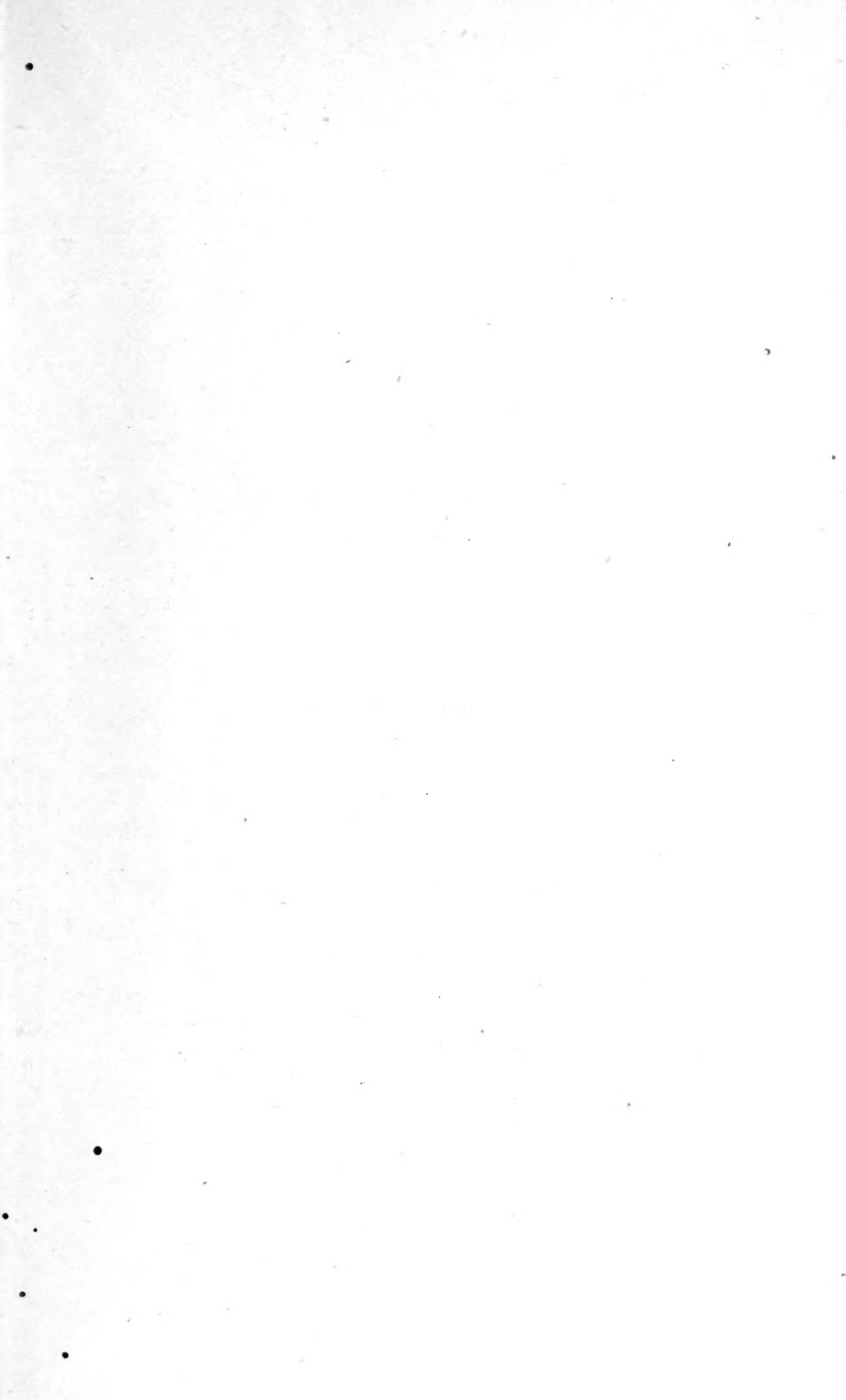
31. I cannot doubt that the existence of courts with summary jurisdiction and without appeal up to a limited amount, and possibly with the exclusion of professional pleaders, placed in localities within reach of the suitor's home, would tend to remove many of the evils which have been brought to notice.

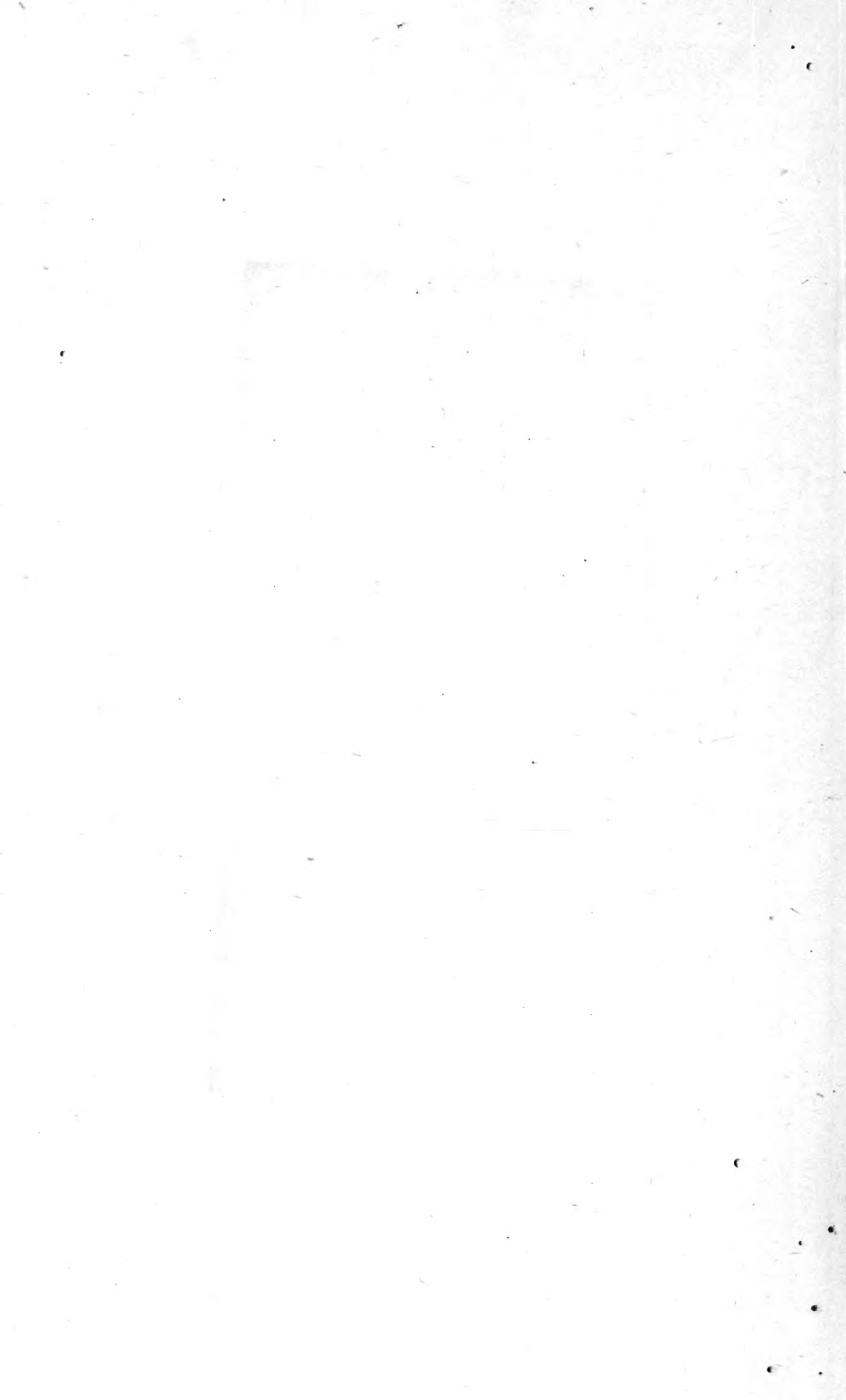
32. I am quite aware of the difficulties which intervene to prevent the entrusting of large summary powers to Subordinate Judges, and that no portion of a Judge's functions requires more experience and self-control than the exercise of that large discretion over contracts which the High Court inculcates as belonging to Indian Judges under the law.

For this reason it is obvious that the summary jurisdiction to be attributed to Subordinate Judges should only extend to a very limited amount.

33. But I am inclined to think that the principle of summary jurisdiction without appeal might be conferred experimentally on all civil Judges in the Deccan with great benefit, and the limit to be fixed would of course vary with the rank of the Judge. If the District Judge could devote one day in the week to the disposal of small causes up to, say, Rs. 500, as was the practice formerly of the Supreme Court at Bombay, he would, in my opinion, confer infinite benefit on the community ; he would afford an example to the courts below him of the manner in which such jurisdiction should be exercised ; and he would personally derive the benefit which experience in this country proves to result from a Judge of Appeal being occasionally employed in trying original causes.

34. How far these suggestions can be made applicable to the portions of India to which the investigation of the Deccan Riots Commission have extended, I leave it for the Supreme Government, in communication with Your Excellency in Council, to decide ; but I am desirous that no time should be lost, and that a comprehensive measure should be at once proceeded with, founded on the principles which I have indicated, and on those which Lord Salisbury had previously sanctioned.





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