

19

**A BILL TO CONTROL
AND
REGULATE MONEY-LENDING
BY**

Dr. B. R. AMBEDKAR,

M.A., Ph. D., D. Sc., Bar-at-Law.

**INDEPENDENT LABOUR PARTY
PUBLICATIONS**

No. 2

1938

Price 1/-Anna

Bill No. of 1938.**A Bill to Control and Regulate Money-Lending****Table of Contents****CHAPTER I****Preliminary**

- Sec. 1 Short Title, Extent and Commencement.
Sec. 2 Definitions
Sec. 3 Provisions of the Act not affected by laws,
customs or contracts.

CHAPTER II**Licensing of Money-lenders**

- Sec. 4 Prohibition of Money-lending without license.
Sec. 5 Name in which license to be taken out.
Sec. 6 Particulars to be stated in the license.
Sec. 7 Necessity for certificate for license.
Sec. 8 Particulars to be stated in the certificate.
Sec. 9 Authority competent to grant certificate.
Sec. 10 Ground for refusing certificate
Sec. 11 Recording of reasons for refusal.
Sec. 12 Appeal against order of refusal.
Sec. 13 Authority competent to grant licence.
Sec. 14 Duration of license.
Sec. 15 Fee for license.
Sec. 16 Penalty for breaches of provisions regarding
license.

CHAPTER III**Suspension and Revocation of License**

- Sec. 17 Suspension etc. of license on conviction.
Sec. 18 Appeal against order of suspension and revocation.
Sec. 19 Production of license when directed by Court.

CHAPTER IV

Mode of Carrying on Business

- Sec. 20 Prohibition of advertisements etc. in respect of Money-lending.
- Sec. 21 Prohibition against employment of agents.
- Sec. 22 Penalty for breach of Section 20 and 21.
- Sec. 23 Agreement for payment by borrower of costs, charges etc. void.

CHAPTER V

Duties of Money-lender

- Sec. 24 Transaction to be reduced to writing.
- Sec. 25 Copy of Memo to be supplied to debtor.
- Sec. 26 Transactions in contravention of Sec. 24 or 25 void.
- Sec. 27 Agreement to pay compound interest void.

CHAPTER VI

Method of keeping accounts

- Sec. 28 Money-lender to give Pass-Book to debtor.
- Sec. 29 Money-lender to supply annually a statement of debtor's account.
- Sec. 30 Money-lender not entitled to sue during default.
- Sec. 31 Penalty for default.
- Sec. 32 Accounts to be kept in books obtained from Government.
- Sec. 33 Production of Books of Account used during the year for authentication.
- Sec. 34 Entries in Books not in accordance with Section 32 and 33 inadmissible in evidence.

CHAPTER VII

Suits and Proceedings

- Sec. 35 Jurisdiction of Small Causes Court excluded.
- Sec. 36 Particulars of license to be given in the Plaint.
- Sec. 37 Interrogatories to be delivered to money-lender.
- Sec. 38 Power of Court to re-open certain transactions.

-
- Sec. 39 Certain transactions not to be re-opened.
Sec. 40 Rate of interest when deemed to be excessive.
Sec. 41 Mode of taking account
Sec. 42 Power to direct payment of amount due on mortgage decree by instalments.
Sec. 43 Decree may direct payment of amount due on mortgage by instalments.
Sec. 44 Court to estimate the value of judgement-debtor's property.
Sec. 45 Only sufficient portion of judgement-debtor's property to be sold.
Sec. 46 Saving of Powers of Court under Usurious Loans Act.
Sec. 47 Contract for payment outside the Province void.
Sec. 48 Agreement to pay arrears of interest void.

CHAPTER VIII

Proceedings in Respect of Offences.

- Sec. 49 All offences cognizable.
Sec. 50 Appeals from convictions or acquittals.

CHAPTER IX

Supplemental

- Sec. 51 Power to make rules.

Bill No.**of****1938****A Bill to Control and Regulate
Money-Lending**

Whereas it is expedient to prescribe by law the duties and obligations of persons carrying on business as money-lenders and to control and regulate the same.

It is hereby enacted as follows :—

Chapter I.*Preliminary***Short title, extent and commencement**

- 1.(1) The Act may be called the Bombay Money-lenders Act, 1938.
- (2) It shall apply to the whole of the Province of Bombay and shall come into force on a date not being later than one year after the passing of this Act as the Government may by notification in the Official Gazette appoint.

Definitions

2. In this Act unless there is anything repugnant to the subject or context—
 - (i) “Authorised name” and “Authorised address” means respectively the name under which and the address at which a money-lender is authorised by a license granted under this Act to carry on the business of moneylender.
 - (ii) “Business name” means the name or style under which any business of money-lending is carried on whether in partnership or otherwise.
 - (iii) “Debtor” means any person against whom a moneylender has a claim in respect of a loan.
 - (iv) “Interest” means and includes any amount in kind, cash, service or in any other form and by whatsoever name called, in excess of the principal, paid or rendered, or payable or renderable to a money-lender in consideration of, or otherwise in respect of a loan.

-
- (v) “Loan” means an advance made whether of money or in kind at interest and shall include an undertaking given in respect of past liability and any transaction which in substance is a loan.
 - (vi) “Money-lender” includes every person who carries on the business of lending money or who advertises or announces himself or holds himself out in any way as carrying on that business and shall include a pawnbroker; but it shall not include—
 - (a) any society registered under the Co-operative Societies Act, 1912, and the Provident Insurance Societies Act, 1912,
 - (b) any corporate body, incorporated by a special enactment to lend money in accordance with such special enactment,
 - (c) Government or any person authorised by it to lend money on its behalf and
 - (d) any person, who merely because in the course of and for the purpose of his business lends money if he is bona fide carrying on
 - (i) the business of banking or insurance, or
 - (ii) any other business the primary object of which is not money-lending.
 - (vii) “Payment” or “Re-payment” means and includes any amount paid or re-paid in kind, cash or service rendered.
 - (viii) “Person” includes a company and a firm.

Explanation I. For the purpose of duties and liabilities of a money-lender, “Company” shall include the managing agents or managing directors and in the case of a Firm all partners of the Firm.

Explanation II. Where in a money-lending business a minor or a person not competent to contract has an interest the word “person” includes the person responsible for the management of the business.

- (ix) "Prescribed" means prescribed by rules made under this Act.
- (x) "Principal" means in relation to a loan the amount actually advanced or lent to the debtor.
- (xi) "Secured debt" means a loan for which the moneylender holds a mortgage, charge or lien on the property of the debtor or any part thereof as a security for that loan.
- (xii) "Unsecured debt" means any loan other than a secured loan.

Provisions of this Act not affected by laws, customs or contracts.

- 3. The provisions of this Act shall apply notwithstanding anything contained in any other law or custom or usage having the force of law or any contract to the contrary.

Chapter II.

Licensing of Money-lenders.

- 4. No person whether individually or otherwise or whether for himself or for another or for himself and another shall carry on the business of money-lending unless he takes out annually a "Money-lender's License" (in this Act referred to as the Licensee) in respect of every address at which such business is being carried on.

Name in which license to be taken out.

- 5. A money-lender's license shall be taken out by a moneylender in his own name and shall be void if taken out in any other name :

Provided that where a person is carrying on the business of money-lending not in his own name but under a business name the license shall also show such business name and the authorised address at which such business is carried on;

Provided further that where the business of money lending is earned on by a firm or by a company the license shall be taken out

in the name of the firm or in the name of the company and where it is carried on in the name of a minor or a person who is otherwise incompetent to contract in the name of such person.

Particulars to be stated in license.

6. (1) The license shall disclose in the case of a firm the names of its partners, in the case of a company the names of the managing agents or managing directors and in the case of a minor or a person incompetent to contract the name of the person or persons responsible for or appointed to carry on the business.

(2) The license shall also state the authorised address in respect of which the license is granted.

Necessity of certificate for license.

7. (1) No person shall be deemed to be entitled for a license unless he holds a certificate (in the Act referred to as certificate) and a license shall not be granted except to a person who holds a certificate granted in accordance with provisions of this Act.

(2) A separate certificate shall be required in respect of every separate license.

Particulars to be stated in certificate.

8. Every certificate granted to a person shall show his true name and the address at which he intends to carry on money-lender's business irrespective of the question whether he intends to use the certificate for securing a license for himself, or for another, or for himself and another or for a firm or for a company.

Authority competent to grant certificate.

(1) Any Magistrate or other Officer especially invested by Government in this behalf with jurisdiction in the area in which the money-lender's business is to be carried on, may, on application made in the prescribed form, grant to a person a certificate of eligibility.

- (2) On receipt of an application for the grant of certificate, the Officer shall post up a complete copy of the application in a conspicuous place in his office and shall take no proceedings thereon for fifteen days from the date of such exhibition.
- (3) Any person shall be entitled to oppose the grant of a certificate to the applicant and in case the application is opposed, the Officer shall be bound to hold an inquiry and either grant or reject it.
- (4) Nothing in this section shall limit the power of the Officer to reject the application even though it is not opposed.

Grounds for refusing certificate.

10. A certificate shall not be refused except on one or more of the following grounds-

- (i) that satisfactory evidence has not been produced of the good character of the applicant,
- (ii) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is not a fit and proper person to hold a certificate,
- (iii) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is by order of a Court disqualified for holding the license,
- (iv) that the applicant has not complied with the provisions of any rules made under this Act with respect to an application for a certificate.

Recording of reasons for refusal.

11. When any authority who has power to grant a certificate refuses to do so it shall record its reasons in writing for such refusal.

Appeal against order of refusal.

12. Any person aggrieved by an order of refusal to grant a certificate may appeal to the Sessions Judge and the decision of the Sessions Judge in this respect shall be final.

Authority competent to grant license

13. Subject to the provisions of this Act any Officer authorised by Government in this behalf may, on application made in the prescribed form and on payment of the prescribed fee, grant to the holder of a certificate, a license.

Duration of license.

14. Every license shall expire on the 31st December in every year.

Fee for license.

15. There shall be charged on every money-lender's license a fee of Rs. 50/- or if the license be taken out not more than six months before the expiration thereof, Rs. 30/-.

Penalty for breach of provisions regarding license.

16. Whoever—

- (a) takes out a money-lender's license in any name other than his own name, or
- (b) carries on business as a money-lender without having a proper license authorising him to so do, or
- (c) being licensed as a money-lender, carried on business as such in any name other than his authorised name, or at any place other than his authorised address, or
- (d) enters into an agreement in the course of his business as a money-lender with respect to the advance or repayment of money, or takes any security for money, in the course of his business as a money-lender, otherwise than in his authorised name, shall be punishable with fine of not less than Rs. 100/-.

Provided that on a second or subsequent conviction of any person for an offence under this sub-section the court may, in lieu

of or in addition to ordering the offender to pay the penalty aforesaid, sentence him to imprisonment of either kind for a term not exceeding three months.

Chapter III

Suspension and Revocation of license.

Suspension etc. of license on conviction

17. Where any person, being the holder of a license is convicted of any offence under this Act, the court

- (i) (a) shall order that the license held by that person be either suspended for such time as the court thinks fit or revoked, and
- (b) shall also declare any such person to be disqualified for obtaining a license for such time as the court thinks fit,
- (ii) shall cause particulars of the conviction and of the order made under sub-clause (i) of this section to be endorsed on every license held by the person convicted or by any other person affected by the order, and
- (iii) shall cause copies of these particulars to be sent to the authority by whom the certificate was granted and also to the officer by whom the license was granted.

Appeal against order of suspension and revocation

18. Whether by order of a court a license held by any person is suspended or revoked or any person is disqualified for obtaining license, he may, whether or not he is the person convicted, appeal against the order of his conviction, and the appellate court may, if it thinks fit, pending the appeal, defer the operation of the order.

Production of license when directed by court

19. (1) Any license, required by a court for endorsement in accordance with the foregoing provisions of this Act, shall be produced by the holder in such manner and within such time as may be directed by the court.

- (2) Any person, who, without reasonable cause, makes default in producing any license as required, shall in respect of each offence, be liable on conviction to fine not exceeding five rupees for each day during which the default continues.

Chapter IV

Mode of carrying on business.

Prohibition of advertisements circular of money-lending

- 20.(1) A money-lender shall not, for the purpose of his business as such issue or publish or cause to be issued or published any advertisement, circular, business-letter, or other similar document-
- (a) containing an invitation to borrow or,
 - (b) containing expressions which might reasonably be held to imply that he carries on banking business.
- (2) Any money-lender who acts in contravention of the provisions of sub-section (i) of this section shall be liable on conviction to a fine not exceeding Rs. 100/- in respect of each offence.

Prohibition against employment of agents

21. (1) No money-lender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a money-lender, and no person shall act as such agent or canvasser, or demand or receive directly or indirectly any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a money-lender any person desiring to borrow money.
- (2) Any person who acts in contravention of the provisions of sub-section (1) of this section shall be liable on conviction to simple imprisonment for a term not exceeding three months or to a fine not exceeding one hundred rupees or both.

Penalty for breach of Sec. 20 and 21

22. When it is shown that a money-lending transaction was brought about by a contravention of any of the provisions of *Section 19 and 20, the transaction shall, notwithstanding that the money-lender was duly licensed under this Act, be void, unless the money-lender proves that the contravention occurred without his consent or connivance.

Agreement for payment by borrower of costs, charges etc. void

23. Any agreement between a money-lender and a borrower or intending borrower for the repayment by the borrower or intending borrower to the money-lender of any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be void and if any sum is paid to a money-lender by a borrower or intending borrower on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower or in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly ;

Provided that it shall not be unlawful for a money-lender to charge the debtor with an amount not exceeding half the amount due on account of stamp duty and registration fee payable in respect of any document evidencing the transaction.

Chapter V*Duties of Money-lender***Transaction to be reduced to writing**

24. (1) After the commencement of this Act every contract for the repayment of the loan or for the payment of interest on the loan and for security of the loan shall be evidenced by a memorandum in writing signed by the borrower personally.

(2) The memorandum shall be in the prescribed form and shall contain all the terms of the contract and shall in particular show—

(a) the date on which the loan was made,

* Section number might be 20 and 21.—Editors

- (b) the amount of the loan,
- (c) the nature of the consideration,
- (d) the interest,
- (e) the nature of the security taken, and
- (f) where the loan wholly or partly superseeds the previous loan, the particular loan and the security therefor, if any.

Copy of memo to be supplied to debtor

25. A copy of every such memorandum shall be delivered to the borrower within seven days from the date of the contract by the lender.

Transaction in contravention of Sec. 23 or 24 void

26. A contract or security in which it is proved that the memorandum was not signed by the borrower before the money was lent or before the security was given as the case may be or that a copy thereof was not sent to the borrower within seven days of the making of the contract as provided *section 24 be inserted of this Act, shall be void.

Agreement to pay compound interest void

27. Any contract made after the commencement of this Act for the loan of money by a money-lender shall be void in so far as it provided directly or indirectly for the payment of compound interest or for the rate of interest being increased by reason of any default in the payment of sums due under the contract, and he shall not be entitled to any interest:

Provided that provision may be made by any such contract that if default is made in the payment upon the due date, of any sum payable to the money-lender under the contract, whether in respect of principal or interest, the money-lender shall be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purpose of this Act as part of the interest charged in respect of the laon.

* Section '23 or' be inserted.—Editors

Chapter VI

Method of keeping Accounts

Money-lender to give pass-book to debtor

28. Every money-lender shall give to his debtor a pass-book provided by Government and shall enter therein every payment made by the debtor or to the debtor and authenticate the same by his signature.

Money-lender to supply annually a statement of debtor's account.

29. Every money-lender shall deliver to his debtor and such other persons from whom he is entitled to claim payment of the debt, on or before the 31st January of every year, a statement of his accounts in respect of the debt in such form as may be prescribed by Government, upto the 31st December of the previous year authenticated by his signature.

Money-lender not entitled to sue during default

30. A money-lender, who fails to comply with the provision of section 28, shall not, as long as the default continues, be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default.

Penalty for default

31. A money-lender who contravenes the provision of section 28 or 29 shall be liable to a fine not exceeding Rs. 100/-.

Accounts to be kept in books obtained from Government

32. Every money-lender shall obtain from Government on payment of such fees as may be prescribed, such books of accounts as may be necessary for him for the purpose of recording his transactions as a money-lender and shall regularly record and maintain accounts of all his transactions relating to the loans made and security for such loan, if any, in such account books, containing such details and in such script and numerals and in such ink as may be prescribed by Government from time to time.

Production of books of account used during the year for authentication.

- 33.(1) On or before the 31st January in each year every money-lender shall produce before the licensing officer all the books of account used by him in the previous year.
- (2) The licensing officer shall thereupon sign and date in the case of running accounts the first and last entries on either side of each book and in the case of a ledger the first and last entries of each account in the ledger.
- (3) The licensing officer shall also enter after the last entry in the running account particulars of the books issued to the money-lender in the previous year but not used by him in that year.

Entries in books not in accordance with Sec. 31 and 32*, inadmissible in evidence.

34. Notwithstanding anything contained in the Indian Evidence Act, 1872, no entry in any book, register or record relating to any loan or security therefor shall be admissible as evidence in any suit or proceedings for a money-lender unless it is contained in a book supplied by Government under the provisions of section 32 of this Act and reorded in the manner prescribed by the said section and in the case of an entry which relates to a previous year authenticated as provided by section 33.

Chapter VII*Suits and Proceedings***Jurisdiction of Small Causes Court excluded**

35. Notwithstanding anything contained in the Provincial or Presidency Small Causes Court Act, no suit by or against a moneylender in respect of any claim arising out of any money-lending transaction shall be cognizable by a court of Small Causes unless that claim is in respect of a single transaction and such transaction is not directly or indirectly connected with earlier transactions between the parties or persons through whom they claim.

* It may be 32 and 33 - Editors.

Particulars of license to be given in the plaint

- 36.(1) Every plaint by a money-lender shall contain the particulars of the license held by him at the time when the transaction in the suit was entered into;
- (2) If a money-lender without lawful excuse fails to comply with the provisions of sub-section (i) of this section the court shall order him to pay to the defendant the cost of the suit.

Interrogatories to be delivered to money-lender

- 37.(1) In any suit or proceedings for accounts or for the recovery of money lent or advanced if the person lending or advancing the money denies that he is a money-lender the court shall deliver to such person interrogatories for the purpose of ascertaining-
- (a) whether he either alone or in conjunction with or in the name or through the agency of any other person or persons or corporation, made any and if so what loan or loans or advances within a reasonable time before and after the date of the transaction in suit or proceedings and if so,
- (b) whether he or any and if so on what occasion or occasions, lent or advanced money under any name other than his own name and;
- (c) whether he has been registered as a money-lender under his own or any other or what name as a money-lender and if so when.
- (2) The provisions of Order 11 of the Code of Civil Procedure, 1908 shall apply to such interrogatories.

Power of Court to re-open certain transactions

38. Where in any suit or proceedings instituted after or pending at the time when this Act comes into force the transaction discloses that—

- (a) the interest is excessive, or
- (b) the transaction is as between the parties therein, unconscionable,

the court shall exercise one or more of the following powers, namely—

- (i) re-open the transaction, take an account between the parties and relieve the debtor of all liability in respect of any excessive interest,
- (ii) notwithstanding any agreement, purporting to close previous dealings and create a new obligation, re-open any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the money-lender to re-pay any sum which it considers to be re-payable in respect thereof,
- (iii) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the money-lender has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem fit.

Certain transactions not to be re-opened

39. In the exercise of the powers conferred by section 38 the court shall not—

- (i) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any person from whom they claim at a date more than twenty years from the date of the transaction, or
- (ii) do anything which affects any decree of a court.

Explanation.—In the case of a suit brought on a series of transactions for the purposes of clause (i) of section 38 the expression “transaction” means the first of such transactions.

Rate of interest when deemed excessive.

40. For the purposes of section 37, interest shall be deemed to be excessive if—

- (i) in the case of an unsecured loan it is at a rate in excess of three times,
- (ii) in the case of a loan secured by a second or subsequent mortgage it is at a rate in excess of two and a half times,
- (iii) in the case of loan secured by a first mortgage or pledge it is at a rate in excess of one and a half times,

the Bank rate of the Reserve Bank or of the Imperial Bank or the Bank of Bombay, as the case may be, at the date of the loan or transaction.

Mode of taking account

41. The account under section 37 shall be taken in accordance with the following rules, that is to say—

- (i) separate accounts of principal and interest shall be taken,
- (ii) in the account of the principal there shall be debited to the debtor such money as has from time to time been actually received by him from the money-lender and the price of goods, if any, sold to him by the moneylender as part of the transaction,
- (iii) in the account of the principal there shall not be debited to the debtor any accumulated interest which had been converted into principal at any settlement of account or by any contract made in the course of the transaction,
- (iv) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at a rate agreed between the parties but in no case exceeding the rates specified in section 38,
- (v) all moneys paid by or on account of the debtor to the money-lender or on his account, and all payments in kind, all profits, service or other advantages of every

description received by the money-lender in the course of the transaction shall be credited first in the account of interest and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of the principal.

Explanation.—Where for purposes of accounting it is necessary to estimate in terms of money the value of any profits, services or advantages received by the moneylender including profits, rents and other advantages of property in the possession of the money-lender held by him as a security for the loan, the same shall be determined in accordance with the market rates prevailing on material dates or with the aid of assessors appointed by the court or failing which by the court in its own discretion,

- (vi) the accounts of principal and interest shall be made upto the date of instituting the suit and the aggregate of the balance due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest account exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

Power to direct payment of amount due on mortgage decree by instalments.

42. The court may, at any application of a judgement-debtor, after notice to the decree-holder, direct that the amount of any decree passed before or after the commencement of this Act, in respect of a loan, including any decree in a suit relating to a mortgage by which a loan is secured shall be paid in such number of instalments and subject to such conditions on the dates fixed by it as, having regard to the circumstances of the judgement-debtor and the amount of the decree, it considers fit.

Decree may direct payment of amount due on mortgage by instalment.

The court may at the time of passing the decree in any suit relating to a mortgage by which any loan is secured order that payment of any amount decreed in such suit, shall be made by instalments notwithstanding anything to the contrary contained in any contract between the money-lender and the person to whom the loan was advanced.

Court to estimate the value of judgement-debtor's property.

44. When an application is made for the execution of a decree by the attachment and sale of the judgement-debtor's property, the court executing the decree, shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, hear the parties to the decree and estimate the value of such property and of that portion of such property the proceeds of the sale of which it considers will be sufficient to satisfy the decree.

Only sufficient portion of judgement debtor's property to be sold.

45. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the proclamation of the intended sale shall include only so much of the property the proceeds of the sale of which the court considers will be sufficient to satisfy the decree and such property shall not be sold at a price lower than the price specified in the said proclamation.

Saving of power of court under Usurious Loans Act.

46. Except as is otherwise provided by this Act nothing herein contained shall affect the powers of a Court under the Usurious Loans Act, 1918.

Contract for payment outside the Province void.

47. Any contract entered into between a money-lender and his debtor in respect of a loan advanced after the commencement of this Act providing for the payment of the amount due on such loan at any place outside the province of Bombay shall be void.

Agreement to pay arrears of interest void.

Any agreement entered into by a debtor to pay any arrears of interest due on a loan shall be void.

Chapter VIII.*Proceedings in respect of offences***All offences cognizable.**

49. All offences under this Act shall be cognizable and shall be triable by any Magistrate.

Appeals from convictions or acquittals.

50. An order of conviction or acquittal passed under this Act in respect of any offence under this Act shall be appealable in the same manner as if it was an order passed under the Code of Criminal Procedure, 1898.

Chapter IX.*Supplemental***Power to make rules.**

51. (1) It shall be lawful for Government to make rules prescribing-

- (a) the form of the certificate and the license to be granted to the money-lender,
- (b) the procedure to be followed in making applications for certificates and licenses,
- (c) the authorities empowered to grant licenses and certificates, to issue books of accounts, pass books, memorandum and their form,
- (d) procedure in respect of appeals from orders passed under the provisions of this Act,
- (e) the form of account books, pass books and the method of authentication,
- (f) the forms of the annual statements of accounts to be submitted by the money-lender to his debtor,
- (g) fees for the supply of account books, pass-books etc.,
- (h) charges payable by the debtor to the money-lender in respect of loans.

- (2) Before any such rules are made under this section a draft thereof shall be laid before each chamber of the legislature for a period of not less than 21 days during the session of the chamber, and if either chamber before the expiration of the said period passes a resolution against the draft or any part thereof, no further proceedings shall be taken thereon, but without prejudice to the making of a new draft rule.

Statement of Objects And Reasons

This Bill is intended to control and regulate the business of money-lending. For that purpose it provides—

Firstly- (i) that no money-lender shall carry on the business of money-lending unless he has taken out a license and that license shall not be granted to any person who does not possess a certificate of good character; (ii) that the license issued to a money-lender shall be liable to be suspended or revoked if he is found guilty of breach of any duty imposed upon him by this Bill.

Secondly- (i) the bill provided that all loans made by a moneylender whether secured or unsecured shall be evidenced by writing signed by the borrower; (ii) that a money-lender shall give a pass-book to the borrower in which all transactions between them shall be entered by the money-lender; (iii) that annually the money-lender shall send to the borrower a statement of his accounts; (iv) that charging of compound interest or other costs shall be illegal.

Thirdly- the Bill lays down the mode of keeping accounts by the money-lender. It requires :

- (i) that the money-lender shall keep his accounts in the books obtained by Government; (ii) that at the end of every year he shall produce his books before a government official, who shall initial the first and last entries in such books; (iii) that no books of accounts shall be admissible in

evidence in any suit or proceedings unless they are kept in conformity with these rules.

Fourthly-the bill contains provisions regarding suits between a money-lender and a borrower. It lays down :—

(i) that such suit shall not be triable by the Small Causes Court unless it is in respect of a single transaction;

(ii) that the court may re-open certain transactions if the interest is excessive or if the transaction is unconscionable;

(iii) that interest shall be deemed to be excessive if it exceeds a certain level fixed in relation to the Bank rate;

(iv) that accounts between a money-lender and a borrower shall be taken in accordance with certain rules which are embodied in the D. A. R. Act;

(v) that in the execution of a decree against a borrower the court may grant instalments and sell only such amount of property of the borrower as may be sufficient, satisfaction of the decree.

Fifthly- The bill makes void any contract for payment of the loan by the borrower outside the Province the object being to prevent a money-lender from defeating the provisions of this Act.

B. R. Ambedkar

••