M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 334	Press ~~Mis.~~
91-92	
Dated 11. 3.	~~19 G.S.~~

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 12*th March* 1858.

No. 91. Read the following letter from C. F. CHAMIER, Esq., Acting Register to the Court of Sudder Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, dated 4th March 1858, No. 17.

SIR,

1. The several Judicial Officers having furnished the information called for in Extract from the Minutes of Consultation, under date the 7th March 1857, I am directed by the Judges of the Sudder Udalut, to submit the present digested report on the operation of Act XXVIII of 1855, "an Act for the Repeal of the Usury Laws."

2. Owing to the short period which has elapsed since the promulgation of the Act, but few instances appear as yet to have occurred, of advantage having been taken, under its provisions to demand an inequitable rate of interest; and few opinions are accordingly given upon its *positive working*.

3. The Judges find that the majority of the Officers who have expressed their sentiments on the *general question*, consider the Act unsuited to the circumstances of the country; and apprehend that the effect of it will be, to place the poorer classes more than ever at the mercy of the grasping and extortionate money lenders with whom they have to deal. All the Native Judicial Officers are decidedly adverse to the provisions of the Act.

4. Those Officers who are of a contrary way of thinking are influenced by a sense of the advantages of free-trade, (in money as well as in other commodities,) and the soundness of the principles on which it is based, and remark that usurers will and do find means for evading laws restricting the interest to be levied upon money.

5. The Judges direct me to state, that their own opinion is strongly in accordance with that of the majority, as above described. They observe that money lenders and borrowers are not here, on the footing upon which they stand in Europe, where all who have fair securities, have command of an open and well-regulated market, wherein to raise money thereupon.

6. There, they have Banks and other institutions to resort to, where the dealings held are based upon the existing value of money, and where all are treated alike, and equitably; not according to the necessities labored under, but according to the state of the money market, and the value of the securities tendered.

7. It is true that, at the Presidency towns in India, there are such institutions; but, by reason of distance and mutual ignorance of each other on either side, they are practically closed against the poorer order of Natives in the interior; who can only go to the capitalists in their neighbourhood; and, in lieu of benefitting by free-trade, and obtaining their money's value in the accommodation they seek, they must submit to any terms which the individual lender may require.

8. What these will be, with an avaricious and unscrupulous money lender on the one side, and an ignorant, helpless, and urgently necessitous man on the other, may readily be conceived. The Civil Judge of Calicut reports instances of as much as 60, 120 and 255 per cent. being demanded since the passing of the Act; and to these gross extortions the Courts are now bound to give effect.

9. It is true that usurers will always find means of evading usury laws; but this can be only to a limited extent, and their power to levy, by manœuvre, more than the law would allow them, appears to be no argument in favor of withdrawing all restriction, where need for restriction may be admitted.

10. Every law is liable to evasion, and the proper way, the Judges consider, to meet evasion when detected, is to strengthen the law. An usury law, they observe, might be made more effective, by declaring a bond to be null and void, if found to be made in evasion of the law.

No. 92. ORDER THEREON, No. 334; dated 11th March 1858.

Ordered to be communicated to the Revenue Department, in reference to Extract Minutes Consultation, 4th March 1857, No. 225.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

the interest to be levied upon money.

5. The Judges direct me to state that their own opinion is strongly in accordance with that of the majority, as above described. They observe that money-lenders and borrowers are not here, on the footing upon which they stand in Europe, where all who have fair securities, have command of an open and well-regulated market, wherein to raise money thereupon.

6. There, they have Banks and other institutions to resort to, where the dealings had are based upon the existing value of money, and where all are treated alike, and equitably; not according to the necessities labored under, but according to the state of the money market, and the value of the securities tendered.

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but, by reason of distance and mutual ignorance of each other on either side, they are practically closed against the poorer order of natives in the interior, who can only go to the Capitalists in their neighbourhood, and in lieu of benefitting by free trade, and obtaining their money's value in the accommodation they seek, they must submit to any terms which the individual lender may require.

8 That there will be, with an avaricious and unscrupulous moneylender on the one side, and an ignorant, helpless, and urgently necessitous man on the other, many readily be conceived. The Civil Judge of Calicut reports instances of as much as 60, 120, and 255 per cent being demanded since the passing of the Act, and to these gross extortions the Courts are now bound to give effect.

9. It is true that usurers will always find means of evading usury laws, but this can be only to a limited extent, and their power to levy, by manœuvre, more than the law would allow them, appears to be no argument in favor of withdrawing all restriction, where need for restriction may be admitted.

10. Every law is liable to evasion, and the proper way the Judges consider to meet evasion, when detected, is to strengthen the law. On usury law, they observe, might be made more effective, by declaring a bond to be null and void, if found to be made in evasion of the law.

I have the honor to be,
Sir
Your most Obedient Servant
C. F. Clamier.
Acting Registrar

Sudder Adalut,
Registrar's Office,
4th March 1858.

Enclosed

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№ 334

Ordered to be communicated to the Revenue Department in reference to Gal. Minis. Cons: 4th March 1837 № 225.

Tob. McGeorge
11 March 1868.

Copy to Revenue Dept. Dispd. 10/3

e. No. 23-26
10-3-57