Usurious Loans Act, 1918

Section 2 - DEFINITIONS In this Act, unless there is anything repugnant in the subject or context,

USURIOUS LOANS ACT, 1918 USURIOUS LOANS ACT, 1918 10 of 1918 22nd March, 1918 STATEMENT OF OBJECTS AND REASONS "The object of this Bill is to prevent the Civil Courts being used for the purpose of enforcing harsh and unconscionable loans carrying interest at usurious rates. This subject has engaged the attention of the Government of India frequently in the past and in 1899 sections 16and19 of the Indian Contract Act. 1872, were amended so as to enunciate more clearly the principle on which a contract can be avoided on the ground of undue influence. Those amendments had' the effect of conferring on the Courts in India equitable jurisdiction in cases relating to usurious contracts in which the element of undue influence is established, but where undue influence cannot be established the result has been to emphasize the rigidity of section 2 of the Usury Laws Repeal Act (XXVIII of 1855), however exorbitant the demand, and however unconscionable the bargain. Further there has been a tendency on the part of the Courts to place upon the word "unconscionable" in section 16 of the Indian Contract Act the, technical meaning which it has acquired in English equity, and consequently to limit their own powers of interference. Lastly the particular transaction before the Court is often merely one of a series and unless there is power to go behind it and examined antecedent agreements and attendant circumstances there is little hope of the Courts being able to come to an equitable decision. The remedy proposed by this Bill is to empower the Courts on the lines of section 1 of the Money Lenders Act. 1900 (63 & 64 Vict, c. 51) to reopen transactions by way of money or grain loans in cases where the Court is satisfied (1) that the interest or other, return is excessive and (2) that the transaction is substantially unfair and after investigation of the circumstances, both attendant and antecedent, to revise the transaction between the parties and if necessary to reduce the amount payable to such sum as the Court, having regard to the risk and all the circumstances of the case, may decide to be reasonable. The Local Governments have been consulted and legislation in this direction has commanded almost universal approval. Provision has been made to cover the case of loans of grain as well as of money, as loans in kind are often made on very oppressive terms. As there may be urban or rural areas where the proposed law is deemed unnecessary it has been provided that the Act shall not come into force in any Province or part of a Province except by notification." - Gazette of India. 1917. Part V, page SECTION 1 Short title and extent (1) This may be called THE USURIOUS LOANS ACT, l918. (2) It extends to 2[the whole of India except]2[the territories which, immediately before the 1 st November, 1956, were comprised in Part B States]3[* * *]. (3) The 4[State Government] may, by notifications in the4[Official Gazette], direct that it shall not apply to any area, class of persons; or class of transactions which it may specify in its notification. 1) "interest" means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise State Amendments (2) "Loan" means a loan whether of money or in kind and includes any transaction which is, in the opinion of the Court, in substance a loan. (3) "Suit to which this Act applies" means any suit- (a) for the recovery of a loan made after the commencement of this Act; or (b) for the enforcement of any security taken or any agreement, whether by way of settlement of account or otherwise, made, after the commencement of this Act, in respect of any loan made either before or after the commencement of this Act;6[or (c) for the redemption of any security given after the commencement of this Act in respect of any loan made either before or after the commencement of this Act.] State Amendments