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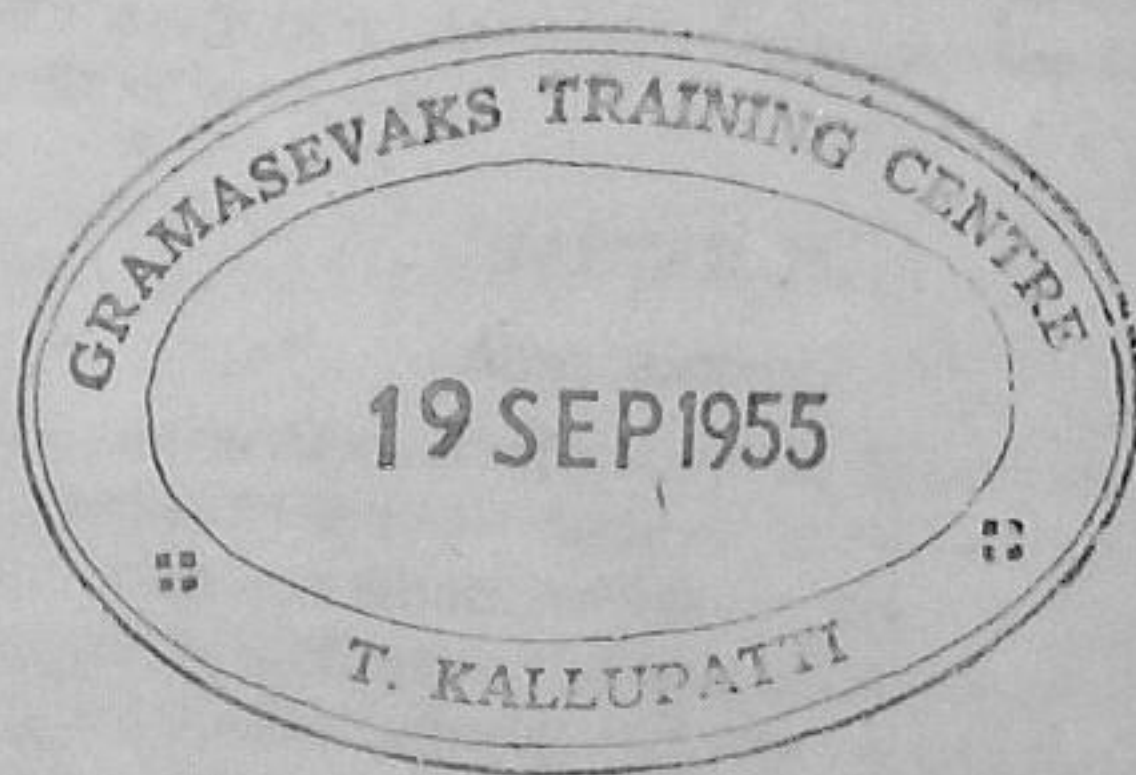
THE MADRAS CO-OPERATIVE MANUAL

REVISED BY

J. C. RYAN, M.A.,

*Registrar of Co-operative Societies,
Madras*

Volume II



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PLAN OF CONTENTS.

CHAPTERS.	PAGES.
I. Audit	1
II. Arbitration	41
III. Execution	56
IV. Supersession	103
V. Liquidation	107

CONTENTS.

CHAPTER. I.

AUDIT.

Definition of audit ; Objects of an audit ; Audit—statutory duty of the Registrar ; Difference between the audit of a co-operative society and of a joint stock company, Auditor's duties and powers ; Kinds of audit—concurrent, interim, final and test audit ; Preparation for audit ; Mechanical audit—cash book and checking of receipts—cash book and the verification of disbursements—checking of entries in cash book with entries in ledgers ; Administrative audit—examination of books—receipt book—cash book—loan ledger—ledger of borrowings—admission book—minute book—property statement—supervision report ; Preparation of statements—statement of receipts and disbursements—balance sheet—valuation and verification of assets—valuation of loans and classification of loans as good, doubtful or bad—reserve for bad and doubtful debts—valuation of Government securities, etc.—valuation and depreciation of buildings—valuation of furniture—verification and valuation of stock in trade—verification of securities—verification of cash balance—verification of loans—verification of bonds—verification of properties purchased by societies—adjusting heads—verification of liabilities—profit and loss statement ; Classification of societies ; Preparation of audit report and issue of audit certificate ; Summary of audit defects ; Publication of audit certificates, etc. ; Final audit of other societies—non-agricultural credit societies—stores societies—weavers societies ; Audit of Central banks—points to be noted ; Levy of audit fees—scale of fees ; Audit fund ; Audit of unions registered under the Indian Trade Unions Act ; Audit of associations

1—40

CHAPTER II.

ARBITRATION.

Statutory provision for settlement of disputes ; What is a dispute ? ; When the aid of section 51 is to be restored to ? ; To whom references have to be made ? ; Against whom references may be filed ? ; Application to the Registrar ; Scrutiny of references by the Registrar ; Reference to other officers or arbitrators ; Powers and duties of Registrar and arbitrators and procedure in deciding disputes ; Issue of summons—issue of summons for production of documents—service of summons ; Judgment and decree ; Issue of instalment decrees not advised ; No power to issue injunction order ; No power to appoint guardians ; Decision to be in accordance with justice, equity, and good conscience ; Law of limitation ; Revisionary powers of Registrar ; Finality of awards ; Attendance of legal practitioners ; Privileges of arbitrators ; Conditional attachment of properties before decree ; Execution of awards ; Costs of dispute

41—55

CHAPTER III.

EXECUTION.

Preliminary ; Execution of decrees under the Co-operative Societies Act II of 1912 (India) and the recommendation of the Townsend Committee ; Provision for execution of decrees in the Madras Co-operative Societies Act (VI of 1932) ; The Registrar to be civil court for certain purposes ; Execution under the Madras Land Mortgage Banks Act—important features Application of sections 57-A and 57-B and certain rules to the societies in Orissa ; Entertainment of execution applications ; Execution fees ; Order in which proceedings shall be taken ; Property ; exempt from attachment ; Procedure in distraint of movables ; Service of demand notice on defaulter—distraint of property—conditions to be observed ; Entrustment of property and execution of trust deed ; Distrainted cattle or property not to be used ; Distrainted crops—how dealt with ; What places sale officer may force open ; Powers of sale officer to force open doors in presence of police officer ; Procedure in regard to the sale of distrainted property ; Proclamation of time and place of sale and of property to be sold ; Conduct of sale ; Sale of livestock and agricultural produce ; Discretion of sale officer to refuse to accept bids ; Payment on purchase of distrainted property ; Penalty for forcibly or clandestinely taking away distrainted property ; Withdrawal of distress on payment of moneys due ; Attachment of salary or allowances of public officer or servant of railway company or local authority or firm ; Mode of recovery ; Attachment of debt, share and other property not in possession of defaulter—attachment of share or interest in movables—attachment of negotiable instruments—attachment of property in custody of court or public officer ; Attachment of decrees ; Attachment and sale of immovable property ; Attachment before sale ; Description of immovable property to be given in application ; Service of demand notice ; Procedure when defaulter neglects to pay ; Attachment of property ; Publication of the notice of attachment in the District Gazette ; Release of property attached on payment of amount due ; Sale of immovable property to be proportionate to amount due ; Production of encumbrance certificate ; Proclamation of sale ; Sale by public auction ; Who may bid ? ; Initial deposit by purchaser and resale on default ; Time for payment of the balance of purchase money ; Set-off of purchase money ; Forfeiture in default of payment ; Resale-recovery of deficiency of price ; Need for fresh proclamation for resale ; Application to set aside sale of deposit ; Application to set aside sale on ground of irregularity or fraud ; Power of the Registrar of the district to set aside sale suo moto ; Return of deposit or purchase money ; Confirmation of sale and issue of sale certificate ; Registration of the certificates of sale of immovable property ; Appeal against the orders of the Registrar ; Delivery of possession of immovable property by a court of competent jurisdiction in case of resistance ; Investigation of claims and objections to attachment of property ; Attachment in execution of decree of several courts and rateable distribution of assets ; Proceeds of execution sale to be rateably distributed among decree-holders ; Private alienation of property after attachment to be void ; Dismissal of execution petition or adjournment of proceedings on decree-holders default ; Attachment before judgment ; Investigation of claim to property attached before judgment ; Removal of attachment when security furnished or suit dismissed ; attachment before

	PAGES
judgment not to affect rights of strangers or bar-decree-holder from applying for sale; Mode of service of notices; Contingent charges incurred in execution work—process-servers to be paid batta; Batta, interest and other charges recoverable from sale proceeds; Recovery of costs incurred in civil courts; Execution of decrees obtained from civil courts; Execution of time-barred decrees; Prompt disposal of execution petitions and their closure; Disposal of sale-proceeds; Procedure regarding payment of costs of notification; Receipts for payment of amount due and by whom to be issued; Procedure for recovery of sums due to Government; Return or transfer of decrees, orders, etc., filed before the Registrar of the district; Transfer of decisions and awards from the civil court to the Registrar of the district; Help of village officers; Books and Registers to be maintained; Returns to be submitted to the Registrar; Audit of accounts; Staff for execution of decrees and control of their work; Destruction of records; Schedule of fees chargeable for the processes of execution.	56—102

CHAPTER IV.

SUPERSESSION.

Need for supersession of committees of societies; Provision in the by-laws of societies for the appointment of managers; Statutory provision for supersession of committees of societies—(Section 43 of the Act); Parallel provisions of section 43 of the Act and by-law; Procedure to be followed before supersession; Appointment of agents, their remuneration; Powers and duties of agents	103—106
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CHAPTER V.

LIQUIDATION.

Cancellation of registration; Attempts to revive bad or moribund societies—liquidation should be the last resort; Need for a definite programme of liquidation and consultation with financing banks and supervising authorities; When cancellation of registration should be recommended urgently?; Enquiry (under section 38 of the Act) preliminary to cancellation of registration and details to be furnished in the report of the enquiry; Inspection of books of societies under sections 39 and 40 of the Act; Powers of the officer authorized under section 38 or section 39 of the Act; Cancellation of registration under section 45 of the Act; Appointment of a liquidator; Finality of liquidation orders; Powers of the liquidator; Assumption of duties by liquidator and procedure to be followed; Publication of notice regarding claims against cancelled societies under Rule XVII: Realization of assets and procedure regarding the passing of contribution orders; Contributions by members beyond their debts due and principles to be observed in enforcing unlimited liability; Interest on loans; Interest and cost of liquidation on contribution orders; Payment of liabilities; Appeal against liquidator's orders; Bar of suit in civil courts in certain cases; Final closing and disposal of surplus funds; Removal of liquidator; Disposal of records of a society which is finally wound up; Maintenance of books; Audit of the accounts of liquidated societies; Returns to be submitted by the Liquidator; Liquidation staff and their work; Need for division of liquidation work and control of the staff and work	107—135
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THE MADRAS CO-OPERATIVE MANUAL

VOLUME II

CHAPTER I.

AUDIT.

1. Audit aims at checking the accounts and books of a business in such a manner that the report submitted thereon, reflects its correct condition and progress. Auditing may, therefore, be said to be a systematic examination of the financial transactions of a business as recorded in its books which will enable the auditor to satisfy himself whether or not the balance sheet has been drawn up properly so as to exhibit a true and correct view of the state of affairs of an enterprise. It includes a skilful and diligent scrutiny of the genuineness of the transactions recorded in the books of accounts.

2. The objects sought to be obtained by an efficient audit of any company or business are (i) the ascertainment of the actual financial condition and earnings of the concern, and (ii) the detection and prevention of errors and fraud. In addition, there is the moral effect of an audit tending to keep the work of the staff up-to-date. The main object of the audit of a co-operative society is the disclosure of the progress made by it in accordance with co-operative principles and practice.

It is not every member who has time to examine the accounts; yet every member is responsible for any loss incurred. The committees are elected in general meetings, but once elected, their powers are complete. Even the most honest and well-meaning member of the committee may be liable to err. Audit is intended to indicate to the committee such mistakes. It is also intended to provide an independent opinion to the general body of members about the management of their committee. More than all, audit safeguards the interests of creditors whose investments enable the institution to conduct its business. Regarded from every point of view, therefore, audit is absolutely essential to the successful and smooth administration of every society.

3. Under section 37 of the Madras Co-operative Societies Act, audit is a statutory obligation of the Registrar. Clause (1) of section 37 lays down that: "The Registrar shall audit or cause to be audited by some person authorized by him, by general or special order, in

writing in this behalf the accounts of every registered society once at least in every year."

"The audit is in fact a State-controlled audit," as observed by the Maclagan Committee; "this view is implied in the clause of the Act which imposes the duty of making an audit on the Registrar and his nominees. It is through audit alone that an effective control can be exercised over the movement, and it is clear that it was never intended that the audit should be merely an arithmetical one and that the Registrar's activities outside that audit should be confined to the inspections or enquiries mentioned in sections 35 and 36 of the Act. The auditing staff, from whatever source they may be paid, are in our opinion responsible to the Registrar and must be mainly controlled by him. Their reports are intended for his information."

In order to assist the Registrar in carrying out this statutory duty, the Government have sanctioned a staff of junior and senior inspectors of co-operative societies for audit purposes. Under section 37 (1) of the Madras Co-operative Societies Act, the Registrar has by a general order authorized all inspectors, including senior inspectors, serving in the Co operative Department to audit the accounts of co-operative societies in the State.

At one time there was a proposal to entrust the audit of co-operative institutions to non-official agencies but Government did not accept it. They observed as follows:—

"There is undoubtedly a strong body of opinion which takes the conservative view in favour of the continuance of audit by Government agency; and this view is strengthened by the considerations that the audit of co-operative societies is different in its scope and object from that of joint stock banks, and that a statutory responsibility for the audit of societies lies on the Registrar. The Government have, therefore, come to the conclusion that no extension of non-official audit of societies should for the present be permitted and that departmental audit should be the rule."

They also stated that "the Registrar should ensure the provision of sufficient audit staff (the cost of which is recoverable through audit fees) and he may in exceptional cases when he has not sufficient staff immediately available, allow a bank to engage a private firm of auditors". Except in the case of such big institutions as the Madras Provincial Co-operative Bank, the Triplicane Urban Co-operative Society, the co-operative insurance societies and a few societies affiliated to audit unions, all other societies are audited by the departmental staff.

Difference between the audit of a co-operative society and of a joint stock company.

4. There are certain points of difference between the audit of accounts of a co-operative society and of a joint stock company. Briefly they are as follows:—

(i) In a joint stock company an auditor is appointed by the shareholders to carry out an independent investigation into its

affairs and to report the results to them for their satisfaction. The audit of a co-operative society is intended primarily to assure Government that it is working and developing on sound lines "in accordance with the principles of co-operation" and only secondarily for the satisfaction of central banks or other creditors and of the society members themselves.

(ii) A joint stock company being an association of capitalists is mainly a profit-seeking concern. The most important result of an audit is to disclose the profit available for dividend. But in a co-operative society (which is a union of persons), profits have not the same predominating influence. The primary concern of the auditor is to ascertain how far the society has been able to carry on business on sound co-operative lines, securing the material and moral improvement of its members. A joint stock company may be considered to be functioning all right so long as it is making profits and is able to pay a decent dividend to its shareholders. But in a co-operative society, the mere fact of the society working at a profit is no proof of its successful working.

(iii) In a joint stock company, the auditor has nothing to do with the preparation of the statement of accounts which he is to certify; whereas in the case of the audit of a co-operative society it is the common practice with auditors, to prepare from the books, the statements of accounts which will be signed by them ultimately. No doubt, the directors of the society prepare annual statements themselves in accordance with Rule VII of the rules framed under the Madras Co-operative Societies Act VI of 1932. This statement is made use of for compiling the State statistics. If it is accepted by the auditor, it is done only after an independent audit of the accounts of the society.

(iv) In co-operative societies, interest overdue and interest accrued thereafter are excluded from the net profit, whereas in joint stock companies both these items are included.

(v) Again, the co-operative auditor is specially required under the Co-operative Societies Act to examine the *overdue debts*, if any, in societies.

Thus, co-operative audit entails a more comprehensive enquiry than is usually made in the case of joint stock companies, and in fact, that is what the Maclagan Committee on Co-operation in India contemplated. They said: "The terms of the Act expressly require that the audit shall include an examination of overdue debts and a valuation of assets and liabilities. By this latter, we understand not merely the preparation of the balance-sheets of societies but also a sufficient check, in accordance with such rules as the Registrar may lay down, of the list of the material assets of the members. The audit should in, our opinion extend somewhat beyond the bare requirements of the Act, and should embrace an enquiry into all the circumstances which determine the general position of a society. It would, for instance be the duty of the auditor to notice any instance in which the Act, rules, or by-laws

have been infringed, to verify the cash balance and certify the correctness of the accounts ; to ascertain that loans are made fairly, for proper periods and objects, and on adequate security ; to examine repayments in order to check book adjustments or improper extensions ; and generally to see that the society is working on sound lines and that the committee, the officers and the ordinary members, understand their duties and responsibilities."

5. Section 37 (2) of the Madras Co-operative Societies Act lays down that "the audit under sub-section (1) shall include an examination of overdue debts, if any, verification of the cash balance and securities and a valuation of the assets and liabilities of the society". Therefore, the auditor should—

Auditor's duties
and powers.

(i) verify the cash balance on the date of his visit and record the fact of verification in the cash book with his signature and date ; he should also state where and how it is kept and whether it is held by the person authorised to do so under the by-laws. To ensure that the cash balance has been correctly noted in the cash book and that no bogus payments are entered in it, he should before verifying the cash balance check the entries in the cash book up to the date of his visit with reference to the receipts, vouchers and bills. If the cash balance is not immediately forthcoming, he should make a note to this effect and record the reasons given for the delay ;

(ii) verify whether all the books prescribed in the Madras Co-operative Manual and under the rules made under the Co-operative Societies Act are maintained ;

(iii) verify the genuineness and regularity of all personal security and mortgage bonds and see whether they are time-barred ; any defects must be detailed ;

(iv) ascertain whether the personal sureties are good for their undertakings and whether the mortgage securities are sufficient ; any defects should be pointed out and commented on ;

(v) submit a detailed report on all overdue debts and state definitely whether he considers them good or bad ; he should also state the steps that are being taken to recover them ;

(vi) verify the liabilities with the central bank's statement of outstanding balances and with the fixed deposit receipts in the hands of depositors, etc. (whenever possible) and note any difference with his explanations ;

(vii) state whether the by-laws, the Registrar's instructions, etc., are being observed ;

(viii) state whether all the irregularities brought to light in previous audit reports have been rectified ;

(ix) enquire into the details of corrections and overwritings in receipts, vouchers, documents, etc., to ensure that there is no fraud in the transactions concerned ; it should be scrutinized whether all corrections and overwritings have been attested by the persons responsible for the maintenance of accounts and cash balances ;

(x) examine whether the expenditure incurred by the societies towards establishment and contingent charges is within the budget allotment, and if there is any case of expenditure over the budget allotment, it should be noted in the summary of defects and should not be passed in audit; and

(xi) prepare a balance sheet and profit and loss statement.

The auditor should conduct the audit at the headquarters of societies and should not remove the books of societies from their headquarters. He requires intimate knowledge of members if he has to answer the questions in the audit reports satisfactorily. This is possible only if he carries on the audit at the seat of the society.

The powers of the auditor are laid down in sub-sections (3) and (4) of section 37 of the Madras Co-operative Societies Act, which run thus :—

“ The Registrar or the person authorized by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorized by him under sub-section (1) may require.”

If the officer in charge of the books, records or cash balance of a society fails to produce them when requested verbally by the auditor, the latter should issue summons under section 37 of the Act to the officer concerned for their immediate production and serve it in person on the spot. In the event of failure of the officer to comply with the terms of the summons, the matter should be reported immediately to the Deputy Registrar with evidence of the service of summons and of the failure to produce the articles summoned. Such reports should receive the prompt attention of the Deputy Registrars who have been permitted to launch prosecutions in such cases without reference to the Registrar. They should, however, launch prosecutions only after satisfying themselves that the summons have been properly served in accordance with rule XVI (3) of the rules framed under the Act.

Kinds of audit—
Concurrent, in-
terim, final and test
audit.

6. The different kinds of co-operative audit in force at present in this State are concurrent or interim audit, final audit and test audit.

Concurrent audit is one in which the audit staff are engaged continuously throughout the year or, attends to it at monthly or quarterly intervals during the year. This kind of audit is adopted

in big societies such as central banks, co-operative wholesale stores, big urban banks, etc., where the work involved is considerable and where it would be disadvantageous to commence the audit after the books are finally closed and balanced. The audit of accounts of central and big urban banks, etc., for any one month should not ordinarily be delayed beyond the close of the succeeding month.

Individual societies or groups of societies are given the services of Inspectors exclusively for the audit of their accounts provided they are agreeable to meet the entire cost of such Inspectors under the terms laid down in Fundamental Rule 127 and a proportionate share of the overhead charges of audit. The required number of posts of Inspectors is sanctioned by Government in advance and the Registrar is empowered to make the appointments as and when necessary.

Interim audit is conducted between two final audits. Ordinarily, the interim audit is taken up from December or January and completed by the end of June. During the interim audit, with the exception of the preparation of the balance sheet and the profit and loss account, all other points are attended to up to the date of the visit of the auditor, i.e., mechanical checking, investigating administrative matters, preparation of a statement of receipts and charges and verification of ledger balances. A detailed list of defects noticed is also prepared. Interim audit enables the auditor to get through the final audit quickly, to detect and verify errors and frauds early and to give the society a review of its working at least once in six months. A copy of the auditor's report embodying the results of the interim audit in the prescribed printed form is given to the society by the auditor.

Owing to the large increase in the number of societies and the dearth of audit staff, interim audit has been dispensed with from 1940 temporarily in the case of the following categories of societies; (i) societies which have been moribund for a long time; (ii) other societies whose working capital is very low, say Rs. 1,000 or less; and (iii) societies which have not completed more than one year from the date of starting. From 1947, interim audit of all credit societies except those doing procurement and distribution work has been suspended.

Final audit is the statutory annual audit which leads to the closing of the accounts for the year and the preparation of the receipts and charges statement, the balance sheet, the profit and loss account and the verification of assets and liabilities with special reference to the statutory obligation of the department for audit. These financial statements together with the questions relating to the verification of assets and liabilities should furnish materials to gauge the financial position of each society. Final audit is taken up from July and normally completed by the end of December. The work involved in the final audit consists

of a mechanical and administrative check of the books, accounts, etc., from the date up to which the interim audit was completed till the end of the co-operative year.

The societies should themselves prepare the balance sheets and Inspectors should check them with reference to the audited figures gathered by them and submit them to the Deputy Registrar or the Co-operative Sub-Registrar to issue his audit certificates. In practice, most rural societies do not prepare the balance sheets. Hence, the Inspectors have to prepare them. The final audit report is prepared in the prescribed form and submitted to the Deputy Registrar. After a careful scrutiny, the Deputy Registrar or the Co-operative Sub-Registrar, as the case may be, will issue the audit certificate to the society with a copy of the audit report.

The final audit done by each auditor is tested to see whether he has done the audit correctly or not. This is called "Test Audit" which will be conducted by the Deputy Registrar or the Co-operative Sub-Registrar. This involves a re-audit of the accounts of the society the audit of which is tested. At least one society audited by each Inspector should be test audited; but where such test audit reveals serious defects, the work of the Inspector concerned should be checked up by test auditing an additional society audited by him. If the further test audit shows similar defects, the Deputy Registrar should consider whether all the societies audited by that auditor should be re-audited. If the defects noticed are not serious, he should take steps to prevent recurrence of the defects brought to light.

It is desirable that test audit should not wait till the final audit of all societies is complete. The audit certificate of a society marked for test audit should not be issued before the test audit is completed. The issue of audit certificate should not, however, be delayed on this account.

Societies with sufficient transactions should be selected for test audit. The effectiveness of test audit depends upon the careful selection of societies. The Deputy Registrars should take up the test audit of not less than five important societies the audit of which was done by Junior Inspectors and one society in respect of each Senior Inspector. The list should include a stores society, a marketing society and a weavers' society with fairly large transactions subject to the condition that they were not test audited during the previous three years. Co-operative Sub-Registrars should take up the test audit of the remaining societies audited by rest of the Inspectors. They too, should select only such of the societies as were not test audited in the preceding three years. This list also should include a stores society, a weavers' society and a marketing society. It is enough if one month's transactions are test audited in these cases. The central banks need not be included in the list of societies for test audit. Wherever possible, the test audit of societies should be done in the presence of the Inspectors concerned.

This will have an educative value and will improve the quality of audit.

New Inspectors should be given sufficient training in audit before they are entrusted with independent charge of societies for audit. Deputy Registrars should satisfy themselves about the adequacy of the training given to them. Careless and slipshod audit should not on any account be tolerated.

Test audit should be done also in respect of societies audited by private auditors. Among the societies selected for test audit each year, atleast one of the societies audited by each of the private auditors should be included. In their remarks on the applications of societies or audit unions for the retention of private auditors for audit, the Deputy Registrars should report whether the audit done by the private auditors concerned was good and efficient.

7. Before commencing the actual work of auditing, the Inspectors should peruse—
Preparation for audit.

(i) the by-laws of the society with particular reference to the value of a share, the number of shares that a member can take, the credit limit of the society and of the individual member and the person or persons authorized to receive and pay money ;

(ii) the list of books maintained by the society and the relation of one to another ; and

(iii) the previous year's audit report together with the summary of defects, if any, attached to it in order to ascertain if the defects noted therein have been rectified.

The audit Inspector would do well to chalk out a programme of work and perform it in a methodical way. To facilitate the correct compilation of the audit report, the auditor should have a complete record of work done during the audit of each society. For this purpose some sheets of paper known as "working sheets" may be used. These sheets including the draft accounts statements may prove helpful for purposes of reference later, if necessary.

8. The practical work of audit can be conveniently divided into three main parts : (1) mechanical audit, (2) administrative audit and (3) the preparation of the financial statements and the audit report. Mechanical audit aims at ensuring the accuracy of accounts recorded in the books of the society.

Cash book and the checking of receipts.—The auditor should begin with the cash book. This is the book of original entry in a co-operative society and forms the basis for all other books. All receipts and payments are entered in the cash book in the order of their occurrence. The items on the receipts side of the cash book should first be compared with the counterfoils of the receipt book. It should be examined whether moneys have been received by the person authorized under the by-law, whether receipts in the

prescribed form are being issued in all cases and whether all the items of receipts have been duly brought to account then and there.

With a view to prevent possible misappropriation of amounts collected from members towards their loans, etc., it should be verified whether the signatures of the borrowers or of their agents paying money on their behalf are taken in the counterfoil of receipts issued to them. Such a verification will ensure that the remittances are entered correctly in the books of the society. The signature of the borrower will serve as his acknowledgment to the society for the payment made towards his dues, and will give a fresh period of limitation to the loan from that date. In cases of doubt, the auditor should call for the originals of receipts issued to members and compare them with the counterfoils maintained in the society and make a note of the results of such verification in the audit report. In cases where the persons remitting the moneys are illiterate, their thumb-impressions should be obtained on the counterfoils of the printed receipts. It is not necessary in these cases to insist on the thumb-impressions being attested by two witnesses.

Societies should always use printed and machine numbered receipt books. In the case of missing numbers and counterfoils left blank, a satisfactory explanation must be obtained. If a receipt has been cancelled, the original should remain intact or attached to the counterfoil. The receipt for two accounts paid together should be acknowledged on two separate forms (this is not done invariably by societies but it is advisable that it should be done). As soon as a counterfoil is checked, a tick should be given against the entry in the cash book and the counterfoil should be cancelled with the initials of the auditor. The dates of the counterfoils should be compared with the cash book entries to check if there are delays in credit.

After the verification of all the receipts with the corresponding receipt entries in the cash book, there may still be a few items such as withdrawals from the financing bank or post office savings account or adjustment entries not supported by counterfoil receipts. The counterfoils in the cheque book or the pass book should be checked in the case of withdrawals from bank or post office savings account, as the case may be. In the case of adjustment entries, the existence of a voucher for the corresponding payment will be enough evidence.

Cash book and the verification of disbursements.—The entries on the disbursement side of the cash book should next be examined with the vouchers. The vouchers should relate to the society, should specify the nature of payment and should be filed in the order of the entries in the cash book. In village societies, the practice is to obtain the signature or thumb-impression or mark of the payee in the cash book itself. In the latter two cases the attestation of two witnesses should be obtained. When this is not possible, separate and complete vouchers should be obtained and pasted in

the voucher file book. Sometimes, specific vouchers may not be forthcoming for petty payments such as the cost of a postage stamp or the price of a box of matches, etc. Such items may be passed if found reasonable and supported by the certificate of the disbursing officer.

Separate receipts from payees for sums sent by money order are not necessary. If the remittance is made at the request of the party, the postal receipt showing commission paid, acknowledgment of the party for the net sum and his written requisition are enough for the auditor. If the amount is sent without the party's request, then copy of notice of the society asking the party to take the amount before a specified date and intimating that in case of failure, it would be sent by money order at his cost, together with his postal acknowledgment are enough. If a postal acknowledgment is found to have been signed by a person other than the party, the society should address the Postmaster of the office of delivery and ascertain whether the recipient of the money order had been authorized to receive it. A perusal of the Postmaster's reply will enable the auditor to pass the transaction.

Vouchers furnished by the members of a co-operative society or by other co-operative institutions are exempt from stamp duty. Those for sums exceeding Rs. 20 in value and given by non-members should bear an anna stamp. Disbursement of pay relates to the business of the society and acquittances given for the receipt of salary by an employee who is either an officer or a member of a society is exempted from stamp duty. Similarly, the receipt given by a member for the rent received from the society is exempt from stamp duty since the payment of rent relates as much to the business of the society as the disbursement of pay to the employees. A cash memo. for an amount exceeding Rs. 20 does not require a stamped receipt as a cash memo. is not a receipt within the definition of the Indian Stamp Act for the reason that in the document itself it is stated to be 'cash memo.' and not a cash receipt.

A voucher produced in support of payment by a co-operative society should clearly specify the nature of payment and indicate that it relates to that society; otherwise a foreign voucher or cash memo. may be passed off in support. A cash memo. without any indication of the name of the society should not be taken as a valid voucher. In such a case a stamped receipt in proper form should be insisted in addition to it.

The vouchers checked should be cancelled, as in the case of the counterfoils of the receipt book, with the initials of the auditor with date. The object of these initials is (1) in respect of a counterfoil to see that all items received are brought into the cash book and (2) in respect of a voucher to so disfigure it that it cannot be used again in support of another entry.

Checking of entries in cash book with entries in ledgers.—Next, the entries in the cash book should be checked with the entries

in corresponding ledgers (admission book, deposit ledger, loan ledger, etc.), so as to find out if the receipts and payments found in the cash book have been duly entered in the respective ledgers. This check may bring to light omissions in the ledger or in the cash book. In such a case, a thorough investigation into the cause for the omission will have to be made, so as to find out if there has been any fraud. The check done between the cash book and the ledgers should be attested by the auditor by placing special cross-ticks against each item of receipt or payment in the cash book and with his initials in the columns provided in the ledgers.

While checking the loan ledger, it should be seen whether the amount of loan, rate of interest, and the period of repayment have been duly noted and whether there is proper sanction for this. While checking the admission register, it should be examined if the allotment of shares and withdrawals are supported by proper resolutions. While examining the ledger of borrowings, the auditor should note whether the conditions of deposits or loans have been duly entered and closely observed. The liability register, although it is not a book of account, should be carefully looked into; for, it shows the extent of each member's liability both in respect of his loans and of those for which he has stood surety. Instances where the maximum credit limit has been exceeded or where loans have been paid off by book adjustment can be detected from this register.

The next book is the general ledger. It is not generally maintained in rural credit societies. Entries in this ledger should be checked direct from the cash book.

The minute book should be examined to find out whether there is necessary sanction for all the transactions of the society and the auditor's initials should be entered against the resolutions. Under the by-laws, the panchayatdars or directors alone are competent to admit a person as member, to accept a deposit or take a loan from the central bank, to sanction a loan to a member or incur expenditure. There must, therefore, be resolutions of the panchayat or Board of Directors in support of every one of such transactions.

Expenditure on purposes outside the objects of societies should not be allowed in audit unless supported by proper prior sanction of the Registrar. The Deputy Registrars may, however, sanction expenditure from the funds of co-operative societies for putting up portraits or busts of its office-bearers or other workers in the co-operative movement on the occasion of their silver jubilee celebrations up to a limit of Rs. 200. When the amount of such expenditure exceeds Rs. 200, the Registrar's prior sanction should be obtained for the entire expenditure.

When all the ledgers have been checked with the cash book, a list of outstandings under share capital, loans and other borrowings should be prepared from the ledgers and it should be examined whether the totals arrived at agree with those in the general ledger.

The ledger balances in societies paying audit fees should be verified by the auditors once a quarter. The concurrent audit reports should not be accepted without the concerned audit inspector's certificate regarding the verification of ledger balances. In the case of societies which have taken auditors under Fundamental Rule 127 for concurrent audit, the auditor's report should not be accepted without a certificate of verification of ledger balances every month.

Concurrent audit reports should be submitted in the following form :—

- (1) Name of the society.
- (2) Dates of audit.
- (3) Period of audit.

Certified that—

(i) that the cash balance of Rs. _____ at the close of the business on _____ was verified and found to agree with the balance according to the day book.

(ii) I checked the receipts and vouchers relating to the transactions in the period of audit and found them correct (except as pointed out in the summary of defects).

(iii) The postings in all the ledgers including the general ledger have been checked and found correct. Wrong postings and other mistakes were got rectified then and there.

(iv) The establishment and contingent charges incurred by the society are authorized and necessary and are in accordance with the budget approved by the general body.

(v) The by-laws have not been infringed (except in respect of instances pointed out in the summary of defects).

(vi) The ledger balances were verified and the totals of such balances agree with the figures noted in the general ledger.

A statement of receipts and disbursements for the period of audit and a summary of defects in duplicate/triplicate are appended.

Signature of auditor.

In the case of village societies and of other small societies, the comparing of the entries in the cash book with the counterfoil receipts, vouchers and the ledgers can be done simultaneously. This method will enable easy detection of omissions of entries and other mistakes. Supposing there occurs an entry of receipt of share subscription in the cash book, the first thing to do is to find out the corresponding entry in the counterfoil receipt book and initial it. Then the resolution of the panchayat recorded in the minute book accepting the receipt should be traced and initialled and then the entry in the admission book should be initialled. Take again an entry of disbursement of a loan to a member. The resolution of the panchayat sanctioning the loan should be traced. If the signature of the borrower was not obtained in the cash book itself, the separate voucher taken and pasted in the voucher file book should be examined and also the loan bond;

The entry in the loan ledger should next be examined and initialled. Similarly with regard to every other entry.

The arithmetical checking of additions, though purely mechanical, is a most important work. It is also necessary that the "carried forward" be checked on to the following page, as errors frequently occur here, sometimes involving a reduction or disappearance of cash balances.

The receipts, vouchers, postings in books, bonds, etc., checked by auditors should be initialled by them with dates.

9. As the duty of an auditor of co-operative societies is not merely to discover the errors of omission and commission in accounts but also to rectify them or get them rectified by the officers of societies, the investigation into their general administration is of considerable importance. For this purpose, the auditor, besides collecting information by means of personal enquiries whenever necessary, should obtain particulars from available records by examining one book after another maintained by the society.

Administrative
audit—Examina-
tion of books.

Receipt book.—The auditor should see whether there are any folios missing or any receipts without his initials or any counterfoils left blank. Wherever the auditor has reason to believe that moneys received from members have not been properly accounted for, some of the receipts and pass books (if the pass book system is in force in a society) should be called for from members and compared with the entries in the books of the society.

Cash book.—The cash book should be written in the chronological order as the transactions take place. It should be closed on each day of transactions and the balance written both in figures and words and signed by the secretary and treasurer or president if he is the ex-officio treasurer according to the by-laws of the society. If heavy cash balances have been retained unnecessarily for any period, the explanation of the officers concerned should be obtained. The practice of reloaning out of collections from members and the repayment of loans due to the central bank from fresh loans obtained from it should be discouraged. Cases of book adjustments, if any, should be noted.

Loan ledger.—The auditor should see whether there are any items not initialed by him and if so, he should examine the reasons therefor. Such items may represent cases not duly entered in the cash book due to oversight, negligence or fraud. The adequacy or otherwise of the action taken by the panchayat in respect of overdue and time-barred loans should also be examined and recorded.

Ledger of borrowings.—Where societies remit their dues to the central bank through transmitting agencies, differences in dates between the entries in the cash book and the receipts issued by the bank, are likely to exist. It should be scrutinized whether the differences are reasonable. In the case of deposits it should be examined if they are returned on maturity without undue delay.

Admission book.—As this book has a special evidential value, the dates of admission and withdrawal of members should be correctly entered. The signature of the member should be obtained in the appropriate columns not only at the time of admission but also when share capital is refunded to him. Arrears of share capital should not be allowed even in a village society because regular payments of share capital tend to cultivate the habit of thrift among members.

Minute book.—It should be seen whether the meetings were held periodically according to by-laws with the required quorum and whether resolutions were properly recorded. All resolutions touching the transactions of the society should bear the tick or the initials of the auditor.

Property statement.—In a society with unlimited liability, the auditor should assemble as many members as possible and read out to them the statement of assets and liabilities of members together with their net assets, so as to verify the correctness of the particulars noted in it. He should also make independent enquiries in the village to satisfy himself that the particulars furnished are accurate and report the results of such enquiries. The maximum credit limit of the society should be compared with the net assets.

Supervision report.—The auditor should test certain of the supervisor's answers in the supervision report and state whether the supervision appears efficient. If it is not satisfactory, the defect should be indicated.

The auditor should next endeavour to get the errors of omission and commission noted during the audit rectified as far as possible during his stay in the society. Such of the defects as cannot be rectified on the spot should be reported to the Deputy Registrar together with suggestions for improvement.

Preparation of Statements (Statement of receipts and disbursements, balance sheet and profit and loss account).

10. (i) *Statement of receipts and disbursements.*—After completing the mechanical audit of accounts and the administrative checking in the manner described above, the preparation of the statement of receipts and disbursements in the form prescribed in the audit report must be taken up. The entries in the cash book will have to be compared with those in the general ledger, and the totals under each head in the general ledger will give the receipts and disbursements. But most rural credit societies do not keep a general ledger. In the absence of this ledger, the auditor should himself collect the figures from the cash book and subsidiary ledgers for preparing the necessary statements. The printed audit report form and the statements embodied in the audit report of societies indicate under what heads the items of receipts and payments should be classified. In an ordinary credit society the

Preparation of statements — statement of receipts and disbursements, balance sheet and profits and loss account.

items noted below generally constitute the receipts and disbursements :—

Receipts.	Disbursements.
1 Share Capital.	1 Share Capital.
2 Deposits and borrowing from	2 Deposits and borrowings.
(a) Members—	(a) Members—
(i) Fixed deposits.	(i) Fixed deposits—
Short term.	Short term.
Long term.	Long term.
(ii) Recurring deposits.	(ii) Recurring deposits.
(iii) Savings deposits.	(iii) Savings deposits.
(iv)	(iv)
(b) Non-members—	(b) Non-members—
(i) Fixed deposits—	(i) Fixed deposits—
Short term.	Short term.
Long term.	Long term.
(ii) Recurring deposits.	(ii) Recurring deposits.
(iii) Savings deposits.	(iii) Savings deposits.
(iv)	(iv)
(c) Central Banks—	(c) Central Banks—
Short term.	Short term.
Intermediate.	Intermediate.
(d) Government—	(d) Government—
Short term.	Short term.
Long term.	Long term.
3 Loans repaid —	3 Loans issued—
Short term.	Short term.
Intermediate.	Intermediate.
4 Interest.	4 Interest.
5 Miscellaneous income—	5 Payment out of profits of pre-
(i) Entrance fees.	vious years—
(ii) Penalties.	(i) Dividend.
(iii) Interest on investments—	(ii) Common Good Fund.
(a) Reserve Fund.	(iii) Reserve Fund.
(b)	6 Establishment and contingen-
(iv) Dividend on shares in—	cies.
(a) Central Bank.	7 Miscellaneous payments—
(b)	(i) Penalties.
6 Adjusting heads—	(ii) Excess collections
(a) Due to society.	refunded.
(b) Due by society.	(iii) Supervision Fund.
7 Investments withdrawn.	8 Adjusting heads—
	(i) Due to society.
	(ii) Due by society.
	9 Investments made—
	(i) Furniture bought.
	(ii)
8 Total.	10 Total.
9 Opening balance.	11 Closing balance.
10 Grand total.	12 Grand total.

(ii) *Balance sheet.*—At the close of each balancing period, a number of adjustments will have to be made for the purpose of

correctly recording the outstanding assets and liabilities. Outstanding assets are items which accrue to the society and are not recorded in the books; they have to be passed through the books on the closing date. Such assets are interest on loans to members, interest on investments, and the like which are not capital items. Besides, there are certain items of expenditure such as printing charges, and cost of account books which are treated as assets and written off over a period of years. This class of expenditure is known as Deferred Revenue Expenditure.

Of the above, the interest item deserves special mention. The interest receivable pending payment to the society from the date up to which interest was last paid on the principal to the date on which the account is closed for drawing up a balance sheet (30th June of each year) is known as *accrue interest*. The accrued interest is divided into—

(1) interest accrued but not overdue ;
 (2) interest overdue, that is, interest that fell due during the year but was not paid before the end of the co-operative year :
 and

(3) interest accrued after an item of interest becomes overdue, that is, accrued interest for the period between the date when an item of interest fell due but was not paid and the last day of the year.

The first item is treated as divisible profit and taken to profit account, while the latter two are treated as book profit and shown as items of assets in the balance sheet. In the case of loans in which interest has been paid up to the due date, the interest accrued subsequently up to the end of the co-operative year should be classified under “Interest accrued but not overdue” and taken to profit account *irrespective of the question whether any instalment or instalments of principal are overdue or not*.

Outstanding liabilities include, besides capital items, such items as interest pending payment, cost of management due, interest collected in advance, supervision fund due, etc. It should be seen that all the outstandings have been correctly brought into the general ledger.

With the help of the statement of receipts and disbursements, the list of outstandings and the previous year's balance sheet, the balance sheet and the profit and loss account for the period under audit must be prepared in accordance with the form prescribed in the audit report.

Valuation and verification of assets.—It is the auditor's duty in preparing the balance sheet to see that all the assets which are shown in the books appear at their proper value, that they exist in fact and that no asset has been disposed of or charged in any way without the transactions being recorded in the books of the society.

Valuation of loans and classification of loans as good, doubtful or bad.—The auditor should attend to the valuation of assets

fully. Different considerations apply to different assets. The valuation of loans outstanding against members is a very important duty of the auditor, as generally loans constitute the bulk of the transactions in a co-operative credit society. The loans should be carefully scrutinized with reference to the records of the society and with the help of the management and should be classified as good, doubtful or bad. Where a debt is covered by sufficient security and the borrower is regular in the payment of the principal and of interest, the loan is considered good. If a loan is time-barred or wholly irrecoverable owing to the insolvency or bankruptcy of the debtor or for similar causes, the debt is treated bad. Where only a portion of the debt is likely to be irrecoverable on account of inadequate security, death of the principal borrower and sureties, absence of bond, prior encumbrances of property mortgaged, etc. the debt is classed as doubtful. Loans due by directors should be separately shown in the balance sheet as this will tend to operate as a check on too liberal borrowings by directors.

Reserve for bad and doubtful debts.—Reserves should be provided to the full extent of the debts actually regarded as bad; reserves against doubtful debts should be provided according to the estimated loss based on the circumstances of each case in shape of a percentage of the outstanding debts.

No bad debt reserve should be created in societies which are working at a loss. The object of creating a bad debt reserve is to prevent the division of profits where bad debts are anticipated. When a society is working at a loss, there is no need to increase the loss by the creation of a bad debt reserve. Where, however, a society works at a profit and where the auditor thinks that, in view of the possible doubtful and bad debts estimated, division of profits should be prevented by creating or by strengthening the Bad Debt Reserve, he should discuss the matter with the panchayatdars or directors and suggest the amount that should be set apart as reserve. If they agree to the suggestion and pass a resolution to that effect, then the audit certificate may be issued providing for such amount as has been agreed upon. Any reserve created by retrenching the net profits should only be with the concurrence of the management. A specific resolution should therefore be obtained and appended to the audit report in respect of all reserves, except those created under specific provision in the by-laws of the societies, concerned. An asset certificate showing the estimate of bad and doubtful debts should invariably be obtained from the directors of the society and appended to the audit report.

Valuation of Government securities, etc.—Such assets as investments in Government securities, debentures of the Central Land Mortgage Bank, etc., should be valued at *cost or market price*, whichever is the *lower* on the date of the balance sheet, as these assets are held for the purpose of sale. It is possible at times that there

may be appreciation in the value of some securities and depreciation in the case of some others. There is no objection to the rise in the value of securities in one series being set off against the fall in the value of securities in other series.

The Madras Provincial Co-operative Bank, the Central Land Mortgage Bank and the central banks may set apart a substantial portion of the profits earned by them on the sale of securities to the statutory Reserve Fund or to a special reserve to meet any possible depreciation in the value of securities held by them.

Valuation and depreciation of buildings.—When general funds have been utilized for the construction of a building, the amount so spent should be shown in the balance sheet as on the last day of the year as an asset under the item “Value of buildings”. When the amount invested is recouped out of gross profits within a specified period such recoupments should be shown as a ‘Building Reserve’ on the liability side of the balance sheet. Thus, when the amount spent on the construction of a building has been recovered completely there will appear on the balance sheet the value of building on the asset side and the building reserve on the liability side equal to the value of the building. These items will remain in the balance sheet indefinitely as long as the society exists or the society retains the building without selling it. The building becomes a secret asset and no depreciation need be charged on the value of the building for if this is done, it will result in the profits being cut twice for the same purpose. When buildings are constructed out of building fund there is no necessity either to provide for depreciation or to recoup the amount spent as the building fund was accumulated for the purpose of erecting the building. Expenditure on construction of buildings out of building funds does not amount to an actual expenditure as in the case of general funds but is only an investment like the Reserve Fund. The following example clarifies the position further with special reference to the mode of exhibiting the items in the balance sheet.

Assuming that a society spends Rs. 5,000 out of general funds for the construction of a building under rule XIII-A with the previous permission of the Registrar and subject to the condition that the amount should be recouped from gross profits at the rate of Rs. 500 per year, the whole amount spent for the construction of the building, viz., Rs. 5,000 will appear on the asset side of the balance sheet as “Value of buildings—Rs. 5,000.” The amount recouped every year out of profits will appear on the liability side as “Building Reserve”. At the end of the tenth year, the building reserve will be equal to the value of the building. As already pointed out, these items will appear in the balance sheet of the society indefinitely as long as the society exists or as long as the society retains the building without selling it. No depreciation need be provided for on the value of the building at any time.

Assuming that the same amount of Rs. 5,000 is spent out of the building fund of the society, the value of the building, viz.,

Rs. 5,000 will appear on the asset side of the balance sheet as "Value of buildings (Building Fund invested) Rs. 5,000". Supposing that the said sum of Rs. 5,000 was spent out of a total building fund of Rs. 6,000 to the credit of the society, there will be no change in the amount of the building fund on the liability side. The building fund of Rs. 6,000 will however be split up as "Invested in buildings Rs. 5,000" and "Yet to be invested Rs. 1,000". The building fund appropriated out of profits every year will be added on to the amount yet to be invested on the liability side. In this case also, the value of the building and the building fund invested will appear in the balance sheet as long as the society exists or as long as the society retains the building without selling it. No recoupment is necessary under rule XIII-A and no depreciation need be provided for on the building at any time.

Assuming that the said sum of Rs. 5,000 is spent equally out of general funds and building fund, i.e., Rs. 2,500 from each, the value of the building will be shown as Rs. 5000 on the asset side, but it will be split up as "Out of general funds Rs. 2,500", "Out of building fund Rs. 2,500". The recoupment of the amount spent out of general funds will be shown on the liability side as building reserve while the entire building fund will be shown as a liability.

Income from or expenditure on buildings constructed out of the building fund should be credited or debited as the case may be to the profit and loss account direct and should not be added to or subtracted from the building fund.

Valuation of furniture.—The stock of furniture should be examined and valued, allowance being made for depreciation. The charges incurred on account of repairs should be debited to contingencies and not to the value of furniture. The general practice is to write off an agreed percentage of the original cost of the asset each year.

Verification and valuation of stock-in-trade.—As the correctness of the profits of a purchase or productive or sale society depends on the accuracy of the valuation of the stock-in-trade on the date of the balance sheet, the verification of this asset and its correct valuation form an important part of the auditor's duties. If, as is generally the case, a subordinate of the department is present at the time the stock is taken by the managing body of the society, the stock statement signed by the officer of the society and the departmental subordinate so present may be accepted. Stock should be valued at cost or market price whichever is less; but in no case should the value be higher than the cost price even though the market value has risen, as this will result in taking profit before the sale is effected and the profit is earned. Each item in the stock verification statement should be examined by the auditor and he should certify that the valuation given by the directors is not inflated for the purpose of increasing profits.

In cases where the stock registers are either not maintained or are maintained improperly, the auditor should take the balances

of stocks as revealed in the last audit, add to it all purchases, debit all sales, and strike out the balance. If this balance does not tally with the stock verification statement for the end of the year under audit, the figures in the stock verification statement should be adopted in the audit report and the explanation for the discrepancy should be obtained in writing from the management and should be enclosed to the audit report.

Stocks are liable for depreciation due to dryage and shrinkage and to wastage in handling. Under the by-laws of stores societies, stock should be taken at the end of each quarter and necessary depreciation allowed by the Board of Directors. The auditors should examine carefully the reasonableness of the depreciation allowed by the Board in each case and report the result in their audit reports.

Several of the co-operative wholesale stores have purchased lorries and the following points should be borne in mind while allowing depreciation on their value :—

The net earnings on account of a lorry to any concern will be the highest during the first two years and will then progressively diminish. The following graduated scale may be adopted for writing off the value of lorries as depreciation :—

- First year—30 per cent of capital expenditure.
- Second year—25 per cent of capital expenditure.
- Third year—20 per cent of capital expenditure.
- Fourth year—15 per cent of capital expenditure.
- Fifth year—10 per cent of capital expenditure.

The value of the lorry should be completely written off in the fifth year, but the lorry should be represented in the balance sheet by a token figure till it is either sold, condemned or otherwise disposed of.

Verification of securities.—In verifying the investments of a society, the vouchers obtained, viz., share certificates, deposit receipts, Government promissory notes, etc., should be examined. If there are cases where these are missing, the explanation of the officers of the society should be obtained and reported. The title-deeds of lands and buildings purchased by the society should be carefully scrutinized, and defects, if any, should be indicated.

It is necessary that the auditors should not stop with the mere verification of the vouchers produced by the societies. They should also verify the investments independently by obtaining confirmation statements direct from the institutions in which the assets of the society are invested to the effect that the assets shown in the balance sheet are outstanding and are not encumbered in any manner. In respect of central banks, these confirmation statements obtained by the auditors should be submitted to the Registrar along with the audit reports for scrutiny before the issue of the audit certificates. Likewise, Deputy Registrars and Co-operative Sub-Registrars should scrutinize the confirmation

statements before approving the balance sheets of banks and societies whose audit certificates they issue. In respect of investments in the central banks, the reconciliation memos. issued by the central banks may be treated as statements of confirmation.

So far as investments such as Government securities are concerned, wherever necessary, the auditor should actually inspect the documentary title deposited with bankers or others for safe custody or sale. He should examine the register of securities and see if the description given there of the securities including their number, the year to which they relate, etc., correspond to the securities in the possession of the society or with the bankers or others with whom they have been deposited.

As securities pledged by the banks are also investments, the fact of their custody with the banks should be ascertained in the same way as other securities which have not been pledged. In the case of the debentures of the Central Land Mortgage Bank or Government securities, the auditor should verify the books of the society and see whether the debentures or Government securities, have been pledged to any bank or transferred in favour of any other person or persons and address the transferee concerned to confirm the fact of transfer and to state if the debentures, etc., are in their possession. He should address the Central Land Mortgage Bank or the Public Debt Office, as the case may be, to confirm the investment in respect of debentures or Government securities that have not been transferred and which continue to stand in the original holder's name but are not forthcoming for his inspection.

Verification of cash balance—The auditor should verify the cash balance by actual counting on the date of his visit to the society and satisfy himself that the cash balance shown in the book has been correctly arrived at. In small societies this can be done by doing the mechanical audit of the society up to the date of audit. Even before he begins audit, the auditor should ask for the production of cash balance as shown in the day-book. But after the mechanical audit of accounts of societies, if he detects that fictitious payments have been entered, or receipts have been omitted or other clerical errors have been committed in the cash book and the cash balance has, therefore, been affected, the auditor shall once again call for the production of the correct balance arrived at after the mechanical audit. In big societies where it is difficult for the auditor to conduct a thorough mechanical audit up to the date of his visit he should note the actual amount of cash produced and verified. If the cash balance is not readily forthcoming on demand for verification, the auditor should issue summons under section 37 of the Act for the production of cash balance. If it is not produced even after the issue of summons, the matter should be reported to the Deputy Registrar who should take prompt and speedy action to book the delinquents as already indicated in paragraph 5.

If there is more than one balance, as will be the case where there is a cashier as well as a petty cashier, all the balance should be verified at the same time to avoid one being utilized to supplement the other. As regards bank balance, the balance as per the cash book should be checked with the reconciliation statement furnished by the bank. In the case of Post Office Savings Bank account, the pass book issued by the Post office should be examined. Societies should obtain certified statements of balances of their Savings Bank accounts from the Post office concerned and produce them before the auditor at the time of audit for verification.

Verification of loans.—The verification of loans is an important matter, for it is a duty imposed on the auditor under section 37 of the Madras Co-operative Societies Act. An auditor should satisfy himself that the outstandings in respect of every loan according to the books maintained by a society are correct. This can be done satisfactorily only by meeting every borrower and ascertaining from him whether he owes the society as much as its books show. But an individual verification of every loan may not be practicable in many societies. Hence in rural credit societies, a list of all loans outstanding on the date of audit may be drawn up; it may be read out at a general meeting of the society and a resolution may be recorded to that effect. Where a meeting cannot be convened, the auditor should call from house to house and obtain the borrowers' signature or thumb-impression in token of his having accepted the amount shown as outstanding in the list.

During their two visits (once for interim-audit and again for final audit) auditors should verify all the loans outstanding to the societies they audit. Where they are not able to verify all the loans during the two visits, they should verify at least a major portion of the loans, and, in any case, no suspected cases should be left unverified. The personnel of the auditor of a society may change from time to time. It is, therefore, necessary that for the information of his successor every auditor should leave some record in the society to indicate which loans he had verified. The interim audit report and the final audit report should specify the numbers of each loan verified together with the admission numbers. The auditors should obtain signatures or thumb-impressions of the borrowers in the liability statement attached to the final audit report. No liability statement accompanies an interim-audit report. Hence the verified list of outstandings containing signatures of the borrowers should be enclosed with the interim audit report. Auditors should also certify in the final audit reports and in the interim-audit reports that they had verified at least half the number of loans outstanding on the date of audit.

The officers who issue the audit certificates or record the interim audit reports should, before doing so, satisfy that the auditors had verified an adequate number of loans and that every loan has been verified at least once in two audits.

In the case of land mortgage banks, their areas of operation extend over a large number of villages. Hence, personal verification of all loans is not possible. Auditors should obtain the acknowledgments of members by post and verify the confirmation slips obtained by the banks by comparing the signatures on them with those in the admission books. They should also secure and verify the entries in as many of the pass books held by members as possible.

For the verification of the assets and liabilities of members in Urban Credit Societies, the following plan may be adopted. Cards showing the assets and liabilities of each member should be sent out to the members concerned and should be got back from them with a certificate to the effect that the particulars given therein are correct. The cards should be got printed by the societies themselves in the following form :—

Admission number and name of member.

Loans—Direct.

Loans—Surety.

Share capital.

Recurring deposits.

Fixed deposits.

Auditor's initials.

I certify that the particulars given above are correct.

Signature of member.

NOTE.—“ If this card is not received back, duly acknowledged, by the member concerned within (time to be specified) it will be taken that the member has accepted the figures furnished in it as correct.”

Auditors should note in their audit reports the number of cards issued and the number got back, and state if they have verified all the cards returned.

Examination of bonds.—The auditor should examine whether every loan due by a member on the date of audit (interim or final) is supported by a bond or a decree. Otherwise, the loan would be insecure. It is not enough if the bonds in respect of the loans issued during the year under audit are checked. The auditor should take out a list of all loans *outstanding* on the date of audit and verify whether all of them are supported by bonds or decrees. As each loan is checked, the auditor should initial on the bond or decree. Where a document is missing, the auditor should not rest content with stating in the audit report that such and such a bond or decree is missing; he should pursue the matter and satisfy himself that the document has not been returned to the borrower with an endorsement of discharge. In cases where the document is not forthcoming and the explanation offered by the office-bearer concerned is not satisfactory, the auditor should call for the borrower concerned and satisfy himself that the loan has not been cleared. In the case of decrees, if satisfactory evidence as regards execution, either in the department or in the civil court is not produced, the auditor should verify the party and get an acknowledgment

from him. Auditors should not pass such items on the strength of mere certificates obtained from the panchayatdars.

Repayments made by the parties towards their loan accounts should be noted on the bonds or decrees and their acknowledgments obtained. This will save the loans from getting barred by limitation. Auditors should examine this aspect and note any cases in which this has not been done.

Further, the auditor should examine whether the contents of the bond are in accordance with the terms of the loan disbursed. In one case, the bond may be for a smaller amount than the sum disbursed; in another case, it may be for a longer period than the one for which it was granted; in a third case, it may be a surety bond while the loan was sanctioned as a mortgage loan; in a fourth case, the sureties who have signed the bond may be different from the sureties who were accepted by the panchayatdars. None of these discrepancies should be passed over by the auditor as they affect the security of a loan vitally.

Auditors should compare the signatures or thumb-impressions on bonds with the signatures or thumb-impressions in the admission book. This is an important duty and should not be omitted, particularly in the case of surety bonds which are not executed before a Sub-Registrar.

Auditors should also see if any bonds have become barred by limitation with reference to the points mentioned in the chapter relating to Arbitration.

Verification of properties purchased by societies.—The auditors should carefully enquire into the cases where lands or houses have been purchased by societies in execution of decrees against defaulters and draw up a list giving particulars of the extent of the properties, etc. They should show these properties *separately* in the balance sheets of societies; they should not merge them in 'Loans due from members'. This list should be furnished to the Central Bank and it should be instructed to watch the disposal of the properties.

In a number of societies, the amount either actually spent for the purchase of the properties or set off is credited towards principal and interest due on the respective loans. The amount adjusted towards interest is also carried to 'Profit'. The properties purchased by societies are, however, either not sold or when sold, do not at times fetch even the purchase money. It is not right in such circumstances for societies to take to 'Profit' the amount adjusted towards interest when it is not actually *realized*. Unless and until the properties are sold and the sale-proceeds are *realized*, the sum adjusted towards interest should not be included in the profit of the year.

Expenses incidental to purchase of properties in auction (e.g., stamp duty paid for sale certificate, other expenses for taking possession of properties, etc.) should be debited to loss account

irrespective of the fact that subsidy is paid by Government to societies working at a loss to recoup the loss incurred by them on account of purchase of stamp paper.

Adjusting heads.—The items under adjusting heads such as court costs, notice charges, advances, etc., should be thoroughly scrutinized as these are not covered by any security. It is not generally desirable to have any suspense items. While placing any item under “adjusting heads” the auditor should be very careful. He should scrutinize item after item and satisfy himself about their *bona fides*. Auditors should draw pointed attention of office-bearers of societies to any undue accumulation of these items.

Auditors should carefully examine if the advances paid to vakils in connexion with the execution of decrees through civil courts or properly accounted for and are supported by necessary vouchers.

Verification of liabilities.—On the liabilities’ side, amounts due to the Central Bank should be verified with the figures furnished by the Bank in the reconciliation statement which should also include a column to exhibit the interest accrued on the loan due to the Central Bank to enable the auditor to check and adopt that figure after verification. All other items should be verified with reference to the ledger balances. Confirmation statements obtained by the auditors should be submitted along with the audit reports.

It is the duty of the auditor to see that the balances arrived at in the balance-sheet and the ledger balances, as prepared, agree item by item. Whenever differences arise, steps should be taken to reconcile them.

Auditors should verify ledger balances once in a quarter (and in the case of societies with auditors appointed under Fundamental Rule 127, once a month) and append a certificate to that effect to the concurrent audit report which should not be accepted by passing officers without the certificate. To facilitate the auditors in that work, urban banks and societies should maintain a register of ledger balances in respect of important items like share capital, loans and deposits “due by” and “due to” them and strike the balances, every month.

In an ordinary credit society, the assets and liabilities will consist of the following items :—

Assets.	Liabilities.
1 Cash—	1 Loans and deposits—
(1) On hand.	(a) Members—
(2) In bank.	(i) Fixed deposits—
2 Other investments—	Short term.
(1) Reserve Fund.	Long term.
(2) Shares taken in the Central Bank.	(ii) Recurring deposits.
	(iii) Saving deposits.
	(iv)

Assets.	Liabilities.
2 Other investments— <i>cont.</i>	1 Loans and deposits— <i>cont.</i>
(3) Shares in other co-operative institutions.	(b) Non-members—
(4) Fixed deposits.	(i) Fixed deposits—
(5) Savings deposits.	Short term.
3 Loans due by members—	Long term.
Short term—	(ii) Recurring deposits.
(a) Considered good.	(iii) Savings deposits.
(b) Doubtful.	(iv)
Intermediate—	(c) Central Bank—
(a) Considered good.	Short term.
(b) Doubtful.	Intermediate.
4 Interest accrued—	(d) Government—
(a) Not overdue.	Short term.
(b) Overdue.	Long term.
5 Other items—	2 Share capital.
(1) Value of furniture less depreciation.	3 Interest due.
(2) Value of society's buildings.	4 Establishment and contingent charges due.
(3) Value of immovable properties purchased in the executions of decrees.	5 Other items—
6 Adjusting heads.	(1) Supervision fund due.
7 Total.	(2) Adjusting heads.
	6 Undisbursed profits of previous years—
	Dividend.
	Common good fund.
	Undisbursed profits.
	Reserve for doubtful debts.
	7 Reserve fund—
	Separately invested.
	Yet to be invested.
	8 Total liabilities.
	9 Net difference between assets and liabilities (book profit or loss).

(iii) *Profit and Loss statement.*—This Statement shows all items of income for a given period representing profit and all items of expenditure inclusive of reserve for bad and doubtful debts and depreciation representing loss. Proper care should be taken to add all accruing income and items pending payment to the appropriate items and to deduct items shown as pending at the close of the previous year.

The excess of the total of the profit items over that of the loss items constitutes the net profit of the society for the year; any deficit will constitute the loss. Losses of previous years should be set off against the profits of the current year before the net profit is arrived at. The net profit may not agree with the book profit which is the excess of assets over liabilities. This is due to the inclusion of overdue interest and interest accrued thereafter in the balance-sheet and the exclusion of these items from the profit

account. A reconciliation statement should, therefore, be drawn up to reconcile the profit or loss as per the balance sheet with the balance shown by the profit and loss account.

In an ordinary credit society the following items constitute 'profit' or 'loss' as the case may be —

<i>Loss.</i>	<i>Profit.</i>
1 Interest paid and due— (a) Paid. Add— (b) Interest pending payment. Total. Deduct— (c) Interest pending payment at the end of the previous year. (d) Net amount.	1 Interest earned— (a) Realized. Add— (b) Interest accrued, but not overdue. Total. Deduct— (c) Interest accrued at the end of the previous year.
2 Establishment and contingent charges paid and due.	Net,
3 Assets written off as bad debts.	2 Miscellaneous income—
4 Reserve for doubtful debts.	(i) Amount realized.
5 Miscellaneous items.	Add—
6 Last year's loss.	(ii) Amount pending recovery.
Total.	Total.
7 Profit (plus) or loss (minus).	Deduct—
	(iii) Amount pending realization at the end of the previous year.
	Net amount.
	Total.

NOTE.—(1) Net profit as per assets and liabilities statement.

(2) * Deduct profit included in the balance sheet but not available for distribution. Or

† Add profits of previous years now made available for distribution.

Net amount or total available for distribution as per profit and loss statement.

11. After completing the audit of a society, the auditor should next classify it according to its general working.

Classification of societies. The classification should be done on the following basis :—

Class 'A'.—The society should receive no help from official or non-official staff, other than the annual audit. Such a society may be inspected, exhorted and encouraged; new proposal for the development of its activities may be made but an inspection should not be necessary in order to remedy any defects. It must, in addition, contain all the distinguishing marks of a B class society.

Class 'B'.—Must maintain its own accounts through a local secretary, not a circle or itinerating secretary. It must prepare its own monthly or crop demand, make its own recoveries from debtors, apply when necessary for arbitration, conduct its own execution

* There will be an entry against this when the overdue interest of the year is greater than that of the previous year.

† There will be an entry against this when the overdue interest of the year is less than that of the previous year or when it is nil. When the overdue interest of the year is equal to that of the previous year, the amount to be deducted or added will be nil.

proceedings in court and be generally in a sound and healthy condition. A society classed as 'B' may, however, contain a certain number of defaulters, its accounts need not be faultless, and its co-operative spirit and education may be, in some respects, short of perfection.

Class 'C'.—All other societies.

Class 'D'.—A bad society which will be cancelled and brought under liquidation, if it does not raise itself to class 'C' within two years. No society should be classed as 'D' so long as it is considered fit to receive a new loan on any terms whatever from its financing institution.

The classification of societies on the basis indicated above is an important duty of the auditors who should attend to it intelligently. The officers issuing audit certificates should without accepting the classification assigned by the auditors as a matter of routine, see that the classification done is equitable. Failure to properly judge the class, which should be assigned to each society, will give an incorrect idea about the progress of the movement in the annual administration report of the department and in the case of societies classed low it will damp the enthusiasm of the office-bearers who worked the societies.

Preparation of
audit report and
issue of audit
certificate.

12. The last item in audit is the filling up of the audit report and the draft audit certificate with the help of the notes made in the working sheets, etc.

The auditor should submit his report with the list of defects noticed during audit, the liability register form duly filled in the case of all credit societies except those limited liability credit societies having more than 200 loans outstanding on the last day of the co-operative year and the confidential or special report, if any.

Alteration or correction of figures in an audit report should as a rule be avoided. Auditors should do all their calculations and other rough work in separate working sheets and should proceed to fill in the printed forms only after satisfying themselves about the correctness of every figure going into it. On receipt of the report, the Deputy Registrar or the Co-operative Sub-Registrar will carefully scrutinize it and then issue the audit certificate to the society with a copy of the audit report. Where in the course of checking of such report, certain corrections or alterations are found unavoidable such corrections or alterations should be made very neatly, preferably in red ink, and should invariably be attested by the officer concerned.

13. Auditors should immediately after audit (interim or final) write on a separate sheet a brief summary of defects noticed in the society audited. This should be in two parts: Part 'A' containing such of the defects noticed in the society as call for immediate attention by the Deputy Registrar, union or central bank; and Part 'B'

Summary of
audit defects.

containing defects of a minor nature. These audit defect sheets should be appended to the audit report when it is submitted to the Deputy Registrar. They will be copied in the office of the Deputy Registrar and communicated at once to the central bank and the supervising union concerned for necessary action. As the catalogue of defect given in Part 'A' requires immediate attention, it should be communicated at once to the central bank or the supervising union by the Deputy Registrar for prompt rectification. Part 'B' may wait till the audit certificate is issued, if it cannot be communicated then and there. It is very desirable that the Deputy Registrar should keep the file containing the summary of defects open till the financing bank or the supervising union is satisfied that the defects mentioned have been remedied. Auditors should not record general observations, remarks, opinions or inferences against the office-bearers of a society in the cash books or other books of the society. The proper place to do so is the "summary of defects". In case any defect is serious or requires the special attention of the Deputy Registrar (e.g., misappropriation of funds, destruction of records, disappearance of a responsible officer of the society, etc.) he should submit a separate, and if necessary, confidential report in the matter.

14. The audit reports, the summaries of defects and the audit certificates should be read at general meetings of societies. In addition, societies should put up copies of their audit certificates and balance sheets on their notice boards.

Publication of audit certificates, etc.

15. *Non-agricultural credit societies.*—The mechanical portion of the audit of a non-agricultural credit society does not differ much from that of an agricultural credit society. There are more account books and more items of receipt and expenditure in a non-agricultural society than in an agricultural credit society. Often there are items which come under more than one head of account.

Final audit of other societies.

The most important book even in a non-agricultural society is the day (cash) book. In some societies there is a rough cash book or waste book in which are entered all transactions in the order in which they take place. From this, the day book proper is prepared, the daily items of receipts and disbursements being classified and written separately with a total for the day under each head of account. In the place of this waste book, what are called credit and debit slips are used in some banks where the cashier is different from the ledger-keeper and the secretary who signs the receipts. The remitter is required to present chalans with payments. These chalans or paying-in-slips contain the details of payments made with the signatures of the parties and from useful record for the auditor to assure himself that all items of receipts have found their way into the books of the society. The entries in

the rough cash book should be first compared with the paying-in-slips or chalans and then with those in the fair cash or the day book. Receipts are issued from a receipt book in addition to the chalans by most banks. In such cases, the counterfoils of the receipt book should be checked with the entries in the day book. Where each constituent is provided with a pass book, some of these books should be collected from them and the entries in them should be compared with those in the books of the society. All items of expenditure should be supported by proper vouchers, and the auditor should see whether they are so supported. For entries of book adjustments there will be no formal vouchers but the auditor should see whether the transfers were made properly from one head of account to another or *vice versa* and under competent authority. The items in the day book should be compared with those in the special ledgers such as share ledger, fixed deposit, savings deposit and current deposit ledgers, loan ledger, etc.

Stores societies.—In these societies, there are certain extra books, e.g., stock registers, purchase registers, sale chits, bonus register, etc. Where the stores works under the double compartmental system, the stock-in-trade in each society is divided into the main stock and the retail stock. The main stock is kept separately under the lock and key of the secretary or other responsible person and issues from it are made to the salesman on the basis of indents made by him in quantities sufficient to cover the sales for a week or a fortnight. The special accounts to be maintained are the purchase, issue and stock register (goods ledger), salesman's indent register and register of issues to salesman. Arrangement are made by the societies for the effective internal audit of their accounts by the appointment of audit clerks or supervisors for the purpose. Departmental auditors are thereby relieved of much routine work but their responsibility in regard to the efficiency of audit or to the detection and prevention of errors and frauds is not in the least reduced. The following is the division of work between departmental auditors and internal audit clerks where double compartmental system is in vogue:—

(a) *Departmental auditor.*—The auditor should visit the stores at least once a month for concurrent audit. He should check thoroughly the following items: (i) all receipts and vouchers with the cash book or day book, (ii) all bills and invoices relating to purchases, (iii) posting in the purchase, stock and issue register, (iv) personal accounts of merchants or others for purchases made by the stores, (v) all receipts of stocks into and the issues from the inner or main compartment, (vi) all entries in the sales suspense account and the salesman's personal account and (vii) postings in the ledger of borrowings. He need not check all the sale chits, but he should thoroughly check the sale chits for three days in a month to ensure that the internal audit clerk is doing his work properly.

(b) *Internal audit clerk.*—He should take care to see that in no stores the internal check is in arrears for more than a week. He

should take up the audit soon after the transactions are recorded and keep the checking up-to-date. He should completely check the following items: (i) all sale chits (cash as well as credit), (ii) calculation of prices and striking of totals in sale chits, (iii) recovery lists with chittas where credit sale is in vogue and (iv) all ledger postings.

In stores where double compartmental system of stocking goods is not in vogue the following division of work should be followed:—

Departmental auditor.—He should do all the items of work detailed in (a) above and, in addition, check all the sale chits of all days instead of a test check of the sale chits for three days in a month.

Internal audit clerk.—He should do the mechanical checking of all the items that are detailed in (b) above.

A complete checking of all sales chits by departmental auditors is quite necessary even in stores which have adopted the double compartmental system if it is found that the arrangements made for the internal audit of their accounts are not efficient. A percentage check of sales chits may be considered adequate only in cases where the compartmental system of stocking goods is *closely adhered to*, deficits in the stocks with the salesmen are correctly ascertained and recoveries in respect of shortages are promptly effected.

The auditors should make or cause independent verification of the balance of amounts “due to” or “due by” the societies to the suppliers and customers, reconcile all the outstanding balances and append a certificate to the effect that confirmation statements have been obtained from all suppliers (including the wholesale stores in the case of primaries) and customers and that the balances shown in the ledgers and the balance sheet agree with them. Statements that certain accounts with the suppliers or customers could not be verified for some reason or other should not be accepted.

Audit certificates should not be issued until the auditors furnish certificates in respect of all the suppliers' accounts.

The auditors should—

(i) observe the instruction given in paragraph 10 in regard to the verification and valuation of the stocks in trade,

(ii) investigate whether any heavy advances made to the employees or purchasing agents for purchases are utilized temporarily by them for personal use and if any such cases are noticed, submit special reports about them giving the details,

(iii) if they notice any deficits on a thorough check of the goods ledgers, examine the causes for such deficits, and submit a special report to the Deputy Registrar,

(iv) where a co-operative stores has opened depots, examine whether separate cash books and goods ledgers are maintained by the depots, whether the cash balance at the end of each day is acknowledged by the depot managers, whether the receipt of all articles from the head office is duly acknowledged and entered in the

goods ledger of the depots and see that the accounts of the depots are reconciled with the accounts of the head office,

(v) check the salesman's liability register maintained under the double compartmental system and verify whether the signatures of the salesman are obtained every time articles are issued to him and he remits the sale-proceeds, and

(vi) in respect of stores which are in the habit of making occasional credit purchases, scrutinize the bills with vigilance. There is the danger of employees who make the purchases fraudulently converting credit bills into cash bills and misappropriating the amounts involved. Bills on which it is not clearly indicated that they are credit bills or cash bills should be passed with care.

Weavers' societies.—The auditors of weavers' societies should—

(i) verify whether signatures of members are obtained in the yarn issue register, whether yarn is supplied to members only and whether the members who obtain yarn are genuine weaver workers ;

(ii) check completely the personal ledger and serialwar stock register. The balances in the personal ledgers should be tallied with the general ledger figures. Every entry in the stock register should be checked and initialled by the auditor with date ; and

(iii) test-check the bulk sales.

While auditing accounts of trading societies such as stores societies, marketing federations, sale societies, weavers' societies, milk supply societies and unions, cottage industrial societies, etc., all items of entries relating to receipt of stocks in the stock register, godown keepers' register and purchase day book, particularly for the period immediately preceding the close of the account year, should be checked and the balances outstanding against trade deposits or advances verified. It should also be ensured that the value of all consignments taken into the closing stock have been debited to the purchase account and corresponding credit given to the suppliers' account or trade advances account whenever the consignments are not paid for in cash. A certificate to this effect should be obtained from an office-bearer of the society, countersigned by the auditor in token of having verified it and attached to the audit report. Audit certificates should not be issued if these certificates are not attached to the audit reports. All trading institutions should reconcile their accounts with those of the suppliers monthly or bi-monthly and not postpone it till the close of the year

Audit of central
banks—points to
be noted.

16. Auditors should note the following special points in the audit of central banks :—

(i) Anticipated dividend on share capital invested in the Madras Provincial Co-operative Bank should not be taken into account for the purpose of profits.

(ii) Some central banks have provision in their by-laws to carry forward a portion of their net profits towards the working expenses of the following year. This amount should not be shown as a miscellaneous receipt and included in the profit and loss account. This

has come out of the net profits and as no need has arisen to spend it, it is an item of liability and is available for distribution in the subsequent year along with the net profits of that year after setting apart the statutory contribution to reserve fund. If this amount is added to the profits, the effect will be a portion of it will again be added to reserve fund.

(iii) The contribution to the supervision fund should be calculated and debited in the accounts on the 30th June of each year so that it can be debited to the profit and loss account of the same year.

(iv) In the case of Government promissory notes, the instructions noted in regard to the verification of securities in paragraph 10 above should be carefully followed.

(v) The amount to the credit of the building fund is in some central banks treated as a fixed deposit invested in the bank itself with a view to allow interest on it. There is no need for so treating it because the fund can carry interest if the bank so wishes even without treating it as a deposit. The effect of treating the fund as a deposit is that the amount is merged in borrowings and does not appear as a separate item in the balance sheet. This is not correct. It should be shown separately in the balance sheet.

(vi) The auditors should make a very careful estimate of bad and doubtful assets with reference to all available information on the subject. The estimate should be adequate and not unduly excessive. Officers should consult the central banks before recommending a reserve for bad and doubtful debts.

(vii) The auditors should carefully examine whether the banks have made any adjustments in order to increase their profits and the results of such examination should be fully recorded in the audit reports.

(viii) Any subvention given by the Provincial Bank for purposes of rectification work, etc., should not be taken as a miscellaneous receipt and included in the profit account; the subvention, being for a specific purpose, should be spent for that purpose only and duly accounted for. Any amount which has not been so spent out of the subvention made should be shown as a liability at the end of the year. The subvention given together with any contribution made by the central bank will form, as it were, a specific fund for the purpose, and separate accounts should be maintained to show the amount received and the amount spent. This should be exhibited in the audit report under adjusting heads.

(ix) In the course of execution of decrees and awards against defaulters of societies, central banks may purchase immovable properties, sometimes for a nominal value. In disposing of these properties, the banks may realise more than the purchase price. It may not be desirable to credit the excess to the profit and loss account. A reserve may be created with the profits realized by the sale of properties so as to debit to this fund the loss, if any, that may be incurred by the bank in the disposal of other properties in its possession.

17. Rule XI of the rules issued under the Madras Co-operative Societies Act governs the payment of fees for the audit of certain classes of societies. The rule is as follows :—

Levy of audit fees—Scale of fees.

(1) Every registered society shall pay to the Government a charge for the audit for its accounts for each co-operative year in accordance with the scale fixed by the Registrar with the previous approval of the Government in respect of the class of society to which it belongs :—

Provided that this sub-rule shall not apply—

(a) (i) to a credit society, a thrift and loan society, a society for fishermen, a society for scheduled castes, a central bank, if the working capital of the society or the bank, as the case may be, on the last day of the co-operative year does not amount to twenty thousand rupees ; or

(ii) to a building society or a primary land mortgage bank, if the society or the bank, as the case may be, has not completed three co-operative years after commencement of its business ; or

(b) (i) to a purchase, sale or production society, other than a loan and sale society, a milk supply society or a weavers' society (purchase and sale) the value of whose purchases, sales of articles or goods produced, as the case may be, in the co-operative year does not exceed Rs. 10,000 ; or

(ii) to a loan and sale society, a milk supply society, or a stores society, if the society has not completed three co-operative years after commencement of its business ; or

(iii) to a weavers' society (purchase and sale) until the completion of the sixth co-operative year after its commencement of business ; or

(iv) to a milk supply society not falling under sub-clause (ii), if the value of its sales in the co-operative year does not exceed twenty thousand rupees ; or

(v) to a weavers' society (purchase and sale) not falling under sub-clause (iii), if the value of its purchases or sales, as the case may be, in the co-operative year does not exceed ten thousand rupees ; or

(vi) to a loan and sale society not falling under sub-clause (ii) and transacting 'sales' business, the value of whose sales in the co-operative year does not exceed ten thousand rupees ; or

(vii) to a loan and sale society not falling under sub-clause (ii) and advancing loans on the security of members' produce, whose working capital on the last day of the co-operative year does not exceed twenty thousand rupees ; or

(viii) to a loan and sale society not falling under sub-clause (ii) and transacting 'sales' business as well as advancing loans on the security of members' produce, if the total value of its sales during the year plus fifty per cent of its working capital on the last day of the co-operative year does not exceed fifteen thousand rupees ; or

(c) to any other class of society whose gross income in the co-operative year does not exceed Rs. 5,000; or

(d) to any agricultural society with unlimited liability; or

(e) to any audit union, district federation or supervising union; or

(f) to any society which has its accounts audited at its own expense—

(i) by the staff of an audit union in existence on the 9th July 1932; or

(ii) under an arrangement approved by the Registrar and in force on the 9th July 1932; or

(iii) by a person authorized by the Registrar to audit the accounts of the society under section 37 of the Act if such a person is willing to furnish the statements prescribed by Rule V and in the forms required by the Registrar;

Notwithstanding anything contained in sub-clauses (ii) and (iv) of clause (b) of the foregoing proviso, a milk supply society which has completed three co-operative years, but has not completed five such years after commencement of its business or the value of whose sales in the co-operative year exceeds twenty thousand rupees, but does not exceed forty thousand rupees, shall pay one-half of the charge payable under this sub-rule.

(2) The charge payable by the society under the sub-rule (i) shall be paid into the nearest Government treasury within six months of the close of the co-operative year to which the audit relates.

(3) All charges leviable under this rule shall be recoverable in the manner specified in section 58 of the Act.

(4) The Registrar may, at his discretion, remit the whole or any part of the charge payable under sub-rule (i) by a particular society or by a particular class of societies for any year or other specified period.

Scale of fees.—The Registrar has with the previous approval of the Government fixed the following scale of fees payable by societies towards the cost of their audit :—

Class of societies.	Fees to be charged per diem.		
	RS.	A.	P.
1 Central banks	7	0	0
2 Urban banks with a working capital of rupees one lakh and over	7	0	0
3 Societies (other than central and urban banks) whose working capital or the value of whose purchases, sales, or articles or goods produced as the case may be in the co-operative year is rupees one lakh or over ..	7	0	0
4 Urban banks with a working capital of less than rupees one lakh and other types of societies liable to pay fees under the rules	5	4	0

NOTE.—(i) In computing working capital for the purposes of these scales, the reserve fund of societies invested outside their business shall be excluded.

(ii) In the case of primary land mortgage banks, advance payments made by members and shown in the accounts "Members' Loan Deposits" till they are credited to their loan accounts on due dates cannot be treated as part of working capital for purposes of living audit fees.

(iii) As regards weavers' co-operative societies, their main business is the sale of finished goods of the members and the other transactions are only incidental to this main business. Fees have to be levied on these societies with reference to the value of the goods sold in a year, as the intention of the rule is to charge fees with reference to the main business done by a society.

(iv) A co-operative bank is not liable to pay audit fees, if its working capital is below Rs. 20,000 even though it deals in controlled commodities under by-law 2 (2) and the total sales exceed Rs. 10,000.

Fees at the above scales have to be collected on the basis of the actual time taken for the audit of the accounts of the societies concerned. Each auditor has to work at least six hours a day in a society. The general principle is that the cost of staff employed on the audit of banks and societies which are liable to pay audit fees should, as far as possible, be covered by the fees collected from them. Audit fee is leviable for—

(i) auditing the accounts of societies at the rate of one day's fee if the time spent in a day is three hours and more ;

(ii) days spent on the preparation of audit reports which should be done at the societies themselves ;

(iii) time taken for verification of collateral securities of central banks for the half-year ending 30th June (and not for the half-year ending 31st December) ;

(iv) time spent by auditor in assisting Deputy Registrar in the final closing of accounts of the central banks ;

(v) time spent for verification of fluid resources and the diary of due dates for fixed deposits ;

(vi) time spent on checking of loan applications, etc., in the administration section of the central banks ;

(vii) time spent by auditor along with the Deputy Registrar in the half-yearly inspection of central banks ;

(viii) time spent by the auditors in the verification of loan applications of the central banks to the Provincial Bank ;

(ix) time taken for the verification of stock by departmental Inspectors ;

(x) time taken to answer the check memoranda. (If the work involved is such that it can be attended to by the auditor with reference to his working sheets and without visiting the society or if the time spent on such work in the society is less than 3 hours, no fees need be charged) ; and

(xi) reconciliation of execution fees suspense-balances forms part of audit work though done by Territorial Inspectors. Audit fees should, therefore, be levied for the time taken for this item of work.

Audit fees need not be levied for the time taken by the auditors for the verification of financial particulars in primary land mortgage banks. Fees need not also be charged for scrutiny of loan applications of non-credit societies. The Deputy Registrars need not undertake the scrutiny and recommendation of applications for loans and cash credits to the central banks in the case of

credit societies, both limited and unlimited. The bank staff should do the job generally. In exceptional cases, the Deputy Registrars may do it, but fee should not be charged.

Audit fees should not be charged in respect of time spent by auditors for the preparation of inspection notes or annual statements. Auditors should not ordinarily be asked to prepare these notes.

Auditors should avoid taking more than one society for audit in a day but when it becomes unavoidable and work is attended to in two societies and if the work turned out in one is negligible, levy for the full day may be made in the other society; otherwise, levy at the rate of half a day for each society should be made. Levy for work over three hours may be made as for a full day and that for less than three hours ignored.

In the case of audit of Multiple Unit societies, i.e., societies functioning in more than one State, according to an agreement arrived at between the Madras and Bombay Governments, each State should charge audit fees on branches of societies situated in that State according to the scale in force in that State and they should pay the audit fees direct to the Registrar of Co-operative Societies of that State. The Head Office will pay audit fees to the State Government in whose jurisdiction it is situated both for the Head Office and for any branch functioning in that State.

With a view to watch the proper levy of audit fees, Deputy Registrars should maintain a register allotting a page to each audit-fee paying society and open a separate register for each year. Details in the register should be filled up immediately on receipt of diaries of auditors and discrepancies, if any, reconciled. Under the rule, the Registrar has power to remit the whole or any part of the audit fees payable by a particular society or by a particular class of societies for any year or other specified period. The total amount of all remissions granted in a year shall not exceed $2\frac{1}{2}$ per cent of the total anticipated receipts in that year. The audit fees payable by societies are to be paid into the treasury within six months of the close of the co-operative year to which the audit relates. In the case of all societies paying audit fees, the entire demand under audit fees irrespective of the fact whether it has been paid or not should be debited to the year in which the demand is made.

18. Societies which are exempted under rule XI from the payment of audit fees and which have not taken
 Audit fund. auditors at their own cost are required to contribute to an audit fund 10 per cent of their net profits and to pay to Government either this amount or the audit fee according to the scale prescribed, whichever is less. This obligation to contribute to an audit fund has been imposed on the societies by an amendment made to rule XII in January 1950. The rule, as amended, reads as follows:—

“In a society with shares and unlimited liability, not less than one-half of the net profits and in a society with shares and

limited liability, not less than one quarter of the net profits shall be carried to a reserve fund. In a financing bank with shares and limited liability, however, not less than one-third of the net profits shall be carried to the reserve fund until the total of the reserve fund and the other reserves of the bank equals the paid-up share capital of the members held by it and thereafter not less than one-quarter of the profits shall be so carried. Every registered society which does not pay a charge for its audit to the Government according to the scale of audit fees prescribed or which does not have its accounts audited at its own expense, shall next set apart 10 per cent of its net profits to an audit fund. This amount or the audit fee according to the scale prescribed, whichever is less, shall be paid to the nearest Government treasury within three months from the date on which the audit certificate for the year is issued by the Registrar under rule VII. The remainder of the net profits may be used in such manner and for such purposes as are prescribed by the by-laws of the society.

* * * * *

Societies of which all the members or a majority of the members are Harijans, have been exempted by Government from making any contribution to the audit fund but this exemption applies only in respect of the net profits earned by them for the calendar year ended with 31st December 1949 or the financial year ended with 31st March 1950 or the co-operative year ended with 30th June 1950, as the case may be.

The effect of the amendment to rule XII (a) is that societies which are exempt under rule XI from payment of audit fees or those which have not taken auditors at their own expense, shall, after carrying the required percentage of net profits to the statutory reserve fund, set apart 10 per cent of the net profits to an audit fund. Societies whose accounts are audited by approved private auditors, chartered accountants, or retired officers of the Department, or auditors under Fundamental Rule 127 or societies which are affiliated to an audit union, need not contribute to the audit fund. Similarly, societies which are liable to pay audit fees under rule XI need not contribute to an audit fund. But all other societies whose working has resulted in a profit, whether they are agricultural societies with unlimited liability or primary land mortgage banks, weavers' co-operative societies, building societies, loan and sale societies, milk supply societies or stores which have not completed the specified periods after the commencement of their business or the value of whose transactions has not exceeded specified amounts laid down in rule XI, will have to contribute 10 per cent of their net profits to an audit fund.

The audit fund, just like the building fund, is created every year out of profits at 10 per cent of the net profits. Payment towards audit fees is made out of the amount to the credit of the audit fund according to a scale of audit fees prescribed under rule XII. The amount levied should be credited to the same head of account to which audit fees levied under rule XI are credited in the

Treasury, viz., XXXI—Co-operation—(a) Audit fees. But the amount to be remitted should be limited to the sum to the credit of the audit fund or the audit fees according to the scale prescribed, whichever is less. It should be paid into the nearest Government Treasury within three months from the date on which the audit certificate for the year is issued by the Registrar, under rule VII. The balance of audit fund, if any, remaining after payment of the audit fees as per scale prescribed under rule XII will remain in the balance sheet under liabilities to be drawn upon in subsequent years. It is not necessary that for levying audit fees under rule XII for a year, the society should work at a profit in that year. The audit fees will be levied whether or not the society worked at a profit that year, so long as there is some amount to the credit of the audit fund. If the amount to the credit of audit fund in any year is less than the audit fees payable according to the scale prescribed, the audit fees will be levied to that extent only. No audit fee will be levied if the society has no amount to its credit in the audit fund and if it has worked at nil profits or loss during the year of audit. Deficits in fees should not be collected in succeeding years. Taking the example of a society which earned a net profit of Rs. 1,000 in one year, 10 per cent of it, viz., Rs. 100 will be set apart towards its audit fund after setting apart the statutory reserve fund. Supposing the auditor took 10 days for the audit of the society and the audit fee payable according to the scale prescribed is Rs. 55, the society will have to remit Rs. 55 into the treasury towards audit fee from out of the audit fund of Rs. 100. The balance of Rs. 45 will be carried forward under liabilities in the balance sheet. If in the succeeding year, the society has no profits or works at a loss and the audit fee payable is Rs. 66 then the sum of only Rs. 45 to the credit of the audit fund will be levied as audit fee for that year.

The following scale of audit fees has been fixed in respect of societies liable to pay audit fees from an audit fund under rule XII of the rules made under the Madras Co-operative Societies Act:—

Class of societies.	Fees to be charged per diem.		
	RS.	A.	P.
1 All agricultural societies with unlimited liability ..	3	12	0
2 All other types of societies liable to contribute to the audit fund under rule XII whose working capital or value of whose purchases, sales or articles or goods produced as the case may be is rupees one lakh or over	5	8	0
3 All other types of societies liable to contribute to the audit fund under rule XII whose working capital or the value of whose purchases or sales or articles or goods produced as the case may be is less than rupees one lakh	3	12	0

NOTE.—In computing working capital for purposes of these scales the Reserve Fund of societies invested outside their businesses should be excluded.

The audit fees or the contribution to audit fund to be paid by each society should be worked out as soon as the audit of its accounts is over and the amount so found due should be specified in the audit certificate when it is issued.

19. The Royal Commission on Labour recommended that all registered trade unions should be able to secure, free of charge, the conduct of their audit by officials of Government and that the reports of such official auditors on trade union audits and investigations should be made available for the public as well as for the unions. The Government of India in inviting the attention of Local Governments to this recommendation suggested that it might be possible for them to utilize the services of the officers of the Local Fund Department and such of the officers of the Co-operative Department as might be qualified to act as auditors. On a reference from the Commissioner of Labour on the subject, the Registrar agreed to the audit of trade unions in the State, except those in the City of Madras, by the officers of the Co-operative Department. According to this arrangement, the accounts of the trade unions in the mufassal, are audited by the auditors of the Co-operative Department as and when applications for free audit are received from the unions concerned and forwarded to the Registrar of Co-operative Societies by the Commissioner of Labour, who is the Registrar of Trade Unions under the Trade Unions Act. But Deputy Registrars should not arrange for the audit of any Trade Union without a specific direction from the Registrar in each case.

20. Government have also permitted the audit of the accounts of the District Tuberculosis Associations free of cost. The Deputy Registrars, on receipt of applications from the secretaries of these associations, arrange for the audit of the accounts of the associations by deputing Inspectors and furnish the associations with copies of the reports. Government have also ordered that the accounts of the Madras Industries Association might be audited free of cost by the staff of the Co-operative department.

CHAPTER II.

ARBITRATION.

The object of the Co-operative Societies Act is to encourage thrift, self-help and co-operation among agriculturists, artisans and persons of limited means and it will be impossible to attain these objects if the members of societies have, for the settlement of their disputes, necessarily to undergo all the trouble and worries of an expensive and protracted litigation. Section 51 of the Madras Co-operative Societies Act VI of 1932, therefore, provides for the compulsory settlement of disputes arising in societies by the Registrar or by any person who has been invested with powers in that behalf by the Government, or by an arbitrator nominated by the Registrar, instead of the disputants having to go to the civil courts. The object of filing the dispute before the Registrar is to assure its speedy disposal by avoiding the complex and elaborate procedure of the civil courts.

Rule XIV (1) of the rules framed under the Co-operative Societies Act II of 1912 (India), laid down that the disputes in societies 'may' be referred to the Registrar. As the word 'may' gave rise to some difficulty of interpretation, the Madras (Townsend) Committee on Co-operation suggested that the word 'may' should be replaced by the word 'shall' so as to exclude, without any ambiguity, the jurisdiction of civil courts. This suggestion was adopted in section 51 of the Madras Co-operative Societies Act (VI of 1932).

2. The word '*Dispute*' includes all matters touching the business of a registered society and which could form the subject of *Civil* litigation. This word as used in section 51 of the Act includes also a claim by a registered society for any debt due to it from a member, past member, or the nominee, heir or the legal representative of a deceased member whether such debt be admitted or not. But the disciplinary action taken by a society or its committee against a paid servant of the society is specifically excluded from the operation of section 51. If a debt is overdue and the defaulter fails to pay or refuses to show adequate cause for non-payment, he is liable to be proceeded against under section 51 and the sum awarded is recoverable as a decree.

Any dispute about the election of office-bearers or the validity of a meeting of a co-operative society can be tried under this section because the election of its office-bearers or the holding of a meeting is definitely a part of the *business* of the society.

The term '*business of a registered society*' does not merely mean those items of business for the transaction of which the

society was organized but also includes any kind of transactions which the society may have either with its members or with its employees. The provisions of section 51 of the Act should be resorted to for the recovery of sums not only due to societies but also due from societies.

3. Most of the disputes filed by co-operative societies relate to loans due to them by members. A society working on sound co-operative lines should not refer all the cases of default wholesale for decision under section 51 of the Act. A co-operative society is an association of men of character. They should exercise mutual control and supervision among themselves and there is, therefore, no need ordinarily for a society to obtain an award or decree against any of its members. An award against a member generally means either that an undesirable person has been admitted into the society or that members have failed to exercise mutual control and supervision or that the member could not pay owing to circumstances beyond this control. It is the duty of supervising unions to impress on the members of societies the need for exercising their personal influence on defaulting members and for recovering their arrears by persuasion. It is only as a last step that any overdue debt should be referred for adjudication under section 51 of the Act. If, however, the default is caused by circumstances with the control of the defaulter and an award or decree becomes necessary, it should be obtained without delay and executed expeditiously in order that it may have a deterrent effect on other members.

When approached by parties seeking solution for their troubles, officers should not, as a matter of course, advise them to file references under section 51. They should, as far as possible, try to solve the troubles by amicable settlement; it is only when their attempts at compromise do not bear fruit that they should suggest the filing of arbitration references. Even after the dispute is filed if the arbitrator could effect a compromise he should do so; for, a friendly settlement of disputes is the right spirit of co-operation. Deputy Registrars cannot refuse to entertain disputes on their file on the ground that they are barred by limitation or do not come within section 51. When the parties raise these points as specific issues, they may decide the issues. Deputy Registrars should report to the Registrar for his information all cases of arbitration references filed by one society against another except those filed by central banks against rural credit societies.

4. The references will have to be made to the Registrar or to the person exercising the powers of a Registrar under section 51 (1) of the Act in a district. Deputy Registrars of Co-operative Societies are invested with, and exercise, the powers of a Registrar under section 51 (1) of the Act, in their jurisdiction.

To whom references have to be made.

Disputes arising in a district should invariably be referred to these officers and not to the Registrar or the Joint Registrar who exercises such powers throughout the State.

5. Section 51 (1) of the Act lays down the references may be filed. Against whom persons against whom a reference may be made. It is as follows:—

“If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or servant of the society, or

(c) between the society or its committee and any past committee, any officer, agent or servant, or any past officer, past agent or past servant, or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased servant, of the society, or

(d) between the society and any other registered society, such dispute shall be referred to the Registrar for decision.”

These provisions are applicable to disputes arising between members or other persons mentioned therein and not to others. For instance, disputes in which non-member depositors or other creditors (non-members) are parties do not come under these provisions; they should be taken to civil courts. Persons claiming through a member include the heirs, executors or administrators and assigns of a member and also his nominee where nomination is allowed. The provisions of sub-section (1) cannot be applied to disputes between a society and non-members who stand surety to the paid staff of the society. It is, therefore, necessary that societies should insist on their paid employees getting only members as sureties to enable them to take action against such sureties under section 51 of the Act in case they are found liable to make good any loss that is caused by the neglect or cupidity of the employees concerned.

6. The panchayat or directorate of a society should ordinarily pass a resolution authorizing the secretary or the president, whoever is competent to sue under its by-laws, to refer to the Deputy Registrar for decision overdue loans or other disputes specified in the resolution. According to rule XV (1) of the rules framed under the Act the reference should be in writing.

In the case of societies in charge of agents appointed under their by-laws or managers appointed by the Registrar under section 43 of the Act, it is not advisable that the agents or managers should

take upon themselves the responsibility of filing references against past committees, past officers, part employees, etc., under section 51 (1) (c). In such cases, the complaints should where possible be supported by general body resolutions of the societies concerned.

A society which has resolved to refer a case of dispute should apply to the Deputy Registrar and should attach to its application—

(i) a copy of the resolution of the panchayat or directorate or general body referring the case for decision (full names and addresses of the defaulter and the sureties and the fact whether the principal and sureties are alive or, if dead, the names of their heirs or their legal representatives should all be given);

(ii) the bond executed by the defaulter in favour of the society in original (societies have, however, been permitted to produce bonds at the time of hearing);

(iii) a copy of the extract of the loan ledger certified as correct by an officer of the society;

(iv) a statement of the nature and amount of the society's claim, in the form prescribed; and

(v) fees prescribed by the Registrar.

In respect of defaulters who owe more loans than one to a society, references may be consolidated into one and filed provided the property mortgaged is the same or the sureties are the same in the several loans under dispute. In all other cases, separate references should be filed and separate awards obtained.

7. On receipt of references under section 51 of the Act, the Deputy Registrar should examine whether they come under the provisions of the section. He should see whether or not—

Scrutiny
of
references by the
Registrar.

(i) the dispute is between the persons mentioned in clauses (a) to (d) of sub-section (1) of section 51;

(ii) there is cause of action for a dispute (the existence of a dispute is essential); and

(iii) the dispute relates to the business of the society.

For instance, the conduct of a member appearing as an advocate on behalf of a society cannot be made the subject-matter of a reference as the member has not acted in his capacity as member.

After satisfying himself whether the dispute is within section 51, the Registrar may admit the reference and take it on his file. He should not get any administrative or preliminary enquiries conducted into the dispute, before admitting it. Defective complaints filed by societies should be returned to them for re-presentation by a specified date after rectifying the defects; the office-bearers of the societies concerned are liable to be held personally responsible for any loss that the societies may sustain owing to the claims getting time barred on account of their failure to re-present the complaints by the dates specified. The Deputy Registrar will acknowledge the receipt of references and particularly of any bonds or valuable securities filed with them. In each case, sufficient details of the valuable

securities filed should be given so that the society may file these receipts in the place of bonds and make a note in the loan ledger that the bonds have been sent for decision. This precaution is very necessary as it is the duty of the auditor to verify all bonds during audit and delay and inconvenience may be caused if the society can produce neither bonds nor any evidence to show definitely what became of them.

8. The Deputy Registrars exercising the powers of a Registrar under section 51 should themselves hear all difficult and complicated cases filed before them. Other ordinary cases (money disputes) may be transferred under clause (b) of sub-section (2) of section 51 to any person invested by Government with powers in that behalf (Co-operative Sub-Registrars) or referred under clause (c) of the same sub-section to an arbitrator or arbitrators. Co-operative Sub-Registrars have been invested with the powers of a Registrar under sub-sections (2) and (3) of section 51 of the Act. If the parties to the dispute request that the matter may be decided by a body of arbitrators, the Deputy Registrar may agree to that course and ask the parties to the dispute to nominate one each, himself nominating the third. The arbitrator appointed by the Deputy Registrar shall act as the chairman of the body of arbitrators and shall fix the time and place for the hearing of the dispute and carry on the necessary correspondence in connexion with the reference. All disputes falling under the purview of clause (c) of sub-section (1) of section 51 (viz.) disputes between a society or its committee and any past committee, any officer, agent or servant, or any past officer, past agent or past servant or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased servant, of the society should be heard by the Deputy Registrars themselves and should not be transferred to any other officer or arbitrator; so also references filed by co-operative societies for the staff of the Co-operative department against their members. It is also desirable that Deputy Registrars should themselves dispose of references filed by societies praying for conditional attachment of property before judgment. Deputy Registrars and other persons deciding disputes under clauses (a) and (b) of sub-section (2) of section 51 cannot designate themselves as arbitrators in deciding the disputes. The officer will be deciding the dispute in the exercise of his powers as Registrar or the powers he has been invested with in this behalf by the Government.

The transfer or reference of disputes to other officers or arbitrators for disposal should be in writing. When references are referred to arbitrators, the Deputy Registrars should ordinarily fix a time within which the references should be disposed of. This does not mean that the arbitrators will cease to be competent to dispose of the references concerned after the specified date. Unless and until the order appointing the person as an arbitrator is cancelled or suits referred to him for disposal are withdrawn, he continues

to be the arbitrator to dispose of the suits in question. If on account of any reason the reference could not be disposed of within the time fixed, extension of time may be given in writing. In cases of unusual delay either by the officers or by the arbitrators, the Deputy Registrar should withdraw the references and dispose of them promptly. The services of non-official co-operators should be utilized to the fullest extent possible in arbitration work.

9. The Registrar or the arbitrator or body of arbitrators or any other person deciding a dispute have powers under the rules to administer oaths, to require by issue of summons the attendance of all parties concerned including witnesses and to require the production of all books and documents relating to the subject-matter of the dispute preferably at the headquarters of the society or at some convenient place as near to it as possible. As far as possible, the parties to the suit should themselves bring their witnesses at their own cost. Parties desiring to have certain persons examined as witnesses whose attendance they cannot secure without summons, can have summons issued to them by the Deputy Registrar or person deciding the dispute or arbitrator or arbitrators on payment in advance of the expenses of travel, etc., incidental to such process. No rules have been laid regarding the rate of batta which may vary according to local conditions.

On the admission of the dispute, the Deputy Registrar, or other officer deciding the dispute or arbitrator or arbitrators should issue summons to the parties. With regard to the mode of service of summons, the following instructions issued under the rules may be of some guidance to arbitrators—

(1) Every summons issued shall be in writing, shall be authenticated by the signature and the seal, if any, of the officer by whom it is issued and shall be signed by such officer or by any person authorised by him in writing in that behalf.

It shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence, or to produce a document, or for both purposes; and any particular document, the production of which is required, shall be described in the summons with reasonable accuracy.

(2) Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same.

(3) The service of summons on any person may be effected in any of the following ways:—

(a) by giving or tendering it to such person; or

ARBITRATION

(b) if such person is not found, by leaving it at his last known place of abode or business or by giving or tendering it to some adult member of his family; or

(c) if the address of such person is known to the Deputy Registrar or other authorized person, by sending it to him by registered post; or

(d) if none of the means aforesaid is available, by affixing it in some conspicuous part of his last-known place of abode or business.

(4) *Person served to sign acknowledgment.*—Where the serving officer delivers or tenders a copy of the summons to the defendant personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

(5) *Endorsement of time and manner of service.*—The serving officer shall in all cases in which the summons has been served by giving or tendering it to the defendant personally or to an agent or other person on his behalf endorse or annex, or cause to be endorsed or annexed on or to the original summons a return stating the time when and the manner in which the summons was served and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the summons.

(6) *Service on civil public officer or on servant of railway company or local authority.*—Where the defendant is a public officer or is the servant or a railway company or local authority, the officer issuing the summons may, if it appears that the summons may be most conveniently so served, send it by registered post prepaid for acknowledgment for service on the defendant, to the head of the office in which he is employed together with a copy to be retained by the defendant.

When summons sent by registered post are refused by the parties and the Postal Department gives such an endorsement, the summons shall be deemed to have been properly served. In the case of service by affixture, the person entrusted with the service of summons should, as far as possible, get the attestation of some respectable persons of the locality regarding the manner of service. Care should be taken to see that summons are served in time on the parties so as to enable them to appear before the person hearing the dispute without undue inconvenience or haste. Where summons has not been served properly on all persons concerned before the date of hearing, the Deputy Registrar or other person including the arbitrators deciding the dispute should adjourn the hearing of the dispute to some other day and arrange for the issue of summons in time for the next hearing. Where the parties who have appeared at the first hearing give an undertaking in writing to appear at the next hearing, no summons need be served on them again for the subsequent hearing. Adjournment of hearings should as far as possible be avoided.

The Deputy Registrar or other person deciding the dispute or the arbitrator or arbitrators shall record (or cause to be recorded) a brief note (deposition of parties), in English or in the regional language of the deposition of the parties and witnesses who attend, read it out and translate it to them, if necessary, and take their signature in token of their acceptance of the same. They shall also attest the same to indicate that the deposition was taken by them or before them. Upon the evidence so recorded and after the consideration of any documentary evidence produced by the parties, a decision or award, as the case may be, should be given setting out his or their reasons for the decision and reciting the facts necessary to draft the decree. The decision or award given should be reduced to writing.

The arbitrator must hear all the evidence in the presence of both parties; he should be careful not to examine a party or witness except in the presence of the opposite party. If any party keeps back his evidence or fails to attend when called upon, the person hearing the dispute may proceed *ex parte*: he should, however, warn the party that failure to attend will lead to *ex parte* proceedings. If the defendant or defendants do not appear before the officer deciding a dispute in person or by proxy, the officer shall make a searching enquiry whether the summonses have been properly served. An attempt should be made to send for the parties or to serve the summonses a second time in a way different from the one adopted at first.

When several arbitrators are appointed, the opinion of the majority shall prevail.

10. After hearing the parties and recording their depositions in the manner laid down in paragraph 9 and satisfying himself on points of law such as limitation, etc., the Deputy Registrar or the person deciding the dispute or the arbitrator should write out a judgment giving the reasons for the decision. In simple cases, they may leave a note in the file regarding the decision and issue a decree. A decree shall also be issued in conformity with the judgment on the same day. The judgment should be pronounced to the parties, if they are present. A copy of the decree should be given to the plaintiff free of cost. Intimation regarding the issue of decrees should be handed over in person to the defendants by the arbitrators and their acknowledgments obtained.

Officers or arbitrators or persons deciding the disputes may allow the contract rate of interest in decrees and awards leaving it to the societies to allow a rebate to the judgment-debtors at the time of payment, wherever possible and necessary with approval of the financing bank concerned.

Deputy Registrars, arbitrators and other persons deciding disputes can give not only ordinary money decrees but mortgage

decrees as well. In cases where immovable properties have been mortgaged to societies as security, decrees may be given against such properties. Personal decrees should not be given against the heirs of deceased borrowers. The liability of the legal representative of a deceased person in respect of debts due by the latter extends only to the property of the deceased which has come into his hands and has not been duly disposed of. Decrees can, therefore, be passed against the heirs of deceased borrowers only to the extent of the assets of the deceased left in their hands.

When mortgage awards are given, it is not essential that the decree-holders should proceed against the mortgaged properties in the first instance. In the award it is usually stated as follows: "In default the plaintiff may recover the amount due together with further interest at _____ pies per rupee per mensem until realization and together with further costs from the defendant personally or the mortgaged properties or his other properties in any order he pleases." Awards in the above form can, however, be given only in cases where the mortgage bonds contain a covenant empowering the mortgagees (societies) to recover the loan amounts in any manner they choose. The form in which mortgage bonds may be obtained is given in Volume III of the Manual.

When members who are managers of joint Hindu families take mortgage loans for the benefit of their families, persons who are not members but who have an interest in the properties mortgaged sometimes join in the execution of the mortgage deeds. In arbitration proceedings against these members it is not necessary to implead as defendants such co-executants who are not members. The manager of a joint Hindu family has got powers to mortgage not only his own interests in the family properties but also the interests of the other members of the family if the debts contracted were for the benefit of the family. Whether or not the members has described himself in the mortgage deed as the manager of the family, it is open to the society to proceed against the mortgage property in the execution of a decree obtained against him provided it is recited in the mortgage deed that the debts were contracted for the benefit of the family.

In the case of references disposed of by arbitrators, they should submit the files along with their judgments, decrees and records of enquiry to the Deputy Registrar. These officers should examine the files and send copies of decisions or awards or decrees to the parties concerned. In cases where intimations have not been handed over to the defendants in person, they should be sent to them by post at the cost of Government.

The arbitrators cease to exercise their powers after they make an award; they have no power thereafter to amend it. They may, however, modify or correct an award where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision or where the award contains a clerical mistake or an error arising from an accidental slip or omission.

11. In the case of money disputes, if the debtor admits the claim and asks to be allowed to pay in instalments the Deputy Registrar or arbitrator should pass a decree in favour of the society and leave it to the society to exercise what clemency it may see fit in executing the decree. Such a procedure is essential as the societies generally file references only after having exhausted all persuasive means of recovery.

Issue of instalment decrees not advised.

12. Neither the Deputy Registrar nor the arbitrators nor other persons deciding disputes have power to issue injunction orders or direct stay of proceedings. They are expected to decide disputes at once.

No power to issue injunction order.

13. In the course of arbitration proceedings, the natural guardians of the minor legal heirs of deceased borrowers sometimes refuse to be appointed as guardians. In similar circumstances civil courts appoint one of their officers to be the guardian. Section 51 of the Madras Co-operative Societies Act does not, however, confer such powers on the Registrar or the arbitrators appointed by him though they can recognize the guardians appointed by civil courts. Where guardians have to be appointed, the parties should go to civil courts.

No power to appoint guardians.

14. The rules require the Registrar or the persons to whom the disputes are referred or the arbitrators to decide disputes in accordance with justice, equity and good conscience. In other words, the officer in deciding a dispute has a greater latitude than the court in order to do complete justice between the parties; he may take the moral aspect of all questions into consideration and base his decision on equity and good conscience.

Decision to be in accordance with justice, equity and good conscience.

The rules of the Indian Evidence Act, 1872 (*vide* section 1) do not apply to proceedings before an arbitrator and although he should endeavour to follow the general rules in admitting evidence, he is not required to comply strictly with them, and failure to comply strictly with the provisions of the Evidence Act is not a valid objection to the award.

The Deputy Registrar or arbitrator or any person deciding a dispute should, however, follow the common laws of the land in so far as they are not inconsistent with the express provisions of the Madras Co-operative Societies Act and the rules framed thereunder.

15. The points of common law likely to come up before the arbitrators frequently relate to the law of limitation. The period of limitation for referring a dispute to the Registrar for decision is regulated by the provisions of the Indian Limitation Act, 1908 (IX of 1908). The relevant portions of the Act which have to be borne in mind in disposing of arbitration references are dealt with below :—

Law of limitation.

Section 3 of the Indian Limitation Act, 1908, requires a court to dismiss any case filed after the period of limitation prescribed therefore although limitation has not been set up as a defence.

Under section 19 of the Limitation Act, a fresh period of limitation will count for a debt from the date on which the borrower acknowledges the debt in writing. The acknowledgment of the debt need not be expressed; it may be by implication. An acknowledgment made after the debt has become time-barred does not save limitation. In such cases, limitation could be saved and the claim revived only if the party enters into an agreement under section 25 of the Indian Contract Act, 1882, binding himself to pay the time-barred debt.

Under section 20 of the Limitation Act, a fresh period of limitation will count from the date on which the debtor or his duly authorized agent has acknowledged in his handwriting or in a writing signed by him the payment made towards principal or interest. In the case of payment made towards interest before 1st January 1928, such acknowledgment is not obligatory. While for the part-payments made before 1st January 1928 the endorsement of payment must be in the handwriting of the payer for *principal* alone, for part-payments made after 1st January 1928, the endorsement must be in the handwriting of, or in a writing signed by the remitter for *interest* also.

In the case of bonds executed by two or more persons jointly, the acknowledgment of debt or payment made by one debtor does not save limitation running against the other parties to the bond. Societies should endeavour to get the required acknowledgment from all the parties to the bond and see that claims against all debtors are kept alive.

Articles 73 and 74 of the First Schedule to the Limitation Act prescribe the period of limitation in respect of pro-notes. The period of limitation is three years from (i) the date of the pro-note in the case of pro-notes payable on demand, (ii) the due date for repayment in the case of pro-notes payable in lump sum and (iii) the due date of each instalment in respect of that instalment in the case of pro-notes payable in instalments. If the pro-note has been registered, the period of limitation is six years instead of three years. In the case of a mortgage bond, the period of limitation for enforcing the mortgage right is 12 years from the due date.

Though the provisions of the Indian Limitation Act generally apply to disputes under section 51 of the Act, two exceptions are provided for in rule XV of the rules issued under the Madras Co-operative Societies Act. Firstly, it is laid down that a dispute between (i) the society or its committee and (ii) any past committee, any past officer, past agent, or past servant or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased servant of the society shall, where the dispute relates to any act or omission on the part of the society or its committee, or any past committee, any past officer, past agent or past servant, the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased servant of the society, be referred to the

Registrar within two years from the date on which the act or omission with reference to which the dispute arose, took place. Secondly, disputes relating to the election of a member or an officer of the committee of a registered society should be referred to the Registrar within two months from the date on which the election with reference to which the dispute arose, was held.

16. Section 51 (5) of the Madras Co-operative Societies Act empowers the Registrar to revise of his own motion or on the application of a party to a reference, any decision thereon by a person to whom the reference has been transferred under clause (b) of sub-section (2) of section 51 or referred under clause (c) of the same sub-section. This power is exercised only by the Registrar of Co-operative Societies (Presidency Registrar) and the Joint Registrar of Co-operative Societies. It should be noted that the Registrar has no powers under section 51 (5) of the Act to revise the decision of a Deputy Registrar if the decision is given under clause (a) of sub-section (2) of section 51 in exercise of his powers as Registrar under that sub-section. The decision of a Deputy Registrar can however be revised under the general powers of revision conferred on the Registrar and the Government under section 57 of the Act. If, on the other hand, the reference has been received by the Registrar or the Joint Registrar in the first instance and transferred by him to a Deputy Registrar under clause (b) of sub-section (2), the Registrar or the Joint Registrar can exercise his powers of revision under section 51 (5) in respect of that dispute.

17. No civil or revenue court has the power to call in question the decision in a reference under section 51 of the Act. As mentioned in the preceding paragraph, the (Presidency) Registrar and the Joint Registrar have got powers to revise the awards passed under clauses (b) and (c) of sub-section (2). Barring this, all awards or decisions given under section 51 of the Act are final.

18. The rules issued under the Act lay down that legal practitioners shall not be entitled to appear to represent parties in the proceedings under section 51 of the Act. In the case of important and complicated references, legal practitioners may, however, be allowed to appear if the Deputy Registrar or the persons deciding the dispute or the arbitrators think that such a course may help them to dispose of the references more conveniently and expeditiously. This is entirely within the discretion of the persons hearing the dispute.

19. Arbitrators and other persons deciding the disputes under section 51 of the Act are entitled to use service-postage stamps. The arbitrators are also entitled to travelling allowance under the Madras Travelling Allowance Rules. All decisions, decrees and awards issued

under the Act are exempt from stamp duty ; they can be issued on plain paper.

20. Sub-section (4) of section 51 of the Act empowers the Registrar to order, under certain circumstances, the conditional attachment of properties of parties to a dispute before the decision is arrived at.

The relevant sub-section is as follows :—

“ Where the Registrar is satisfied that a party to any reference made to him under sub-section (1), with intent to defeat or delay the execution of any decision that may be passed thereon—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary ; and such attachment shall have the same effect as if it had been made by a competent civil court.”

These powers are reserved for the Registrar or the other departmental officers exercising the powers of a Registrar under this sub-section of the Act and cannot be exercised by arbitrators. When an attachment has been made under this section, no fresh attachment is necessary, if the decree passed in the dispute is sought to be executed under section 57-A of the Act. Proceedings subsequent to attachment can be carried on in accordance with rules XXII and XXIII of the rules made under the Act.

If it is proposed to get the property of a member against whom a decision or an award is sought under section 51 of the Act attached, an execution petition in form No. 1 specifying the properties to be attached and mentioning against column 2 of the execution petition the fact that attachment has to be made before judgment, should be sent along with the plaint. The plaint should also be accompanied by the chalans for the remittance of the necessary arbitration fees and execution fees. A true copy of a resolution of the panchayat or directorate giving reasons for seeking conditional attachment should also be enclosed. Attachment before the issue of an award or a decision should be sanctioned only in exceptional cases.

21. Under sub-rule (7) of rule XV of the rules under the Madras Co-operative Societies Act, the decision or award shall (save as provided in sub-rule 7-A) be enforced in any one of these ways—

(a) on an application to the Registrar of the district, in which the cause of action arose, the decision or award shall be enforced as provided in rule XXII ;

(b) on a requisition to the Collector of the district or to any person authorized by him in this behalf, made by the Registrar of Co-operative Societies, all sums recoverable under the decision or

award shall be recovered in the same manner as arrears of land revenue;

(c) on application to the civil court having jurisdiction over the subject-matter of the decision or award, that court shall enforce the decision or award as if it were a *final* decree of the court.

NOTE.—In this sub-rule 1, Civil Courts shall include village courts constituted under the Madras Village Courts Act (Madras Act I of 1869).

Sub-rule 7-A of rule XV lays it down that where the decision or award is for delivery of possession to a society of land resumed by it from a member for breach of conditions of the assignment, the society may apply to the Registrar of the district in which the land is situated for enforcement of the decision or award. On such application, such Registrar or sale officer empowered by him shall deliver possession of the land to the society or to such person as it may appoint to receive delivery on its behalf by removing, if necessary, any person bound by the decision or award who refuses to vacate the land.

Under the orders of Government, the Revenue Department is not entrusted with the execution of co-operative awards or decrees and the execution of decrees through civil courts is found to be costly and to result in delay. Societies are, therefore, resorting to the departmental execution of decrees mentioned in item (a) above.

22. Sub-rule (5) of rule XV of the rules under the Madras Co-operative Societies Act empowers the Registrar to prescribe a scale of fees according to which expenses incurred in determining the disputes can be ordered to be paid.

The following schedule of fees has been prescribed by the Registrar:—

(1) A fee of Re. 1 per plaint relating to monetary disputes when the amount or value of the subject-matter in dispute exceeds Rs. 150.

(2) A fee of Re. 1 on all revision petitions other than those referred to in item (3) below.

(3) A fee of Rs. 100 on each plaint relating to non-monetary disputes and for each revision petition thereon.

(4) Re. 1 per plaint relating to disputes regarding possession of land resumed by a society from a member for breach of conditions of assignment.

Since the powers under section 51, except that in clause (5) have been delegated to Deputy Registrars, these officers are competent to exercise the power of refund of arbitration fees under rule XV (5) (c) in respect of all references taken on file by them. It is only in the case of revision petitions under section 51 (5) that the Registrar or Joint Registrar will have to decide on the refund or the extent

of the refund. The power to refund is to be exercised by Deputy Registrars in the following two cases only :—

(1) In the case of non-monetary disputes where Deputy Registrars decide in remitting the whole or part of the sum of Rs. 100 collected at the time of entertainment of the reference.

(2) In the case of unappropriated arbitration fees remitted by societies in excess of what is due from them. Under no circumstances can the fee Re. 1 appropriated for each monetary reference of the value of over Rs. 150 be refunded.

NOTE.—The word 'Registrar' occurring in this chapter includes a Deputy Registrar or a Co-operative Sub-Registrar invested with the powers of a Registrar under section 51 of the Madras Co-operative Societies Act, unless a contrary intention is conveyed by the context.

CHAPTER III.

EXECUTION.

Preliminary :
Execution of
decrees under the
Co-operative
Societies Act II of
1912 (India) and
the recommenda-
tion of the Town-
send committee.

1. Under rule XVI of the rules issued by the Local Government under section 43 of the Co-operative Societies Act II of 1912 (India) the decision or award of the arbitrators was enforced in either of these ways :—

“(a) On a requisition to the Collector of the district or to any person authorized by him in this behalf made by the Registrar of Co-operative Societies, all sums recoverable under the decision or award shall be recovered in the same manner as arrears of land revenue.

(b) On application to the civil court having jurisdiction over the subject-matter of the decision or award that court shall enforce the decision or award as if it were a decree of the court.”

Under the executive instructions of the Government, the decrees or awards that could be sent to the Revenue Department in any one year were restricted to 40 cases for each taluk. There were general complaints about the delay in the execution of decrees by the Revenue Department. This state of affairs received the attention of the Madras Committee on Co-operation (Townsend Committee) who made the following observations :—

“We received many complaints as to delays in execution. We recommend that the present limit of forty cases per taluk per year which may be sent for execution to the Revenue Department be removed, and that tahsildars may be allowed to employ subordinates such as revenue inspectors, on the work. If this be not possible, we recommend that the honorary arbitrators already mentioned, be allowed to execute their own decrees. Village panchayat courts should also be given power to execute decrees for sum of Rs. 50 and under. Under Act I of 1869, these courts are only permitted to execute decrees which they themselves have passed; the necessary amendment should be made in that Act.

A special staff should be entertained for execution, to work either under the agencies mentioned above or under the Registrar. Its cost should be recovered from the defaulters, the Act being, if necessary, amended to enable this to be done; for this purpose a scale of execution fees should be drawn up.”

Provision for
execution of
decrees in the
Madras Co-opera-
tive Societies Act
(VI of 1932).

2. In pursuance of this recommendation the Government, when they took up the revision of the Co-operative Societies Act II of 1912, (India) inserted a provision as follows :—

“Whenever any loan given by a registered society to a member or any instalment thereof becomes overdue, the Registrar or any

person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the Local Government, recover such loan or instalment together with interest, if any, due thereon and the costs of process by the distraint and sale of the movable property of such a member."

The Select Committee of the Legislative Council, however, replaced this a provision enabling the recovery of an amount due to a co-operative society on a decree or an award in the same manner as if it were an arrear of land revenue. In passing the Co-operative Societies Bill the Legislative Council, however, dropped all references to the recovery of an amount due to a society "as if it were an arrear of land revenue" and inserted the words, "by the attachment and sale of the property of the person against whom such decree, decision, award, or order is obtained." The present position in regard to the execution of awards or decrees, etc., is contained in section 57-A of the Madras Co-operative Societies Act of 1932, which runs as follows:—

"The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the Provincial Government and without prejudice to any other mode of recovery provided by or under this Act, recover—

(a) any amount due under a decree or order of a civil court, a decision or an award of the Registrar or arbitrator, or an order of the Registrar, obtained by a registered society including a financing bank or liquidator; or

(b) any sum awarded by way of costs under section 41 to a registered society including a financing bank or to the Government; or

(c) any sum ordered under section 47 to be recovered as a contribution to the assets of a society or as costs of liquidation; or

(d) any sum ordered under section 49 to be repaid to a society or recovered as contribution to its assets;

together with the interest, if any, due on such amount or sum and the costs of process, by the attachment and sale or by the sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed."

The procedure to be adopted for the attachment and sale of property under section 57-A has been laid down in rule XXII of the rules issued by Government under section 65 of the Act.

3. Under section 57-B of the Act, the Registrar or any person empowered by him in that behalf, shall be deemed

The Registrar to be Civil Court for certain purposes.

when exercising any powers under the Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made to him for such recovery or to take some step in-aid of such recovery, to be a Civil Court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908.

4. In addition to the provision in the Madras Co-operative Societies Act VI of 1932 and rule XXII framed thereunder regarding execution of decrees, the Government have made certain special and supplementary provisions in the Madras Co-operative Land Mortgage Banks Act (X of 1934) for the quicker recovery of arrears due to land mortgage banks. According to section 9 of this Act, the committee of a mortgage bank can apply to the Registrar or any person appointed to assist the Registrar for the recovery of an instalment or part of an instalment of a loan due by a member which has been in arrears for more than a month from the date on which it fell due by the distraint and sale of the produce of the mortgaged land including the standing crops thereon. Under section 13 of the same Act, the committee of a mortgage bank can, where the power of sale without the intervention of the court is expressly conferred on it by the mortgage deed, apply to the sale officer appointed under section 22 of the Land Mortgage Banks Act to bring the *mortgaged property* to sale without the intervention of the court, in case of default of payment of the mortgage money or any part thereof subject to the conditions laid down in sub-section (2) of section 13 of the said Act. Under section 24 of this Act, a mortgage bank can take action under section 9 or 13 for the recovery of the whole of the loan if the mortgagor fails to furnish additional security or to repay such portion of the loan as may be determined by the committee of the bank in cases where the mortgaged property is wholly or partially destroyed or the security is rendered insufficient. Under section 25 of the Act, the Board of Management of the Central Land Mortgage Bank or the Trustee may direct the committee of a mortgage bank to take action against a defaulter under section 9, 13 or 24 and if the committee neglects to do so, the Board of the Central Land Mortgage Bank or the Trustee may take such action in the matter. Separate rules have been framed by the State Government under the Land Mortgage Banks Act prescribing the procedure to be followed for recovering monies under the provisions of this Act.

5. To enable co-operative societies in the Orissa State to execute, through the Co-operative Department of this State, awards obtained by them against defaulters residing or possessing properties in this State, the following provision has been made in the Madras Co-operative Societies Act :—

Application of sections 57-A and 57-B and certain rules to societies in Orissa.

“Section 57-C.—The provisions of sections 57-A and B, and of all rules made under this (Madras Co-operative Societies) Act relating to or in any manner connected with the recovery of the sums specified in section 57-A shall apply with such modifications if any, as may be directed by the Provincial Government in regard to the recovery of like sums due to co-operative societies registered or deemed to be registered in the Province of Orissa under any law

for the time being in force in that Province, as if such societies had been registered in this Province."

A provision on the above lines, has been made in the Co-operative Societies Act in force in the Orissa State to enable co-operative societies in the Madras State to execute through the Co-operative Department in the Orissa State awards obtained by them against defaulters residing or possessing properties in that State.

6. The Deputy Registrars and Co-operative Sub-Registrars should control and regulate execution work carefully. They should see that applications for the recovery of very small sums are not encouraged.

Entertainment
of execution
applications.

Nor is it desirable that societies should take coercive process against all defaulters indiscriminately. All possible methods of recovery by persuasion should be exhausted and execution proceedings should be taken against the worst and influential defaulters as such action may induce other defaulters to repay their arrears without coercive process. While Deputy Registrars have been invested with all the powers of a Registrar under section 57-A of the Act, Co-operative Sub-Registrars have been empowered under section 57-A of the Act only (i) to entertain execution petitions, to issue processes and to authorize sale officers by name to execute the demand and distraint orders, and (ii) to fix the hour, date and place for the sale of immovable property.

Any decree-holder requiring the provisions of section 57-A of the Madras Co-operative Societies Act to be applied shall apply, in the form prescribed, to the Registrar of the district (that is the Deputy Registrar of Co-operative Societies) in which the cause of action arose and shall deposit the necessary costs on a scale prescribed by the Registrar. The application must be signed by the decree-holder and the award, decree or decision must accompany the application. If the decree-holder is a co-operative society, the application should be signed by the person authorized in this behalf under its by-laws and it should bear the seal of the society. The decree-holder may indicate in the application whether he wishes to proceed, in the first instance, against the immovable property mortgaged to the decree-holder or other immovable property of the judgment-debtor or to secure the attachment of his movable property.

If the defaulter resides or the property to be proceeded against is situated in a district other than that in which the cause of action arose, the application should be made to the Registrar of the district in which the cause of action arose, who shall transfer the application to the Registrar of the district where the defaulter resides or the property is situated. He should collect the necessary fees in advance, as in other cases, and forward the application together with a demand notice and a note regarding the fees collected to the Registrar of the district (Deputy Registrar) in which proceedings shall have to be taken. All further action including the collection of balance of costs, if any, must be taken by the latter officer.

Each execution petition should be registered and assigned a number immediately on its receipt. All the execution petitions so registered on a particular day should be scrutinized before the close of the next day or the day following regarding the correctness and genuineness of the particulars set forth in the applications or petitions with the records, if any, in the office. After such scrutiny each execution petition which is free from defects and in time, should be submitted with the necessary initial notices to the Registrar of the district for admitting the execution petition and approval of the demand notices. After approval, the demand notices should be forwarded to the sale officer. Execution petitions which are either defective or clearly barred by limitation, etc., should be returned or rejected as the case may be, with a covering letter of which a copy should be kept in the records under the execution petition numbers borne by such references. If an execution petition is returned for rectification of any defects or omissions, the order returning the petition should specify the date by which it should be re-presented. If it is not resubmitted after rectification before the specified date, its filing and return will not count as a step-in-aid of execution and will not extend the period of limitation for filing the execution petition on a later date. Fee should be charged according to the scheduled rate for all the execution petitions whether admitted or returned. The execution petitions returned should be treated as closed and correspondence should not be started to secure their re-presentation after rectification of the defects pointed out. Execution petitions received without fees should be returned with personal register numbers and not with execution petition numbers. In such cases, there is no need to specify any date for re-presentation. If emergent action is prayed for, the societies should state this fact clearly in the applications specifying also the stage up to which such emergent action is necessary. The Registrar of the district while admitting execution petitions should pass specific orders on the prayer for emergent action.

In cases where a defaulter dies before the decree has been fully satisfied, an application for execution may be made against the legal representative of the deceased. Action will then be taken as if such legal representative were the defaulter except as stated below :—

Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Registrar executing the decree may, of his own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as he thinks fit.

Property in the hands of a son or other descendant who is liable under Hindu Law for the payment of the debt of a deceased ancestor in respect of which a decree has been passed, shall be deemed to be property of the deceased which has come to the hands of the son or other descendant as his legal representative.

7. Under the rules issued by Government, the decree-holder who applies for execution must deposit the necessary costs on a scale prescribed by the Registrar. The schedule of fees prescribed by the Registrar and instructions in regard to their levy are given in the Appendix. When it is found that societies have remitted costs in excess, they may apply to the Deputy Registrar concerned for the necessary refund and he will, after due verification, order the refund of the excess fee paid, without reference to limitation.

8. Unless the decree-holder has expressed a desire that proceedings should be taken in a particular order as laid down in sub-rule (2) of rule XXII, execution shall ordinarily be taken in the following manner :—

(i) Movable property of the defaulter shall be first proceeded against, but this shall not preclude the immovable property being proceeded against simultaneously in case of necessity.

(ii) If there be no movable property, or if the sale-proceeds of the movable property or properties attached and sold be insufficient to meet in full the demand of the decree-holder, the immovable property mortgaged to the decree-holder, or other immovable property belonging to the defaulter may be proceeded against.

9. Under the rules, movable properties mentioned as exempt from attachment in the proviso to section 60 of the Civil Procedure Code, 1908, shall not be liable to attachment or sale. The proviso is as follows :—

“ Provided that the following particulars shall not be liable to such attachment or sale, namely ;—

(a) the necessary wearing-apparel, cooking vessels, beds, and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ;

(b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section ;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him ;

(d) books of account ;

(e) a mere right to sue for damages ;

(f) any right of personal service ;

(g) stipends and gratuities allowed to pensioners of the Government, or payable out of any service family pension fund

notified in the *Gazette of India* by the Governor-General in Council in this behalf and political pensions ;

(*h*) the wages of labourers and domestic servants, whether payable in money or in kind ; and salary, to the extent of the first hundred rupees and one-half the remainder of such salary ;

(*i*) the salary of any public officer or of any servant of a railway company or local authority to the extent of the first hundred rupees and one-half the remainder of such salary ; provided that where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree ;

(*j*) the pay and allowances of persons to whom the Indian Articles of War apply ;

(*k*) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1925, for the time being applies in so far as they are declared by the said Act not to be liable to attachment ;

(*l*) any allowance forming part of the emoluments of any public officer or of any servant of a railway company or local authority which the Governor-General in Council may by notification in the *Gazette of India* declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension ;

(*m*) an expectancy of succession by survivorship or other merely contingent or possible right or interest ;

(*n*) a right to future maintenance ;

(*o*) any allowance declared by any law passed under the Indian Councils Act, 1861 and 1892, to be exempt from liability to attachment or sale in execution of a decree ; and

(*p*) where the judgment-debtor is a person liable for the payment of land revenue, any movable property which under any law for the time being, applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

Explanation I.—The particulars mentioned in clause (*g*), (*h*), (*i*), (*j*), (*l*) and (*o*) are exempt from attachment or sale whether before or after they are actually payable and in the case of salary other than salary of a public officer or a servant of a railway company or local authority, the attachable portion thereof is exempt from attachment until it is actually payable ; and

Explanation II.—In clauses (*h*) and (*i*) ‘salary’ means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (*l*) derived by a person from his employment whether on duty or on leave.”

The following allowances payable to a person in the service of the Government of Madras are also exempt from attachment by order of a court :—

- (a) all kinds of travelling allowances,
- (b) all kinds of conveyance allowances,
- (c) all allowances granted to meet the cost of (a) uniform and (b) rations.
- (d) all allowances granted as compensation for high cost of living in localities considered by Government as expensive localities including hill stations.
- (e) all house rent allowances, and
- (f) all allowances granted to provide relief against the increase in the cost of living caused by war conditions.

PROCEDURE IN DISTRAINT OF MOVABLES.

10. Sub-rule (4) of Rule XXII of the rules issued under the Act sets forth the procedure to be observed in the distraint of movable property. The demand notice (order to distrain) should be prepared in duplicate in the prescribed form, by the Registrar of the district, and forwarded to the sale officer. The sale officer who should render the process should be named in the demand notice by his office and not by his name. The demand notice in which the name of the defaulter and the amount due should be set forth, constitutes the authority of the sale officer for making the distress. If the number of defaulters to be proceeded against is more than one in an execution petition, the particulars given in the demand notice should be identical in all the copies of the notice; for instance, the names of all the defaulters to be proceeded against must be noted in each copy of the notice. The previous notice to the decree-holder mentioned in clause (a) of sub-rule (4) should be issued by the sale officer in the prescribed form. If in an execution petition there is more than one defaulter to be proceeded against and if the sale officer proposes to take up the distraint of the properties of all the defaulters on the same day, only a single notice should be issued by him to the decree-holder, noting therein the names of all the defaulters concerned. Separate notices should be sent only if the distraint of the properties of the several defaulters in the same execution petition is proposed to be taken up on different dates. A separate notice should ordinarily be sent to the decree-holder when distraint in respect of each execution petition filed by him is proposed to be made, but if distraints are proposed to be made on the same day, in respect of all the execution petitions filed by him, it is enough if a single notice is issued.

On the day notified to the decree-holder, the sale officer should proceed to the village for distraining the property of the defaulter, and serve the demand notice upon him if he is present. If the amount due together with expenses be not at once paid, the sale

officer should make the distress. Such distress shall be made only after sunrise and before sunset and not at any other time and it should be proportionate to the arrears due from the defaulter. The sale officer must note, under his initial and date, the mode of service, date of service and the result of the service of the demand notice on its reverse. He should not adjourn the distraint at the instance of the clerk or any agent of the decree-holder society unless the latter is authorized in writing in this behalf. Such authorization letter in favour of an agent should invariably be filed along with the execution petition.

After the distress is made, the sale officer shall arrange for the custody of the attached property *with the decree-holder* or otherwise. If the sale officer requires the decree-holder to undertake the custody of the property, he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree-holder. If the attached property is live-stock, the decree-holder shall be responsible for providing the necessary food. The sale officer should deliver to the defaulter a notice intimating to him the property distrained and the place, the date and hour at which the property will be sold if the amounts due are not previously discharged. A copy of this notice should be submitted to the Registrar of the district along with the report of attachment.

If the defaulter is absent, the sale officer shall serve the demand notice on some adult male member of his family or on his authorized agent, or when such service cannot be effected, shall affix the notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix the list of the property attached on the usual place of residence of the defaulter endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hour of sale. Ordinarily fifteen days should elapse between the date of service of this notice and the date of sale. Where the property attached comprises crops or ungathered produce, the date of sale shall be fixed sufficiently late so as to allow time for reaping and gathering.

11. The sale officer may at the instance of the defaulter or of any person claiming an interest in the property and attached leave it in the village or place where it was attached, in the charge of the person at whose instance the property is retained in such village or place provided such person executes a bond with one or more sufficient sureties for the production of the property when called for. Such bond is exempt from stamp duty under the Madras Stamp Act. If the distrained property is not sold and dues are yet to be recovered, the bond should generally be assigned in the name of the society (decree-holder) or the central bank. Deeds assigning security bonds to decere-holders or others are exempt from stamp duty. If on the day appointed, the surety fails to produce the attached property, the remedy lies in taking action on the security bond executed by him. Action will have to be taken

in a civil court. As the bonds are subject to limitation, action will have to be taken to enforce them within three years of their execution. Deputy Registrars may furnish the central banks concerned with quarterly statements giving details of bonds pending enforcement so that the latter may take action to enforce them before they get time-barred.

In the intimation sent to the decree-holder society in regard to the closure of an execution petition, the value of the bond assigned should be certified as part satisfaction of the decree. A corresponding entry should also be made in the execution petition register. No set-off receipt need be obtained from the society before making the assignment; nor need the Registrar of the district insist on the decree-holder crediting the value of the bond forthwith to the loan account of the defaulter. The matter may be left to be settled by the parties themselves. But should the decree-holder file a fresh execution petition in respect of the same decree, the Registrar of the district should, before admitting it, insist on the value of the bond assigned in the previous execution petition being credited to the loan account of the judgment-debtor. If the decree-holder applies for transfer of the decree to a civil court for further execution, the amount of the bond should be certified as part satisfaction.

12. The sale officer shall not work the bullocks or cattle or make use of the goods or effects, distrained; and he shall provide the necessary food for the cattle or livestock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of their being sold.

13. If crops or ungathered products of the land belonging to a defaulter are attached, the sale officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

14. It shall be lawful for the sale officer to force open any stable, cow house, granary, godown, out-house or other building, and he may also enter any dwelling house, the outer door of which may be open, and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the sale officer to break open or enter any apartment in such dwelling house appropriated for the zenana or residence of women except as mentioned in the following paragraph.

15. Where the sale officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut, or within any apartments appropriated to women which, by the usage of the country, are considered private, the sale officer shall represent the fact to the officer in charge of the nearest police station.

Powers of sale officer to force open doors in presence of police officer.

On such representation, the officer in charge of the said station shall send a police officer to the spot in the presence of whom the sale officer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The sale officer may also, in the presence of the police officer, after due notice given for the removal of women within a zenana and after furnishing means for their removal in a suitable manner (if they be women of rank who according to the customs of the country cannot appear in public) enter the zenana apartments for the purpose of distraining the defaulter's property, if any, deposited therein but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

PROCEDURE IN REGARD TO THE SALE OF DISTRAINED PROPERTY.

16. The sale officer shall on the day previous to and on the day of sale cause proclamation of the time and place of the intended sale to be made by beat of drum in the village in which the defaulter resides and in such other place or places as the Registrar may consider necessary to give due publicity to the sale.

Proclamation of time and place of sale and of property to be sold.

Fifteen days must elapse after the notice of sale has been duly served or published before the sale can be held. However, when the property seized is subject to speedy and natural decay, or where the expenses of keeping it in custody is likely to exceed its value, the sale officer may sell it at any time before the expiry of fifteen days, unless the amount due is sooner paid.

17. At the appointed time, the property shall be put up in one or more lots, as the sale officer may consider advisable, and shall be disposed of to the highest bidder. It is, however, open to the sale officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons.

Conduct of sale.

Where the property may sell for more than the amount due, the excess amount, after deducting the interest and the expenses of process and the other charges, shall be paid to the defaulter.

Unless the Registrar of the district otherwise orders, all sales of livestock, agricultural produce, articles of local manufacture and other things commonly sold at country markets shall be held at such markets in the neighbourhood of the place where the goods were attached as

Sale of livestock and agricultural produce.

may appear to be for the greatest advantage of the defaulter, regard being had to the prospect of the good prices and the saving of expenses in conveyance and carriage. The sale officers should carefully exercise their discretion in the matter.

The sale of the property attached for money due from a defaulter shall be peremptory. It is the duty of the Registrar of the district

Discretion of sale officer to refuse to accept bids.

to see that the sales are conducted under such supervision as will prevent collusion. In the notices issued by the sale officer, power is reserved to him not to accept a bid even though it may happen to be the highest bid if in his opinion the price offered appears so clearly inadequate as to make it advisable to do so or for other reasons. The sale officer should exercise this power with very great care and in the best interests of the parties concerned.

When the highest bid is not accepted, the sale should be postponed to a convenient future date. The Registrar of the district or the sale officer may, in his discretion, adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than 7 days, a fresh proclamation of the time and place of the intended sale shall be made by beat of drum in the village in which the defaulter resides, and in such other place or places as the Registrar may consider necessary to give due publicity to the sale, unless the judgment-debtor consents to waive it. The sale officer acts judicially in passing the order for postponement of the sale and he is, therefore, entitled to the protection given by the Judicial Officers' Protection Act, 1850.

The property shall be paid for in cash at the time of sale, or as soon thereafter as the officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full.

Where the purchaser may fail in the payment of the purchase-money the property shall be resold.

18. Where it is proved to the satisfaction of any civil court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the court may on being satisfied that such fraudulent conveyance has been made, order that the property shall be delivered forthwith to the sale officer.

19. Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or claiming an interest in the property attached, pays the full amount due including interest, batta and other costs incurred in attaching the property, the sale officer shall cancel the order of attachment and release the property forthwith.

A sale can be stopped at any time before its conclusion (that is, even after it has been commenced) if the judgment-debtor comes forward to pay the amount due on the execution petition before the sale is knocked down to the highest bidder. In such cases, the sale officer has to order an adjournment of the sale to the next day, receive payment and submit the papers to the Registrar of the district recommending the closure of the execution petition on the ground that there was no need to hold the sale and it was not therefore held. The order of attachment should then be cancelled and the property released forthwith.

The order of release should be in writing and the prescribed fee should be collected. The order may be sent by ordinary post or served like other notices (whichever is convenient or economical). If the parties in custody of the property refuse to hand it over to the defaulter, the sale officer should go to the village and restore the property to the defaulter. When property is restored to a defaulter his acknowledgment should be obtained.

When an execution petition is withdrawn by the decree-holder or dismissed on account of the default of the decree-holder, formal orders dismissing the execution petition should be issued but no release order is necessary. The dismissal order should, however, be followed up by the restoration of the movable property to the defaulter.

Attachment of salary or allowances of public officer or servant of railway company or local authority or firm. 20. Rule XXII (5) of the rules framed under the Act governs the procedure in regard to the attachment of salary or allowances of employees of the kind referred to and should be strictly followed by sale officers.

Before proceeding to attach the salary or allowances or wages of a defaulter (public officer or servant of railway company, etc.), the Registrar of the district should issue a notice asking him to pay the arrears within a reasonable time and recover the usual notice fee. If payment is not made within the time fixed, the Registrar of the district should, subject to the provisions of section 60 of the Code of Civil Procedure, 1908, order that the amount shall be withheld from the salary or allowances or wages either in one payment or by monthly instalments as the Registrar may direct. Upon notice of the order, the officer or other person whose duty it is to disburse such salary, or allowances or wages shall withhold and remit to the sale officer the amount due under the order or the monthly instalment, as the case may be. Execution fees should be collected only up to the stage of attachment as no sale is held. The order attaching a salary is a self-vacating order and automatically ceases to be effectual as soon as its terms have been complied with. Hence no release order is necessary if the order attaching salary has been complied with and the loan is discharged. If, however, the loan is discharged by the defaulter outside the terms of the attachment order, for example, by making payments

direct to the decree-holder, an order raising the attachment should be issued.

21. In recoveries made from the employees other than public officers, the moneys should be collected and remitted to the decree-holders. In recoveries made from the salaries of public officers, the amounts recovered are short drawn from their pay for each month.

22. Where the movable property to be attached is—

Attachment of debt, share and other property not in possession of defaulter.

(a) a debt due to the defaulter in question,
 (b) a share in the capital of a corporation or a deposit invested therein, or
 (c) other movable property not in the possession of the defaulter except property deposited in, or in the custody of, any civil court,
 the attachment shall be made by a written order signed by the Registrar of the district prohibiting—

(i) in the case of the debt, the creditor from recovering the debt and debtor from making payment thereof;

(ii) in the case of the share or deposit, the person in whose name the share or the deposit may be standing from transferring the share or deposit or receiving any dividend or interest thereon;

(iii) in the case of the other movable property except as aforesaid, the person in possession of it from giving it over to the defaulter.

A copy of such order shall be sent in the case of the debt to the debtor, in the case of the share or deposit to the proper officer of the corporation and in the case of the other movable property (except as aforesaid) to the person in possession of such property. As soon as the debt referred to in clause (a) or the deposit referred to in clause (b) matures, the Registrar of the district may, direct the person concerned to pay the amount to him. Where the share is not withdrawable the Registrar shall arrange for its sale through a broker. Where the share is withdrawable, its value shall be paid to the Registrar or to the party concerned as soon as it becomes payable. In the case of the other movable property referred to in clause (c), the person concerned shall place it in the hands of the Registrar, as soon as it becomes deliverable to the defaulter.

Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter, prohibiting him from transferring the share or interest or from charging it in any way.

Attachment of negotiable instruments.

Where the property to be attached is a negotiable instrument not deposited in a court, nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the Registrar of the district ordering the attachment and be held subject to his further orders.

Where the property attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the Registrar of the district issuing the notice. Where such property is in the custody of a court or the Registrar of another district, any question of title or priority arising between the decree-holder and any other person not being the defaulter claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such court or Registrar.

Explanation.—The “public officer” referred to above includes a liquidator appointed under section 47 of the Act.

23. The Registrar of the district is empowered to attach decrees either for the payment of money or for sale in enforcement of a mortgage or charge. The attachment in these cases should be made in the manner laid down in sub-rule (6) of rule XXII.

ATTACHMENT AND SALE OF IMMOVABLE PROPERTY.

24. Immovable property shall not be sold in execution of a decree unless such property has been previously attached; where the decree has been obtained on the basis of a mortgage of such property, it shall not however, be necessary to attach it.

25. The decree-holder should give, in his execution application to the best of his belief and so far as he has been able to ascertain, a description of the immovable property to be proceeded against sufficient for its identification (that is, specification of boundaries, survey numbers, specification of the defaulter's share or interest in such property, etc.).

26. Before the property is attached for sale or is sold without attachment, a demand notice in the prescribed form must be served or caused to be served upon the defaulter or upon some adult male member of his family at his usual place of residence or upon his authorized agent; if such personal service is not possible, a copy thereof should be affixed on some conspicuous part of his last known residence or on some conspicuous part of the immovable property about to be attached and sold or sold without attachment, as the case may be. The demand notice should contain the name of the defaulter, the amount due including the expenses, if any, and the batta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of non-payment the particulars of the properties to be attached and sold or to be sold

without attachment, as the case may be. The instructions given in paragraph 10 in regard to the service of demand notices prior to the distress of movable properties generally apply to the service of such notices in these cases also. If the notice is served by the sale peon independently of the sale officer, the peon should endorse on the back of the original notice the mode of service with his signature and date. On receipt of the original notice from the peon, the sale officer should certify on the back of it the fact of service by the peon.

In cases where the Registrar is satisfied that a defaulter with intent to defeat or delay the execution proceedings against him is about to dispose of the whole or any part of his property, he shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

27. If the defaulter fails to pay the amount specified in the demand notice within the time fixed, the sale officer should proceed to attach and sell or sell without attachment, as the case may be, the immovable property mentioned in the execution application.

Procedure when defaulter neglects to pay.

28. Where the attachment is required before sale, the sale officer should, if possible, cause a notice of attachment in the prescribed form to be served on the defaulter personally. Where personal service is not possible, the notice should be affixed in some conspicuous part of the defaulter's last known residence, if any. The fact of attachment should also be proclaimed by beat of tom-tom or other customary mode at some place on or adjacent to such property, in the place of residence of the defaulter and at such other place or places as the Registrar of the district may consider necessary to give due publicity to it. The attachment notice shall set forth that, unless the amount due with interest and expenses be paid within the date therein mentioned, the property will be brought to sale. A copy should be sent to the decree-holder. Ordinarily, ten days' time may be allowed to the defaulter for the payment of the amount due. If the notice is served by the sale peon, he shall endorse on the back of it the mode of service and the fact of proclamation by tom-tom with his signature and date. The sale officer should also make a note under his initial and date on the back of the notice the mode of service, by whom serviced and the date of tom-tom. The certificate of the village munsif or headman or in his absence of some of the respectable residents of the village must be obtained in this notice itself in token of the proclamation by tom-tom.

Attachment of property.

29. The attachment of property may be notified in the District Gazette at the discretion of the sale officer. Such notification should be restricted to absolutely necessary cases.

Publication of the notice of attachment in the District Gazette.

30. Where prior to the date fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest, batta and other expenses incurred in bringing the property to sale, including the expenses of attachment, etc., the sale officer, should forthwith release the property after cancelling where the property has been attached, the order of attachment.

A sale may be stopped at any time before its conclusion if the judgment-debtor comes forward to pay the amount due on the execution petition before the sale is known down in favour of the highest bidder. The instructions in paragraph 19 should be followed in such cases. When the arrears are paid in full by the defaulter to the Registrar of the district or to the decree-holder, release orders should be issued if any attachment is in force. When an execution petition is withdrawn by the decree-holder or when it is dismissed on account of default by the decree-holder, formal orders should be issued dismissing the execution petition under sub-rule (19) but no release order is necessary.

The order of release should be in writing and may be sent in the manner indicated in paragraph 56 of the chapter.

31. It is lawful for the sale officer to sell the whole or any portion of the immovable property of a defaulter in discharge of money due provided always that, so far as may be practicable, no larger section or portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest, and expenses of attachment, if any, and sale.

32. Rule XXII (7) (f) requires the decree-holder to produce an encumbrance certificate from the Registration Department, in cases in which immovable property is proceeded against for the realization of sums in excess of Rs. 100, within such time as may be fixed by the sale officer or the Registrar of the district. The certificate should be for a period of not less than 12 years prior to the date of attachment of the property sought to be sold. In cases where property is sought to be sold without attachment, the certificate should be for a period of not less than 12 years prior to the date of the application for execution. In the case of a land mortgage bank, as it will already have in its possession the encumbrance certificate for the property sought to be sold, up to the date of the mortgage bond concerned, it will suffice if it obtains a fresh encumbrance certificate for the period subsequent to the date of the bond up to the date of the execution petition. The intimation to the decree-holder to furnish the encumbrance certificate should be sent by the sale officer immediately after the service of the demand

notice in cases where attachment of property is not necessary before sale and immediately after attachment of the property in cases where such attachments is necessary before sale. The correct period for which the certificate is necessary must invariably be furnished to the decree-holder. Ordinarily, thirty days may be allowed for the production of the encumbrance certificate but the period may be extended at the discretion of the sale-officer or the Registrar of the district. Where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village karnam in regard to the encumbrances known to him supported by a certificate from the Registration department that an encumbrance certificate cannot be granted owing to the destruction of the connected records, should be accepted in the place of an encumbrance certificate. Where the amount to be realized is Rs. 100 or less, no encumbrance certificate need be obtained but the decree-holder may be asked by the sale officer to furnish a list of alienees or persons having interest in the properties, with their full addresses as far as is known to the decree-holder.

The sale of any immovable property under the rules is subject to the prior encumbrances, if any, on the property.

33. In addition to the notice of attachment, another notice (proclamation of sale) should be issued in the prescribed form in the language of the district and posted up, at least 30 days before the date fixed for the sale, in the office of the Registrar of the district and in the Taluk office (in whose jurisdiction the sale is to be held) and should also be published by beat of tom-tom in the village on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale. Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. The notice to be affixed in the Taluk office may be sent to the Tahsildar concerned with a request to report the fact of such affixure. The proclamation should state the time and place of sale and specify as fairly and accurately as possible—

- (i) the property to be sold,
 - (ii) any encumbrance to which the property is liable,
 - (iii) the amount for the recovery of which the sale is ordered,
- and

(iv) every other matter which the sale officer considers material for a purchaser to know in order to judge of the nature and value of the property.

The publication of the sale proclamation by beat of tom tom in the village should invariably be entrusted to the decree-holder society with instructions that, on the date of sale, the sale officer should be furnished with (i) a voucher from the village vetti or vettiyan claiming the charges due to him for the tom tom made by him on two consecutive days previous to the date of sale and

on the day of sale prior to the commencement of the sale; and (ii) a statement from him showing the dates and the places wherein the publication was made by him duly attested to be correct by either of the village officers or by at least three respectable villagers where both the village officers happen to be absent. The sale officer should, as a measure of caution, also make local enquiries, before commencing auction, whether proper publication was made. He may stop the sale if he is not satisfied on this point. If satisfied, he should pay the vetti and take his voucher. The charges should be met from a cash advance given to the sale officer for the purpose on the imprest system. In the case of societies under liquidation, the liquidator should arrange to have the publication done by the liquidation Inspector. The proclamation of sale must be read out in full at the time of sale and initialed publicly as so read by the sale officer who should certify the fact in his report of sale. Notice of sale in the form prescribed should be sent by post under certificate of posting to the decree-holder, defaulter and all other persons interested in the property. The names of all the defaulters and other persons interested in the property must be specified in the notice. A copy of the notice should be sent also to the defaulting purchaser in case of resale.

34. The sale of immovable property should be by public auction to the highest bidder at the time and place fixed for the purpose. Place of sale should be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be specified. The sale officer has discretion to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons. The Registrar of the district or the sale officer may, in his discretion, adjourn the sale to a specified day and hour, recording his reasons for such adjournment. When a sale is so adjourned for a longer period than 7 days, a fresh proclamation as stated in paragraph 33 shall be made, unless the judgment-debtor agrees to waive it. In cases of short adjournment of less than seven days, fresh proclamation of sale is not necessary but written notice of the adjournment should be sent to the defaulter and the decree-holder. The sale shall be held after the expiry of not less than 30 days calculated from the date on which notice of the proclamation was affixed in the office of the Registrar of the district.

It is not necessary that each plot or survey number should be put up for sale separately: the plots may be grouped into convenient lots and put up for sale one after the other. Adjacent survey members should, as far as possible, be grouped together. Wet lands, dry lands and house properties may be sold in separate lots.

35. Any person including the defaulter may bid at a sale of property (movable or immovable) but public servants can do so only in conformity with the rules for their personal conduct prescribed by Government.

36. A sum of money equal to fifteen per cent of the price of the immovable property must be deposited by the purchaser, in the hands of the sale officer at the time of the purchase; in default of such deposit, the property should forthwith be resold. The sale officer should dispense with these requirements when the decree-holder is the purchaser and is entitled to set off the purchase money under the rules.

37. The remainder of the purchase money and the amount required for the stamped paper for the certificate of sale should be paid within fifteen days from the date of sale. The time for payment of the cost of the stamped paper may, for good and sufficient reasons, be extended at the discretion of the Registrar upto 30 days from the date of sale. In calculating the amounts to be paid, the purchaser, if he is the decree-holder, shall have the advantage of any set off to which he is entitled.

38. Where the decree-holder is the purchaser of the immovable property, the purchase money and the amount due on the decree should be set off against one another and the sale officer should accordingly enter up satisfaction of the decree in whole or in part. To prevent the office bearers of societies from enjoying the produce of the properties purchased in auction, it is necessary that the transactions should be recorded in the books of the societies promptly. As soon as the sale is held, the sale officer should obtain a set off receipt from the society which should make a suspense entry for the purchase amount crediting the defaulter and debiting the property account. When the sale is confirmed, adjustment entries should be made crediting the concerned loan account and debiting the defaulter. In the event of the cancellation of sale, the initial entries will have to be reversed.

39. If the purchaser fails to pay the balance of the purchase money and the cost of the stamped paper within the period mentioned in paragraph 37, the deposit may, if the Registrar thinks fit, after defraying the expenses of the sale, be forfeited to Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold. Anything paid by the auction-purchaser in excess of 15 per cent of the purchase money shall not however be liable to be forfeited to Government.

It is not obligatory on the part of the Registrar of the district to forfeit the deposit. There may be cases in which the purchase money or the cost of the stamp is paid after the expiry of the period mentioned in paragraph 37 on account of circumstances over which the purchaser had no control or for other good reasons. The Registrar of the district may, if he thinks fit, condone the delay in payment of the balance and accept the payment provided the defaulter

(judgment-debtor), the purchaser and the decree-holder agree in writing to the procedure. In such cases, the original sale itself will be deemed to be a resale.

40. Any deficiency of price which may result on a resale referred to in paragraphs 17, 36 and 39 by reason of the purchaser's default and all expenses attending such resale shall be certified by the sale officer to the Registrar of the district and shall, at the instance of either the decree-holder or the defaulter, be recoverable from the defaulting purchaser under the provisions of rule XXII. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

Where the property, on the second sale, fetches a higher price than at the first sale, the defaulting purchaser at the first sale, shall have no claim to the difference or increase.

NOTE.—Form No. 31, Schedule I of Appendix-E of the Civil Procedure Code (Page 2609 Sarkar) should be adopted in drawing up the certificate referred to in the first sub-paragraph. The certificate should invariably be given by the sale officer who holds the resale, at the time of submission of the sale report. If the decree-holder or the judgment debtor requires the deficiency of purchase money to be recovered from the defaulting purchaser, he should file an execution petition for the purpose before the Registrar of the district with the necessary fees.

41. Every resale of immovable property, in default of payment of the amounts mentioned in paragraph 37 within the period allowed for such payment, should be made after the issue of a fresh proclamation in the manner and for the period mentioned in paragraph 33.

42. Where immovable property has been sold by the sale officer, any person either owning such property or holding an interest therein by virtue of a title acquired before such sale may apply under sub-rule (9) of rule XXII to have the sale set aside, on his depositing with the Registrar of the district—

(a) for payment to the purchaser a sum equal to 5 per cent of the purchase money; and (b) for payment to the decree-holder, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount less any amount which may, since the date of such proclamation have been received by the decree-holder.

If such deposit and application are made within 30 days from the date of sale, the Registrar shall pass an order setting aside the sale and shall repay to the purchaser the purchase money so far as it has been deposited, together with the 5 per cent deposited by the applicant. If more persons than one have made deposit and application as stated above, the application of the first depositor to the officer authorized to set aside the sale, shall be accepted.

The mere depositing of the amount will not however be sufficient to cancel the sale; the necessary application has also to be made

therefor, as under the rule it is imperative that both the deposit and the application should be made within 30 days from the date of sale. In cases where properties are sold in lots under the same proclamation of sale, the payment of the sale amount of one lot alone (with compensation to the purchaser, further interest, etc.) does not constitute sufficient compliance with the requirements of sub-rule (9) of rule XXII.

If a person applies to set aside the sale of immovable property on the ground mentioned in paragraph 43 below he shall not be entitled to make an application under sub-rule (9).

43. Under sub-rule (10) of rule XXII, the decree-holder or any person entitled to share in a rateable distribution of the assets

Application to set aside sale on ground of irregularity or fraud. or whose interests are affected by the sale may, at any time within 30 days from the date of the sale of the immovable property apply to the Registrar of the district to set aside the sale on

the ground of a material irregularity or mistake or fraud in publishing or conducting it; provided that no sale shall be set aside on the ground of irregularity or fraud unless the Registrar is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud. The enquiry into such petitions should be conducted by the Deputy Registrar or the Co-operative Sub-Registrar, and not by the sale officer who conducted the sale. Objection petitions received without the requisite fees should not be entertained. If the application be allowed, the Registrar of the district should set aside the sale and may direct a fresh one. On the expiry of 30 days from the date of sale, if no application to have the sale set aside is made or if such application has been made and rejected, the Registrar of the district shall make an order confirming the sale.

44. If the Registrar of the district has reason to think that the sale ought to be set aside, notwithstanding that no application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

45. Whenever the sale of any immovable property is not so confirmed or is set aside, the deposit, or the purchase money, as the case may be, must be returned to the purchaser.

46. After the confirmation of the sale, the Registrar of the district should grant a certificate of sale to the purchaser in the form prescribed. This certificate should be on stamped paper bearing the seal and signature of the Registrar of the district. The stamp duty payable on this certificate is the same as that charged on similar certificates issued by the civil courts and the Revenue Department. Surcharge duty also should be levied at the rates

fixed by Government from time to time on the sale certificates issued except in the City of Madras. No certificate should be issued on plain paper. The cost of stamped paper and the surcharge duty collected should be kept in the treasury under Revenue Deposit and when the sale is confirmed, the necessary non-judicial stamped paper should be obtained officially from the treasury for the issue of the certificate. The certificate granted shall state the property sold and the name of the purchaser and it shall be conclusive evidence of the fact of the purchase, in all courts and tribunals where it may be necessary to prove it and no proof of the seal or signature of the Registrar of the district shall be necessary unless the authority before whom it is produced shall have reason to doubt its genuineness. In the description of property to be given in the certificate, the properties sold under different *lots* should be mentioned *separately* with the purchase money of each lot noted against it.

An order made under sub-rule (10) of rule XXII shall, subject only to the provisions of section 57 of the Act, be final and shall not be liable to be questioned in any suit or other legal proceedings.

If due to clerical error, an item of immovable property has been wrongly described in survey number or extent in the notices issued under rule XXII (7) and in the sale certificate, an erratum or amendment to the sale certificate cannot be issued. In such cases, the only course is to get the order confirming the sale set aside by the Registrar under section 57 of the Act.

No sale certificate should be issued to a person claiming to be the legal representative of an auction purchaser unless such person produces a succession certificate given by a competent civil court.

When a property is purchased jointly by two or more persons only one sale certificate should be issued.

47. Sub-sections (2) and (4) of section 89 of the Indian Registration Act, 1908, require that certificates of sale of immovable property granted by courts and Revenue officers

Registration of the certificates of sale of immovable property.

should be sent to the registering officer and that he should file them in his Book No. I. The Indian Registration Act has since been amended

making a similar provision in respect of certificates of sale of immovable property granted by the officers of the Madras Co-operative Department, under section 17 of the Madras Co-operative Land Mortgage Banks Act, 1934, and under the rules made under the Madras Co-operative Societies Act, 1932, so that the completeness and continuity of the record of title to immovable property kept in registration offices may be ensured. Every officer granting a certificate of sale of immovable property under the provisions referred to above should therefore send a copy of such certificate to the registering officer or officers within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situate, and

such registering officers shall, under the Indian Registration Act, file the copy in their Book No. I. Sale certificates relating to immovable property of less than Rs. 100 value are exempt from registration.

48. No application under section 57 of the Act shall be presented to the Registrar or to Government for modifying, annulling or reversing any order of the Registrar of the district under sub-rule (10) of rule XXII after a period of one year from the date of such order.

Appeal against the orders of the Registrar.

49. In the event of any resistance by any person other than a person (not being the defaulter) claiming in good faith to be in possession of the property, action may be taken to put the purchaser in possession in the manner indicated in sub-rule (12) of rules XXII.

Delivery of possession of immovable property by a court of competent jurisdiction in case of resistance.

50. Where any claim is preferred, or any objection is made, to the attachment of any property attached under rule XXII on the ground that such property is not liable to such attachment, the sale officer shall investigate the claim or objection and dispose of it on the merits. No such investigation shall, however, be made when the sale officer considers that the claim or objection is frivolous.

Investigation of claims and objections to attachment of property.

Where the property to which the claim or objection relates has been advertised for sale, the sale officer may postpone the sale pending the investigation of the claim or objection.

Where a claim or an objection is preferred, the party against whom an order is made may institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive.

When an attachment is raised as a result of allowing a petition objecting to such attachment, the order of release should be embodied in the order passed by the sale officer under sub-rule (17) of rule XXII. No separate release order should be issued, nor should a separate fee be charged for the purpose.

51. Where the sale officer has attached under the rules, any property, not in the custody of any court, which is already under attachment made in execution of a decree of any court, such court shall receive and realize such property and shall determine claims thereto and any objections to the attachment thereof.

Attachment in execution of decrees of several courts and rateable distribution of assets.

Where the property is under attachment in the execution of decrees of more courts than one, the court which shall receive or realize such property and shall determine any claim thereto and

any objection to the attachment thereof shall be the court of the highest grade, or where there is no difference in grade between such courts, the court under whose decree the property was first attached.

Where assets are held by the sale officer and before the receipt of such assets, demand notices in pursuance of applications for execution of decrees against the same defaulter have been received from more than one decree-holder and the decree-holders have not obtained satisfaction, the assets, after deducting the cost of realization, shall be rateably distributed by the sale officer among all such decree-holders in the manner provided in section 73 of the Code of Civil Procedure, 1908.

52. Section 73 of the Code of Civil Procedure is reproduced below :—

Proceeds of execution sale to be rateably distributed among decree-holders.

“73. (1) Where assets are held by a court and more persons than one have, before the receipt of such assets, made applications to the court for the execution of decrees for the payment of money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons; provided as follows :—

(a) Where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale :

(b) Where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the court may, with the consent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same interest in the proceeds of the sale as he had in the property sold ;

(c) Where any immovable property is sold in execution of a decree ordering its sale for the discharge of a incumbrance thereon, the proceeds of sale shall be applied :—firstly, in defraying the expenses of the sale ; secondly, in discharging the amount due under the decree ; thirdly, in discharging the interest and principal moneys due on subsequent incumbrances (if any) ; and, fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor, who have prior to the sale of the property, applied to the court which passed the decree ordering such sale for execution of such decrees and have not obtained satisfaction thereof.

(2) Where all or any of the assets liable to be rateably distributed under this section are paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(3) Nothing in this section affects any right of Government.”

NOTE.—Application for rateable distribution of assets need not be treated as separate applications ; nor should any fresh process be issued. Processes are issued only in respect of the original execution petition filed.

The following procedure should be followed by the Registrar of the district, in accordance with the provisions of sub-rule (20) of rule XXII, in cases where proceedings are taken against the same defaulter by the department as well as the civil court, the person proceeding through the civil court being a private creditor of the borrower :—

In the case of mortgage awards held by societies, the Registrar of the district can allow the sale officer to proceed with the sale of the mortgaged properties even though they might have been attached by the civil court at the instance of a private creditor. In such cases the remedy available to the private creditor is only against the surplus if any in the sale-proceeds of the hypotheca after discharging the loan due to the society. The outside creditor should, therefore, move the civil court for attachment of the excess sale-proceeds, if any.

In the case of simple money awards held by societies, if the properties have been first attached by the civil court at the instance of another creditor, further proceedings should be left to that court, under rule XXII (20) (a), and the decree-holder society should be advised to apply to the court for rateable distribution of assets. The execution petition should not be closed by the Registrar of the district. He should furnish the decree-holder society with copies of the decree, etc., to enable it to prefer its claim before the court. If, on the other hand, the sale officer has first attached the properties but received intimation of the attachment by the civil court before the sale is conducted by him, the sale should not be conducted by the sale officer; further proceedings should be left to the civil court. The society should in this case also be advised to apply to the court for rateable distribution, furnishing for this purpose copies of the award and the execution proceedings. The execution petition should not be closed, as the attachment will have to be kept subsisting. If for any reason the execution before the civil court is not proceeded with, the sale should be conducted by the sale officer.

If the existence of subsequent attachment by the civil court is brought to the notice of the Registrar of the district after the sale by the sale officer is over, the court should be informed of this fact with a note that the sale-proceeds are held subject to the orders of the court. The decree-holder society should simultaneously be asked to apply to the court for the determination of the amount due to be paid to it inclusive of the costs of execution by the Department. On receipt of orders from the court specifying the persons to whom the amount should be paid and the actual amount to be paid to each, the sale-proceeds should be disposed of accordingly and the execution petition closed.

In cases where a decree-holder files more than one execution petition against a defaulter seeking the attachment and sale of the same immovable property or properties, a single sale purporting to be in execution of all the execution petitions cannot be done. A sale

can be held in pursuance of only one execution application at a time. If the decree-holder desires to participate in the proceeds of the sale in satisfaction of all the decrees obtained by him against the same defaulter, the only valid and proper course for him will be to get the property concerned attached in one execution petition as a precedent to its sale and in the others for the purpose of a rateable distribution of the sale-proceeds under rule XXII (20). The orders of attachment should be clear and specific and there should be no proclamation of sale or notices of sale in the execution petitions in which rateable distribution alone is sought.

If the decree-holder happens to be the auction purchaser in the sale and desires a set-off against the purchase price, such set-off can be permitted to the extent of the sum due in the particular execution petition in which the sale had been held. If there is any balance due after such set-off, it must be collected in cash and deposited in the treasury in the usual way, within 15 days of the date of sale. The sale-proceeds so realized shall be available for payment in satisfaction of the rateable claims in the other execution petitions by the same decree-holder. But if other outside decree-holders enter the field with applications for rateables, the procedure already indicated should be followed.

Applications for rateable distribution can be entertained by the Registrar of the district only in respect of decrees which he is competent to execute under section 57-A of the Act.

53. Where an attachment has been made under the rules, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment, shall under sub-rule (13-A) of rule XXII be void as against all claims enforceable under the attachment.

Explanation.—For the purpose of sub-rule (13-A), claims enforceable under an attachment include claims for the rateable distribution of assets under sub-rule (20).

54. Where any property has been attached in execution of a decree but by reason of the decree-holder's default, the Registrar of the district is unable to proceed further with the application for execution he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application, the attachment shall cease.

55. Attachment of property under section 50 or sub-section (4) of section 51 of the Act shall be made in the manner provided in rule XXII.

Private alienation of property after attachment to be void.

Dismissal of execution petition or adjournment of proceedings on decree-holder's default.

Attachment before judgment (rule XXIII).

Where a claim is preferred to property so attached, such claim shall be investigated in the manner and by the authority specified in rule XXII. Where a direction is made for the attachment of any property, the Registrar of the district shall order the attachment to be withdrawn—

Investigation of claim to property attached before judgment.

Removal of attachment when security furnished or suit dismissed. (a) when the party concerned furnishes the security required together with security for the costs of the attachment; or

(b) when the liquidator determines under clause (b) of sub-section (3) of section 47 of the Act that no contribution is payable by the party concerned; or

(c) when the Registrar passes an order under sub-section (1) of section 49 of the Act that the party concerned need not repay or restore any money or property or contribute any sum to the assets of the society by way of compensation; or

(d) when the dispute referred to in sub-section (1) of section 51 of the Act has been decided against the party at whose instance the attachment was made.

Attachment made under sub-rule (1) of rule XXIII shall not affect the rights existing prior to the attachment, of persons not parties to the proceedings in connexion with which the attachment was made, nor bar any person holding a decree against the person whose property is attached from applying for the sale of the property under attachment in execution of such decree.

Attachment before judgment not to affect rights of strangers or bar decree-holder from applying for sale.

Where property is under attachment by virtue of the provisions of rule XXIII and a decree is subsequently passed against the person whose property is attached, it shall not be necessary upon an application for the execution of such decree to apply for re-attachment of the property. The attachment made before judgment will become absolute on passing the award.

In case of attachment before judgment, the Registrar of the district has to be satisfied that the apprehension of the society as to the intention of the defaulter to dispose of his properties are real. Where, after a careful examination, attachment is found to be urgently necessary, the officers may dispense with the preliminary notice and issue the attachment order forthwith altering the wording of the form suitably. In all other cases, it is desirable to issue the notice prior to attachment lest any innocent defaulter should be penalised.

Where the property conditionally attached is subject to speedy and natural decay or where the expenses of keeping it in custody are likely to exceed its value, the sale officer may sell it at any time before the expiry of the period of 15 days prescribed in clause (h) of sub-rule (4) of rule XXII or before an order under clause (b) of sub-section (3) of section 47 or section 49 or section 51 is passed

and deposit the sale-proceeds, less costs in the nearest Government treasury unless the amount specified in the order of attachment is paid earlier.

56. Every notice of process issued under the provisions of rule XXII should be in writing, should be authenticated by the seal, if any, of the officer by whom it is issued and should be signed by such officer or by any person authorized by him in that behalf. The service of notices on any defaulter should be effected in the manner prescribed in rule XXII; or where the mode of service is not prescribed in rule XXII, the procedure laid down in rule XVI may be followed.

Contingent charges incurred in execution work.

57. Sale officers may incur contingent expenditure on such items as tom-tom charges, feeding charges for livestock, cost of conveyance of distrained property, etc.

Persons employed in serving notices or in other process under rule XXII shall be entitled to batta at such rates as may from time to time be fixed by the Registrar.

Process servers to be paid batta.

Where the cost and charges incurred in connexion with attachment and sale of movable property or the attachment and sale or sale without attachment, of immovable property under rule XXII exceed the amount of the cost deposited by the decree-holder such excess shall be deducted from the sale-proceeds of the property sold or the moneys paid by the defaulter as the case may be and the balance shall be made available to the decree-holder.

Batta, interest and other charges recoverable from sale-proceeds.

58. Cases happen in which decree-holders resort to departmental execution after having proceeded against defaulters through the civil courts. In such cases, a request is generally made in the execution applications that the costs incurred by them on the execution through civil courts may also be recovered along with the decretal amounts and paid to them. These may be collected from defaulters by the Registrar of the district as the words "costs of process" occurring in section 57-A of the Act cover such cases. It is, however, within the discretion of the Registrar to collect the entire costs or a portion of such costs after satisfying himself with reference to the details of expenditure incurred that the costs sought to be recovered are reasonable and are in accordance with the rules obtaining in civil courts.

Recovery of costs incurred in civil courts.

59. Decrees of civil courts held by societies can be executed through the Department under section 57-A of the Act though such decrees may be against non-members. But the decrees should be in favour of the societies, i.e., the money to be recovered should be due to a registered society. But decrees of

Execution of decrees obtained from civil courts.

village courts are not "decrees of civil courts." Such decrees should be executed through village courts or civil courts and not through the Department.

60. A decree gets time-barred if it is not filed for execution within three years of the date of the decree. Execution time-barred decrees. If a decree was filed for execution within time but the execution petition was, for some reason or other closed before it was fully satisfied, the decree should be filed again for execution before the expiry of the three years from the date on which the previous execution petition was closed; otherwise, the decree will get time-barred. To keep a decree alive, execution petitions will have to be filed from time to time within three years of the date of closure of the previous petition. Even if action is taken as above from time to time, a decree will get time-barred on the expiry of twelve years from the date of the decree. Such time-barred decrees should not be accepted for execution; the parties may be advised in such cases to proceed through civil courts, which are competent to take further action under certain circumstances, that is, where the judgment debtor by fraud or force prevented the execution of the decree at some time within twelve years immediately before the date of the application. When once a decree becomes time-barred, further acknowledgment of debt on the decree cannot give it a fresh life. After a debt is time-barred, there can be no acknowledgment of the debt; there can only be a promise to pay that sum. Such promise will amount to a new contract and a fresh decree will have to be obtained in such cases. The Registrar of the district will have to examine the question of limitation carefully on receipt of execution petitions and he should himself dispose of any objection petitions received in this regard.

61. Execution petitions admitted by the Registrar of the district should be disposed of promptly. They cannot be kept pending without action for any long time. If decree-holder societies are not anxious to pursue action, the execution petitions will have either to be withdrawn by them or they will have to be dismissed by the Registrar of the district for default. Execution petitions should not also be kept pending indefinitely for the production of encumbrance certificates. If the encumbrance certificate is not received within the time fixed, execution petitions may either be adjourned or dismissed under sub-rule (19) of rule XXII.

An execution petition can be closed in the following circumstances :—

- (i) when it is satisfied;
- (ii) when it is permitted to be withdrawn; or
- (iii) when it is dismissed.

Execution petitions should be closed only after all costs of execution have been realized in full and all sums collected have

been remitted to the proper parties. Closure of an execution petition is not a statutory function and Co-operative Sub-Registrars can attend to it. While doing so, they should satisfy themselves that no further action is pending in them.

62. Where decree-holder societies are indebted to central banks, it is desirable that the sale-proceeds are remitted direct to such banks to the credit of the societies concerned in order to prevent the office-bearers of the latter from re-lending them to members. The Registrar of the district should, therefore, instruct societies to state in their execution applications that the sale-proceeds and other moneys recovered on their behalf may be remitted to the financing banks to the credit of their accounts. Moneys paid direct to the Registrar of the district voluntarily by defaulters may also be remitted similarly.

If a defaulter refuses to accept the surplus sale-proceeds, if any, the amount should be remitted into the treasury as a Revenue Deposit and a notice may be issued by registered post informing him that the amount due to him has been deposited in the treasury, and that if he does not claim it, within a period to be specified in the notice, it will lapse to Government.

63. Whenever any notification is published in the District Gazette, the Treasury Deputy Collector intimates to the Registrar of the district (Deputy Registrar) the cost of publication and the latter should appropriate this cost from out of the execution fees collected in advance. If the fees paid in advance be not sufficient to cover the cost of printing, the balance should be collected promptly. The fees so appropriated are treated as a revenue to the Co-operative Department like execution fees, while the cost of printing is borne by the Printing Department as in the case of the printing of notifications of non-commercial departments of Government.

64. Every person making a payment towards any money due, for the recovery of which application has been made under rule XXII, shall be entitled to a receipt for the amount signed by the sale officer or other officer empowered by the Registrar of the district in that behalf; such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made. Sale officers should, therefore, generally issue the receipts and when moneys are paid by the parties in the office of the Deputy Registrar, the Deputy Registrar or in his absence the Co-operative Sub-Registrar should issue receipts. The Deputy Registrar may authorize the Sub-Registrar to receive moneys and issue receipts.

65. In regard to the recovery of sums due to Government as "decree-holder" the provisions of rule XXII shall apply subject to the modifications provided in rule XXII-A.

Procedure for recovery of sums due to Government.

66. Decrees which have been filed before the Registrar of the district and which have been satisfied completely are not required by societies and they should not, therefore, be returned; decrees, etc., the execution of which has been stayed after partial collections have been made, may be required by societies when execution proceedings are sought to be renewed. If fresh process is proposed to be taken through the (Co-operative) Department, the society may be asked to furnish the execution petition number and the year in which execution was last pursued. The Registrar of the district should then proceed with the execution of the decree with reference to the previous file. If a society proposes to proceed with the process in a civil court, it should apply to the Registrar of the district for the transfer of the award to the civil court concerned. The application should be sent in the form prescribed for the purpose. In the application, the nature of the action proposed to be taken in the civil court should be stated clearly such as "arrest of the judgment debtor," "application for rateable distribution of assets in the civil court" or "execution after impleading non-member subsequent alienees", etc. Fees should be charged as if it is an application for execution through the Department and according to the amount to be recovered. The certificate of part or non-satisfaction to be attached to the award when it is sent to the civil court should be in Form No. 4 of Appendix E to the First Schedule of the Civil Procedure Code. Under clause (a) of sub-rule (8) of rule XV of the rules issued under the Madras Co-operative Societies Act, the civil court should execute the award so sent to it as if it were a final decree of that court. When the papers have been despatched to the civil court, the applicant should be informed of it. The transfer application and the connected papers should then be filed in the execution petition file from which the award has been taken out for transfer to the civil court. Orders for the transfer of awards to civil courts should be issued by the Deputy Registrars themselves; the powers of the Registrar of the district delegated to Co-operative Sub-Registrars do not cover this item of work.

Return or transfer of decrees, orders, etc., filed before the Registrar of the district.

67. The civil court to which a decision or award has been sent for execution should, under clause (b) of sub-rule (8) of rule XV issued under the Madras Co-operative Societies Act, on the application of the person in whose favour the same was passed, or, on the requisition of the Registrar of the district, return such decision or award to such person or the Registrar as the case may be in the manner provided in rule 6 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908.

Transfer of decisions and awards from the civil court to the Registrar of the district.

68. The Board of Revenue has requested Collectors to instruct village officers to render all possible help to sale officers of the Department in carrying out their duties in the villages in connexion with execution work. The officers of the Department may, therefore, requisition their help whenever necessary; but they must see that their help is indented on only when necessary.

Books registers to be maintained. and 69. In regard to work connected with execution, the following books and registers should be maintained in the forms prescribed for the purpose :—

(i) *Execution Cash Books*.—Moneys received by the Registrar of the district and sale officers may be of the following kinds :—

(a) fees for execution ;

(b) payments towards the decretal debts such as sale-proceeds of properties or voluntary payments made by the parties, etc.; and

(c) deposits made under sub-rule (9) of rule XXII. In the case of execution fees received, the money should be remitted into the treasury under the head of account—"XXXI. Co-operation—Miscellaneous receipts—Execution Fees—Living/Liquidated Societies." Societies should, however, be encouraged to remit execution fees direct into the treasuries and to send only the respective chalans to the Registrar of the district. Other moneys received are either disbursed to the parties concerned immediately where it is possible or necessary, or are lodged in the treasury as Revenue Deposits and withdrawn as and when necessary.

An execution cash book should be maintained by each Deputy Registrar for recording all cash transactions relating to execution work. The transactions should be recorded in this book chronologically. Amounts received in the office should be remitted into the treasury, central bank, etc., on the same day they are received or at least on the next working day. If for any reason this is not done, a note showing the reasons for the delay in remittance should be recorded in the cash book and attested by a responsible officer. Withdrawal of revenue deposits from the treasury and their refund to the parties must be entered in the cash book on the dates on which intimation of encashment of refund vouchers is received in the office. Chalans relating to execution fees remitted by societies direct into the treasury need not be entered in this cash book; they have to be entered in the subsidiary cash book referred to below. Government subsidy granted to societies working at a loss to meet stamp duty paid by them on sale certificates should not be transacted in this cash book.

At the end of each month, a classified abstract of the transactions during the month should be entered in the cash book together with the abstracts of the sale officer's cash books and of the subsidiary cash book. This will be helpful in preparing receipts and disbursements statements for the whole district and in ascertaining from time

to time the total receipts and disbursements under the various heads such as execution fees, revenue deposits, etc.

(ii) *Subsidiary cash book*.—All chalans for remittances of execution fees into the treasuries made by the societies direct should be entered in this register; chalans for remittances other than execution fees should not be entered. The details of the chalans, whether received from the societies or the treasuries, should be entered in the book in the appropriate columns on the dates of their receipt in the office, but the issue of receipts should be held up till the duplicate copies of the chalans are received from the societies; the receipts should not be issued on the strength of the chalans received from the treasury. If the chalans are received from the societies earlier than from the treasuries, receipts should be issued immediately on their receipt without waiting for the receipt of the triplicate copies of the chalans from the treasuries. At the end of each month, the societies or the treasuries should be addressed to send the copies of the chalans due from them as shown in the subsidiary cash book. The numbers of the receipts issued to the societies should be entered in the subsidiary cash book and also noted in the chalans concerned. The word *Triplicate* should be noted in red ink on the chalans received from the treasuries. Both the duplicate and triplicate copies of the chalans should be filed together in the voucher file relating to the subsidiary cash book.

Credit for the fees remitted in the chalans should be taken in the month in which the treasury chalans were first received in the office, whether from the societies or from the treasuries.

The subsidiary cash book should be maintained treasury-wise. The folios of the suspense register (described later) must be entered in the remarks column of the book to facilitate checking.

(iii) *Cash book of the sale officer*.—Each sale officer should maintain a cash book, in the form prescribed, for recording all his cash transactions. The collections received by a sale officer should be remitted by him into the treasury or the central bank or the decree-holder societies concerned on the same day on which they are received, or, if it happens to be a holiday, on the next day without fail. Where it is not possible to do so, the reasons that necessitated the retention of the cash balance must invariably be noted in the cash book. An abstract of the monthly receipts and disbursements in the form prescribed must be entered in the cash book at the end of each month's transactions and a copy of such abstract should be sent to the Deputy Registrar.

In the counterfoils of the receipts issued to the parties making payments to the sale officer, the signatures of the parties concerned should, as a rule, be obtained.

(iv) *Execution Petition Register*.—The appropriate columns in this register should be filled up as soon as each execution petition is received in the office, when the execution petition file is forwarded to the sale officer and when the file is received back from him. The

Co-operative Sub-Registrar (general duty) should check this register once a month before the 10th and see that it is maintained properly.

There is no need to maintain separate registers to watch the cases in which vakalaths have been filed by vakils appearing before the sale officers or the cases in which security bonds have been assigned in favour of decree-holder societies. It is enough if in the "Remarks" column of the execution petition register, a note is made against the particular execution petition that a vakalath has been filed or that a security bond has been assigned to the decree-holder, etc. A list of such items should, however, be made out on the first or last page of the execution petition register to facilitate the checking of the items.

(v) *Costs Appropriation Register*.—This register is mainly intended to watch how the execution fees collected from societies are appropriated towards the value of services rendered in respect of each execution petition. In the register, a separate page is set apart to note the execution fees received in respect of each execution petition (by appropriation from the suspense register described later) and the value of services rendered from time to time as recorded on the fee slip (in the prescribed form) attached to each execution petition. Any surplus fee available after the closure of each execution petition should be credited back to the concerned society's account in the suspense register; it should not be transferred to another execution petition without passing through the suspense register. No transfer of the surplus fees from one pending execution petition to another pending execution petition should ordinarily be resorted to. Deputy Registrars should check these registers once a month.

(vi) *Suspense Register*.—Often societies remit execution fees into the treasuries but do not at the same time send the execution petitions to the Deputy Registrars. The fees remitted are at times either far in excess of or far less than the required amounts. To watch the disposal of the execution fees received from the societies and to see whether the fees collected from each society are adequate to meet the value of services rendered or to be rendered in respect of the execution petitions sent by it, a suspense register is maintained in each Deputy Registrar's office. In this register, a separate page is allotted to each society to note the fees received from it from time to time and how they have been appropriated towards its several execution petitions.

All amounts received towards execution fees from societies should be treated by the Deputy Registrar as suspense received and entered in the suspense register. Execution fees paid by societies direct to sale officers should also be passed through this register. For the amounts received by sale officers no receipts need be issued by the Deputy Registrars; the sale officers themselves should issue cash receipts to societies when they receive execution fees from them.

From the amount to the credit of each society in the suspense register, appropriations should be made to the several execution petitions received from it. Such appropriations should be noted in the costs appropriation register as explained already.

Societies also should maintain suspense registers in the same form in which they are maintained by Deputy Registrars. All execution fees paid by them to Deputy Registrars or to the sale officers direct should be treated by them as suspense and recorded in the suspense registers. As soon as any appropriation of fees is made in the Deputy Registrar's office, the fact of having done so should be communicated to the society concerned with the necessary details as regards the numbers of the execution petitions, the amount appropriated to each execution petition, etc. On receipt of such intimation, the society should make the necessary entries in its books; the staff in charge of the supervision of the societies should see that this is done. As soon as an execution petition is closed, the excess fees collected in respect of it should be transferred to the suspense register maintained in the Deputy Registrar's office as well as by the society concerned.

The balances to the credit of the societies in the suspense register maintained in the Deputy Registrar's office should be communicated to the societies concerned, through the central bank, once in a half-year to enable the societies to reconcile the discrepancies, if any. True copies of the suspense register should also be forwarded to the auditors concerned at the end of every half-year for reconciliation with the suspense registers maintained by the societies during concurrent, interim and final audits. In the final audit reports, the auditors should certify that the balances have been reconciled.

(vii) *Revenue Deposits Register (Current)*.—As has already been explained, moneys received in the course of execution proceedings are lodged in the treasuries as Revenue Deposits in cases where it is not possible or necessary to disburse them immediately to the parties concerned. Revenue Deposits Registers are maintained in the Deputy Registrar's offices, in the form prescribed, to watch the deposits and refunds of these moneys.

Each deposit made in the treasury should be recorded in the register with particulars regarding the execution petition number, chalan number and date, the name of the person from whom the money was collected, the purpose for which the deposit has been made, etc. When deposits are withdrawn, the names of persons in whose favour the refund vouchers have been drawn, the amounts of such vouchers and the balance, if any, in the deposit, should be noted in the register in the appropriate columns. When the refund vouchers have been encashed, the dates of such encashment should be entered in the register noting also the execution cash book folio. Withdrawals of all Revenue Deposits should be passed through the execution cash book in the same manner as entries are made in it when these deposits are remitted into the treasury. The following

procedure should be adopted in the withdrawal and disposal of Revenue Deposits :—

(i) *Amounts in deposit at the headquarters of the Deputy Registrar.*—(a) When the amount has to be remitted to the central bank to the credit of the society which has filed the execution petition, the refund bill should be drawn by the Registrar of the district and the proceeds paid in cash into the bank. If the central bank to which the remittance is to be made is not situate at the headquarters of the Deputy Registrar, the amount should be remitted into the local central bank to the credit of the concerned bank and proper advice issued to the latter bank regarding the particulars of the remittance. If there is no such facility available at the headquarters of the Deputy Registrar, the procedure laid down in the succeeding sub-paragraph should be adopted.

(b) When the amount has to be remitted to the decree-holder society directly and if the society is not situate at the headquarters of the Deputy Registrar, the refund bill should be drawn by transfer of credit to post office, and money order issued by adjustment of the proceeds from the treasury itself, the cost of the remittance being borne by the society.

(c) When the amount has to be remitted to third parties like unsuccessful auction purchasers, etc., the party concerned should be asked to send, in advance, a stamped voucher for the amount to be refunded specifying therein whether he prefers to receive the amount by money order at his cost or to receive a bill drawn in his favour. The party may choose either method with reference to the cost involved in the journey for the encashment of the bill as compared to the cost of remittance by money order. On receipt of the voucher, if he chooses to receive the amount by money order the procedure prescribed in the previous sub-paragraph (b) should be adopted. If he elects to have the bill drawn in his favour, then the refund bill should be drawn up accordingly and sent to him by registered post. Simultaneous to the drawal of the bill, an intimation of it should be given to the treasury officer with the request to intimate the date of encashment of the bill. On receipt of such intimation, necessary adjustment entries should be passed in the cash book and the concerned item should be rounded off in the Revenue Deposit Register. The intimation from the treasury of the date of encashment should be filed with the original voucher furnished by the party so as to make it complete. So also, in the case of amounts sent by money order, the intimation from the treasury for the issue of the money order should be filed with the original voucher. Entries in the cash book should be made only on receipt of intimation from the treasury that the money order has been issued. Only then should the concerned item of revenue deposit be rounded off.

(d) When the deposit consists of an amount to be remitted to Government, as in the case of initial deposits forfeited for non-payment of the balance of purchase money in time, the bill should be drawn by transfer of credit to the proper head of account and

sent with a chalan to the treasury officer with the request to intimate the date of adjustment. On receipt of such intimation, necessary entries should be made in the cash book and the Revenue Deposit Register.

(e) When the deposit consists of an amount which has to be disposed of in more than one of the several ways noted above or to more parties than one, separate bills should be drawn for the amount due to each institution or party or the Government as the case may be and disposed of in the manner prescribed for each kind of remittance. Only when intimation has been received for the encashment or the adjustment of all the bills drawn, the item of revenue deposit should be rounded off in the register.

(ii) *Amounts in deposit in treasuries not situate at the headquarters of the Deputy Registrar.*—(a) When the amount has to be remitted to the credit of the decree holder society in the central bank, if the central bank is also situate at the place of the treasury the bill may be drawn in favour of the secretary or the accountant of the bank according to local practice and sent to the bank by registered post. The Treasury Officer should as usual be asked to intimate the date of encashment. This intimation together with the printed receipt of the central bank should be filed as voucher for remittance. The entries in the cash book in the adjustment column should be made as soon as either of the two are received in the office from the bank or the treasury as the case may be. If the treasury and the bank are at different places the procedure laid down in paragraph (1) (b) above should be adopted. The bill should be enclosed to a letter requesting the Treasury Officer to issue the money order and should be accompanied by a money order form duly filled up for the amount to be remitted, less commission. The money order acknowledgment should be in favour of the Treasury Officer and will not be received by the Deputy Registrar. In the money order coupon, particulars of the remittances should be given for the benefit of the institution or the person who receives the amount. Societies and central banks should be asked to furnish their printed receipts direct to the Deputy Registrars and these on receipt should be filed with the intimation received from the treasury so as to constitute a complete voucher.

(b) When the amount has to be remitted to societies direct, the same procedure as in sub-paragraph (ii) (a) above should be adopted.

(c) When the amount has to be remitted to parties other than societies the same procedure as in sub-paragraph (i) (c) above should be adopted.

NOTE.—When the banks or societies prefer to have the bills drawn in their favour to avoid excessive cost by way of money order commission such request may be complied with. In the absence of specific instructions, the refund should be made only by money order.

The Revenue Deposits outstanding should be reconciled with the treasury figures at the end of each quarter. Each Deputy Registrar should prepare a list of such deposits outstanding at the end of each quarter, as shown in the Revenue Deposit Register

maintained in his office, and depute an experienced clerk with the list to the treasury with instructions that he should verify the departmental figures with the treasury figures and reconcile the discrepancies, if any, and furnish a certificate to that effect. The clerk so deputed should see that all deposits, including those made by parties direct into the treasuries without the knowledge of the Deputy Registrar, are brought to account. On the basis of such verification, the Co-operative Sub-Registrar in charge of execution work should record a certificate at the end of each quarter that the Revenue Deposits have been verified with the treasury figures and the discrepancies, if any, reconciled.

(viii) *Register of Lapsed Deposits*.—This register is maintained to watch the disposal of Revenue Deposits which have lapsed to Government. As soon as a deposit gets lapsed, the particulars relating to it should be entered in this register and the item rounded off in the Revenue Deposits Register. All future entries in regard to the deposit should be made only in the registrar of lapsed deposits.

(ix) Transfer of awards register ;

(x) Salary attachment register ;

(xi) Register to watch movement of files from office to sale officer and *vice versa*.

70. The Deputy Registrar should submit to the Registrar, in the form prescribed, half-yearly reports showing the progress of execution work under section 57-A of the Act. The reports should be for the half-years ending 31st March and 30th September and they should be submitted on or before the 31st May and 30th November succeeding the half-year.

71. The accounts relating to execution work should be audited twice a year (that is for the half-years ending 30th September and 31st March) by a Senior Inspector and audit reports in the prescribed form should be submitted to the Registrar. Among other things, the report should refer to the correctness of fees charged and collected in accordance with the prescribed schedule, the delay, if any, in remitting the fees into the treasuries and the delay, if any, in receiving and disposing of purchase money and other moneys received by the Registrar of the district.

72. To carry out the work connected with the execution of decrees, the Government have sanctioned a special staff of Junior Inspectors of Co-operative Societies, with two peons for each and have ordered that the fees realized by the Registrar for execution work should cover the pay and travelling allowance of this staff and other items of expenditure under contingencies, stationery, printing charges, leave and pensionary charges, etc. The condition that their cost should be covered by the execution fees collected does not, however, apply to the minimum staff of one

Junior Inspector and two peons appointed for execution work in each district where the scheme of posting Inspectors, on a territorial basis is not in force. The Junior Inspectors who are entrusted with this work should be authorized by the Registrar of the district to do the duties of sale officers under the Co-operative Societies Act. The peons attached to each sale officer assist him in serving the notices mentioned in rule XXII and in rendering such other aid as may be necessary in the discharge of his duties. The sale officer and their peons are public servants within the meaning of section 21 of the Indian Penal Code.

The sale officers work under the general control and supervision of Deputy Registrars. These officers should regulate their tours in order to ensure the maximum outturn of work with the minimum cost. The following instructions are given for the guidance of officers in this connexion.

Rapid marches, frequent returns to headquarters and simultaneous and hurried attention to work in all parts of a district should be prevented; for this purpose, the sale officers should arrange their programme (and that of their peons) in consultation with the Deputy Registrar with due regard to the work on hand, the number of societies to be visited, number of notices, etc., to be served in them and the area in which such work has to be done. One compact area after another may be selected and a peon or a sale officer may be deputed to that area with about a fortnight's work.

The sale officers should for all practical purposes be considered members of the staff of the Deputy Registrar's office and should attend office while at headquarters. Instructions, if any, may be given to them by means of a note; they should have access to all execution files in the office. Correspondence with the sale officers should be minimised or avoided. In districts in which the system of posting inspectors on a territorial basis is in force, the Territorial Inspectors are authorized to do the duties of sale officers under the Act. They are required to send to the Deputy Registrar's office every month their cash book extracts and other statements in the prescribed forms showing particulars of treasury remittances, processes issued, services rendered, etc., to enable the office to post the necessary registers. The returns are to be verified by the local auditors before they are sent to the Deputy Registrar.

73. Files relating to execution applications under section 57-A of the Madras Co-operative Societies Act may be destroyed on the expiry of six years after the complete satisfaction of the decree, award, etc., has been recorded in the file or on the expiry of 15 years from the date of the decree, etc., sought to be executed, whichever is earlier.

Destruction of records.

APPENDIX.

SCHEDULE OF FEES CHARGEABLE FOR THE PROCESSES OF EXECUTION
UNDER SECTION 57-A OF THE ACT.

Part I.

Application fee—

(a) When the amount of execution petition is Rs. 50 or less—
Re. 0-8-0.

(b) When the amount of execution petition is above Rs. 50—Re. 1.

NOTE.—(i) All execution petitions, whatever be the prayer in them (including prayer for rateable distribution of the sale proceeds of other execution petitions) should be assessed (for the application fee) on the basis of the amounts for which they are filed and not on any other basis.

(ii) A fresh application fee should not be charged in respect of an execution which was returned for rectification of defects is presented again by the date fixed for the purpose. But when an execution petition is represented after the date fixed for it, a fresh application fee should be collected.

(iii) Each decree should be treated as a *separate case*. If an application for execution covers more than one decree, it should be treated as so many execution petitions as the number of decrees mentioned in it and the requisite fees collected for each.

(iv) When a decree-holder requires the issue of any process other than that first prayer for at the time of application, it shall be construed as a fresh application and application fees levied.

Part II.

Action against movables—(1) *Notice No. 3—*

(a) If served on the date of distraint—No fees.

(b) If served beforehand—Re. 0-8-0.

(2) *Demand Notice No. 2—*

(a) For the issue of the notice by the Registrar of the district against a single defaulter—Re. 0-12-0.

(b) For the simultaneous issue of the notice by the Registrar of the district against every additional defaulter—Re. 0-8-0.

NOTE.—If the notice against the second or subsequent defaulter is issued on another date, full fee should be charged.

(c) For the service of demand notice No. 2 on each party (irrespective of whether he is the first or the subsequent defaulter)—Re. 0-4-0.

NOTE.—If the decree amount is paid or the execution petition is struck off for any other reason after the issue of demand notice No. 2, but before the service thereof, service fee of 4 annas should not be collected. If a defaulter changes his residence subsequent to the issue of notice No. 2 but before the sale officer goes to the place of distraint, it is the duty of the decree-holder to report the change in good time to facilitate the notices being corrected suitably by the Registrar of the district. If this is done, fresh notices need not be issued nor fees be collected for the correction made. But where the decree-holder reports the change to the sale officer only after the latter has gone to the spot, fresh No. 2, notice should be issued and fee charged again for the issue. This is in addition to the attachment (adjournment) fees of Re. 1.

NOTE.—(i) Since 1-7-45 the rates in the schedule have been temporarily enhanced by 25 per cent.

(ii) The following is the description of the forms referred in the schedule :—

(a) Form No. 2. Demand notice (movables).

(b) Form No. 3. Preliminary notice to decree-holder.

(c) Form No. 4. Statement showing the list of movables attached by the sale officer.

(d) Form No. 5. Notice of sale of distrained movable property.

(e) Form No. 6. Demand notice prior to sale of immovable property.

(f) Form No. 7. Notice of attachment of immovable property.

(g) Form No. 8. Notice of sale of immovable property.

(h) Form No. 9. Notice of sale to decree-holder and defaulter.

(3) *Attachment*.—Fee for attachment of movables of each defaulter—Re. 1.

NOTE.—If the sale officer goes prepared for the attachment but the attachment has to be deferred to a future date at the instance of the decree-holder or the judgment-debtor an attachment (adjournment) fee of Re. 1 should nevertheless be charged provided however that if the sale officer had gone to the village for attachment in more cases than one and himself found it difficult to carry on attachment in respect of any case and was forced to have it adjourned for want of time no adjournment fees need be charged in such a case. In each such execution petition (adjournment) fee has to be charged for each attachment that is adjourned at the instance of any or all of the parties to the execution proceedings. The fee has to be charged for as many attachments as were proposed to be taken up on the date fixed according to notice No. 3. In an execution petition in which notice No. 3 has been served on the decree-holder signifying the proposal to attach the properties of three defaulters on a particular date, the decree-holder applied for adjournment of the distraint on the date fixed after the sale officer has gone to the village, the attachment (adjournment) fee to be charged is Rs. 3 and not Re. 1. If in the same case the distraint is effected in respect of one defaulter and adjourned in respect of two others, still the fee due is Rs. 3 as shown below :—

Attachment fee—Re. 1.

Attachment (adjournment fee)—Rs. 2.

If the name of only one defaulter is mentioned in No. 3 notice, only single fee should be charged. Despite the issue of No. 3 notice mentioning only the name of one defaulter, it is open to the decree-holder to request the sale officer to take action against the other defaulters if he thinks such a course is necessary. In such cases attachment or visit fee for all the defaulters should be charged.

(4) *Sale notice (Notice No. 5)*—

(a) For the first defaulter—Re. 0-8-0.

(b) For every additional defaulter on whom notice is served on the same date—Re. 0-4-0.

NOTE.—This notice should be issued on the date of distraint only on the defaulter or defaulters. The other parties who have to be made aware of the date of sale, viz., the sureties for the custody of the distrained articles and the decree-holder should be bound over on the spot and no fee should be charged for this. If any such party insists on having a copy of the inventory and sale notice in form 4 and 5, the same may be given to him free of cost.

(c) *Sale adjournment notices*.—When sales have to be adjourned at the instance of the defaulter or the decree-holder or the surety for the custody of the distrained articles, and notices have to be issued fixing a fresh date for sale—

Notice fees for the first party (defaulter)—Re. 0-8-0.

Notice fee for every additional party irrespective of whether he is the decree-holder or the surety for the custody of distrained articles—Re. 0-4-0.

NOTE.—(i) The notices may be sent by post and certificate of posting taken.

(ii) Where however the decree-holder is himself the surety for the custody of the articles it is not necessary to serve two notices on him.

(iii) Where parties are bound over for the adjourned sale date while granting the adjournment—No fee.

(5) *Sales*.—(a) Tom-tom charges for publicity prior to sale per day for each sale—Re. 0-4-0.

(b) Sale fee for the sale of the properties of each defaulter—Re. 1.

NOTE.—(i) Where the sale officer goes prepared for the sale but the sale has to be adjourned at the instance of any one of the parties, the sale (adjournment) fee of Re. 1 should nevertheless be charged.

(ii) If on such date, all the parties are bound over to the sale date no separate notice fee should be charged. If however fresh notice is issued and served afterwards, fees should be charged as in 4 (c) above.

(c) Release fee for each party—Re. 1.

NOTE.—If the articles have to be released by the sale officer on the date fixed for sale, after he has gone to the place, both the sale fee of Re. 1 and the release fee of Re. 1 should be charged.

Part III.

Action against immovables.—(1) *Demand notice No. 6*—

(a) For the issue of the notice by the Registrar of the district against a single defaulter—Re. 0-12-0.

(b) For the simultaneous issue of notice to each additional defaulter—Re. 0-8-0.

NOTE.—If the properties to be proceeded against do not belong to the same defaulter full fees should be charged for each defaulter. In cases in which the decree-holder society asks for urgent attachment of immovable properties dispensing with the prior issue and service of notice No. 6, emergent rates should be charged for all processes up to the stage of attachment, unless the Registrar of the district directs otherwise.

(c) Fee for the service of the No. 6 notice on each defaulter—Re. 0-4-0.

NOTE.—If the decree amount is paid up or the execution petition is struck off for any other reason after the issue of notice No. 6 before the service thereof, service fee of 4 annas should not be charged. If after either the sale officer or his peon had gone to the village for service of notice Nos. 6 and 7, the decree-holder reports full satisfaction there is no need to serve the notice No. 6 or to effect attachment of immovable properties. But the service fee of As. 4 or the attachment fee Re. 1 as the case may be, will have to be charged to cover the expenses of the journey made by the sale officer or peons. The fees will not be chargeable, only if the decree-holder sends the full satisfaction report in good time to avert the journeys to be undertaken by them.

(2) *Notice No. 7*—

(a) For the issue of the notice by the sale officer against a single defaulter—Re. 0-8-0.

(b) For the simultaneous issue of the notice against every additional defaulter—Re. 0-4-0.

(c) For the attachment of the immovable properties of each defaulter—Re. 1.

(d) For the publication of the attachment by beat of tom-tom for each day—Re. 0-4-0.

NOTE.—(i) If the decree amount is paid up or the execution petition is struck off for any other reason after the issue of notice No. 7, but before the service thereof the attachment fee of Re. 1 should not be charged.

(ii) Notices No. 6 and No. 7 should not be sent by post.

(iii) The issue of notice No. 7 is not necessary in the case of mortgage awards.

(3) *Notice No. 8*—Re. 1.

NOTE.—Whatever may be the number of villages in which the properties are situated or the number of notices issued, only one fee—namely Re. 1 should be charged for the issue of No. 8 notice. Tom-tom fee should however be collected in respect of each village where tom-tom was made.

(4) *Notice No. 9*—

(a) For the first defaulter—Re. 0-8-0.

(b) For each additional party whether he is an additional defaulter or a person with interest in the properties brought to sale—Re. 0 4-0.

(5) *Sales*—

(a) Sale fee for each defaulter whose properties are sold—Re. 1.

NOTE.—(i) When sales have to be adjourned at the instance of the defaulter, the decree-holder or any other interested party and the parties are not bound over for the adjourned sale date, fees for the reissue of notices Nos. 8 and 9 should be charged afresh.

(ii) Where the sale officer has to adjourn the sale at the instance of any one of the parties after going to the place of sale, the sale (adjournment) fee of Re. 1 should nevertheless be charged.

(iii) Tom-tom charges for publicity for two days prior to and on the date of sale should be charged at the usual rate of 4 annas per day.

(6) *Release fee*—For each party whose properties are released—Re. 1.

NOTE.—(i) If the release is ordered by the sale officer after going to the place of sale at the instance of any one of the parties, both sale fee of Re. 1 and the release fee of Re. 1 should be charged.

(ii) When the attachment of a property is raised as a result of allowing petitions objecting to such attachment, an order of release should be embodied in the order passed by the sale officer on the objection petition presented under rule XXII (17). No separate release order shall be issued nor separate release fee charged.

Part IV.

Common action against movable and immovables—(1) *Objection fees*—For every objection petition—Re. 1.

(2) *Emergent fee*—For each process of emergent execution proceedings fees have to be collected at one and a half time the usual rate. This does not apply to—

- (i) Poundage.
- (ii) Application fees.
- (iii) Tom-tom charges.
- (iv) Objection fees.

NOTE.—Emergent rates should be charged for all the processes issued in an execution petition marked as emergent by the decree-holder society and ordered to be treated as such by the Registrar of the district, except in respect of the processes exempted from the levy as stated above. Where a society requires emergent action for a part of the proceedings only, the stage up to which such action is prayed for should be distinctly stated in the execution petition itself by the decree-holder society and accepted by the Registrar of the district. In the absence of a specific prayer for emergent action by the decree-holder, and in the absence of the orders of the Registrar of the district directing emergent action, the sale officer should charge ordinary fees only.

(3) *Poundage*.—At one anna for each rupee up to Rs. 350 and 6 pies for every rupee above Rs. 350 up to Rs. 1,000 and 3 pies for every rupee above Rs. 1,000 calculated with reference to the sale price of each lot.

NOTE.—(i) For purposes of calculating poundage sale proceeds involving fractions of a rupee should be approximated to the nearest rupee omitting sums of annas 8 and less and treating sum above annas 8 as a rupee, provided however that if the sale proceeds of a particular lot be less than annas 8 poundage due for one rupee should be charged for that lot.

(ii) The amount of poundage thus arrived at should be rounded to the nearest anna and pies eliminated.

(iii) Poundage should be calculated on the sale price and not on the decretal amount.

Part V.

Fees for attachment before judgment under Rule XXIII—

(1) *Application fee.*—As. 8 or Re. 1 according as the amount of the application is Rs. 50 and below or above Rs. 50.

(2) *Preliminary notice (emergent rates)*—

(a) For the issue of the notice by the Registrar of the district against a single defaulter—Rs. 1-2-0.

(b) For the simultaneous issue of the notice to each additional defaulter—Re. 0-12-0.

(c) Fee for the service of the notice on each defaulter—Re. 0-6-0.

(3) *Attachment order (emergent rates)*—

(a) For the issue of the order against a single defaulter—Re. 0-12-0.

(b) For the simultaneous issue of the order against every additional defaulter—Re. 0-6-0.

(c) For the attachment of the separate properties of each defaulter—Rs. 1-8-0.

(d) Tom-tom charges (where properties attached are immovables)—Re. 0-4-0 per diem or Re. 0-8-0 per diem in the city of Madras.

NOTE.—If the properties are proclaimed for sale and sold after the passing of the award, the fee for such further processes shall be the same as in the case of sales held in pursuance of regular execution petitions under rule XXII (i) of the rules under the Act.

Part VI.

Fees for salary attachment.—(1) Application fee As. 8 or Re. 1 (according as the amount of the execution petition is Rs. 50 and below or above Rs. 50).

(2) Demand notice prior to attachment—Re. 0-8-0.

(3) Attachment fee—Re. 1.

(4) Release fee in cases where attachment is raised before the full satisfaction of the decree at the instance of any one of the parties—Re. 1.

Part VII.

Applicability of this schedule to execution petitions under the Madras Co-operative Land Mortgage Banks Act X of 1934.

The rates specified above in this schedule, and the principles laid down for the application of such rates to the several processes like attachment, service of notices, sale adjournment, release, etc., shall apply to the processes issued in applications under the Madras Land Mortgage Banks Act X of 1934 subject to the following directions in respect of specific processes:—

(1) Application fee of Re. 1 or annas 8 according as the amount of the demand is Rs. 50 and below or above Rs. 50 shall be charged on applications under sections 9 (1) and 14 (1) of the Land Mortgage Banks Act.

(2) For the issue of notice No. VII under rule 4 (b) of the rules under the Land Mortgage Banks Act, the first defaulter shall be treated as the first party while the other defaulters, if any, and the other parties specified in clause (b) of sub-section (2) of section 13, should all be treated as additional parties. The fees to be charged are—

(a) For the first party—Re. 0-12-0.

(b) For each additional party—Re. 0-8-0.

(c) For service on each party a service fee of—Re. 0-4-0.

(3) The proclamation of sale under rule 4 (d) will be charged for as shown below :—

(a) For the issue of the proclamation—Re. 1.

(b) For the issue of copies of it to each party interested whether he is the defaulter or others—Re. 0-4-0.

(4) (a) For the issue of the proclamation of purchase of immovable property under rule 7—Re. 1.

(b) For publication in each village by beat of drum for one day (usual fee)—0-4-0.

(5) No fees shall be charged for the supply to the applicant banks of copies of any notice or proclamation issued under the rules under the Land Mortgage Banks Act.

Part VIII.

General.—(i) Where sales are adjourned for administrative reasons no fees should be charged for the fresh processes necessitated thereby.

(ii) When the sale posted to a particular date could not be taken up on that date on account of the receipt of an objection petition no fee should be charged for the issue of fresh notices.

(iii) Where however the objection petition is presented to the sale officer only on the date of sale and that too after he has gone to the place of sale, a sum of Rs. 2 should be collected from the objection petitioner at Re. 1 for the sale fee ; and Re. 1 for the objection fee. If on the date of visit to a place by the sale officer for enforcing a process, more than one person presents claim on objection petitions in respect of one and the same execution petition each such petition should be charged with a fee of Rs. 2.

(iv) The fee for the publication by beat of tom-tom for each day in the City of Madras shall not exceed annas eight.

(v) Poundage due in respect of every sale (even of the same properties) should not be omitted to be collected.

(vi) To facilitate the checking of the adequacy, excess, or deficit, in the fees charged at the time of closing the execution petition the sale officer should make a detailed note in the file regarding each process explaining the fee charged in respect of such process.

(vii) A guardian representing a minor or minors should be treated as a single party for the purpose of charging fees. In cases in which the same person is impleaded both as an individual party and also as guardian to other defendants who are minors, a single fee is enough.

(viii) Fees for all items of notices should be determined with reference to the number of persons to whom the notice is issued, while attachment fees are to be charged with reference to the items of property attached. Thus in a case of joint family property attached on the same date and at the same place, a single attachment fee should be charged, while the notice fee will be in proportion to the number of persons to whom the notices are issued.

(ix) When prohibitory orders are issued for attachment of the several kinds of properties coming under sub-rules (5-A), (6) and (6-A) of rule XXII, a sum of Re. 1 should be charged for the issue of the order and annas 4 for service of such order on each party irrespective of whether such party is the person holding the asset, or the defaulter himself. Fee for service of such order need not be charged when the order is sent by post. Emergent rates should be charged if the prayer is for the urgent issue of the such orders.

(x) In the case of notices issued to legal representatives of deceased defaulters, under rule XXII (1-A), a fee of annas 8 for the first party and annas 4 for each additional party which is the usual notice fee under the schedule should be charged. No service fee need be charged as the notices are sent to legal representatives by post.

(xi) In Execution petitions praying for rateables, no special fee need be charged for the order actually ordering the distribution of sale proceeds.

(xii) Objection or claim petitions whether preferred under rule XXII (10) (i) or under rule XXII (17) (a) should be charged at the scheduled rates. But petitions under rule XXII (9) (i) should not be "objection petitions."

(xiii) Before issue or service of any notice or other process, every officer concerned should satisfy himself that the fee due on it has already treated as been realized.

CHAPTER IV.

SUPERSESSION.

1. In the course of rectification and consolidation of societies it is generally found that there is a fairly large number of societies the financial condition of which is sound but which do not have proper panchayats to manage their affairs. Either the panchayats in power fail to discharge their duties satisfactorily in the interests of all concerned or other persons available are reluctant to come forward and carry on the business of the societies. Again, there may be a deadlock in the management of a society; or an ill-guided general body may refuse to conduct its affairs in the interests of the society. In such a case, the cancellation of registration is too drastic a remedy because in course of time the society can be rectified or reformed and worked again to the benefit of the people. The management of such a society can with advantage be entrusted to a single competent person (either a member or a non-member) with all the powers of the panchayat, so that after a time, when the affairs are brought to a normal condition by the individual appointed to run it, proper persons in the locality may come forward and take up its management.

Need for supersession of committees of societies.

Provision in the by-laws of societies for the appointment of managers.

2. The appointment of a manager is permissible under the following by-law (usually adopted by rural credit societies):—

“It shall be open to the general body to place the management of the society in the hands of a single person who may be either a member or non-member. The appointment shall, however, be subject to the approval of the Central Bank in case the society is indebted to it and of the Registrar in case it is not indebted to the Central Bank. The person so appointed shall have all the powers of the panchayat under the by-laws. In the matter of collecting loans, filing of arbitration references and applications for execution of awards, he shall act on his own responsibility in accordance with the by-laws. But he shall purchase lands or sell lands only with the previous approval of the Central Bank. He shall, however, obtain the previous approval of the general body in the following matters:—

- (1) admission of members;
- (2) allotment of shares to members;
- (3) refund of share capital to members either by adjustment or in cash;
- (4) borrowing money; and
- (5) grant of loans to members.

The general body may, subject to the approval of the Central Bank or Registrar as the case may be, pay to the manager such

remuneration as it deems fit for his services. The manager shall convene a meeting of the general body before the expiry of the period for which he is appointed and get a panchayat elected in accordance with the by-laws. If for any reason a panchayat cannot be elected before the expiry of the period of his appointment, he shall continue to be in charge of the management of the society till a panchayat is elected under the by-laws."

3. A new section (section 43) was embodied in the Madras Co-operative Societies Act VI of 1932. According to this section, the power of superseding the committee of a society and appointing an agent to manage its affairs is vested in the Registrar. This power is now exercised by the State Registrar and the Joint Registrars only; Deputy Registrars are not permitted to exercise the powers of the Registrar under section 43 of the Act.

Statutory provision for supersession of committees of societies (section 43 of the Act).

4. The provision made in the Act for the supersession of the committee of a society does not take away the power of the general body of the society to appoint under its by-laws an agent to manage its affairs. This is only a parallel provision. The difference between the two arrangements is that in one case the Registrar appoints the agent and controls his actions, while in the other case the general body of the society takes the responsibility for the appointment of an agent and for all his actions. The supersession of the committee of a society under section 43 of the Act is generally resorted to when the society is unwilling to make such an arrangement or when the management of its affairs by a person appointed by the Registrar is considered desirable in the interests of the society.

Parallel provisions of section 43 of the Act and by-law.

5. In the case of a primary society the Registrar has, under section 43 of the Act, to consult the financing bank if the society is indebted to it regarding the supersession of the committee of the society and the arrangement to be made for its management. If the society is not indebted to a financing bank, such consultation may be dispensed with. If the society the committee of which is proposed to be superseded is a financing bank the Registrar shall have to consult the Madras Provincial Co-operative Bank before taking such action. In any case, the concurrence of the financing bank or the Madras Provincial Co-operative Bank, as the case may be, is not necessary. In all cases, the Registrar should issue a notice to the committee of the society concerned asking it to state, before a specified date, its objection), if any, to its supersession. After taking into consideration the objections, if any, of the committee, the Registrar may, if he thinks fit, order the supersession of the committee. The Registrar can order supersession only for a period not exceeding two

Procedure to be followed before supersession.

years at a time ; the period may be extended by the Registrar, if necessary, subject to the condition that it shall not exceed four years in the aggregate.

6. The Registrar takes the responsibility for the management of a society if the committee is superseded under section 43 of the Act ; he, therefore, generally appoints as agents, departmental subordinates over whom he has control. It is open to the Registrar to appoint a single person or a number of persons to manage the affairs of a society. Special committees are at times appointed by the Registrar to assist the superseding officers in their day-to-day work, particularly in societies with fairly large transactions. The members of such committees are appointed by the Registrar from among local gentlemen of character and integrity. These committees, however, function only as advisory bodies ; the superseding officers are responsible for the proper administration of the societies' affairs. When one society cannot give adequate work for a full-time agent or cannot afford to maintain him, a number of small societies in a compact area may be put together in charge of a single person ; or a part-time agent may be appointed if conditions permit.

Under the provisions of section 43 of the Act, the Registrar may fix the remuneration payable to the person or persons so appointed, and the amount of such remuneration and the other costs, if any, incurred in the management of societies are payable from the funds of the societies concerned. Where a group of societies is placed in charge of one person, these societies are asked to contribute towards the remuneration of the agent in the proportion fixed by the Registrar with due regard to the work involved in each of the societies concerned.

7. Subject to the control of the Registrar and to such general or special instructions as he may issue from time to time, the person appointed to manage the affairs of a society under section 43 of the Act can exercise all or any of the functions of the committee or an officer of the society and can take all such action as may be required in the interests of the society. His main duties in most cases are to collect assets and pay off liabilities. He may, however, carry on the business of a society in all its aspects where it is superseded for reasons other than its unsound financial condition.

The person or persons appointed should, at the end of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the by-laws of the society.

When a society is superseded by the Registrar under section 43, such powers and duties of the general body as clash with the powers and duties of the person or persons appointed by the Registrar are *pro-tanto* superseded ; the general body cannot exercise any

control in competition with the Registrar. The general body can, however, continue to exercise such powers and duties as are not inconsistent with the control of the Registrar. For example, the power to make a change in the by-laws is vested in the general body. This power is not passed on to the Registrar by reason of the supersession of the committee.

The Registrar is not liable for any losses that a society may suffer during the management of the society by the Registrar's nominees appointed under section 43. The wording in the section "to manage" means that the actual working of the society is done by the person or persons appointed by the Registrar. The powers given to the Registrar in sub-section (2) are only supervisory and hence the Registrar is not liable for acts of the person or persons appointed by him. The person or persons, though appointed by him, represent the share-holders. The profits that may be made as a result of the management by the person or persons enure only for the benefit of the share-holders and they should likewise bear all the loss.

CHAPTER V.

LIQUIDATION.

1. Liquidation of co-operative societies is a function of the Registrar under sections 44 and 45 of the Madras Co-operative Societies Act. These sections provide that under certain conditions the Registrar may, if he sees fit, cancel the registration of any co-operative society.

Cancellation of registration. Before the registration of a society can be cancelled, one of the following conditions must have been complied with:—

(i) an enquiry under section 38 of the Act into the affairs of the society should have been held by the Registrar or by an officer authorized by him for that purpose ; or

(ii) the books of the society should have been inspected by the Registrar or by an officer authorized by him for that purpose under section 39 or 40 ; or

(iii) an application for cancellation should have been made by three-fourths of the members of the society ; or

(iv) the number of members of a society should have fallen below the statutory minimum.

2. Liquidation should be resorted to with care and circumspection and after exhausting all other less drastic methods of reformation and revival. Attempts to revive bad or moribund societies—liquidation should be the last resort. Hasty cancellation of the registration of societies on an unduly large scale may bring the movement into contempt. When it comes to notice that a society is not working satisfactorily, all attempts should be made by the supervising authority and the central bank to set it right. It is the duty of these agencies to see that good societies are not allowed to deteriorate, that dormant societies are revived and pulled up and that bad societies are rectified and reformed. The banks or unions or departmental officers should first attempt to reconstitute the panchayats of bad or indifferent societies and instruct the members and rouse in them an interest which will ensure vigorous life in the society. An incompetent, indifferent or mischievous directorate should, if possible, be replaced by one which can be depended on to set matters right. If no dependable directorate can be put in office or if the affairs of a society cannot be entrusted to an agent appointed by it under its by-laws or to an officer appointed by the Registrar superseding the committee in the manner indicated in Chapter IV, liquidation may be considered.

Similarly, if there has been fraud, malversation of funds or other abuses such as the grant of binami loans or the concentration of funds in the hands of the directorate and their relatives, the possibilities of prosecution should be examined. If the general body

and the directors cannot be induced to set matters right at once or if other remedies such as management by an agent or supersession of the committee fail, liquidation is the only course.

In every case, attempts should be made to compel the society to collect its dues and remit collections to the central bank. The state of overdue loans should be examined at once by the supervising authority and all overdue loans which are not immediately repaid should be taken to arbitration and prompt and vigorous steps should be taken to execute the decrees obtained. Once a society has got into a bad way, promises of repayment and improvement, particularly if made by the panchayatdars who have allowed the society to get into such a condition, should be given no weight.

In all cases where the financial condition of a society is bad either on account of ill-secured loans or on account of time-barred debts, proper attempts should be made to strengthen the financial position by taking additional securities from the borrowers. When there are no outside liabilities, or when the members are indifferent and do not evince any interest, attempts should be made to admit new members and get fresh loans from the central bank. If proper men are not available among the existing members to manage a society, its headquarters should be got shifted to some neighbouring village where suitable men may be found. Liquidation should be recommended only when all these attempts at revival fail.

3. In view of the need for great caution in weeding out bad societies, a definite programme of liquidation with a list of societies which are very bad and which deserve to be wound up, should be drawn up at a meeting of the representatives of the central bank, supervising unions and the Deputy Registrar of the district with due regard to the working of societies as disclosed in the latest final audit, interim audit and other inspection notes. The list should be very carefully drawn up so as to give weight to the views expressed. It is necessary that directors or the executive officers of the central banks concerned and the Deputy Registrars visit each union area and satisfy themselves that all possible endeavours have been made to revive or reconstitute societies before their liquidation is recommended or taken up.

It is not obligatory on the part of the officers to propose the cancellation of registration of all societies included in the list as circumstances may change. Enquiries may be held into the affairs of these societies in the order of urgency or necessity and only if they are found thoroughly bad or insolvent or beyond revival and rectification, they should be recommended for liquidation. This does not fetter the discretion of Deputy Registrars in recommending the dissolution of the societies which are not included in the list if their affairs warrant such a course.

When cancellation of registration should be recommended urgently.

4. Cancellation of registration should ordinarily be recommended urgently in the following cases :—

(1) when the entire sum borrowed from the financing bank or a major portion of it has been lent to persons in a few families and when the arrears are not recoverable except through coercion and when there is a reasonable apprehension as regards the solvency of the borrowers;

(2) when it is found that well-to-do non-borrowing members have withdrawn with a view to escape unlimited liability on account of the bad working of the society or for other reasons;

(3) when the chief office-bearer or office-bearers of the society has or have misappropriated considerable sums of the society's moneys and is or are about to alienate his or their property so as to cause loss to the society; and

(4) when any delay in the matter of revival or liquidation will result in deterioration of stocks and increase the loss in stores societies which have become dormant and ceased to do business.

But liquidation must never be recommended as a matter of course. It should be recommended only if all attempts at rectification and revival fail. Before recommending cancellation of registration, the Deputy Registrars should satisfy themselves that all possible attempts at revival have been made.

(5) Sections 44 and 45 of the Madras Co-operative Societies Act

Enquiry (under section 38 of the Act) preliminary to cancellation of registration and details to be furnished in the report of enquiry.

deal with the conditions to be satisfied before cancelling the registration of a society. An enquiry under section 38 of the Act is invariably conducted preliminary to cancellation. Even for cancellation under section 45, the enquiry is done by way of abundant caution. In conducting this enquiry, the officer concerned should see that notice intimating the time at which and the place where the enquiry will be conducted is given to those interested in the working of the society to enable them to represent their views on matters touching its affairs. It is also desirable that a public notice to that effect should be issued in advance by the officer authorized to hold the enquiry; he should himself decide the manner of publication of the notice. In urgent cases, notice much in advance need not be given, but efforts may be made to give due intimation to all concerned. Once an enquiry has been ordered into the affairs of a society, it should be completed as expeditiously as possible and should not be allowed to drag on.

Recommendation for the cancellation of registration of societies should not be based generally on old reports of enquiry. The reports on such enquiries should, if they are general enquiries into the affairs of societies and are not directed specifically to one or more particular

points on which information is required contain the following information :—

- (i) The correct number and name of the society according to its by-laws. (The name should be verified with the certificate of registration.) ;
- (ii) the dates of registration and of starting ;
- (iii) the classification of the society ;
- (iv) name of the village and taluk in which the society is situated ;
- (v) the postal address of the office-bearer to whom the order of cancellation is to be sent ;
- (vi) the number of members on rolls at the time of enquiry ;
- (vii) a brief account of the condition of the society and of the attempts made by the union, central bank or departmental officers to improve its working with reasons for the failure ;
- (viii) the dates of successive visits paid by inspectors, Co-operative Sub-Registrars or Deputy Registrars ;
- (ix) whether the central bank and the local supervising union, if the co-operative society is affiliated to any, and the co-operative central stores in the case of primary stores have been consulted in regard to its liquidation and what their opinion is ;
- (x) a statement of assets and liabilities (balance sheet) as on the date of the report indicating whether any items will prove bad ;
- (xi) a statement showing details of the amounts due and overdue to the financing bank and other creditors ;
- (xii) a statement showing in detail the amounts due and overdue by members ;
- (xiii) whether any of the debts shown in the statement referred to in item (xii) are likely to prove irrecoverable, and if so, full particulars regarding each ;
- (xiv) whether the assets after realization will be sufficient to meet all liabilities or whether it will be necessary to levy contribution from non-borrowing members or from borrowers over and above their debts ; and
- (xv) whether there is any likelihood of the defaulters or other members alienating their property during the interval between the cancellation of the registration of the society and its coming into force actually.

The report must not be delayed if there is difficulty in obtaining information on some of these points. The facts should be referred to and if necessary, a supplemental report submitted at a later date. When sending up proposals for the cancellation of registration of a society, the report of enquiry or inspection should be sent in original.

When an enquiry under section 38 of the Act is made, the results of the enquiry must, under sub-section (3) of the said section, be communicated to the financing bank, if any, to which the society is indebted. The opinion of the financing banks and of the co-operative central stores in the case of co-operative stores should be invariably submitted to the Registrar along with proposals for

cancellation. The local central banks should be consulted before recommending the cancellation of registration of any Harijans, societies whether or not, such societies are indebted to the central banks

6. Under section 39 of the Act, on the application of a creditor of a society, the Registrar or the Deputy Registrar may inspect or direct some person authorized by him in this behalf by a general or special order in writing to inspect the books of a society.

No inspection shall be made or directed under this section unless the creditor—

(a) satisfies the Registrar or the Deputy Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar or the Deputy Registrar such sum as security for the costs of the proposed inspection as the officer may require.

Where an inspection is thus made, the officer shall communicate the results of such inspection to the creditor and to the financing bank, if any, to which the society is indebted.

Section 40 of the Act gives the right to a financing bank to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the bank or a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society. He may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

The provisions of section 40 of the Act do not apply to the ordinary or routine inspection of societies undertaken by the inspectors and supervisors employed by the financing bank; they apply only to inspections of a society indebted to the financing bank undertaken in order to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank. These inspections are done either by an officer of the bank or a member of its paid staff who has been certified by the Registrar as competent to undertake the inspection. The certificate contemplated in this section is quite different from and has nothing to do with the certificates issued by co-operative training institutes.

7. The person authorized by the Registrar or the Deputy Registrar to hold an enquiry into the working of a society under section 38 or to inspect the books of a society under section 39, is, under the Act, invested with the following powers:—

Powers of the officer authorised under section 38 or 39 of the Act.

He shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging

to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place, at the headquarters of the society or any branch thereof.

He may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place, at the headquarters of the society or any branch thereof and may examine such person on oath.

He may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him. If the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself.

Any meeting thus called shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws.

8. In cases coming under section 45 of the Act, the Deputy Registrars, may themselves cancel the registration of societies as they have been invested with the powers of a Registrar under that section. In doing so, they should observe the following instructions :—

(i) the order of cancellation intended for the society should be sent by registered post (acknowledgment due)

(ii) a copy of the order should be communicatee to the District Registrar of Assurances of the district (in duplicate) and to the Collector and the financing bank (one each) ;

(iii) a notification to the effect that the registration of the society has been cancelled by the Deputy Registrar should be sent direct to the Superintendent, Government Press, Madras, for publication in the *Fort St. George Gazette* ;

(iv) the file in the Deputy Registrar's office should not be closed before obtaining the acknowledgment from the society and before verifying the correct issue of the notification in the Gazette ;

(v) the final closing reports of such societies should be submitted to the Registrar as usual ; and

(vi) figures relating to these societies should also be included in the periodical returns regarding liquidated societies submitted to the Registrar.

The Deputy Registrars should submit to the Registrar every half-year a list of societies the registration of which was cancelled by them under section 45 of the Act.

9. When the registration of a society is cancelled under section 44 or section 45 of the Act, the Registrar or the Deputy Registrar as the case may be, may appoint any person to be the liquidator of the society. Generally, Deputy Registrars or Co-operative Sub-Registrars are

Appointment of
a liquidator.

appointed as liquidators. Under rule XVII of the rules issued under the Act, the appointment of the liquidator *must* be notified in the *Fort St. George Gazette*. The notification regarding the cancellation of the registration of a society and the appointment of a liquidator shall be published in the *Fort St. George Gazette*, free of cost.

When the registration of a society which has not started work is cancelled, its affairs should be deemed to have been finally closed on the expiry of the appeal period of two months. No order of the Registrar approving its final closure is necessary.

10. Under section 44 of the Act any member of the society may, within two months from the date of the order of cancellation of its registration appeal to the Provincial Government. The order of liquidation in such an event becomes final when it is confirmed by the Government and such confirmation is communicated to the society by registered post.

When no appeal is presented within two months from the making of an order cancelling the registration of the society, the order shall take effect on the expiry of that period, and the liquidator can proceed to take action under section 47 of the Act.

The order of cancellation of the registration of the society under section 45 of the Act takes effect from the date of the order.

A member entitled to appeal under section 44 of the Act has the right to secure a copy of the order cancelling the registration of his society. Copies of the order may therefore be given by the Deputy Registrars to members on application, free of cost. Societies should make available to members for their perusal, copies of the order sent to them by the Registrar.

11. The powers of a liquidator are defined in section 47 of the Madras Co-operative Societies Act. For easy reference they are reproduced below :—

“ 47. (2) Subject to any rules that may be made under this Act, the whole of the assets of the society shall on the appointment of a liquidator under sub-section (1), vest in such liquidator and he shall have power to realize such assets by sale or otherwise.

(3) Such liquidator shall also have power, subject to the control of the Registrar—

(a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office ;

(b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society, such contribution including debts due from such members or persons ;

(c) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising between claimants ;

(d) to pay claims against the society (including interest up to the date of cancellation of registration) according to their respective priorities, if any, in full or rateably, as the assets of the society permit ; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case ;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne ;

(f) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ; and

(g) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same.

(4) Subject to any rules that may be made under this Act, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and (so far as may be) in the same manner as is provided in the case of a civil court under the Code of Civil Procedure of 1905."

12. As soon as the order of the Registrar cancelling the registration of a society are received, the Deputy Registrar or the Co-operative Sub-Registrar as the case may be, should note the fact in the register of liquidated societies prescribed by the Registrar.

Under section 46 of the Act, the society ceases to exist as a corporate body only from the date on which the order of cancellation takes effect and the liquidator comes into office only from that date. The office-bearers can, therefore, carry on the business of the society till the cancellation order takes effect. The liquidator should proceed to take charge of the cash, accounts, records, bonds and other documents of the society as soon as possible after the cancellation order takes effect. The liquidator may even authorize one of his inspectors for taking charge of the cash, etc., of the society and be in charge of the accounts on his behalf. Any cash should at once be sent to the financing bank. Other property, including valuable securities should be placed in safe custody. The Inspector should give a precise receipt for everything of which he has taken charge. He should also prepare at once an up-to-date statement giving the following particulars :—

(i) members on the rolls, including those who died or withdrew from membership within two years from the date on which the order took effect ;

- (ii) the addresses of these members ;
- (iii) details of property owned by them—
 - (a) Survey number,
 - (b) Dry, wet or garden,
 - (c) Assessment,
 - (d) Value of each field,
 - (e) Encumbrances, if any, known in the village,
 - (f) Sums due to the society under loans as principle or surety, court costs, etc.,
 - (g) Sums due to the members by the society ; and
- (iv) An up-to-date balance sheet of the society.

The Inspector should also obtain an account of the society's transactions with the central bank since the date of last audit and carefully compare it with the society's books and reconcile discrepancies, if any.

13. The liquidator shall, as soon as the order of cancellation of the registration of the society takes effect, publish by such means as he may think proper, a notice requiring all claims against the society the registration of which is cancelled, to be submitted to him within two months of publication of the notice. All liabilities recorded in the account books of a society shall be deemed *ipso facto* to have been duly submitted to him under rule XVII.

The notice required under this rule may, if necessary, be published in the District Gazette at the discretion of the liquidator. It is not, however, obligatory. Further, it is costly as the publication of these notifications are charged at cost plus 25 per cent. The requirements of the rule will be satisfied in most cases if the notification is published by beat of tom-tom in the village where the society had its office.

14. The liquidator should next take immediate steps to have the assets collected and liabilities paid off. Under the Act and the rules, he has to determine from time to time the contributions to be made or remaining to be made to the assets of the society by each of its members, past members or by the estates or nominees, heirs, or legal representatives of deceased members or by any officer or former officer, such contributions including debts due to the society. Contributions can be levied against officers or former officers of the society who have misapplied the property of the society or have become liable or accountable to the society for any money or property of the society. Finally, contribution orders enforcing unlimited liability to make good any deficiency in assets are also passed under this section.

The liquidator may proceed or depute the liquidation Inspector to the liquidated society, enquire of the members and call upon the

debtors to pay and collect the assets as quickly as possible by persuasion. If it is found that the loans cannot be recovered easily, he may proceed to pass contribution orders. Before a contribution order is issued, a notice should be given to the party concerned intimating to him the amount of contribution proposed to be levied, the grounds for the levy and the date, time and place at which the contributory may represent his case, if any. Such notice or summons should be served on the party direct if possible and if this cannot be done, it should be sent by registered post. Service by affixture on the door of his house, though legal, should be an exception and not the rule. Notice or summons against the legal representatives of a deceased member should indicate that they are called upon to show cause why they should not contribute towards the assets of the society a specified sum from the estates of the deceased member. All proceedings should be held as far as practicable within the area of operations of the society. On the day fixed, the party should be heard if he is present and after taking into consideration his representation, the liquidator should proceed to pass an order according to the merits of the case. He should record a separate written order in regard to each contributory stating the amount due including interest, the rate at which subsequent interest will accrue and setting out very briefly the grounds for his decision. When a contribution order is passed it should forthwith be communicated to the party by registered post; the postal charges should be met from the general funds of the society and should not be recovered from the party concerned. It is essential that there should be no delay in the communication of the orders, as the party may, if he chooses, file an appeal before the expiry of two months from the date of the issue of the order.

The liquidator should then inform each member what amount is due from him and call on him to pay it within a specified period. If the amount is not paid within that time, immediate steps should be taken to execute the contribution order either through a civil court or the Co-operative Department. In the case of an order relating to a deceased member, the notice forwarding the contribution order by registered post and demanding payment from the legal representatives before a particular date should state that the amount is recoverable from the estate of the deceased member. When such contribution orders are sent up for execution, only the estates of the deceased member which have come into the hands of the legal representatives and have not been disposed of, should be proceeded against. Personal remedy against the legal representatives is inadmissible.

All loans due from members which have not been decreed should be superseded by contribution orders. The liquidator can pass mortgage contribution orders to cover mortgage debts. Loans in which decrees have been obtained but which have not been sent up for execution may, if the circumstances of the case justify it, be superseded by contribution orders; otherwise, they may be executed

as they are and separate contribution orders for the costs of liquidation may be passed, if and when necessary. Similarly, in the case of decrees already under execution, execution proceedings may be continued and separate contribution orders for the recovery of costs of liquidation may be passed, if and when necessary.

When in the course of the winding up of a society it appears that any person who has taken part in the organization or management of the society or any officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the liquidator may apply to the Registrar to examine into the conduct of such person or officer and to order him to contribute to the assets of the society by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the Registrar thinks just. (Section 49.)

Contributions by members beyond their debts due and principles to be observed in enforcing unlimited liability.

15. When the assets realizable from the borrowers of a cancelled society are found inadequate to meet its outside liabilities, the deficiency must be made good by contributions from—

(i) members on the rolls of the society on the date of cancellation of the society;

(ii) past members who ceased to be members within two years of the date of cancellation of the society; and

(iii) estates of deceased members who died within two years of the date of cancellation of the society.

NOTE.—In the case of a past member or a deceased member, his liability to contribute is only in respect of the debts of the society as they existed on the date of his ceasing to be a member or of his decease. The liability does not extend to any debts or liabilities of the society contracted after he ceased to be a member or after he died.

Under section 25 of the Madras Co-operative Societies Act, the liability of a past member or of the estate of a deceased member for the debts of a registered society, as they existed on the date of his ceasing to be a member or of his decease, as the case may be, shall continue for a period of two years from such date. The period of two years refers to the emergence of the liability and not to its cessation. If the registration of a society is cancelled during the period of two years in which the liability of a past member or deceased member subsists, there is no period of limitation to the enforcement of the liability. A past member or the estate of a deceased member cannot, however, be made liable for the debts of a society if he ceased to be a member or died two years prior to the date on which the cancellation order takes effect.

In the case of a society where the liability of a member is limited by shares, no contribution can be levied from any member or past member or the estate of a deceased member exceeding the amount of his subscribed but unpaid share capital, if any.

In the case of a society based on unlimited liability, the liquidator can pass contribution orders to any extent, that is to say, the liquidator can pass contribution orders against members or past

members or the estates of deceased members to the extent of their properties.

Before proceeding to determine the contributions to be made by members, the liquidator should draw up a list of all loans outstanding against members and with reference to their solvency or otherwise estimate the amount of debts which may prove bad or irrecoverable. The amount so arrived at should be deducted from the total of the outstanding loans and it should be seen whether the balance of recoverable debts would be enough to pay off the liabilities. If the liabilities exceed the sound assets so arrived at, the latter should be deducted from the liabilities to be discharged and then the share capital and reserve fund invested by the society in the central bank should be set off against the balance of liabilities to be discharged. If still there should be a deficit to be made good, the liquidator should proceed to levy contributions from members enforcing unlimited liability.

Contribution orders should not be enforced until all steps have been exhausted against the debtors. Meanwhile, the liquidators can take sufficient security from the contributories either voluntarily or under section 50 of the Act, to prevent any possible alienation or sale of properties with a view to evade payment. If after exhausting all steps against the debtors the full amount due to the creditors is not realized, then the liquidator should execute the unlimited liability contribution orders and recover the moneys.

The broad principles which should guide the officers in passing contribution orders enforcing unlimited liability should be the financial condition of the society, the solvency of the ex-members and the nature and amount of outside debts to be discharged. It is necessary that before such orders are passed, a thorough and exhaustive enquiry should be made into the solvency of all the ex-members so that the levy may be distributed over all the ex-members equitably and that it is not excessive in the case of any particular member. The enforcement of unlimited liability after the cancellation of registration of a society should not generally cause severe hardship to contributories. With a view to mitigate the rigour of unlimited liability and to enforce it on an equitable basis, the following points should be born in mind by the liquidators:—

(i) In cases of time-barred loans, unlimited liability should be enforced against the borrowers to the extent of the amounts due from them. They have a moral duty to pay.

(ii) Those who have been proved to have mismanaged a society's affairs either by taking binami loans, by not properly accounting for the collections effected by them, by distributing loans to their friends and relatives or by fraudulently alienating their properties with a view to deceive the society should be asked to contribute to the assets of the society to the extent of loss caused by them.

(iii) Even after adopting the above two modes of recovery, if there is still a deficit in the amount to be paid to (outside) creditors, it

should be distributed among those members who are solvent. In estimating the deficiency to be made good, the liquidators should take into consideration the costs of liquidation, execution charges and other expenses that they may have to meet. A second contribution order should not ordinarily be passed against a member. If exhaustive enquiries are made and the deficits are properly assessed at the outset, there will be no need to issue more than one contribution order against any member.

(iv) A reasonable time, say two or three months, and opportunity should be given to a member either (a) to give security or (b) to pay off the amount. If payment is made within the time specified, the liquidator may grant a reasonable remission subject to a maximum of 25 per cent of the contribution order. This sort of clemency should be specially shown to non-borrower contributories. If payment is not made, or sufficient security furnished, execution proceedings may be resorted to.

(v) If a second series of contribution orders is found necessary, this should be passed against those who had at one time borrowed and derived some benefit from the society and against those on whom unlimited liability contribution orders were not passed in the first instance.

(vi) If even after taking action in the manner indicated above there is still deficit, the financing bank concerned may be advised to write off the balance of dues. However, great discretion should be exercised before making such a recommendation.

The law of limitation applies to decrees and contribution orders in cancelled societies. Liquidators should therefore take steps-in-aid of execution during the period of limitation to prevent the contribution orders, etc., getting time-barred. Where contribution orders have become time-barred, the liquidator can, of course, pass fresh contribution orders (without reference to the time-barred contribution orders), on the ground that they are justified because of the deficits in the assets of the society but such cases should be rare. In the case of mortgage debts, however, the charge on the property ceases to exist when the original decree becomes time-barred and a fresh contribution order cannot create a charge on the hypotheca. The liquidators should therefore be alert and see that no claim gets time-barred. The Deputy Registrars should obtain quarterly certificates from the liquidators (Co-operative Sub-Registrars), Liquidation Inspectors and Territorial Inspectors to the effect that none of the claims in the societies in their charge is barred by limitation.

The normal procedure of levying contribution will be as above. But when, after a thorough enquiry, the liquidator finds that the realizable assets will be insufficient to meet all the liabilities of the society and that the members, whether borrowers or not, will have to contribute towards the assets of the society to make good the deficiency, and when there is reason to believe that some of the members would alienate their property with a view to escape the liability of the society, the liquidator may pass contribution orders

against such members for reasonable amounts even at the commencement of liquidation proceedings or at any stage thereafter without waiting till all the assets are realized. If the liquidator considers that the contributory intends to defeat or delay the execution of the order that may be passed by disposing of the whole or any part of his property or by removing it from the local limits of the jurisdiction of the Deputy Registrar, he may apply to the Deputy Registrar under section 50 of the Act for the conditional attachment of his property. If those members are willing to furnish security for the amounts ordered to be contributed, the liquidator can postpone executing his orders till all the assets of the society are realized. Otherwise, he will have to execute his orders against them and use the money at his discretion in liquidating the debts of the society.

Conditional attachments of properties should not be allowed to be in force for unduly long periods as it may result in great hardship to the individuals concerned. Normally, it should be possible for the liquidators to pass a final contribution order within a period of about six months from the date of the order of conditional attachment. As soon as the contribution order is passed and the conditional attachment is confirmed it becomes a case of regular attachment and the liquidator can realise the amount covered by the contribution order by bringing the properties for sale.

There is no objection to the liquidators accepting voluntary contributions towards the assets of societies and issuing receipts for the amounts so received. These contributions are usually paid by members in pursuance of an informal arrangement or understanding under which each of them promises to contribute a specified sum towards the assets of the society and save the liquidator the trouble involved in passing contribution orders, etc. Such arrangements should be reduced to writing and the signatures of members should be obtained.

In societies where unlimited liability has been enforced, the balance left over after discharging the debts is not really surplus; it is the unspent portion of the over-estimated contributions made by the members and the amount cannot, therefore, be utilized for payment of further interest to the financing bank after the date of cancellation or for the repayment of the share capital of members. The excess amount should be returned rateably or in full to the members against whom unlimited liability was enforced. If after this is done there is still any balance left, it may be treated as surplus and disposed of in the manner laid down in paragraph 20 of this chapter. In their final closing reports, the liquidators should also report whether unlimited liability was enforced, whether it resulted in surplus funds and whether the surplus has been disposed of in the manner specified above.

In all cases where unlimited liability is enforced, the necessity for it should be discussed and proceedings drawn up giving reasons for the action. The list of persons, with the amount each has to contribute, should be mentioned in the proceedings. When necessary,

these may be revised from time to time and subsidiary orders issued as and when it is ascertained that the assets are irrecoverable and are not adequate to pay off liabilities and such orders are enforceable in the same manner as the original orders themselves.

16. No useful purpose is served by adding interest in the case of loans covered by decrees and contribution orders if the loans are definitely bad. Accrued interest in such cases should be shown in the audit report only where the interest has been actually collected in cash or by adjustment.

In societies where the realizable assets, after waiving the interest accrued, are sufficient to pay all liabilities, including further interest to creditors, interest need not be charged after the date of liquidation. Collection of further interest in such cases will only increase the surplus funds. But in societies where assets may not be sufficient to discharge the liabilities and unlimited liability may have to be enforced, the interest should not be waived on realizable loans as it will affect the creditors adversely.

17. Interest and costs of liquidation need not be charged on contribution orders enforcing unlimited liability.

In the case of other contribution orders, interest was formerly charged at $12\frac{1}{2}$ per cent per annum and later at 9 per cent from the date of liquidation and costs of liquidation at 6 per cent per annum on outstandings from the date of contribution orders. Under the instructions now in force, however, interest on the amount of contribution orders need be charged only at $7\frac{1}{2}$ per cent per annum. The rate of interest leviable on contribution orders is subject to alteration from time to time in accordance with the instructions of the Registrar. Out of the *total* collections, $7\frac{1}{2}$ per cent should be appropriated towards the costs of liquidation and the balance utilized towards payment of liabilities. Such costs have to be calculated on the entire assets collected.

The following items of collections are exempt from the levy of liquidation charges :—

(i) In the case of societies indebted to the financing bank or the wholesale stores, the share capital and other investments made in them to the extent of their indebtedness to such central institutions are exempt from the levy of liquidation costs. But when investments in these institutions exceed the amounts due to them then, liquidation costs should be charged on the excess.

(ii) Interest realized on reserve fund investments in the central bank.

(iii) All suspense items.

(iv) Court costs realized whether they were spent by the liquidator in the course of realization of assets or shown as an asset on the date of liquidation of a society.

(v) When properties purchased by the liquidator are sold liquidation charges should be levied on the amount realized in excess of the purchase value and not on the entire sale price of the properties.

(vi) Written off assets are exempt from the levy of liquidation cost as also withdrawals from the personal deposit account.

(vii) Where the Government happen to be the only creditor, the entire collections may be credited to Government without appropriating anything towards costs of liquidation. If the liquidation proceedings end in surplus, costs at $7\frac{1}{2}$ per cent on all collections made after the cancellation of the society may be levied after paying subsequent interest due from the date of cancellation up to the date of discharge to the Government in respect of sums due to them.

Liquidation charges are leviable on the following items among others :—

- (i) cash balance taken charge of by liquidators from the ex-office-bearers ;
- (ii) dividend received on share capital invested ;
- (iii) dues of the defaulters collected by set off against the value of their properties purchased by liquidators ; and
- (iv) voluntary contributions received by liquidators.

When the share capital of members is adjusted towards their loan dues, liquidation cost should be paid on the amounts so adjusted. In societies where there are no funds for payment of liquidation charges, the liquidators may, instead of adjusting the share capital to loan dues, write off the loan and delete the share capital from liabilities. If this procedure is followed, the question of collecting liquidation costs will not arise.

Liquidation costs should be collected regularly once in a month and on no account should there be arrears for want of funds, since liquidation costs form the first charge on collections. Liquidation costs cannot be written off. If for any reason, they have been left uncollected, when finally closing the affairs of a society they should be recovered from the persons responsible for the omission.

Deputy Registrars have been permitted by Government to withdraw excess liquidation costs remitted to Government and disburse them to the societies concerned.

18. Clauses (c) and (d) of sub-section (3) of section 47 of the Act empower the liquidator to pay claims against the society and also decide questions of priority arising among creditors. Assets should be utilized from time to time as they are realized to repay the creditors and payments should ordinarily be distributed *pro rata* among the various creditors whose claims are equal in point of priority. Interest on all loans and deposits due by the society is payable only up to the date of cancellation of registration unless there be surplus funds to pay interest subsequent to that date. In the case of most

societies the central banks happen to be the sole creditors; but in a few cases there may also be liabilities to individuals and institutions, co-operative and non-co-operative. In the case of payments made to central banks the amount should be appropriated by them towards principal and interest (penal interest, if any, should be added to interest) in proportion to the amount due under such items as on the date when the order of cancellation came into effect. As it is undesirable to appropriate the whole of the amount realised towards interest and add to the divisible profit of the central bank while there is any uncertainty as to the realization of the entire outstanding loan, so also it is not desirable to keep in abeyance the distribution of the amount realized between principal and interest till the liquidation proceedings are finally closed. The central banks may however credit the entire remittance to principal in cases where they think that such a procedure is warranted. In the case of loans due to Government, there is no question of distribution of profit as in the case of central banks and the payments made may, therefore, be credited first to interest and then to principal.

When societies bring to sale the properties of their defaulting members, central banks sometimes purchase them for nominal prices. When profits are realised in the resale of any properties they are taken to a special reserve so that in cases where losses arise in the disposal of any other properties, such losses may be recouped from the reserve. This procedure should, however, be adopted only when properties are brought to sale by living societies and not by cancelled societies. The profits realized by the resale of properties purchased from cancelled societies should be credited towards the balance, if any, due in the loan accounts of the societies concerned. If any balance is left after such adjustment, it may be taken to the reserve.

19. Under section 47 (8) of the Act, any person aggrieved by any order of the liquidator may appeal to the Registrar against such order within two months from the date of the issue of the order by registered post.

The liquidator disposes of all matters connected with the winding up or dissolution of a society. Under section 48 of the Act, no civil court shall (save in so far as is expressly provided in the Act) take cognizance of any matter connected with the winding up or dissolution of a society and when a liquidator has been appointed no suit or other legal proceedings shall lie or be proceeded with against the society except by the leave of the Registrar and subject to such terms as he may impose. If at the time when the registration of a society is cancelled any suit is pending against the society, such suit cannot be proceeded with without the leave of the Registrar (Deputy Registrar). Again, without such permission of the Registrar (Deputy Registrar) no suit can be instituted against a society after its registration has been cancelled.

Under clause (b) of sub-section (3) of section 47 of the Act, a liquidator has powers only to determine the contribution to be made by members or past members or from the estates of deceased members or by any officers or former officers of the society to the assets of the society. The liquidator has no powers to pass contribution orders against non-members or persons who ceased to be members prior to 2 years from the date of liquidation of the society. If a person has a *prima facie* case to establish that he is not a member or ceased to be a member prior to 2 years from the date of liquidation of the society, the civil courts have jurisdiction to entertain such cases, and they will not be barred by section 48 of the Act.

20. If after discharging in full all outside liabilities including Final closing interest up to the date of cancellation of and disposal of registration, there still remain assets, they should be utilized in paying off interest on debts due by the society from the date of cancellation of registration up to the date of payment, in preference to the share capital of members. If there are not sufficient funds to meet all such claims, the amount available should be distributed to all creditors in proportion to the amount due to each. The balance of assets should be utilized in paying off the share capital of members and dividend due to them in the manner laid down in clause (2) of rule XIV. The share capital of members should not be dropped from liabilities till all other items of outside liabilities such as loans to central banks, etc., are disposed of. The payment of dividend is subject to the maximum rates specified in rule XII. Persons who ceased to be members before the dissolution of the societies are also eligible for dividend. The dividend should be paid on the entire paid-up share capital outstanding at the end of each of the years for which no dividend was paid. The balance still left may be treated as surplus. If the ex-members of a liquidated society are prepared to forego the dividend due to them so that it may be utilised for any purpose of public utility, the liquidator should obtain in writing the consent of each ex-member agreeing to forego his claim for dividend. Any decision on the matter by the majority of ex-members will not be binding on all the ex-members.

In the case of a society other than a financing bank or a supervising union, the surplus funds shall be applied to such object of public utility as may be selected by the general body of the dissolved society and approved by the Deputy Registrar (The approval of the Deputy Registrar is necessary even in cases where the Co-operative Sub-Registrar is the liquidator). It shall be competent for the liquidator to constitute a trust to carry out such object and to require the general body to select a trustee or trustees from among the ex-members and/or others. If the general body does not select a trustee or trustees or if the selection of a trustee or trustees by the general body is not acceptable to the liquidator, the liquidator may himself appoint a trustee or trustees as the case may

be. The trustee or trustees, should execute a deed in such form as the Registrar may from time to time prescribe. A trust so created shall be governed by the provisions of the Indian Trusts Act, 1882.

If within 30 days after the issue of notice by the liquidator appointed to wind up the affairs of the society, the general body fails to make any selection that is approved by the Deputy Registrar, the Deputy Registrar may place the surplus funds on deposit or otherwise with a financing bank working in the area in which the dissolved society carried on its operations, until a new co-operative society with similar objects is registered in such area, in which case the funds should be credited to the reserve fund of such society. If, in the opinion of the Deputy Registrar, there is no prospect of a new society being formed in such area within a reasonable time, he should assign the amount to the bad debt reserve or the reserve fund of the financing bank working in such area.

Under sub-rule (2) of rule XIV of the rules, the general body has thirty days grace after notice from the Deputy Registrar within which to make a choice with regard to the disposal of surplus; thereafter the general body is *functus officio* as it were and it cannot make a fresh choice.

In the case of a financing bank, the surplus funds should be assigned to the reserve fund or funds of any other financing bank or banks to which the societies working in the area in which the dissolved financing bank carried on its operations are affiliated or transferred. If there is no financing bank working in such area, the amount should be invested on interest in the Madras Provincial Co-operative Bank, until a new financing bank is formed in such area, in which case the funds should be credited to the reserve fund of such financing bank.

In the case of a supervising union, the surplus funds shall be handed over to the financing bank or other supervising body which undertakes the supervision of the societies which were affiliated to the dissolved supervising union.

The trustees appointed by the general body of a society to carry out the purpose decided upon by them should be required to execute a trust deed on stamp paper in the form prescribed. It is desirable that it should be registered as registration is attendant with many advantages. In cases where the trust funds do not exceed Rs. 100, the liquidators may use their discretion as to the registration of the documents according to the circumstances of each case. Where local bodies or other public institutions are appointed trustees, the execution of the trust deed may be dispensed with. All the trust deeds obtained in a district should be filed in a single R. disposal.

A register in the form prescribed should be maintained by liquidators in order to show the manner in which surplus funds have been disposed of in each district.

After completing the work in each society, the liquidator should submit a final closing report to the Registrar summarising briefly the steps taken to collect the assets and to discharge the liabilities, enforcement of unlimited liability against members, if any, reasons for writing off irrecoverable debts, whether any dividend in accordance with rule XIV (2) was paid, how the surplus funds were disposed of, whether a final meeting of the general body was convened, etc. A statement showing the cash receipts and cash payments from the date of liquidation to the date of final closing should accompany the final closing report. The assets (interest on investments, etc.) and liabilities (further interest to creditors, liquidation charges, cost of stationery, etc.) that have accrued should be specifically mentioned in the report.

The audit report of the society from the date of last audit up to the date of final closing should also be submitted along with the final closing report.

21. Under the rules, a liquidator may, at any time, be removed by the Registrar and he shall on such removal be bound to hand over all the property and documents relating to the society under liquidation to such person as the Registrar may direct.

22. All the books and records of a society whose registration has been cancelled and the proceedings of liquidation may be destroyed after the expiry of three years from the completion or conclusion of the liquidation proceedings.

23. The accounts of liquidated societies should be carefully maintained and checked by the liquidators. The books maintained by societies may be continued, wherever necessary, even after cancellation. The loan ledger to be maintained should, however, be in the form prescribed by the Registrar for the purpose. The liquidators should also keep such other books or registers as may be prescribed by the Registrar from time to time.

(a) *General Liquidation Cash Book*.—In districts where the system of posting Inspectors on a territorial basis is in force, all the records of the societies under liquidation including the cash books of the societies are kept by the Territorial Inspectors. In other districts where there are separate Liquidation Inspectors, the records of the societies are kept in the Deputy Registrar's office; but when the Inspectors go on tour they take with them the cash books of the societies they visit. Therefore, the cash books of liquidated societies will not generally be available in the office of the Deputy Registrar, whether the territorial scheme is in force in the district or separate Liquidation Inspectors are appointed. To enable the issue of receipts to members who make payments direct into their offices, separate liquidation cash books and receipt books should be maintained by the Deputy Registrars. The general

instructions issued by the Registrar in regard to the maintenance of subsidiary cash books should be observed in the maintenance of the liquidation cash book. All collections received towards the dues to liquidated societies should be entered in the liquidation cash book and thereafter remitted into the treasury to the credit of the Personal Deposit account of the liquidator concerned. Besides the cash received direct in the office, all other transactions relating to liquidation except those relating to the District Liquidation Fund account should find a place in this cash book. Receipts should be issued from a separate receipt book maintained for the purpose. The vouchers in respect of remittances into the treasury should be retained in the Deputy Registrar's office. In a district where there are Territorial Inspectors, the Deputy Registrar should send extracts from the cash book to the Inspectors concerned who should make adjustment entries in the cash books of the societies on the basis of these extracts. These entries may be passed by the auditors after verification with the certified extracts. Liquidation Inspectors who are at the headquarters of the Deputy Registrar should make adjustment entries in the cash books of the societies directly from the liquidation cash book maintained in the Deputy Registrar's office ; the office need not send certified extracts of the cash book to the Liquidation Inspectors. The cash book, the receipt book and the vouchers maintained in the Deputy Registrar's office should be audited by the auditor for liquidated societies when he takes up the audit of liquidated societies. In districts where the Inspectors are posted on a territorial basis, the auditor who audits the accounts of liquidated societies in charge of the Territorial Inspector at the headquarters of the Deputy Registrar, should audit the accounts maintained in the Deputy Registrar's office. This audit should include a thorough check of all receipts in the general liquidation cash book and remittances into the treasury.

Receipts should be issued to Liquidation Inspectors and Territorial Inspectors for remittances received from them in the Deputy Registrars' offices.

(b) *Personal Deposit Accounts*.—Moneys received by Government servants in their official capacity as liquidators should be deposited with Government in a personal deposit account and withdrawn as and when required. In districts where the Deputy Registrars and the Co-operative Sub-Registrars are both liquidators for societies, two deposit accounts should be opened—one for the Deputy Registrar and the other for the Co-operative Sub-Registrar. The treasury will maintain only one account for all societies in charge of a liquidator while the liquidator will have to maintain separate accounts for each society. A societywar register (General Personal Deposit Register) should be opened by the liquidator and all deposits and withdrawals in the treasury in respect of each society should be recorded in it chronologically, as in a pass book. Before drawing on behalf of a society any amount from the personal deposit account in the treasury, the balance to the credit of the society as shown in this register should be

verified. This will help to prevent overdrawals in any individual personal deposit account. The treasuries will issue a pass book in respect of each personal deposit account (that is, one for each liquidator).

(c) *Register for remittances into and withdrawals from the personal deposit accounts in the treasury.*—Full details of all remittances into and withdrawals from the personal deposit accounts in the treasury should be entered in this register from day-to-day. Remittances should be made in triplicate chalans and the register should be written up as and when the chalans are received. The total amount remitted into the treasury each day, the number and date of the chalan for the payment and details of the amount remitted on behalf of each society should be entered in this register. Similar particulars should be given in respect of withdrawals also. The balance on each day of transactions must be struck so as to enable the liquidator to know the amount available in the personal deposit account whenever he wants to draw money from the treasury. From this register, postings should be made in the accounts of the societies concerned in the general personal deposit register. The total of balances in the accounts of the societies should be struck at the end of each month and tallied with the balance in the register. The auditor who attends to the half-yearly audit of the District Liquidation Fund account should certify that the total of the amounts outstanding in the personal deposit accounts of the societies for the half-year agree with the balance under personal deposit account as shown in the register of remittances and withdrawals relating to the personal deposit account.

On the last day of each month, the balance in the register should be reconciled with the treasury figures also. The reconciliation should be entered in the register after the transactions of the last day of the month. The treasury pass books must be got posted regularly at the beginning of each month.

When Inspectors remit amounts into the treasury in duplicate instead of triplicate chalans, the chalans obtained by them from the treasury should be got by the Deputy Registrars and filed in their offices. Acknowledgments noting the names of the treasuries, chalan number and amounts remitted should however be sent to the Inspectors from the Deputy Registrar's office to be filed in the records of the societies concerned.

Where the chalan received on a day relates to a payment made on an earlier date, the date of actual remittance should be noted below the date on which entry is made in the register.

The auditor who attends to the half-yearly audit of the District Liquidation Fund should verify all the chalans and counter-foils of cheques relating to the personal deposit accounts and append a certificate to that effect to the half-yearly audit report.

He should also certify :—

(i) that the balances under personal deposit accounts have been verified every month with the entries in the pass books

supplied by the treasury and reconciled with the accounts maintained by the liquidators, and

(ii) that the balances under the personal deposit accounts as shown in the register of remittances and withdrawals on the closing day of the half-year were verified by him with reference to the entries in the pass books given by the treasury and found to be correct.

(d) *Register to tally the total of individual personal deposit balances with the balance shown in the register for remittances into and withdrawals from the personal deposit accounts in the treasury.*—The balances in the General Personal Deposit Register should be posted in this register once a month and totalled. The totals struck in this register must agree with the balances shown in the register for remittances into and withdrawals from the personal deposit accounts in the treasury. Discrepancies will arise only if the amounts relating to the Co-operative Sub-Registrar's personal deposit account are wrongly credited or debited to the Deputy Registrar's personal deposit account or *vice versa*. In such cases, the discrepancies must be reconciled and the treasury officers asked to make the necessary adjustments in the accounts.

(e) *The District Liquidation Fund.*—The liquidation charges collected from liquidated societies in each district are constituted into a separate fund called the District Liquidation Fund and from this all items of expenditure incidental to liquidation work in the district such as maintenance of non-official staff, printing of forms, etc., are met. Liquidation charges are levied at the rate of $7\frac{1}{2}$ per cent of the assets collected and out of this not less than 5 per cent of the collections, that is, two-thirds of the costs collected should be credited to Government. Five per cent of the collections is the minimum to be paid to Government; the entire liquidation charges collected should be credited to Government retaining in the District Liquidation Fund only what is absolutely necessary to meet the expenditure connected with liquidation work. Deputy Registrars may sanction expenditure out of District Liquidation Fund towards non-official staff, contingencies, purchase of furniture, etc., but such expenditure should not exceed one-third of the total liquidation costs collected. The liquidation charges to be collected from each society should be calculated once a month and the amount found due should be transferred to the District Liquidation Fund at the beginning of each month.

All transactions relating to the District Liquidation Fund should be passed through the District Liquidation Fund cash book. Receipts should be issued for all sums received into the Fund and the receipt numbers and voucher numbers noted in the cash book. Stamped receipts should be issued for all collections exceeding Rs. 20. The receipts issued to societies for liquidation costs paid by them need not however be stamped, whatever may be the amounts. In respect of the collection of liquidation charges, the month to which the collection relates must be entered both in

the receipts issued to the liquidated societies and in the District Liquidation Fund cash book. The cheques drawn must be entered in the cash book on the dates of drawal and not on the dates of encashment of the cheques.

The amounts payable to Government should be remitted to Government out of the District Liquidation Fund by adjustment at the beginning of each month; the treasury officers should be asked to transfer from the personal deposit account to the appropriate head of account, the amount due.

Liquidators may retain a small cash balance with them out of the District Liquidation Fund to meet contingencies. They have been permitted to keep not more than Rs. 25 at a time in districts where the number of liquidated societies exceeds 100 and not more than Rs. 15 in other districts.

The District Liquidation Fund account should be audited by a Senior Inspector every half year (for the half-years ending 30th June and 31st December) and the audit report in the form prescribed should be submitted to the Registrar. The auditor should examine the books of original entry and prepare his report with reference to the cash books of the liquidated societies. He should verify with reference to the cash books of the societies whether the amounts transferred to the District Liquidation Fund account and the amounts credited to Government are in accordance with the instructions on the subject and mention the fact in the audit report.

The auditor should certify that he checked all chalans and counterfoils of cheques relating to the District Liquidation Fund account and all vouchers for payments made out of the District Liquidation Fund and that the receipts and vouchers are in order.

When a society is finally closed, all undisbursable surplus such as excess liquidation costs and collections from defaulters through official receivers or civil courts after the final closing of societies should be added to the Reserve Fund or Bad Debts Reserve of the financing bank and not to the District Liquidation Fund account.

(f) *Demand, Collection and Balance Register of Liquidation Costs.*—This register should show in respect of each society the total collections (excluding withdrawals from Personal Deposit account) during each month, the assessable collection during the month, the liquidation costs payable to Government (both current and arrears), the amount paid to Government, the date of payment, the balance yet to be paid, etc. The entries relating to each month must be posted regularly every month and it should be chequed by the Co-operative Sub-Registrar every month and by the Deputy Registrar at least once a quarter. The proper maintenance of this register will facilitate the work of auditors and of the office in preparing the quarterly statements showing the liquidation costs collected and the expenditure incurred.

To maintain the register up-to-date and correctly it is necessary to ensure that the Territorial Inspectors submit their monthly returns promptly after getting them checked by the local auditors. In their camps, the Deputy Registrars and Co-operative Sub-Registrars should test-check the office copies of the returns maintained by the Inspectors and see whether they were properly prepared by the Inspectors and correctly checked by the auditors.

(g) *Suspense Register*.—Advances are at times made from the District Liquidation Fund to meet expenses (such as execution fees, court costs, etc.) connected with liquidation work in societies which have no funds to their credit. Such advances should be recovered as soon as funds become available; no creditor should be paid before this is done. A suspense register should be maintained to show the advances made to societies and the recoveries effected from them. The auditors should verify whether the advances given have been recovered promptly. Advances pending recovery for over three months should be specifically mentioned in the audit reports. The balance on the last day of each half-year should be verified with the figure shown in the assets side of the half-yearly audit report.

(h) *Furniture Register*.—A register must be maintained to record therein the furniture bought out of the District Liquidation Fund. The furniture held should be verified by the Deputy Registrar at least once a year and by the auditor who audits the District Liquidation Fund accounts every half-year.

24. The accounts of liquidated societies should be audited at the end of every co-operative year by a Senior Auditor of the accounts of liquidated societies. Inspector or by an experienced Junior Inspector (other than the Liquidation Inspector).

Only one copy of the audit report should be prepared in respect of each society under liquidation. The Deputy Registrars should review the work of the societies under liquidation for which the Co-operative Sub-Registrars are the liquidators and submit a copy of the review to the Registrar as soon as the audit of the societies is over, retaining the audit reports with them. In the case of societies for which the Deputy Registrars themselves are the liquidators, they should send the audit reports in original to the Registrar with a consolidated statement as soon as the audit of all societies is over. The Registrar will return the audit reports after perusal with his review.

25. Clause (d) of rule XVII of the rules framed under the Madras Co-operative Societies Act requires the liquidator to submit to the Registrar in such form as he may prescribe a quarterly report showing the progress made in the liquidation of societies. The report should be submitted to the Registrar by the Deputy Registrars. Quarterly reports should be submitted for the quarters ending 31st March and 30th September and half-yearly reports for the periods ending

with 30th June and 31st December on or before the 15th of the month, succeeding the quarter or the half-year as the case may be.

In addition to this statutory return, the Registrar has prescribed the following returns :—

(i) a monthly report on the progress of liquidation work (due to the Registrar before the 15th of the succeeding month);

(ii) a narrative report regarding the work done in societies which have been under liquidation for more than five years (this should be submitted along with the monthly report);

(iii) a quarterly report (due to the Registrar on the 15th of the succeeding month) on the action taken by liquidators to repay the loans due to Government from liquidated societies;

(iv) a quarterly report on the progress made in the collection of costs of liquidation (due before the 15th of the succeeding month);

(v) a quarterly report on the progress in the disposal of immovable properties relating to liquidated societies; and

(vi) a quarterly report of collections in scheduled castes, societies indebted to the Madras Christian Central Bank (due to the Registrar on the 15th of the succeeding month).

As it is desirable to keep the central banks, which happen to be the main creditors of liquidated societies, in touch with the progress of liquidation, the Deputy Registrars should send them copies of the quarterly progress reports and of the fortnightly reviews issued by them on the work of Liquidation Inspectors.

26. The collection of assets and payment of liabilities is an important duty of a liquidator and in order to assist him in the discharge of this duty the Government have sanctioned a special staff of Inspectors. The intention of Government is that the cost of the staff should, as far as possible, be covered by the costs of liquidation collected from societies. The Liquidation Inspectors are distributed according to the requirements of each district, the rough standard being one Inspector for every 28 societies. In districts where the system of posting Inspectors on a territorial basis is in force, the Territorial Inspectors attend to the work connected with cancelled societies in their respective jurisdiction.

The liquidators may, with the previous sanction of the Registrar, appoint non-official staff such as agents to assist them in special circumstances as the "man on the spot" may be better equipped and better fitted for the task of collection than an outsider. Such persons who are appointed as collection agents cannot however be left to themselves; they may be required only to assist the Liquidation Inspectors in their work by furnishing them with necessary information and taking action according to the directions of the

Liquidation Inspectors. The collection agents may be paid ordinarily a small amount of commission say, $2\frac{1}{2}$ per cent of the collections effected. The permission of the Registrar is not necessary for the appointment of collection agents. The payment of commission to the agents should be met from the funds of the society concerned and not from the District Liquidation Fund. In exceptional cases, however, the expenditure on commission to collection agents may be met from the District Liquidation Fund with the special sanction of the Registrar. Adequate security should be taken from those persons if they have to handle moneys in the course of their duties.

As the Inspectors employed on liquidation work have to make collections in cash, Government have permitted them to do so. These Inspectors should be authorized in writing by the liquidator to collect money from members and to issue receipts on behalf of the liquidator. Every time there is a change in the personnel of the Inspector, there should be a written orders to the above effect. The moneys collected should be promptly handed over to the liquidator or paid into the Treasury in accordance with the instructions issued to them from time to time.

Cash books of societies under liquidation, districts where the system of posting Inspectors on a territorial basis is not in force, are written up by the Liquidation Inspectors and all the records are kept in the Deputy Registrar's office. Where the territorial scheme is in force, it will not be possible to keep all the records in the Deputy Registrar's office as they will be required by the Inspectors for frequent reference; the Inspectors cannot go to the Deputy Registrar's office every time they want to refer to the records. The records should therefore be left with the Territorial Inspectors. All records relating to the District Liquidation Fund account and the Demand, Collection and Balance register of liquidation costs will be maintained in the Deputy Registrar's office but each Territorial Inspector should also maintain these registers in respect of the societies in his charge.

Each Territorial Inspector should send to the liquidators every month a statement in the form prescribed showing, among others, the following particulars in respect of each liquidated society in his charge—the opening cash balance, total collections during the month, amounts remitted into the Personal Deposit Account amount remitted towards execution fees, contingent and other charges incurred, the cash balance on hand, the collections on which liquidation cost should be levied, the liquidation cost due, liquidation cost paid and the balance, if any, yet to be paid.

The monthly statements should, be checked by the local auditor or by the nearest auditor and certified to that effect.

The liquidators should in their camps, check the cash books of the societies and sign them in token of it. The cash books of all the societies should be checked at least once a quarter.

27. Liquidation needs urgent and personal attention of departmental officers and it should, therefore, be speeded up through a proper division of labour among the staff and a strict control over their work. Liquidation Inspectors may generally be given 28 societies each or such other number as the Deputy Registrar may consider necessary in view of the volume of work in the societies allotted to them. The work of the Inspectors should be carefully watched and regulated. Fortnightly diaries and brief reports of work done by them should be consolidated and reviewed. Deputy Registrars should assemble the Liquidation Inspectors every quarter, draw up a programme of work for them and see that they adhere to the programme. A rotation register should be maintained for each of the Inspectors to watch whether he visits every society at least once in a quarter.

The Liquidation Inspectors have been empowered to act as sale officers and this should facilitate speedy recovery of dues. The Inspectors should not be content with filing the execution petitions nor should they carry the processes to the finish and take land or properties in possession except in very necessary cases. The proceedings should be so conducted as to yield the maximum of collections. The sale powers should be exercised as an aid to collections and not as a matter of routine.

According to the instructions of the Inspector-General of Registration, Liquidation Inspectors who are Government servants are permitted to search registration records free of cost. The search should be restricted to a minimum and should be undertaken only in absolutely necessary cases.

Deputy Registrars should have a regular plan of work in regard to cancelled societies. It is very essential that the officers should have a personal knowledge of these societies and particularly of those which are either indebted to the financing bank or have outside creditors. For this, they should draw up a programme and visit all the cancelled societies within a period of, say, six months. Societies which are indebted to Government, societies in which the deficit is estimated to exceed Rs. 2,000 and societies which have been under liquidation for over five years should receive the special attention of the Deputy Registrars. The results of the inspection of these societies should be reported to the Registrar promptly.

Deputy Registrars and Liquidation Inspectors should summon as many meetings as possible of the ex-members with a view to find out the possible methods of recovery. A representative of the central bank may be invited to be present at such informal meetings so that the central bank also may be in the know of things and it might, if possible except its influence, to the extent that it can, in finding out the methods of recovery. And if it is found necessary to write off any portion of the dues to the central bank, it will also be easier to convince the central bank of the need for it.

Collection work in liquidated societies must be done not merely by the process of execution; persuasive methods must first be adopted in cases where they are likely to yield fruit. The liquidator has got ample powers to grant concessions to the members in respect of their dues. The liquidator can make necessary enquiries into the solvency of each member and scale down the debt with reference to the financial condition of the member and fix an amount which can be paid by him. He can thus scale down the debt consistent, of course, with the obligations to the financing bank. He can also, if the members agree, arrange for a lump amount being paid by the members in lieu of the dues to the central bank even at the risk of a portion of the loan being written off. If concessions like this are afforded to the members, they will be more ready to pay. The liquidator should exercise his discretion properly in the matter of waiving interest or even portion of principal and collect the balance.

Another important line of work in liquidated societies is in the direction of disposal of lands and houses in the possession of liquidators. It is admittedly a difficult task for the liquidator to manage the properties which have come into his possession. Ordinarily, the lands and houses should not be taken by the liquidator and in those cases where they come into his possession attempts should be made to dispose of them to the original owners themselves or to their next of kin, if they are agreeable to pay the market value or somewhere near about it within a period of, say, six months or one year. In cases where there are no outside debts to be paid, the lands may be restored to the original defaulters even at less than the market value. If such a procedure is not possible, the liquidator should consider the alternative method of disposing of the lands in public auction. When once a sale has been held and knocked down in favour of a third party, it should not ordinarily be set aside later merely because the original owner or any relative of his subsequently offers to purchase the properties, either for the same price or for a higher amount; unless the bid was much below the market value of the properties, the sale should ordinarily be confirmed. The liquidators should make it a point to dispossess themselves of the lands and buildings, if any, as quickly as possible so that more attention may be paid to other items of work in liquidated societies.

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