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THE MINISTRY OF AGRICULTURE'S SHORT-TERM CREDIT SCHEME

(AGRICULTURAL CREDITS ACT 1928: PART II. SHORT-TERM CREDIT)

BY R. R. ENFIELD

Ministry of Agriculture

AT the outset I might perhaps refer briefly to some of the ideas upon which this part of the Act is based.

Short-term credit, whatever the industry may be in which it is employed, must ultimately be derived from the available savings of the general community, and the problem of agricultural credit in the last resort is one of gaining for agriculture the fullest possible access to these savings. Any machinery for the provision of credit, whatever the actual form it may take, must include two distinct sides to it. It must include not only the business of making loans to farmers, but also the business of attracting the deposits of the private depositor, out of which such loans are made. Before the present Act was passed various suggestions had been put forward from time to time for the improvement of short-time agricultural-credit facilities in this country. Two of the most important of these may be mentioned. The first was the establishment of some system of co-operative credit societies on the lines of those prevalent in Germany, Denmark, Hungary, and many other countries. So successful had been the system of these credit institutions, and so rapid its growth in foreign countries, that many people held that this system alone would provide a satisfactory means of improving agricultural credit in this country. The second was the creation of an Agricultural Bank, with rural branches solely engaged in financing agriculture.

Now to both of these plans objections have been raised, but it is perhaps unnecessary to deal with them here, except in regard to one fundamental objection which applies to both. It relates to the second of the two functions referred to above—namely, the ability of such institutions to attract deposits. If organizations of this character were established in this country, and were to function as banks, it would be necessary for them not only to make loans but to receive deposits. But to obtain deposits they would have to face conditions very unlike those prevailing in countries where systems of co-operative credit have prospered. They would have to face the formidable competition for deposits of the joint stock banks. By some means or other it would have been necessary for them to attract rural deposits to themselves and away from the banks. How could this be done? In Great Britain the impregnable financial strength of the great banks gives them a commanding position in the matter of attracting

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rural deposits, against which it would have been extremely difficult, if not impossible, for a new and rival institution to compete.

The position occupied by the great banks and their network of branches in the economic and financial structure of this country profoundly affected the problem of agricultural credit, and offered a very serious, if not insuperable, obstacle to any attempt to create new credit institutions solely concerned with financing agriculture.

The present measure is based on the belief that the vast fund of the nation's deposits will continue to be administered mainly by the joint stock banks, and that any system of agricultural credit which is to conform to modern requirements must be designed in recognition of these conditions, and must therefore be based upon the banks. This conception is at the root of the present measure. It is a measure which aims not at creating new lending institutions but at improving the position of the agricultural industry as a borrower from the existing banks. It aims at increasing the accessibility to agriculture of the great fund of deposits which is controlled by the banks.

Upon what does this accessibility depend? In the last resort it must depend on the character and amount of the security which the farmer can offer, and the purpose of this part of the Act is therefore to mobilize (so to speak), to the fullest possible extent for credit purposes, the wealth which agriculture itself creates. Prior to the passing of the Act a farmer in borrowing from a bank had to rely mainly on his personal credit and on the security of such non-agricultural wealth as he might possess—a life-insurance policy, industrial stocks and shares, etc. He had no satisfactory legal means of borrowing on the direct security of his farming stock. Farming stock, however, in the case of the tenant farmer is often his chief asset. In aggregate the value of the total farming stock of the country amounts to a very large figure, far exceeding the aggregate of bank advances to agriculture.

To overcome this difficulty is the object of Part II. of the Act, and it seeks to do so in the following way :

Section 5 of the Act enables a farmer to create in favour of a bank a charge known as an "agricultural charge" on any or all of his farming stock, and other agricultural assets, with the object of providing security for money advanced to him by the bank. The agricultural charge will be embodied in a document agreed to by the farmer and his bank. It will give the bank certain rights over the property included in the charge, and impose on the farmer certain obligations.

The Act provides that the charge may take one of three forms.

Firstly, it may be a "fixed" charge—that is to say, the document will specify the property affected by the charge. It may, for example, specify a certain number of head of live stock, certain agricultural implements, or the crop of potatoes, wheat, oats, etc., from certain specified fields. In such a case it will be for the farmer to agree with the bank as to what property suits best the particular circumstances of the case.

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Secondly, the charge may be a "floating" charge. This means that the document, instead of specifying certain property, would include either the whole of the property which from time to time belongs to the farmer, and which can under the Act be made the subject of a charge, or such part of it as the farmer and the bank may agree upon. A floating charge might, for example, include the whole of the borrower's farming stock without specifying the number of live stock or acreage of crops, or it might include the whole of his live stock without including any other property, or it might include his live stock and implements without including crops or other assets. Obviously there are many ways in which a floating charge can be drawn up which must depend on the circumstances of each particular case.

Thirdly, the charge might be a combination of these two. In this case the document would specify certain property over which it created a fixed charge, and would also set out the classes of property over which it created a floating charge.

It seems likely that in the majority of cases the most convenient form to adopt will be that of a floating charge.

The next point to consider is the property which can under the Act be charged in the manner just described. The Act defines the property—that is to say, the farming stock and other assets—which may be made the subject of an agricultural charge as follows :

“ ‘Farming stock’ means crops or horticultural produce, whether growing or severed from the land, and after severance whether subjected to any treatment or process of manufacture or not ; live stock, including poultry and bees, and the produce and progeny thereof ; any other agricultural or horticultural produce whether subjected to any treatment or process of manufacture or not ; seeds and manures ; agricultural vehicles, machinery, and other plant ; agricultural tenant's fixtures and other agricultural fixtures which a tenant is by law authorized to remove. . . .

“ ‘Other agricultural assets’ means a tenant's right to compensation under the Agricultural Holdings Act, 1923, for improvements, damage by game, disturbance or otherwise, and any other tenant right.”

It also states that a fixed charge may include, in the case of live stock, any progeny which may be born after the date of the charge, and, in the case of agricultural plant, any plant which may whilst the charge is in force be substituted for the plant specified in the charge.

So much for the powers to create an agricultural charge. A farmer who has created a fixed charge in favour of a bank on any or all of his property has certain obligations to fulfil. These are provided in Section 6 (2), and are as follows :

“(a) An obligation whenever he sells any of the property, or receives any money in respect of other agricultural assets comprised in the charge, forthwith to pay to the bank the amount of the proceeds of the sale or the money so received, except to such extent as the charge otherwise provides or the bank otherwise allows.

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“(b) An obligation in the event of the farmer receiving any money under any policy of insurance on any of the property comprised in the charge, or any money paid by way of compensation under the Diseases of Animals Acts, 1894 to 1927, in respect of the destruction of any live stock comprised in the charge, or by way of compensation under the Destructive Insects and Pests Acts, 1877 to 1927, in respect of the destruction of any crops comprised in the charge, forthwith to pay the amount of the sums so received to the bank, except to such extent as the charge otherwise provides or the bank otherwise allows.”

In the absence, therefore, of an agreement with the bank providing to the contrary, a farmer who has created a fixed charge must pay the proceeds to the bank.

If the charge is a floating charge the same obligations apply, except that if and so far as the proceeds of sale and other receipts are expended by him in the purchase of farming stock, which on purchase becomes subject to the charge, it is not necessary for a farmer to pay to the bank the proceeds of sale or the amount received in respect of other agricultural assets under policies of insurance or by way of compensation. Thus, if a farmer has created a floating charge on the whole of his live stock he may sell part of the live stock and forthwith use the proceeds to buy other live stock. Any balance of the proceeds not spent in this way would have to be paid to the bank.

Where the charge has been created to secure a sum of money advanced on current account, the obligation to pay the proceeds to the bank means that the farmer must pay these proceeds into his current account with the bank.

It is important to observe that the Act has been so designed as to give the farmer the greatest possible freedom in selling farm stock, notwithstanding that it may be the subject of an agricultural charge. Thus a farmer, even if he has created a charge on his live stock, crops, or other assets, is free to sell them without previous consultation with the bank unless the charge otherwise prescribes; but it cannot be too strongly emphasized that farmers should in all circumstances fulfil strictly and promptly their obligations to pay the proceeds to the bank.

If, *with intent to defraud*, a farmer who has created an agricultural charge fails to comply with these obligations he will be liable on conviction to penal servitude for a term not exceeding three years.

The Act confers on the bank certain rights in respect of the property which is the subject of an agricultural charge, the chief of which is the right (in the case of a fixed charge), on the happening of certain events, to seize and sell the property. The bank must apply the proceeds towards (a) the discharge of the liabilities secured by the charge, and (b) the cost of seizure and sale, and must pay the surplus, if any, to the farmer. The events which authorize such seizure must be specified in the charge. In the case of a floating charge the bank has the right to give notice in writing to the effect that the charge becomes a fixed charge on the happening of

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any event which, by virtue of the charge, confers on the bank the right to give such a notice.

When the charge has been agreed between the borrower and the bank it must be registered. This will be done by the bank in accordance with regulations made by the Lord Chancellor in respect of the registration of agricultural charges.

An important section of the Act deals with the restriction on publication of agricultural charges. It provides that it shall not be lawful to print for publication or publish any list of agricultural charges, or of the names of farmers who have created them, although the confidential notification by an association representative of a particular trade to its members trading or carrying on business in the district in which property subject to an agricultural charge is situate, of the creation of the charge, shall not be deemed to be publication for the purposes of this section.

The Act also makes certain provisions in regard to agricultural co-operative societies registered under the Industrial and Provident Societies Acts, 1893 to 1928. Such a society is empowered to issue a debenture creating in favour of a bank a floating charge on property which is vested in the society and is farming stock within the meaning of the Act. The effect of this is to give to a co-operative society similar powers to those provided for individual farmers to charge farming stock to a bank as security for a bank advance.

The Act came into force on 1st October 1928, but for the next two years is subject to the special provisions of Section 12, which states that :

“Until the first day of January, nineteen hundred and thirty-one, the foregoing provisions of this Part of this Act shall be subject to the following modification :

“Where a bank has before the passing of this Act made advances to a farmer, whether by means of an overdraft or otherwise, an agricultural charge created in favour of the bank shall be enforceable only in respect of moneys advanced in addition to and in excess of a sum equal to the amount of such advances outstanding at the passing of this Act.”

Now the Act imposes no kind of restriction on the purposes for which farmers may borrow money under its provisions. Suppose, for example, the market is bad for live stock, for hay, or for other produce, and the farmer wishes to hold the produce temporarily in the hope of the market improving, he could go to the bank and offer an agricultural charge on the produce as security for an advance of money which would enable him to carry on until the time came to sell the produce and repay the loan. By such means it is hoped that the Act may contribute to what is often called the “orderly marketing” of farm produce. It should, in effect, give the farmer a breathing space at harvest-time, and, at least to some extent, reduce the tendency to overload the markets in certain months of the year.

There is another aspect of this matter. If the Act leads in time to the greater part of short-term credit employed in farming being supplied

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directly by the banks the farmer may derive from it two indirect advantages. The first is that he will know exactly what his credit costs, and will therefore be in a better position to calculate whether it pays to borrow money to be applied to any particular purpose on the farm. The other is that, in so far as he tends to make the bank his sole creditor, the farmer will be freer to pay cash for farm requisites purchased from merchants, and thus take advantage of the discount for cash often allowed by such merchants. Moreover, in his general transactions, it would tend to free him from the encumbrance of a number of miscellaneous debts.

Since the passing of this Act some 600 agricultural charges have been registered notwithstanding the limitations imposed by Section 12. It must of course be a matter of time before a measure such as this, affecting, as it very well may, almost every branch of the agricultural industry, can reach its full utility. The future must depend mainly on the attitude towards it shown by the farmers on the one hand and the banks on the other. It is, of course, obvious that bank managers will require a little time to gain experience of the Act, just as they would in the case of any other legislation affecting banking practice, but it is to be hoped that with the passage of time it will lead to the establishment of the business of agricultural finance on a modern footing, administered, as it should be, by the leading financial institutions of the country.

In conclusion, I suggest that farmers would be well advised not to pass a hasty judgment upon this Act. The Act is the result of more than three years' close study of the problem of agricultural credit, which in itself is an extremely difficult problem. The full scope of the Act cannot be understood merely by a hasty glance through its provisions. The farmers' best course is to go into the matter fully with their bank managers and explore with them the ways in which the Act can be made to serve the most useful purpose.