

1739 16/17

1738  
REC'D  
REG'D 9 JAN 17

By  
Pursuing 769

National Bank of S. Africa  
Opening of branches in E.A.F.

1916

4 Dec

Last previous Paper.

16874/10

Sends copies with full details & reports arranged for commencing banking business as from 4 Dec. Submits opinion & requires whether Bank should be accorded the privileges of a British Bank under Part II of the Bank Act 1910. It is requested that reply in order that necessary legislation may be passed as quickly as possible.

W. R. R. R.  
W. R. R. R.

See memo 73-23 Jan 17

Part II of the Bank Ordinance 1910 (copy in 16897/10 below) was designed to ensure proper control over banks which were not British banks, i.e. which were not duly constituted in Great Britain or Ireland in accordance with the laws for the time being in force therein. The National Bank of South Africa is not a British bank within this definition, & Part II of the Act must therefore apply to any branch

Last subsequent Paper.

17067

which it establishes in the E.A.P.  
unless relief is given by new legislation.  
The Bank is operating in South Africa  
under the provisions of a Cape Act from  
which the provisions of Part II of the  
E.A.P. Ord<sup>n</sup> were drawn. Its operations  
are, therefore, presumably governed  
by the very requirements which Part  
II of the E.A.P. Ord<sup>n</sup> was meant to  
secure, & I gather that the objection  
felt by the Bank is to supplying  
at its E.A.P. branch the elaborate  
returns & information which it  
already has to supply in South  
Africa.

The principle underlying the  
E.A.P. Ord<sup>n</sup> is that if the parent  
Bank is constituted under satisfactory  
laws there need be no undue legal  
interference with the operations of  
its branch in the E.A.P. on this  
principle the National Bank of

South Africa would seem to merit  
consideration. It is also  
113  
to ignore the fact that the Union Govt  
are large shareholders in the Bank.

The simplest course would be for  
the Govt to have power to declare  
any bank constituted in the British  
Dominions or Colonies a "British"  
Bank for the purposes of the E.A.P.  
Ordinance, on this being satisfied  
that the laws under which it  
constituted provide adequate safeguards  
for the control of its operations. If  
this is approved he should be told  
by telegraph to pass an Ordinance in  
this sense & forthwith to declare the  
National Bank of South Africa to  
be a British Bank. He should  
be told by despatch never to exercise  
this power under the <sup>new</sup> Ord<sup>n</sup> without

reference to the S. 1/3

20/1

The alternative is to pass an special  
Ordinance dealing only with the Special  
case of the N Bank of S Africa  
The general one advocated by Mr Butler  
would embrace other Colonial Banks  
to come in a short time in ZAP  
but I do not know what Banks  
or whether any such Banks are  
at all likely to do so.

It would be rather awkward for the  
Govt to have to refer to examine  
his power under such an order in  
the case of any Bank which for  
some reason it was desired to  
exclude from A.P. - whereas  
if special order were necessary  
the Bank could be blocked  
in the very moment

on the whole I still incline to the  
proposed general one as regards  
said cases but I see no objection  
to the proposed  
general one

J.A. 11/1/17

I do not think  
that we need  
alarm at  
the prospect of  
the kind of  
the

~~Mr. G. Butler~~  
Mr. G. Butler

Inclined to the general order  
proposed by Mr Butler. The first acts for  
a telegraphic reply. H. J. R.

11/4/17  
Case of this kind will I suppose be rare  
18/1/17

Agree with Mr Read  
18/1/17  
As. M. R.

I concur. The General Order  
the best plan  
W.A.B.

19.1.17

# The National Bank of South Africa Limited.

WITH WHICHARE INCORPORATED THE BANK OF AFRICA LIMITED & THE NATAL BANK LIMITED

Telegrams  
BANKHOUDER

*Circus Place London Wall*

Telephone Nos  
LONDON WALL 3668/2 LINES  
9915

*London*

20th Febry.. 1917

H. A. Butler, Esq., C.B.,  
Colonial Office,  
Downing Street,  
S.W.

Dear Sir,

Our Head Office have written to me this mail on the subject of the Bank having opened up Branches in the East African Protectorate, and the fact that the Bank are registered in the Transvaal may, they fear, subject them to the regulations applicable to other than British Banks - referred to in Ordinance No. 10 of 1910.

It has been suggested that I should see you on the matter, and if you will permit me to call I shall be extremely obliged to you. To save time, perhaps you will be kind enough to give instructions that I should be telephoned to.

Yours faithfully,

*Blumenthal*  
Manager.

I have told Mr Cunningham in the above  
the substance of our tel in this paper  
in letter of 23 Feb. attached

*Attn (as per post) 2/26/17*  
The National Bank of South Africa Limited

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INCORPORATED IN THE TRANSVAAL  
BANKHOUDER

*Circular Room, London Wall*

INCORPORATED IN THE TRANSVAAL  
BANKHOUDER

*London, 23rd Feb'y..*

F. G. Butler, Esq., C.B.,  
Colonial Office,  
S.W.

Dear Sir,

Referring to our conversation over the telephone a few days ago, I have much pleasure in giving you an extract from a letter received from our General Manager regarding the inconveniences which the keeping of distinct Share Registers in the East African Protectorate would entail:-

\* On our proposing to open Branches in the above territory (East Africa) we were confronted with the existing legislation governing Banks other than those entitled under the Ordinance (No. 10 of 1916) to be styled "British Banks". For your guidance, a copy of the Ordinance in question is sent you by current mail, from which you will observe that strict compliance with the Sections named will prove a most laborious process. We must therefore ask you to be good enough to approach the Colonial Office to enable us to establish our claim to be considered a British Bank within the meaning of the Act.

\* Sections 15, 16 and 17 of the Ordinance are synonymous with Sections 10, 11 and 12 of the Cape Bank Act 1908, and the National Bank of South Africa complies specifically with Sections 10 and 12 of the Cape Act, and Register of Shareholders

*kept*

Colonial Office,  
Downing Street,  
S.W.

Our Head Office have written to me this morn on the subject of the Bank having opened up Branches in the East African Protectorate, and the fact that the Bank are referred in the Transvaal may, they fear, subject them to the conditions applicable to other than British Banks - referred to in Ordinance No. 10 of 1916.

It has been suggested that I should see you on the matter, and if you will permit me to call I shall be extremely obliged to you. To save time, perhaps you will be kind enough to give instructions that I should be telephoned to.

Yours faithfully,

Manager.

F. G. Butler, Esq., C.B.

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\* kept in Pretoria is regarded as sufficient compliance with Section 11 of the Act. Could not compliance with Cape Act be regarded as indirectly satisfying requirements of Section 15 and 16 of Ordinance? or failing that would not the fact that the bank has a branch in London and being full register of Shareholders there be regarded as complying with a British Bank within the meaning of Section 2 of Ordinance, thus relieving it from the operation of provision of part 2 of Ordinance?

\* Sections 15 to 16 lay it down that our Manager would require to be provided with sets of Share Registry, and every change of address, etc. etc. of Shareholders, together with the Sharehold and the date on which the name of any person was entered in the Register, and any other alteration would require to be advised both by you and by us. As these are somewhat numerous the inconvenience and weekly correspondence would be quite considerable.

I was very gratified to hear from you that the Government cabled on the 19th January to their representatives that they were agreeable to a law being passed that the National Bank of South Africa be considered a British Bank within the meaning of the Ordinance, and I have cabled my Head Office to this effect.

I am, dear Sir,  
Yours faithfully,

*Handwritten signature*  
Manager.

27th Feb 1901

Colonial Office  
London  
27th Feb 1901

Referring to our conversation over the telephone a few days ago I have much pleasure in giving you an extract from a letter received from our General Manager regarding the inconveniences which the passing of the Bill would bring about in the Bank's African Protectorate would be:-

On our proposal to open branches in the above territories (see attached) we were confronted with the existing legislation governing banks other than those authorized under the Ordinance (No. 10 of 1900) which would require the Bank to be registered in the Cape Colony. A copy of the Ordinance in question is enclosed for your perusal. It will be seen that you will have to advise both by you and by us. As these are somewhat numerous the inconvenience and weekly correspondence would be quite considerable.

Sections 15 and 16 of the Ordinance are in accordance with Sections 10, 11 and 12 of the Cape Act and the National Bank of South Africa complies with Sections 10 and 12 of the Cape Act, and Register of Shareholders

AFRICA PROTECTORATE  
No. 769.

GOVERNMENT HOUSE,  
NAIROBI,  
BRITISH EAST AFRICA

1739  
REC'D  
REG'D 9 JAN 17

December 4th, 1916.

Sir,

I have the honour to enclose herewith the marginally noted correspondence on the subject of the establishment in the East Africa Protectorate of branches of the National Bank of South Africa.

2. The official appointed to take charge of the Nairobi branch of the institution, Mr. F. G. Thomas, left South Africa before the receipt there of our despatch of the 19th of October, and duly presented his credentials at the Secretariat on the 16th ultimo, when the preliminaries necessary to the establishment of branches of the bank in this Protectorate, and the obligations to be subsequently observed were discussed.

Gen., Pretoria  
to Nairobi  
14th October  
Nairobi to  
Gen., Pretoria  
18th October  
Nairobi to  
Gen., Pretoria  
No. 15226/5  
20th October  
Gen., Pretoria  
to Nairobi  
No. 31/152 of  
Oct. Rec'd.  
21st November  
Gen., Pretoria  
to Nairobi  
30th November  
Deputy, Nairobi  
to Gen., Pretoria  
1st December

THE RIGHT HONOURABLE  
ANDREW EDGAR LAW, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W.

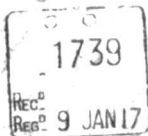
AFRICA PROTECTORATE

No. 769.

GOVERNMENT HOUSE,

NAIROBI,

BRITISH EAST AFRICA.



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On

THE RIGHT HONOURABLE

ANDREW BONAR LAW, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W.

en., Pretoria  
by., Nairobi  
14th October

Nairobi to  
en., Pretoria  
18th October

Nairobi to  
en., Pretoria  
No. 15226/5  
9th October

en., Pretoria  
by., Nairobi  
No. 31/152 of  
Oct. Rec'd.  
1st November

en., Pretoria  
by., Nairobi  
30th November

Deputy, Nairobi  
by., Pretoria  
1st December



3. On the following day the bank's solicitors made representations that unless it were treated as a British bank within the meaning of the "Bank Ordinance 1910" there would be very great difficulties in fulfilling its obligations. Clauses 15, 16 and 17 of the Ordinance were referred to as affording difficulty, especially Clause 16. In reply they were informed that the Sections to which their client took exception were taken word for word from the Cape Bank Act of 1891, vide Clauses 10, 11 and 12, and that, as it was understood that the National Bank of South Africa had long been established with branches in the Cape Colony it would appear that the conditions under which they would be able to carry on business in East Africa would be in all respects similar to those existing in the Cape Colony, and they were recommended to advise their client to communicate with his principals in South Africa in order to ascertain how the difficulties which he foresaw to opening branches locally were overcome when branches of the bank existed in Cape Colony and were thus subject to the Cape Colony Act.

4. From subsequent interviews with Mr. Thomas and another representative of the bank it appears that they acted on this

advice

advice and communicated with their Head Office and that Lord Buxton's telegram of the 30th November was the result.

5. On the 1st instant the bank's solicitor transmitted the documents required under the East African Bank Ordinance as a preliminary to starting business and permission was accorded to open as from to-day's date. He was at the same time notified that none of the provisions of the Bank Ordinance 1910 could be waived and that they must be complied with at the earliest opportunity.

6. I am unaware under what powers it was possible for compliance with Section II of the Cape Bank Act to have been waived in South Africa, and I am advised that should any departure from the strict observance of our Ordinance be contemplated it would be necessary to enact special legislation to that end.

7. If it should be decided that the National Bank of South Africa should be accorded the privileges of a British bank under our Ordinance it would appear to be necessary either for us to amend the definition of "British Bank" so as to include any bank constituted within the Union of South Africa,

or to enact a special private ordinance dealing with the case of the National Bank of South Africa only.

8. From reference to the correspondence which took place prior to the enactment of our Bank Ordinance it would appear that it was in the first place contemplated that Part II of the Ordinance, that is that portion now dealing with Non-British banks, was to have been applied to all banks carrying on business within the Protectorate and that the special clauses relating to British banks were introduced primarily with the object of safeguarding the interests of the National Bank of India which was already established.

9. In Mr. Antrobus' letter to the Secretary to the Treasury dated the 10th of December, 1907, enclosed in Lord Elgin's despatch No. 669 of the 11th idem it was stated that similar privileges to those contemplated for the National Bank of India would be extended to other banks in the Protectorate with head offices in the United Kingdom, the justification being that such cases were sufficiently provided for by English Law. In replying to this letter on the 14th of May, 1908, the Lords Commissioners of the

Treasury

Treasury stated that they concurred in the proposal that licences to carry on business free from the special provisions of the Ordinance (i.e. the provisions in Part II as finally enacted) might be allowed to any bank duly constituted under the Law of the United Kingdom. It was at first intended that two separate ordinances should be promulgated, one dealing with British Banks only and the other with all Non-British Banks, but approval was subsequently obtained to the enactment of one Ordinance dealing with both classes of Banks.

10. There is no doubt that Non-British Banks, other than such as are established with their head offices within the Protectorate, are subjected to certain disabilities under our Ordinance and it would appear quite possible that banks with their headquarters established in other British possessions might reasonably be absolved from the provisions at present applying only to Non-British Banks because of the safeguards provided by the laws of the countries in which they are established, but I am not in possession of the information necessary to enable me to recommend any general

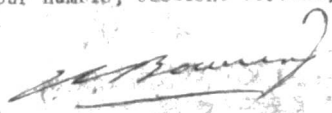
redefinition

redefinition of the expression "British Bank" in our Ordinance so as to afford relief to such Colonial Banks. I have accordingly the honour to request that I may be informed whether you would be prepared to consider the case of the National Bank of South Africa separately and authorize me to enact special legislation for the purpose of their treatment in East Africa on the same lines as those of a British bank. Should this suggestion be favourably entertained by you I would ask that I may be instructed by telegram in order that the necessary legislation may be introduced with as little delay as possible and passed through all its stages at the Council Meeting which as at present arranged will take place next month.

I have the honour to be,

Sir,

Your humble, obedient servant,



GOVERNOR'S Deputy

1739

REC'D  
RECEIVED 9 JAN 17

INCLOSURE *not* 124

In Despatch No. 769 of Dec. 4th 1916

TELEGRAM FROM PRETORIA TO GOVERNOR, NAIROBI.

Dated 14th October,

Received 14th October, 1916.

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Representations have been received from National Bank of South Africa Limited that business connexions of bank are being injured by absence of direct representation at points such as Nairobi and Mombasa. Should be glad to know whether there is any objection to bank opening branch in S.A.F. Union of South Africa are large share holders in bank and are therefore directly interested in securing business of the institution against injury.

BUXTON.

INCLOSURE 2

In Despatch No. 769 of Dec. 1st 1916

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GOVERNMENT HOUSE,

NAIROBI,

October 18th, 1916

TELEGRAM TO GOVERNOR-GENERAL, PRETORIA

"Your telegram October 14th. National Bank.  
No legal objection but provisions of Bank  
Ordinance 1910 must be observed. Copy is  
being sent by mail".

GOVERNOR

Despatch No. 769 of Dec. 4th 1916

GOVERNMENT HOUSE,  
NAIROBI,

October 19th, 1916

My Lord,

I have the honour to confirm my telegram of yesterday reading as follows:-

"Your telegram October 14th. National Bank. No legal objection but provisions of Bank Ordinance 1910 must be observed. Copy is being sent by mail".

2. I enclose herewith for Your Lordship's information a copy of "The Bank's Ordinance 1910"

I have the honour to be  
Your Lordship's  
most obedient servant,

H. C. BELFIELD.  
GOVERNOR

HIS EXCELLENCY  
THE GOVERNOR-GENERAL,  
UNION OF SOUTH AFRICA  
PRETORIA



INCLOSURE *Moh*

In Despatch No. 769 of *Dec. 1st 1916*

Confidential  
NO. 31/152

Governor General's Office,  
Pretoria,  
October 16th, 1916

Sir,

In confirmation of my telegram of the 14th October, I have the honour to transmit herewith a copy of a Minute from Ministers (with enclosure) regarding the desire of the National Bank of South Africa, Limited to open branches in the East Africa Protectorate.

October  
1478.

I have, etc.,

SD/- BUXTON  
GOVERNOR-GENERAL

HIS EXCELLENCY  
THE GOVERNOR OF THE  
BRITISH EAST AFRICA PROTECTORATE,  
NAIROBI

CONFIDENTIAL.

Prime Minister's Office,  
Pretoria,  
11th October, 1916

MINUTE NO. 1478

Ministers have the honour to inform His Excellency the Governor-General that representations have been received from the National Bank of South Africa, Limited, that the business connections of the Bank are being injured by the absence of direct representation at points

such-

such as Nairobi and Mombasa in the East Africa Protectorate, and the Bank enquire whether any objection exists to their taking steps to open branches in that territory. As the Union Government are large shareholders in the National Bank of South Africa, Limited they are directly interested in securing the business of the institution against injury and Ministers would be glad, therefore, if His Excellency would communicate with the Governor of the East Africa Protectorate, with a view to ascertaining whether any objection exists to the National Bank of South Africa, Limited, taking the steps indicated above.

For His Excellency's information, Ministers append hereto a copy of a letter which has been received from the National Bank of South Africa, Ltd., in this connection.

Sd/- LOUIS BOTHA.

COPY

THE NATIONAL BANK OF SOUTH AFRICA LIMITED

PRETORIA, September 27th 1916

THE SECRETARY FOR FINANCE,

The Treasury,

PRETORIA.

Sir,

BRITISH EAST AFRICA

For some considerable time we have had in view the necessity of opening branches of our Bank in British East Africa, and although we have delayed taking action owing to war conditions, our business connections are now being affected in such a way that direct representations-

representations at places such as Nairobi and Mombasa has become a matter of serious and urgent importance. As you are well aware, our Branches (about 230 in number) are to be found throughout the whole of South of Africa, including South West Africa, Rhodesia and Portuguese East Africa. We have also an extensive connection with East Coast trade and it has now become a serious handicap that through our not having direct representation some of our clients are forced to go elsewhere for their business. Our position in this respect is becoming increasingly difficult, consequently we shall be glad, provided you see no objection to our contemplated step, if you will kindly obtain the necessary authority to enable us to carry out the object outlined above.

I have the honour to be,

Sir,

Your obedient servant,

SD/- E.C. REYNOLDS,

General Manager.

*12 Dec 1916 No. 769 of Dec 4th '16*

TELEGRAM FROM PRETORIA TO GOVERNOR, NAIROBI

Dated 30th November,

Received 30th November, 1916

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Your despatch October 19th sections fifteen, sixteen and seventeen of Ordinance ten of 1910 E.A.P. are synonymous with sections ten, eleven and twelve of Cape Bank Act 1891. National Bank of South Africa Ltd complies specifically with sections ten and twelve of Cape Act and register of share holders kept in Pretoria is regarded by Government of Union of South Africa as sufficient compliance with section eleven of the Act. Could not compliance with Cape Act be regarded as indirectly satisfying requirements of sections fifteen to seventeen of Protectorate Ordinance? Or failing that could not fact that Bank has branch in London and keeps full register of shareholders there be regarded as constituting it a British Bank. Within meaning of Section 2 of the Ordinance thus relieving it from operation of provision of part two of Ordinance.

BUXTON.

ENCLOSURE 2006  
in despatch No. 769 of Dec. 1st 1936

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GOVERNMENT HOUSE,

NAIROBI,

December 1st, 1936.

TELEGRAM TO GOVERNOR-GENERAL PRETORIA.

Your telegram November 30th.

Regret neither alternative suggested by you is possible under the laws of the East Africa Protectorate and it will be necessary for Bank Ordinance to be strictly adhered to. Am referring matter to Colonial Office by despatch in order that Bank Ordinance may be amended or alternatively that special legislation be promulgated if Secretary of State so decide.

GOVERNOR'S DEPUTY

overcrowded  
Redeemage of 1910

orbits  
rollerbird  
or you being satisfied that

terminist  
law under which he

conspectus  
bank is constituted

provides adequate safeguards

flaxseed  
cotsword  
for the control of its operations

masquerade  
You may be instructed  
assignor

declare National Bank

stocklocks  
of South Africa a

British bank under

new Ordinance

derafu  
Despatch follow by mail

long

R. 1917

Gov. 1739/1916-17 E.A.P.

150

Downing Street,

23 January, 1917.

DRAFT.

AFRICA PROTECTORATE

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Sir H. Conway Belfield, K.C.L.S.

MINUTE

- Mr.
- Mr. Butler 22.1.17
- Mr. Grindle
- Mr. Lambert.
- Mr. Read.
- Sir G. Padden.
- Mr. Stead Maitland.
- Mr. Bonar Law, Lond.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 769 of the 4th of December relating to the establishment in the East Africa Protectorate of branches of the National Bank of South Africa.

2. After careful consideration I came to the conclusion that it would be better to deal with this case by general legislation designed to cover similar cases which may arise in the future, rather than by special legislation in favour of the National Bank of South Africa. I accordingly telegraphed to you