

1931.

Kenya.

No. 17030/A.

SUBJECT

CO 533/406

Land and Agricultural Banks

Previous

16000/30.

Subsequent

P. Q. file.

18137/32.

Copy to library

1 of Hon. Moore Conf 187 \_\_\_\_\_ 27 December '30  
The authenticated copies of Land and Agricultural Bank Bill 1930 together with legal report and report of select committee, comments on bill and requests reply by telegraph.

Mr. Allen.

We now have the Ordinance in 11 parts and the O.A.G.'s covering despatch. This is fully explanatory as we had hoped.

As we know, the O.A.G. is ~~not~~ and the Ordinance should be brought into force ~~as soon as possible~~ and the Bank established ~~as soon as possible~~ for farmers in the present crisis.

There is little of note in Sir John Campbell's notes and my memorandum. These are now attached as 2 and 2 (a) on this file. The main points seem to be as follows:

(a) Points arising on the provisions as to fencing and dipping (Sections 34, 35, 28 and 41). These are tricky and technical and I do not feel competent to suggest action on them.

(b) Points on the provisions relating to natives (Sections 26 and 41 - which also comes under category a). These are also technical.

(c) The point on Section 21 about not "borrowing short and lending long" and that on Section 19 (f) where the reference should be to Section 25 (3), nor Section 25 (4).

It is most unfortunate that Sir John Campbell is away at Geneva (he does not I believe return until the middle of February), and it may even be thought desirable to refer the papers to him at Geneva. The Ordinance must also, of course, be vetted by the legal advisers.

It

It does not seem to me, however, that on account of any of the points so far raised the Secretary of State need withhold assent to the Ordinance.

On point of the Ordinance...

Unions, therefore, further points emerge. It should, I think, be possible to telegraph assent to the Ordinance (in the proper formula), subject to subsequent amendments.

I would suggest that the Bill first be sent to the Legal Advisers.

As regards further reference to Sir J. Campbell, I think it unlikely that he will have observations on the later sections of the Ordinance since he does not appear in his minute of the 31. 8. 30 on 16000/30, <sup>he did not</sup> have any observations on the corresponding clauses in the Bill.

*E. Stanton*

4.1.31.

W. Bucke

These pts. seem to be on earlier stage. *W. Bucke*

you, not that I mean.  
Would you, please, say whether you see anything in the measure as now framed which needs

reference from your point

of view

amendments suggested

since nothing done

was done

with the Bill

of the Bill I am afraid it would be some time before I could attempt it. Such is the pressure of work at present. In any case I know nothing much about Agricultural Banks; but if there is any particular point upon which legal advice is required - I will try to deal with it.

*H.B.*

23/1

W. Bucke

Yes, before I send this, in there are some points in which I should like your advice, please

It does not seem to me, however, that on account of any of the points so far raised the Secretary of State need withhold assent to the Ordinance. In many of these points in amendment

Ontario, therefore, further points emerge it should, I think, be possible to telegraph assent to the Ordinance (in the proper formula), subject to subsequent amendments.

I would suggest that the Bill first be sent to the Legal Advisers.

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G. Stanton

9.1.31.

W. Buche

These points seem to require attention at an earlier stage. ~~so far as~~

you, not in London.  
Would you please say whether you see anything in the measure as now framed which needs your personal

see Stanton

23.1.31

points suggested

first meeting done

in another

of the Bill

of the Bill I am afraid it would be some time before I could discuss it. Such is the pressure of work at present. In any case I know nothing about Agricultural Banks; but if there is any particular point upon which legal advice is required - I will try to deal with it.

H.B.

23/1

W. Buche

Yes, before I send this in there are some points in which I should like your advice, please

(i) Section 41 (old clause 40)

has now understood - for the first time so far as the Dept. is concerned - that this section is to apply to local national authorities -

in the case of the 2nd schedule memorandum.

Do you agree that this

section has not been

expressly substituted

consequent on the 1941

will have dealings

with the local

authorities

directly.

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(ii) Section 39(2) (old clause 37)

This introduces a novel feature (to which Mr Schwartz, as a lawyer, objected in Leg. Council - see report of debate in press cutting in envelope above 1946 in 16000/20 - as income and income) - but Dept. did not reject it previously, if the Govt. really wanted (as they do) to make advances for compulsory financing & dipping a first

charge, having priority over all existing mortgages or charges on the holding; but Dept. said that if this were done, it would be

the result of

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(iii) Section 19(f) -

A small, formal point: Sir J. Campbell suggested that the ref. should be to Section 25(3), not 25(c). Do you agree? acc. [unclear] 25.1.51

(i) If lands in a native reserve are "the properties and revenues of the local authority or lands vested in the authority by any Ordinance", then I think the Section is inconsistent with the Native Lands Trust Ordinances. I can hardly believe, however that this is the case. Lands in native reserves seem to have been made Trust lands under the management and control of the Central Board. Surely, they do not regard as any sense the property of a native authority.

(ii) This provision is now confined to loans for compulsory fencing, and in all circumstances, I do think that a case has been made out for departing from primary principles.

(iii) I agree.

*J. B. 1.31.*

Sir C. Bottomley,

I. There is so much written on this Land Bank file that the subject seems more terrifying than it really now is. I have been through the despatch etc. in detail, and I think that the only points with which you need concern yourself are:-

Section 19 (f)

Formal amendment suggested by Sir J. Campbell and agreed by Mr. Bushe - viz. Section 25(4) should be Section 25(3).

Section 21.

Sir J. Campbell says that there is needed

needed at least an executive instruction to prevent borrowing short and lending long, although

Sections 34, 35.

See note in Mr. Eastwood's memorandum. The Kenya Government has deleted "the amount advanced under the provisions of this section" in the proviso as to the calculation of the total advance, but they have not deleted, as was suggested, "the value of improvements effected or to be effected as determined by the Board". Sir J. Campbell (see his rough note of 7-1-31) was not altogether satisfied as to this.

Section 38(2).

See paragraph 6 of O.A.G.'s despatch and my earlier minute of 25-1-31: as Mr. Bushe is content with the departure in this case from primary principles - i.e. to make the advances from the Bank for compulsory dipping and fencing (which cannot exceed £400 in all) a first charge with priority over all existing mortgages or charges on the holding -

*his need not be included in a telegram of enquiry. In which telegram is sent. all*

(1) If lands in a native reserve are "the properties and revenues of the local authority or lands vested in the authority by any Ordinance", then I think the Section is inconsistent with the Native Lands Trust Ordinances. I can hardly believe, however, that this is the case. Lands in native reserves seem to have been made Trust lands under the management and control of the Central Board. Surely, they do not remain in any sense the property of a native authority.

(ii) This provision is now confined to loans for compulsory fencing, and in all the circumstances, I do think that a course has been made out for departing from primary principles.

(iii) I agree.

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Section 21.

Sir J. Campbell says that there is needed

needed at least an executive instruction to prevent borrowing short and lending long, although

we think that this will be sufficient to prevent

Huntingford, 31.1.31.

See note by Mr. Eastwood's memorandum. The Kenya Government has deleted "the amount advanced under the provisions of this section" in the proviso as to the calculation of the total advance, but they have deleted, as was suggested, "the value of improvement effected or to be effected as determined by the Board". Sir J. Campbell (see his rough note of 7-1-31) was altogether satisfied as to this.

Section 38(2).

See paragraph 6 of O.A.G.'s despatch and my earlier minute of 25-1-31; as Mr. Bushe is content with the departure in this case from primary principles - i.e. to make the advances from the Bank for compulsory dipping and fencing (which cannot exceed £400 in all) a first charge with priority over all existing mortgages or charges on the holding -

I think that we should not query this section.

Section 41.

See my earlier minute of 25-1-31 and

Mr. Buxton's reply: see also note

Mr. Eastwood's memorandum.

Assuming that the Local Native Council  
is to be substituted for the Central Board  
(cf. Section 26(1) above), the question arises  
whether such a Council has or can have lands  
vested in it; such lands must presumably be  
within a Native Reserve, and if anything affecting  
land in a Reserve is to be done, surely it must  
be through the Central Board, which under the  
Native Lands Trust Ordinance has the management  
and control of all lands in the Reserves and all  
matters relating thereto.

First schedule.

The additional covenant proposed by  
the Governor on the advice of a Select  
Committee to cover a suggestion made by the  
Colonial Office (see memorandum in No.37 in  
16580/29) is dropped without explanation;  
i.e., that the mortgagor would permit agents  
of the Bank to enter on the land and inspect  
condition and development. But on re-  
consideration the covenant seems otiose, in  
view of the last part of the first covenant,  
and I think we too can accept the omission sub  
silenzio.

II. I do not think that the Secretary of  
State can, without further enquiry, notify His  
Majesty's assent to this Bill. I suggest that a  
telegram be sent to O.A.G. Reference No.20 on

X 16000/30

X16000/30 saying that Bill has now been further  
examined and before tendering advice to His  
Majesty the Secretary of State desires to know

In X 16000/30 - (tag G).

(d) Section 41. Whether in fact local  
Native Councils have lands which do not form  
part of the Native Reserve Lands, and if not,  
how the Bill can be consistent with the Native  
Lands Trust Ordinance which gives complete  
management and control of lands in the Reserves  
to the Central Board.

See my minute  
Feb

III. If you agree, it might be <sup>best</sup> ~~advisable~~ for the  
Department to put up a draft telegram for  
consideration accordingly.

IV. This is a Reserve Bill, and when the  
time comes to signify assent, we must confirm from  
Legal Adviser that the phraseology in, e.g., C.O.  
despatch 656 of 18th September 1928 to Tanganyika  
Territory in X29125/28 T.T. is suitable; it seems  
clear from the Instruments that assent by way of  
Order in Council will not, as I first thought, be  
necessary.

T.O.

see Parkman 23.1.31



Or 8.41 add

"Probably it is intended that  
advances to Local Native  
Councils shall be made on  
security of Council funds only.

On the question whether these  
charges should fall on natives I  
should like to hear your views on

para 6 of my letter 18/4 and  
para 2 of my letter 11/5

22/1/21

[I have two I think more important  
to Henry, which is, in relation to  
the Eastman neighbour, but it is  
not satisfactory that neither  
dispute has been answered]

D  
Dft. a word - if.

W.C.B.  
30.1.21

32 To Oak. tel 35 leaf. 2000 20/2/21  
31st January

4 let dec 3pm  
to the 2 copies of Land and Agricultural Bank  
indulgence, 1921

Ray  
G. [Signature]  
21/1/21

low

5 Oak tel. 46 leaf 11 February 27  
Since further information on various sections of  
the Ordinance

Mr. Allen.

We have discussed and I now attach a  
memorandum.

the Governor that it  
to the Ordinance  
should be made under  
Local Native Councils  
question of further  
saying that a

since they all affect only the  
dealing with land and should  
be implemented at once in any case.

First, however, the papers should go to  
Sir John Campbell who has now returned, in case he  
has any comments to make.

The paper has not been to the S. of S.  
since copies of the ordinance as passed were received.

(It might be as well for the telegram  
to emphasize again the importance of securing  
the right before the Board & Secretaries [sic])  
see para 5 of no. 8 on (6000) 20 May 27).

[Signature]  
13.2.31

W.C.B.  
17/1/21

P.T.O.

The draft should be  
kept to legal  
advice as to be  
valid in a court.  
The formula was  
used as  
18/1/21  
to be made in 1921  
before

5a

Mr. Campbell

I agree generally, but we need your observations, please, especially on point No 3 in the memo.

I confess that if we could let the Col. get reasonably, do what it wishes, I should like to see amending legislation will lead to further delay & a great trouble which.

*Handwritten signature*

Feb 2, 31

I agree. Mr. Eastwood's memo--with the marginal comment by Mr. Allen--seems to me to cover the case.

2. I'm afraid there will have to be amending legislation as regards sections 34 and 35. But I doubt whether that will be objected to locally--I should say, not. They don't seem to have grasped the point, despite the explanations given. And, if we allow the 60% limit to stand, and allow the 25% fencing and dipping tax advances, in addition to that 60% limit, we shall I think be giving them all they really want--and quite possibly something more. This solution--perhaps not strictly defensible--is possibly the simplest and least objectionable way out.

I feel little doubt that the draft could be so worded as to carry local opinion with us in the matter.

The 16-2-31.

*Handwritten signature*  
16/2/31

*Woods*

Mr. S. Wilson

The S. of S. should use me this

*Handwritten notes*  
with of 40 (Hester) and  
of the same order.

Feb 16. 2. 31.

Sec of State

I think we might proceed as

prepared.

*Handwritten signature*

18. 2. 31.

40 P 18/2

6. Is for tel. No. 57 Conf.

20 Feb 31.

P.T.O.

Draft letter to for review.

The last part is not directed  
to the minutes. but we should  
still have a report on a  
few matters relating

*[Signature]*

all  
W. J. N

6/25/31

To: *[Signature]* (C) - 28 FEB 1931

We had better let CA have  
the last copy of the complete their  
records as to Rachel's away  
perhaps the Johnson will see the  
letter back with to the Davis

Then to go to the  
Taman who was contacted to  
see them.

See  
I shall like to see  
the report on working  
when received.  
W. J. N. 10/3

W. J. N.  
6/27/31

all  
6.3.31  
atman

To: H. Davis (L.A.)  
Ltr. No. 160007109 1, 3, 5, 6, 7

9

DESTROYED UNDER STATUTE

11 Copy of Supplement to Official Gazette to 12  
3rd March 1931

Registered in accordance with Mr. Allen's  
minute of 10/4/31 on 17059/31.

Shows  
6/5/31

Pure  
[Signature]  
7.5.31

at



presumably reasonable, but search has failed to reveal precedents elsewhere with which they might be compared.

7. Acknowledge and say that the B. of S. will await with interest the next report regarding the operations of the Bank.

W.H. Allen

9/9/31

*[Handwritten signature]*

11/1/31

W.H. Allen

7-7-31

W.H. Allen

16 No. Gau. Conf (2) 13. Approved - 10 SEP 1931  
RESTRICTED UNDER STATUTE

16 4th. section Conf 115 \_\_\_\_\_ 21 August  
After amendments to land bank bills may be further deferred

The Gov. has (in a Dept. a Mr. Finlay (W. H.) given an assurance that (with a minor reservation which does not affect this point) no expenditure shall fall on local native Comwats in regard to fencing & dipping. There is now discussion of ~~the~~ fencing the dipping & cattle

(cf. as to internal fencing in native reserves)

Cleansing Ordinances into operation. The Governor has however given definite instructions

that the drainage of the ...

for for any ...

Paper shows a short that seems no reason to anticipate any difficulty.

Sections ... advanced to be attached and to ... should ... decided ... Secretary of State's satisfaction.

Arrangements ... postponed for a reasonable period of the understanding ...

W.H. Allen

29/9/31

Chronicle to ... of ...

*[Handwritten signature]*

W.H. Allen 29.9.31

17 No. Gau. Conf (2) 16 Approved - 8 OCT 1931

T.T.A. Departmental Memo.

The question of advances to Local Native Councils under Section 41 of the Land and Agricultural Bank Ordinance was left over for further consideration, as explained in the attached note by Mr. Eastwood.

It seems clear that there is no reason for the Secretary of State to call for any amendment of Section 41, and that the Governor may be so informed.

*J. H. Miller*

*21/11/31*

*I agree and will be in the  
meantime I see no need to stand on  
again.*

*W. H. Eastwood  
21.11.31*

*18 To Gov. Conf (2) (13 Annod) 25 Nov 1931*

on  
of paragraph 2 of his despatch

$\frac{2}{160524}$   
 $\frac{30}{}$

No. 475 of the same date relating  
to the Fencing and Cattle Cleansing

Ordinances respectively. Your

these matters have

Mr. Thomas informed

letter No. 311 of the 9th

9  
160524

which would not be

a power of dis-

of the Fencing and

Cleansing Ordinances.

in paragraph 1 of his Confidential

telegram No. 46 of the 11th February Mr.

(5)

Moore suggested that the question arising out  
of the Fencing and Cattle Cleansing Ordinances  
would not affect the terms of Section 41 of the

Land and Agricultural Bank Ordinance, and I

agree that no amendment of that section is

required. The instructions referred to

in paragraph 1 of this despatch may there-

fore now be revoked, and I have no objection

to advances being made to Local Native

Councils under the Section, subject to the

assurance in Mr. Moore's telegram

(5) of the 11th February that no such



Note

*1. cattle loans*

The Land Bank, and Fencing/Ordinance papers (17031/31 and 16085/30) have been recirculated for consideration whether the Bank should now ask for any amendments of the Land Bank Ordinance that for the purpose of advances may be made to Local Councils whom are included Local Native Councils whose security is their property and not any lands vested in them. In default the Bank may have to take security in the form of a mortgage to the levying of rates.

X to 5th Dec  
1672/30  
1672/30  
Cattle Loans  
10/11

The Secretary of State appeared to be inconsistent with the Trust Ordinance, but thought that possibly he intended that advances to Local Native Councils should be made on the security of their funds only and not their lands. The Governor has given an assurance that this is the case.

(nos. 3 & 5 on 17030, A/31)

Apart from this, however, the Secretary of State had at the time the Land Bank Ordinance was sanctioned asked the Governor for an assurance that no expenditure under the Fencing and Dipping Ordinance would fall upon natives, and <sup>as a condition</sup> the Governor <sup>said</sup> that till the Secretary of State was satisfied on this point, no advances would be made to Local Native Councils under Section 41 of the Land Bank Ordinance. See paragraph of No. 13 on 17030(A)/31. The Governor has now given an assurance

assurance that no expenditure will fall upon  
Native Councils under the Fencing and Dipping  
Ordinance except in the case of

land in which the Native Councils are  
the persons who are

responsible for the

(Para. 4 of  
No. 4 of  
16085)

11/11/31

*J. G. ...*  
11-11-31

(No. 1 1600/30)

EXTRACT from a despatch from Governor of Kenya  
to the Secretary of State for the Colonies.

Dated 10th June, 1931.

This refers to paragraph 6 of your  
letter of the 10th June, 1931, in which you refer to the definition of  
"Native Land" in the Native Land Trust Ordinance, and the responsibilities  
which will, in so far as  
concerned, fall upon the Central  
Government towards the recovery of one-half  
of the cost of fencing between privately held land  
and Native Land. This Government has undertaken  
to provide the funds which may be required by the Central  
Native Land Trust Board to meet its obligations as "owner".  
Where, however, cases arise in which internal fencing  
within a Native Reserve is desired by the natives  
themselves or in which it is mutually agreed upon to  
fence a common boundary between two Native Reserves,  
an example of this possible need is the boundary  
between the Masai and Kamba (Kikumbuliu) Native  
Reserves - there appears to be no ground for not  
recovering the cost of such fencing from the natives  
who are the sole beneficiaries. The Chief Native  
Commissioner agrees with this view. Subject therefore  
to this reservation, this Government is able to give  
the assurance for which Your Lordship asks.

x

x

x

x

18

EXTRACT FROM ENCLOSURE TO DESPATCH FROM THE  
GOVERNOR OF KENYA TO THE SECRETARY OF STATE  
FOR THE COLONIES, NO. 321 DATED 10/12/1929.

STATEMENT SHOWING THE EXTENT TO WHICH  
NATIVES ARE AFFECTED OR MAY BE AFFECTED  
PLACED UPON THEM BY THE FENCING  
ORDINANCE, 1929.

X X X

As regards the other part  
in paragraph above, the assistance  
expenditure in this connection will be  
funds, but will be borne by the Government  
when the occasion arises, the feasibility of  
assistance from the Colonial Development Fund  
considered. In fact, as no native lands are situated  
within a clean area, the provisions of the compulsory  
fencing Part of the Ordinance will not affect native  
lands, except where they may march with an individual  
holding affected by a compulsory fencing order.

C. O.

Mr. Eastwood 30/5

Mr.

Mr.

Mr. Tomlinson:

Sir C. Bottomley

Sir J. Shackburgh

Sir G. Grindle

Pres. U.S. of A.

Party U.S. of S.

Secretary of State



Thomas Street

**DRAFT**

**KENYA**

Conf. (1)

Gov.

Sir,

I have the

receipt of your confidential

No. 115 of the 21st August, and to

inform you that, in the circumstances,

that

I agree / the introduction of an

Amending Bill to the Land and

Agricultural Bank Ordinance should be

postponed for a reasonable period ~~inferred for a reasonable period~~, on the

understanding that no advances are

meanwhile made under sections 34 and 35

of the Ordinance, nor to local Native

Councils under Section 41.

I have, etc.

(SIGNED) J. H. THOMAS.

20/10



KENYA.

GOVERNMENT HOUSE

NO. 115

NAIROBI,

KENYA.

RECEIVED  
7 SEP 1931

9th August, 1931.

CONFIDENTIAL.

no. 13

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My Lord,

I have the pleasure to acknowledge the receipt of your letter of the 26th February, 1931, in which you inform me that your Lordship will observe from the despatch under reference that no advances are being made under sections 34 and 39 of the Ordinance, and to be able to give replies under section 41.

I have the pleasure to say,

Yours faithfully,  
Your Lordship's obedient, humble servant,

H. G. Martin

BRIGADIER-GENERAL.  
G. C. V. R. O. R.

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWLING STREET,  
LONDON. S.W.1.

KENYA.



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

No. 105

CONFIDENTIAL.

RECEIVED  
21 AUG 1931  
POST OFFICE

30<sup>th</sup> July, 1931.

15  
21

...to Your Lordship's  
...February, 1931 and  
...explanation given  
...sections 24 and 25. An  
...affect to Your Lord-  
...but was not introduced  
...pending the  
...Northern Land  
...to whether any  
...I have issued instruc-  
...sections 24 and 25, nor to  
...section 41, shall be made at  
present.

*For Council &  
Amended*

2. I note that the Annual Reports of the work of the Bank should deal specially with any recourse to the powers given under section 21.

3. As regards paragraph 6 of Your Lordship's despatch, I have to report that I appointed an Advisory Board in the first place to advise me in regard to the personnel of the Bank and that a permanent Land Bank Board was constituted on the 25th June under section 4 of the Ordinance with the following membership :-

- The Treasurer (Chairman),
- The Attorney General,
- Mr. J.E.A. Wolryche-Whitmore,
- Mr. E.B. Gill,
- and Major C.M. Taylor.

Mr. S. Thornton of the Northern Rhodesian Land Bank staff, who was on his way back from leave to Rhodesia by the

East ....

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON. S.W.1

East Coast route, was seconded for 3 months to advise in regard to the organization of the Bank, and has now, in agreement with the Northern Rhodesian Bank, been appointed as Secretary for a period of 3 years on a consolidated salary of £1,100 per annum with six months leave on full salary (and free passage for himself and his wife at the completion of the tour.) An additional payment up to a maximum of £100 per annum will be made as a contribution to an annuity or gratuity scheme, liability ceasing on the termination of the agreement.

h.t. ( ) - all  
to W

4. Office accommodation has been provided in the Treasury building, where a stenographer is at work for the Board, while an accountant is available for part of his time, the remainder being devoted to the work of the Central Agricultural Advances Board.

5. It was decided in Executive Council on the 19th June that Legislative Council be advised to fix, in accordance with section 20(2) of the Ordinance, the rate of interest at which Government would lend the sum of £240,000 to the Land Bank at 4.7%, the bare cost of the money to Government. The funds will be handed over as required and interest will accumulate as from the first of the month succeeding that in which funds are paid.

On this basis the Bank will charge 6½% interest to its clients to cover expenses, though it is not expected that this rate will cover all expenses in the initial period when overhead charges will be high in comparison with the amount of money lent. The sinking fund charges to clients have not yet been settled.

6. The selection of valuers under the Ordinance is being considered by the Board at whose recommendation I decided in Executive Council that valuers' fees and expenses should be as follows :-



Fees.

For an advance not exceeding £1000

" " " exceeding £1000  
exceeding

" " " exceeding £1000  
exceeding

with the usual travelling expenses

7. The Board has held three

preliminary consideration to a number

which have been received in answer

lished in the press. No further work has

yet been made, but the ground work

has necessarily taken time and

now onwards the Bank will proceed along the lines

of a Land and Agricultural Bank.

It is too early to express an opinion as to the

or extent of the demands that are likely to be made on the

Bank, but when next I report to Your Lordship I hope to be

able to do so.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble  
servant,

BRIGADIER-GENERAL.  
GOVERNOR.

AL. GAZETTE

GOVERNMENT NOTICE No. 433

LAND AND AGRICULTURAL BANK  
ORDINANCE, 1951

NOTICE

IN pursuance of the provisions of the Land and Agricultural Bank Ordinance, 1951, the following land is offered in payment of the loans of members of the Land Bank Board:

The Hon. Treasurer (Land Bank)

The Hon. Attorney General

E. B. Gill, Esq.

Major C. M. Taylor.

J. E. A. Wolryche-Whitmore, Esq.

By Command of His Excellency the Governor.

Nairobi,

25th June, 1951.

H. M. M. MOORE,  
Colonial Secretary.

SUPPLEMENTARY



Proclamation No. 22 The Land and Agricultural Bank Ordinance, 1930  
 G.O. No. 710 The Land and Agricultural Bank Ordinance  
 1930—Date of Coming into Operation 287

GOD SAVE THE KING.

GOVERNMENT NOTICE NO. 119  
THE LAND AND AGRICULTURAL BANK  
ORDINANCE, 1930.

NOTICE.

DATE OF COMING INTO OPERATION.

IN EXERCISE of the powers conferred upon him by section 1 of the Land and Agricultural Bank Ordinance, 1930, His Excellency the Governor has been pleased to appoint that the said Ordinance shall come into operation on the third day of March, 1931.

By Command of His Excellency the Governor.

Nairobi,

This 3rd day of March, 1931.

H. T. MARTIN,  
*for Colonial Secretary.*

9

Any reply received will of course be treated absolutely  
in confidence.

Yours faithfully,

*Clifford Tompkins*  

---

*(Assistant Secy Privy Purse)*

Lt-Colonel H.V.B. de Satgé, C.M.G., D.S.O.

10/17/31  
10/17/31

28

Self

W. H. ...

Downing Street,  
9<sup>th</sup> March, 1931.

Dear Sirs,

(2) (16000/30)

1930, I sent

Ag. Gov. Conf. No.

102 of 21 Nov. '30 regarding

14 on 16000/30

Ag. Gov. Conf. No.

187 of 27 Dec. '30

S. of S's Conf. (1)

Tel. No. 35 of

31st Jan. '31

Ag. Gov. Conf. No.

40 of 11th Feb. '31

S. of S's Conf. (2)

Tel. No. 57 of

20th Feb. '31.

S. of S's Conf. (2)

des. of 26th

Feb. '31.

Have no objection to the Commission in the Government's report that report will be found printed on the left-hand pages of the copy of the Bill which accompanies the Acting Governor's earlier despatch of the 21st November, 1930.

Yours sincerely,

(Signed) W. C. G. PARKINSON.

F. DAVIS,

LC/17035731  
1402

8-28

Self

J.W. Mason 6/3

Downing Street,  
9<sup>th</sup> March, 1931

Dear Sir,

(7/1/16000/30)

1930, I sent

Ag. Gov. Conf. No.

162 of 21 Nov. '30 regarding the

14 on 16000/30

Ag. Gov. Conf. No. passed and

187 of 27 Dec '30.

S. of S's Conf.

Tel. No. 35 of

31st Jan. '31.

Ag. Gov. Conf. No.

40 of 11th Feb. '31

S. of S's Conf.

Tel. No. 57 of

20th Feb. '31.

S. of S's Conf.

Des. of 26th

Feb. '31.

(1) may be interested in the Bill which was introduced in the House of Commons on 11th February, 1931, and which was passed on 27th December, 1930.

(2) Governor's despatch of the 27th November, 1930, but that report will be found printed on the left-hand pages of the copy of the Bill which accompanies the Acting Governor's earlier despatch of the 21st November, 1930.

Yours sincerely,

(Signed) A. C. C. PARVINGSON

F. LAVER, Esq.

O. O.

*Order No 13*

*7*

*Mr. Eastwood 247*

*Mr. Allen 257*

*Mr. Parkinson 2572*

For Thursday's mail.

X *Mr. Tomlinson* *1/2/51*

X *Sir G. Halliday 25.2.51*

*Sir J. Shackburgh*

*Sir G. Grindle*

*Permt. U.S. of S.*

*Partly U.S. of S.*

*Secretary of State*



**DRAFT.**

**KENYA**

*Conf. (2)*

*Gov. Byrne*

*17030/31/Kenya*

*Make extra copy for  
by P. Nichol - recd.  
pass this. See his 6*

Inform you that I approved of the Ordinance being brought into operation without further delay, but asked that no advances should be made under Sections 34 and 35, nor to Local Native Councils under Section 41, pending consideration of further amendment of those sections.

2. I note from Mr. Moore's *note* confidential telegram of the 11th February that an instruction is to be

*(No 6)*

given



O.O.

~~Mr. Eastwood~~

Mr. Allen 25/2

Mr. Parkinson 25/2

For Thursday's mail.

*Handwritten: 10.13*

*Handwritten: 2*

X ~~Mr. Parkinson~~ *Handwritten: 1/2/51*

X Sir G. Dalloway 25.2.31

Sir J. Shackburgh

Sir G. Grindle

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State



**DRAFT**

**KENYA**

*Handwritten: Conf. (2)*

Gov. Byrnes

*Vertical handwritten note: long 6.10.31 - 10.10.31*

*Handwritten note: Make sure cover is to be general - need: pass this. See No. 6.*

Informed you that I approved of the Ordinance being brought into operation without further delay, but asked that no advances should be made under Sections 34 and 35, nor to Local Native Councils under Section 41, pending consideration of further amendment of those sections.

2. I note from Mr. Moore's *note* confidential telegram of the 11th February that an instruction is to be given

*Handwritten: (No 6)*

given to the Land Bank Board that  
the powers of obtaining overdrafts  
and issuing "Land Bank Bills" given  
under Section 21 are to be exercised

only to meet temporary shortages of  
cash. I think it would be desirable that  
the Board reports on the work of the  
Bank should deal specially with any  
reference to the powers given by this

I also note that it is not  
*to relieve*  
contemplated that advances should be  
made under Section 26 on the security  
of native land.

4. As regards Sections 34 and 35 -  
old clauses <sup>33</sup> 23 and <sup>34</sup> 24 - I would point  
out that for the reasons explained  
in detail in the memorandum enclosed  
in my confidential (2) despatch of  
the 18th September, 1930, the respec-  
tive overriding maxima of 75 per cent  
and 60 per cent were only accepted  
on condition that they were <sup>solely</sup> based, in

(8 on 16000/30)

the

the case of Section 34, on the fair agricultural and pastoral value of the land, and, in the case of

the amount already paid

the amount prior of the

of the terms of Mr

of the 1934

(1) on 17/03/31

Confidential telegram of the 31st January why the value of improvements had been retained in the formulae fixing the maximum advances. While I appreciate the considerations referred to in paragraph (c) of Mr. Moore's reply - Confidential telegram No.46 of the 11th February - I cannot regard them as removing the objection to including the value of improvements as part of the basis of calculation of the maximum advances to

(5)

be allowed. It appears that these objections have not been fully appreciated although as I have already indicated they were

...necessity for fencing and dipping tank advanced up to a maximum of *for either district* £200 in each case, and to allow such advances to be additional to advances within the limit contemplated by Section 28, subject, of course, to the overriding maxima of £9,000 and £5,000 in Section 27. This arrangement, while not altogether free

from criticism is not open to the *serious* objections

objections to which I have already referred; it would appear to meet fully the point made by Mr. Moore in his telegram of the 11th February and I trust that it will be accepted as a ~~reasonable compromise~~ *spirit of reasonable compromise*

Effect would be given to it by omitting the second proviso from each of the Sections 34 and 35, and I request that an early opportunity may be taken to introduce legislation for amending those Sections accordingly.

5. I was glad to receive Mr. Moore's assurance that no advances will be made under Section 41 to any Native Council until the question of native liability for the cost of fencing and dipping has been decided to my satisfaction.

6. I presume that you will, after a reasonable interval, furnish me with a report showing the progress made

(No. 5)

*to No 3 on 16/01/30  
No 3 on 16/01/30*

*See No 5*

*I note that the Cashier is being dealt with in his replies to my staff. Nos 4740 and 4757. The 24 June 1930 & I shall await the receipt of those replies when the Cashier settles an account & then if necessary will be further considered*

with the preliminary measures for  
setting up the Bank.

I have, etc.,

O. O.

20 FEB 1907

326  
Coded sent  
11:0 am 20/2/07

- Mr. *Edmond 4/12*
- Mr. *Allen 19/12*
- Mr. *Polkinsally et al*
- Mr. Tomlinson
- Sir C. Bottomley
- Sir J. Shackleton
- Sir C. Grindle
- Parly. U.S. of S.
- Parly. U.S. of S.
- Secretary of State

*70*

No 47

**DRAFT.** *cancel*

*cancel*  
*cancel*  
*cancel*

20 MAR 1907

copy to L.A. — S. O. —

*delays, but no advance*  
*should be made under*  
*sections 34 & 35 nor 6*

Local Native Councils under  
pending *amendment* of further *amendment* of these  
sections as to which I shall *addressing*

*you by dispatch regarding*  
*desirability of amendment to*  
*these sections*

Recive: send to me.  
for dep.  
*[Signature]*

Sices

Ya

Section 21.

especially with any reference to the proposed ~~change~~ <sup>change</sup> in this section.

Section 26.

In the Bill as drafted, advances to natives were not to be made without the consent of the Central Native Lands Trust Board. In the Ordinance the body whose consent is required is the Local Native Council concerned. The S. of S. enquired the reason for this alteration. The OAG now replies that the Local Native Council is thought to be the body most competent to advise on such matters as the security in crops and livestock <sup>he</sup> does not contemplate that advances should be made on the security of the land.

Incidentally, he refers to <sup>para 49</sup> No. 2 of 16000/30 (Flag E.) in which the Governor had foreshadowed that it might be necessary to make this change.

Since no question of land arises there would

*appears*  
certainly be very little reason for the Native Lands Trust Board to come in, and the S. of S. may, ?

*1/2/21*

account the ~~advances~~ *improvements* ~~of the~~ *land* ~~the~~ *land* ~~the~~ *land*

improvements *improvements* ~~of the~~ *land* ~~the~~ *land* ~~the~~ *land*  
advances made, it may be taken as the equal of *A*.  
We therefore get:-

$$4A = 3V + 3A, \text{ or:-}$$

$$A = 3V$$

That is to say that advances may be made up to three times the fair agricultural value of the land.

It does not seem that the considerations raised by the O.A.G. affect this ~~provision~~ *equation* in any way.

Sir John Campbell has suggested in his note (2A), a solution as follows:- Accept the necessity for the £200 fencing and dipping advances and allow them plus the 60% of the fair agricultural value.

*Recent*  
? ~~Suggest~~ *amendment* of Section 34 as proposed by Sir John Campbell and a corresponding amendment of Section 35, (50% being substituted for 60%).

*Think not. Its understood in Sir Campbell's proposal was the same effect to be referring to same provisions in both sections 34 & 35 1/2/21*

*subject to an overriding maximum of 75% of the fair agricultural value*



Section 41.

1628750  
1628750

Apart from this, however, the S. of S. has asked the Governor (in correspondence regarding the fencing and dipping ordinances) for assurance that no expenditure under these ordinances shall fall upon natives. The O.A.G. now promises a despatch regarding this; meanwhile he gives an assurance that no advances under this section will be made to any Native Council.

In view of this assurance, ? the S. of S. need not direct immediate amendment of the point. The despatch to the Governor might say that the question whether any amendment of this Section will be necessary can be considered after the correspondence regarding Native liability for the cost of fencing and dipping has reached finality.

*[Signature]*  
13.2.23

TELEGRAM from the Officer Administering the Government of Kenya to the Secretary of State for the Colonies.

Dated 11th February 1931.

Received at 5.0 p.m. on 11th February, 1931.

NO 3  
19  
11  
100/31  
278  
280

No. 45 Confidential

and Bank (a) ...

bank that ...

only to meet ...

borrow short ...

tuted since

right in ...

made ...

determined by ...

in Council and ...

local Native Council is body most competent to advise.

In this connection see paragraph 4 of my <sup>despatch</sup> ~~report~~ of 31st July

Confidential No. 115 and paragraph 6 of your despatch of

18th September Confidential No. 2.

(c) Sections 34 and 35. In many cases, permissible margin for fencing and dipping <sup>of</sup> 15% under section 34 and 10% under section 35 would not amount to <sup>Rs</sup> £400 contemplated as a maximum advance under these sections if improvements were not taken into consideration. The immediate enhancement of value as a result of construction of fences or erection of dipping tanks was considered to be so great that Bank would have reasonable security for any such advance.

(d) Section 41. Local Native Councils have no land which does not form part of native reserve land. Advances would be on security of Council Funds only and not on land. Question as to extent to which charges should fall on natives

is being dealt with in replies to despatches quoted both

as regards findings and articles...

...

...

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O. O.

SIJAN  
D. 2nd

030931

U. S. A.

3

Mr. Parkinson 30. 1. 31

Mr.

Mr.

Mr. Tolson

ho. 5

Booked West  
1.30 pm 31/1/31

3

(15600/29  
No. 37)

enclosed in my despatch No. 925 of 10th  
December, 1929.

(b) Section 26. Why is local  
Native Council substituted for Native  
Lands Central Board.

(c) Sections 34 and 35. Why is the  
value of improvements effected or to be  
effected as determined by the Board  
retained in the formula fixing the  
maximum advances - see memorandum

enclosed

O. O.

RECEIVED  
21 JAN 1931

2030/31 u cur a 38

Mr. Parkinson 30.1.31

Mr.

Mr.

Mr. Tomkinson

Mr. ...

Mr. ...

Mr. ...

*Handwritten initials and marks*

*Forwarded to ... 1.30 pm 31/1/31*

3

*Handwritten signature*

below short and long - see notes enclosed in my despatch No. 965 of 10th December, 1929. ✓

(15680/29 No. 37)

(b) Section 26. Why is local Native Council substituted for Native Lands Central Board.

(c) Sections 34 and 35. Why is the value of improvements effected or to be effected as determined by the Board retained in the formula fixing the maximum advances - see memorandum

enclosed

*Vertical text on left margin*

enclosed in my confidential despatch No. 2

of 18th September.

(16000/30  
No. 8)

(d) Section 41 - in it the fact

that Local Native

in the United

however it is intended that advances

to Local Native Councils should be

made on security of Council funds

only. On question whether these

charges should fall on natives I

should be glad to have your obser-

vations on paragraph 6 of my despatch

No. 474 of 24th June and paragraph 2

(16085/30  
No. 3)

of my despatch No. 475 of 24th June.

(16054/30  
No. 3)

Secer.

enclosed in my confidential despatch No. 2

of 18th September.

(16000/30  
No. 8)

(d) Section 41. Is it the fact

that Local Native Councils have

lands which are not under their control?

Native Councils

Native Councils

Native Councils

Native Councils

Native Councils

Native Councils

however it is intended that charges

to Local Native Councils should be

made on security of Council funds

only. On question whether these

charges should fall on natives I

should be glad to have your obser-

vations on paragraph 6 of my despatch

No. 474 of 24th June and paragraph 2

(16085/30  
No. 3)

of my despatch No. 475 of 24th June.

(16054/30  
No. 3)

Secer.

Mr. Allen.

It has been physically impossible for me to do more than run hastily through the Bill itself up to clause 30.

My impressions--there have been no any study, nor have I read any.

(i) several of the exceptions are in the

as they contain the

(ii) clause

(iii) clause

(iv) clause

probably an executive instruction--to prevent them borrowing "short" and lending "long".

This seems important. Probably that instruction can suitably wait--merely drawing attention now to the point--till we know more as to the actual financial structure of the Bank.

There seems a real danger here.

(v) Clause 28 (3) last sentence. Why not say--as elsewhere--that the Bank can advance the full amount, up to £ 200 ~~XXXXXXXXXX~~?

(vi) Clause 34. The objection formerly taken seems to subsist. I don't understand all this, read with the statement that the S/S's criticisms had been met. It still seems to render advances possible up to thrice the "fair agri: and pastoral value of the land". There is perhaps a possible solution here. Accept the necessity

But this is already been passed by the Govt. I don't see how it can be done.



for the 200 fencing and dipping tank advances, and allow them, plus the 60% of value. And leave it at that. I'd much rather have this--which is definite and limited--than a proviso which may work out at an indefensible figure.

(I may be all wrong as to this; the wording is not easy to follow; and the thing wants study which it has been quite impossible to give to it.)  
(vii) clause 38. They still put their advances in a first charge--without the consent of the prior mortgagees--in the clause 36 cases. This does not seem very defensible.

That is as far as I have got. And the despatch may explain much which now seems to me very dark indeed.

I am rather loath to send this on--but it is the best I can do in the time available. You will gather--without further comment--how very tentative it all is.

The 7th January 1931.

*Campbell*  
11/31

18 9th Dec 30 \_\_\_\_\_ 14th December  
20 copies of Land and Agricultural Bank Bill, together with report of select committee thereon

19 20th Dec \_\_\_\_\_ 15th January  
Inquire if only state that S.P. does not propose to advise that, absent to bill be withheld, when Council meets on 17 January

Office to Library

Si. Joan Campbell

We now have the Bill as

passed but we

shall be the

bill

to call

the

the

some

in

in case the

time to look at it. I therefore

do not delay it to go into it in

detail ~~at~~ but the Eastwood

has prepared a memorandum.

Evenly the

has carried but the

points e.g. under sections 26,

34 & 35, 38, 40 & first

also the final point

Eastwood's memo.

x or for legal  
Enumeration  
which will have  
to await the  
Attorney General's  
report.

JW Allen

M E M O R A N D U M

Discussed in  
Preliminary

In Council the Bill (referred to as Bill, Part D) that all the points made by the Secretary of State could be met, and he therefore asked for permission to carry through a revised Bill at the forthcoming session of the Council without further reference to the Secretary of State. After passage it would be sent to the Secretary of State for final scrutiny and assent. He proposed to make it clear that the capital of the Bank was only £240,000, as at present provided in the Loan Schedule, and that no further funds could be expected. The S. of S. reluctantly agreed to this procedure.

The Bill as finally passed has now been received. No further amendments were made during its passage. The full explanatory despatch with copies of the Ordinance printed in its final form will follow in due course. Meanwhile the O.A.G. has sent copies printed in a form showing the amendments made on the last previous text. These amendments are examined below.

now received  
J. G. H.

Section 7.

Old Clause 56 has been incorporated. The amendment is formal.

Section 7.

The amendment carries out the instructions of the Secretary of State.

Section 9.

The amendment made appears to make the same as suggested by the S. of S. (flag D).

Section 15.

The amendment suggested (flag D) has been made.

Section 18 (a).

The amendment suggested (flag D) has been made.

Section 18 (c). See under Section 7.

Section 20.

The amendment made corresponds with that put out by the Governor in No. 2 (flag E), and approved by the S. of S. (flag C).

Section 25 (2).

The words "or under the Agricultural Advances Ordinance 1930" have been added. This appears unobjectionable.

Section 25 (3).

This corresponds with the text set out in No. 2 (flag E), and approved (flag C).

Section 26.

This is an important section dealing with advances to natives. The wording proposed by the Governor is contained in No. 2 (flag E). This wording made it impossible for an advance to be made to natives unless the consent of the Governor in Council had been obtained. The S. of S.

thought

thought that this condition would tend to become a serious  
 impediment to ~~active individual and corporate~~ <sup>development</sup> in the  
 Governor that he ~~was in~~ <sup>the</sup>  
 for the consent ~~of~~ <sup>of</sup>  
 wording of the ~~provisions~~ <sup>to</sup>

provisional ~~provisions~~  
 "Central ~~Board~~  
 the words "and"  
 important ~~will~~

Section 31. Old Clause 30.  
 The words ~~inserted~~ <sup>inserted</sup> ~~in~~ <sup>in</sup> ~~the~~ <sup>the</sup> ~~provisions~~ <sup>provisions</sup>  
 made by the S. of S. (Flag 0).

Section 31. Old Clause 30; and  
 Section 32. Old Clause 31.

The wording adopted appears to carry out the suggestion  
 made by the S. of S. (Flag 0).

Sections 34 and 35. Old Clauses 33 and 34.

These provide that where advances are made for the  
purposes of dipping tanks or fencing, a total of advances  
 may be made by the Bank up to  $\pm$  75 per cent of "the fair  
 agricultural and pastoral value of the land, and the value  
 of improvements effected or to be effected as determined by  
 the Board."

In the memorandum flagged 0 it was stated that no  
 exception need be taken to the over-riding maximum being  
 retained at 75 per cent, provided that it was based on the  
 fair agricultural or pastoral value of the land only,  
 and that the value of improvements as well as the advances

made under the clause are <sup>local</sup> excluded from the computation.  
 The amount of advances  
 the value of  
 if have been made.

provisions of fencing and dipping  
 was all existing  
 the memorandum  
 of this  
 and open to various  
 to make any provision it should  
 be subject to the  
 consent of the mortgagees.

X In his telegram of the 20th October (flag 1), the  
 O.A.G. represented that if the consent of the mortgagees in  
 such cases were withheld it would render the compulsory  
 provisions of the Fencing and Cattle Cleansing Ordinances  
 nugatory. The S. of S.'s suggestion has therefore not been  
 carried out. See as to this para: 6 of the 50p. (no. 1).  
Sections 39 and 40. (Old Clauses 38 and 39).

The amendments made appear to be merely formal.  
Section 41. (Old Clause 40).

This provides for the making of advances for the  
purposes of fencing and dipping to local authorities. In  
 the Bill as passed a sentence has been added to Sub-Section  
 4, including "any Local Native Council <sup>established</sup> under the  
 "Native Authority Ordinance" in the definition of Local  
 Authorities for the purposes of this section.

Sub-Section 1 provides for the transmission of appli-  
 cations through the Chief Native Commissioner.

It is not clear that it had been previously recognised that this section would apply to native authorities. Sub-Section 2 provides that advances and interest due shall be incurred upon the properties and revenues of the Local Authority, including any lands vested in it, and in the event of default in making any payments due the Bank shall exercise all such powers as are vested in the Local Authority in relation to the levying of rates, and out of such rates the bank shall collect the moneys due, and pay over the balance to the Local Authority.

It is a matter for consideration whether if this matter is given effect to it is consistent with the spirit of the Ordinance (now amended).

In paragraph 5 of his despatch (No. 474 of the 20th June) commenting on the Fencing Ordinance (flag D), the S. of S. wrote as follows:-

"I understand that it is your intention that where the fencing of native land is in question under the provisions of any section of the Ordinance, no expenditure should fall upon the natives, and that unless assistance is obtained from the Colonial Development Fund all such expenditure will be met from general revenue. I shall be glad to receive an assurance that this understanding is correct".

No reply has yet been received to this despatch, <sup>but</sup> ~~and~~ it would appear that the understanding was not correct.

Section 42 (Old Clause 41)

The amendment appears merely formal.

Section 45 (Old Clause 44) and old Clause 45.

All the last part of old Clause 44 and the whole of Clause 45 have been omitted. In his telegram of the 20th October (flag D), the O.A.G. said that he proposed

that

that a first charge should be created only for advances for compulsory fencing and dipping and he suggested the deletion of these clauses. This, he stated, would make the position with regard to the charges and leave the Bank to ordinary legal remedies in default.

**Sections 55 and 56.**

New sections have been included as

S. of S. (flag 0).

**First Schedule.**

The Governor reported in No. 3 proposed to add the following covenant:

"(7) That the Mortgagor will permit the agents of the Bank at all reasonable times upon the land mortgaged, and to inspect the condition of such land and the extent to which, and the manner in which it is to be developed".

The S. of S. had no objection to the inclusion of this covenant. It does not, however, appear in the Bill as passed.

One other point may perhaps be made. In the first memorandum sent to the Governor in December 1929 (flag B), it was pointed out as follows :-

"The Board has power under Clause 21 to raise funds on overdraft from another Bank or by issuing Land Bank Bills. These Bills may be issued in sums of £50 or any multiple of £50 of a currency of 12 months or less, as the loans to be made by the Bank should be for periods not exceeding 20 years in the case of partly purchased Crown land or 30 years in other cases, — This proposal to "borrow short and

*of the Memorandum*

lend long' appears to be radically unsound.

Obviously the Bank ~~will~~ be seriously embarrassed  
by the necessity of renewing the  
at a time when a high rate of interest  
exists. It may be, however, that  
in such a case recourse to such short  
to meet a temporary shortage of  
cash the objection is not a serious  
one and should be made clear.

It appears to have been presumed  
that the amount of overdraft or loan

G. E. Howard  
2.1.31.



KENYA.



GOVERNMENT HOUSE,

NAIROBI,

KENYA.

No. 187

CONFIDENTIAL.

RECEIVED  
119 JAN 1960  
COL OFFICE

December, 1960

My Lord,

With reference to my despatch No. 182 of the 21st November, I have the pleasure to inform you that an authenticated copy of the Bill for the Credit Facilities for Agriculture (Kenya) Bill, 1960, together with a copy of the explanatory memorandum, has been forwarded to the Legislative Council for consideration of the Bill on the 18th October. I enclose also a further copy of the Bill printed in a form showing the amendments proposed by the Select Committee.

2. Your Lordship is already aware of the circumstances which, within the last twelve months, have increased the urgency of the need for credit facilities for agriculture on some sound and permanent footing and I trust that no further explanation will be required of the reasons for departing from the procedure contemplated in Your Lordship's Confidential despatch of the 18th September in regard to this Bill. I must express my appreciation of Your Lordship's assistance in allowing, in your telegram of the 21st October, the passage of the Bill through its further stages in the Legislative Council. In accordance with the understanding on which this permission was given, the Ordinance has not been assented to.

I

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,  
 SECRETARY OF STATE FOR THE COLONIES,  
 DOWNING STREET,  
 LONDON N.W.1.

copy to C. H. (S. S.)

No. 8 on 1600/30

No. 12

148

I should be glad if, after consideration of the Ordinance as passed and of this despatch, Your Lordship's instructions in this connection might be conveyed to me by

... agreement to deal first with the ... 5, 7 and 8 of Your ... namely, adminis- ... participation and provision of ... of the utmost importance ... as a business institution ...

... No considerable difficulty is anticipated in obtaining for the administration of the Bank the services of persons of proved capacity and judgment. No steps have, of course, yet been taken towards the appointment of the Secretary.

4. In regard to native participation, I note that Your Lordship will require that, when the Bank is established, the reports on its working should give special attention to the extent to which assistance has been given or may be available to native agriculturalists, and that such reports might be half-yearly. The attention of the Board, when appointed, will be drawn to these instructions.

The amendment now made to Clause 26 (1) meets the view that advances to natives should not be subject to the consent of the Governor in Council.

5. It appears that some misunderstanding on the question of provision of funds may have been caused by the final sentence of paragraph 6 of Kenya Confidential despatch

No. 2 on 16000/30

No. 115 of the 30th July, where it was stated that, subject to what the experience of the first year may prove, this Government supports the view of the Select Committee that a total... desirable...

the Bank... and that...

to be separated... the reference... otherwise...

that the bill... provisions...

Your Lordship's despatch of the... amendments suggested in that memorandum have been accepted in toto and embodied in the Bill, with the following exception. Clause 45(c), which, as pointed out in the memorandum, gave the Bank priority over mortgages, whether earlier or later in date, has been deleted. Clause 44 has been so amended as to confine the remedies of the Bank against a defaulting debtor to its legal remedies and to refusal to pay any portion of an advance which has been approved, but not yet paid. But it is necessary to retain provision for creating a first charge in favour of the Bank in respect of advances for compulsory fencing and dipping. The position has been made clear by the insertion in Clause 37 (2) -- new Clause 38 (2) - of the following :-

"Such charge shall, in the case of advances made under section 36 of this Ordinance, be a first charge, having priority over all existing mortgages or charges upon the holding".

It ---

It is clear that, if the consent of mortgagees were to be required, the withholding of such consent would render nugatory the compulsory provisions of the Fencing and the Metropolitan Ordinances. The comparatively modest amount available for these purposes, 5000 in each case, would afford not less a protection to the mortgagee than the fact that the construction of the new roads would create a very definite increase in the value of the property. There being no longer any room for the operation of Clauses 57 et seq. in this respect, no objection will remain to the imposition of a first charge in these special cases.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant,

*H. H. Moore*

ACTING GOVERNOR.

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.  
 SECRETARY OF STATE FOR THE COLONIES,  
 DOWNING STREET,  
LONDON...S.W.1.

LEGAL REPORT

No amendments to the Bill were made by the Legislative Council on the motion for the adoption of the Report of the Select Committee or on the motion for third reading and passing.

The extent of the amendments to the Bill in the form in which it was last examined by the Secretary of State are shown in the attached Report of the Select Committee.

In my opinion, this Bill should be reserved for the signification of His Majesty's pleasure thereon.

Nairobi,  
20th November, 1930.

*A. J. ...*  
ATTORNEY GENERAL.

THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL  
 APPOINTED TO CONSIDER AND REPORT ON THE PRO-  
 VISIONS OF A BILL TO ESTABLISH AND TO REGULATE  
 THE MANAGEMENT AND CONTROL OF A LAND AND  
 AGRICULTURAL BANK FOR THE COLONY.

Your Excellency,

and the members of the above Select Committee  
 have the honour to report as follows:

On 20th June, 1930, the Bill and a resolution  
 thereon were referred to the Select Committee.

The Committee met on 24th June, 1930, and the Secretary  
 of State was present by invitation.

The Committee considered the Bill and the amendments  
 thereto and discussed the same.

The Committee has the honour to report that it has  
 considered the Bill and the amendments thereto and  
 has decided to recommend that the Bill, as amended,  
 be passed with certain amendments.

The Committee has the honour to recommend that the  
 Bill, as amended, be passed with certain amendments.

The Committee has the honour to recommend that the  
 Bill, as amended, be passed with certain amendments.

The Select Committee has again met, not  
 only to consider further comments by the Secretary of State,  
 but also to subject the Bill, and all the suggested  
 amendments thereto to thorough and complete review.

The Committee now has the honour to  
 recommend that the Bill as reprinted, embodying the  
 recommendations made in our first Report, be further  
 amended in the following respects:-

1. That Clause 1 be amended to read:-  
 "This Ordinance may be cited as the Land  
 and Agricultural Bank Ordinance, 1930, and shall  
 come into operation on such date as the Governor  
 may, by notice in the Gazette, appoint."

2. That Clause 3 be amended by deleting the words "of Kenya" in the first line of the Clause.

3. That Clause 4 be amended by substituting the day "first day of January, 1932" for the day "first day of July, 1930" in sub-clause (2).

4. That Clause 7 be amended by deleting all the words in the first line of the Clause and the word "and" in line

6. That Clause 12 be amended by substituting the word "at" for the word "of" in the first line of the Clause.

7. That Clause 14 be amended by deleting the words "of either description" in sub-clause (2) of the Clause.

8. That Clause 15 be amended by deleting paragraph (c) of sub-clause (2); by substituting the word "preceding" for the word "preceeding" in line 27; and by substituting the word "which" for the word "whcin" in line 35.

9. That Clause 18 be amended by adding thereto the following as paragraphs (c) and (d):-

"(c) to advance money to farmers for the purposes of dipping tanks or fencing, as provided in Part IV of this Ordinance;

(d) to advance money to natives in accordance with the provisions of section 26 of this Ordinance.;

and by adding the words "or pastoral" after the word "agricultural" in paragraph (a) of the Clause.

10. That Clause 20 be amended by deleting paragraph (b) and substituting therefor the following:-

"(b) Such funds as may be raised specifically for the purposes of the Bank by loan, either within or without the Colony, by the Colony, or by the Bank with the approval of the Legislative Council:"

and by substituting the words "in

Council with the approval of

the words "decided by the

the Clause.

11. That Clause 21 be

"the" before the word "and"

12. That Clause

"or under the provisions

the word "therein" to

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ing a mortgage or other security, the amount of the advance together with all interest thereon shall not exceed three thousand pounds.

Provided that no advance of a sum exceeding two thousand pounds may be made for any such purpose without the consent of the Governor in Council".

13. That the following be inserted as Clause 26:-

"26.(1) Notwithstanding anything contained in section 25 of this Ordinance advances for any of the purposes defined in section 19 of this Ordinance may be made to natives, but no such advance shall be made without the consent of the Local Native Council concerned, if the applicant for such advance is a farmer within a native reserve.

(2) Such advances shall be made on such security as the Board, with the consent of the Governor in Council, may from time to time determine."



14. That Clauses 26 to 44 be renumbered 27 to 45.

15. That Clause 28 be revoked and the following substituted therefor:-

"28. (a) The Board may claim an interest in respect of such amount for the period by which the notice actually given falls short of three months"

the words after the word "even" in line 7, and by substituting therefor the following:-

"the Board may claim interest in respect of such amount for the period by which the notice actually given falls short of three months".

18. That Clause 31 be amended by deleting the words "to the Treasurer" in line 17, and by inserting the words "or (b)" after the letter "(a)" in line 18.

19. That Clause 33 be amended by substituting the figures "28" for the figures "27" in line 37, and by deleting the words "and the amount advanced under the provisions of this section" at the end of the Clause, and inserting the word "and" after the word "and" in line 47.

(N.B. - The marginal note requires corresponding amendment)

20. That Clause 34 be amended by substituting the

figures "28" for the figures "27" in line 52, by inserting the word "and" after the word "land" in line 6, and by deleting the words after the word "purchase" in line 7. (N.B.- The marginal note requires corresponding amendment)

21. That Clause 35 be amended by inserting the word "that" after the word "Provided" in line 26; by inserting the word "or" after the word "Tracy" in line 27; by inserting the words "machinery or parts of machinery" after the word "and" in line 28; and at the close of the clause the following:

"Provided further that the amount of the charge shall not exceed 200 for every acre."

22. That Clause 37 be amended by inserting at the end of the clause (2) thereof the following: "Such charge shall, in the section 36 of this Ordinance, have priority over all existing claims in the holding."

23. That Clause 38 be amended by deleting the words "the preceding" for the words "this" in line 37 and by substituting the word "the" for the words "the" in line 38.

24. That Clause 39 be amended by substituting the figures "28" for the figures "27" in line 31 and by substituting the words "an advance has been made and noted by the Registrar in the manner aforementioned" for the words "such a note has been" in line 37.

25. That Clause 40 be amended by inserting the words "or the Chief Native Commissioner, as the case may be" after the word "Government" in line 27 and by adding at the end of sub-clause (4) thereof the words "or any local Native Council established under the Native Authority Ordinance."

26. That Clause 41 be amended by substituting the words "create a charge" for the words "repay the advance" at the end of the Clause.

27. That Clause 44 be amended by deleting all words after paragraph (c) of the Clause and substituting therefor the following:

the following:-

"The Board may in addition to any other remedies refuse to pay any portion of the advance which has been approved, but not yet paid".

28. That Clause 45 be deleted.

That Clause 45 be amended by deleting the words

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contained in such documents, or things or things to any

person

(a) other than a person to whom he is authorized

by the Governor to communicate it; or

(b) otherwise than for the purposes of this

Ordinance,

shall be guilty of an offence and shall be liable on conviction before a magistrate of the first class to a fine of one hundred pounds or to imprisonment for six months or <sup>to</sup> both such fine and imprisonment.

56. Any applicant for an advance who wilfully fails to disclose any material information within his knowledge, or who wilfully makes any statement which he knows to be false or does not believe to be true, shall be guilty of an offence, and shall be liable on conviction before a magistrate of the first class to a fine/

"The Board may in addition to any other remedies refuse to pay any portion of the advance which has been approved, but not yet paid".

28. That Clause 45 be deleted.

29. That Clause 45 be amended by deleting the words

contained in such documents, returns or forms in any person

- (a) other than a person to whom he is authorised by the Governor to communicate it; or
- (b) otherwise than for the purposes of this Ordinance,

shall be guilty of an offence, and shall be liable on conviction before a magistrate of the first class to a fine of one hundred pounds or to imprisonment for six months, or <sup>to</sup> both such fine and imprisonment.

56. Any applicant for an advance who wilfully fails to disclose any material information within his knowledge, or who wilfully makes any statement which he knows to be false or does not believe to be true shall be guilty of an offence, and shall be liable on conviction before a magistrate of the first class to a fine/

fine of one hundred pounds or to imprisonment for twelve months or to both such fine and such imprisonment and shall further be liable to have any advance made to him by the Bank cancelled forthwith, and to repay to the Bank forthwith all sums advanced to him together with interest thereon.

11. That Clause 55 be renumbered 17.

12. That Clause 56 be deleted.

13. That the addition to the Statute be made as follows:

Substituting the figure "25" for the figure "10" in

Clause 57 of the Statute.

14. That the addition to the Statute be made as follows:

Substituting the figure "25" for the figure "10" in

Clause 58 of the Statute.

15. That the addition to the Statute be made as follows:

Substituting the figure "25" for the figure "10" in

Clause 59 of the Statute.

- (Mr. Lambie) (Chairman)
- A. D. McABORTON (Member)
- H. R. RUSHTON (Member)
- ALEX. HOLL (Member)
- CONWAY HARVEY (Member)
- V. K. TUCKER (Member)
- A. C. HOLY (Member)
- J. C. KIRKWOOD (Member)

Nairobi,

20th October, 1960.