

1934

Kenya

No. 23089

SUBJECT

CO 533/445

Land and Agricultural Banks.

Previous

3078/33.

Subsequent

38071/35

1. Governor Byrnes 16 brief \_\_\_\_\_ 2-2 February 1933  
 Furnishes information on various points raised by the Treasury in No 511 on 307/33 & states it is agreed that the three years referred to in Clause 3 (b) of the L.A.B. (Amtd.) Bill should run from date of the advance.

2. Governor Byrnes 62 \_\_\_\_\_ 2-2 February 1933  
 Submits proposal that Land & Agr. Bank should make advances in certain cases in which applicants owe money to the Central Agr. Advances Board with the object of recovering advances & helping farmers concerned on the land.

1002 + is to answer to Mr. Ryan, enquired (is on 307/33) Para 3 refers to the amounts set out in the last 2 pages of the report for 1932 which is attached M. 14 on 307/33.

I think all that is nec'd is to send 2 cts of 1. + encl. to TSS LF for info. ref'd M. 58 on 307/33. In view of the terms of M. 56 on 307/33 file it would seem nec'd to send ans more s/o letter to Mr. Ryan.

No. 2. The principal Land Bank Ordinance is flagged as 17030 (A) 3/31 and the amount of 1933 is attached.

The main disadvantages in proposals contained in No. 2. appear to be -

(a) That the Bank would have to be indemnified by Government against any losses incurred on these advances.

The Gov. states in para 4 that  
 it is so called the Bond Law  
 statutory security <sup>his business referring</sup>  
 and any ~~claim on the Land Bank~~  
~~indulgence that bears this out~~  
 The suggestion that advances  
 of up to 20,000 should  
 be guaranteed for year without  
 further reference to the S.P. If Govt  
 were in fact called upon to make  
 good a loss it would be equivalent  
 to the granting the financial assistance  
 for non-developmental purposes to which  
 the S.P. has declared himself opposed  
 on 23/05/34 etc.

§ 25 of the Ordinance provides  
 that ordinarily no advance shall be  
 made except upon a first mortgage  
 of land. Consequently, as the Governor  
 points out, if the present scheme is  
 to be put in hand, existing  
 first mortgagees would have  
 to be induced somehow to waive  
 their priority and take chattels  
 mortgages or second mortgages instead.  
 This would presumably be effected ~~any~~  
 under Cl. 13 of the Bill which N. 14  
 on 20/8/33 which provides that  
 mortgages may waive their priority in  
 favour of subsequent mortgages created

As to law relating  
 to the applicant  
 in question

In favour of the ...  
 the same ...  
 the ...  
 mortgage ...

...  
 ...  
 ...  
 ...

As proposed in No. 1.  
 Then same for No. 2.

J.P. ...  
 3/3/34

3 To Treasury (etc 1) 18/10 5/3/34

Revised  
 for (3)

Under ...  
 200,000 ...  
 ...

There is much to be said for this proposal  
 Loans under the Agricultural Advances  
 Scheme are secured on the land, crops, stock  
 and chattels of the borrower, but  
 (a) the charge ranks after any existing  
 charge  
 (b) no limit is set to the amount of  
 the advance in relation to the value  
 of the security.

Land bank loans, on the other hand, can  
 only be made  
 on a first mortgage on the land  
 ... not exceeding 60% of

only 3/5 ...  
 ...

the fair agricultural value of the land, as determined by the Board's own valuers.

The real risk to which foot would be exposed by this proposal is therefore the loss of the difference between the 60% of the Board's valuation, and the amount realized by forced sale or foreclosure under the Agricultural Advances scheme on the other hand. Foot might well lose the whole advance - pro-encumbrance having absorbed the proceeds of foreclosure.

Government should therefore stand to gain by the proposed transfer. The borrower would also gain, by paying a lower rate of interest (5 or 6% against 8%) and having longer in which to repay.

As regards Mr. Davis's second point, we can hardly dispute Government's assurance that cases exist where a prior mortgage would surrender his real priority to foot, in return, it may be presumed, for a definite improvement in the value of his estate - a second mortgage on a "live" farm being

4  
better security than a first mortgage on a dead one.

The amount involved by the Government's proposed £1,000,000 is small in relation to the Bank's total resources (£5,000,000).

No need to refer to Treasury - no legislation affecting the scope of functions of the Bank is necessary.

? Oppose

J.P. Austin  
12/5

It would be easy to saddle this scheme with criticism but I don't want to. Kenyon is at least alive to the fact that there will be little hope of getting the "Agricultural Advances" so it is suggested that in picked cases the Land Bank may advance about to enable the advances, in part at least, to be paid off and to enable the borrower to continue operations. An essential condition is that the Bank is always to have a first mortgage on the land, other mortgages surrendering to take second place but, in to guarantee the advance against loss up to £10,000 at first. Of course the Land Bank cannot hold land and equally as it is a Govt. concern it can't very well foreclose so the farmer will come next second.

But it seems to be a scheme worth trying in Kenyon's desperate finance.

So I would oppose

J.P. Austin  
12-8

I would agree, in all the circumstances  
case. In the specific cases--which may be  
taken as illustrative--the thing works out  
as follows:

A.A. debt, probably non-realizable----£ 3811.  
By advancing £ 4000 from Govt: ( this is what  
it comes to ) £ 2300 of the £ 3811 is  
covered by Govt. <sup>for</sup> the net balance, £ 1511,  
there is a first mortgage, the possibility of  
saving the farms--and therefore of saving the  
effect of A.A. debt which will still be outstanding.  
The value of the properties is estimated at  
£ 1,500,000.

I am in a better opinion whether this is  
a good deal or not. On the whole, I think  
it is. I would therefore agree as suggested.  
The limits suggested--and envisaged--keep the  
things within manageable dimensions.  
1934-35.

525 of Matter.

The Governor's report (no. 2)  
and the minutes set out the position  
clearly.

I agree with the later minutes  
that the scheme should be approved  
and with the proviso that it will be  
desirable that the S. A. should  
first see.

W.C.S. 15.3.34

15.3.34

I agree  
P.C.L.  
41/3

3A To Gov Kenya 108 No. 20 (Landed) 11.11.34  
W.C.S.

4 Col Secy 3/4 (Councils) \_\_\_\_\_ 28 Feb 34.  
Trans 12 copies of Report of Select Committee of Leg. Council  
on Bill to amend Land & Agr. Bank Ordinance.  
Share to Library

5 Governor Byeme 168 \_\_\_\_\_ 28 March 34  
Trans. in sub. authenticated copy of the hand and  
Share to Library Agricultural Bank (Amend.) Ordinance No. 14 of 1934.

6 Governor Byeme 52 Conf \_\_\_\_\_ 28 March 34  
Transmits reference in No. 5.  
? G3

B. A. M. 25/4

The addition to 5.10 is not entirely  
self-explanatory but it is not worth to refer.

W.C.S. 25/4

15.4.34  
254

noted  
for  
reference

To Kanga 315 (5 Annul) & /3 27 APR 1934

Liby file

8. Lt. Secretary 3hr \_\_\_\_\_ 31<sup>st</sup> Mar 34  
Trans. 12 printed copies of Ordinance No 4 of 1934

Liby  
J. R. ...  
15. 5. 34

9. Lt. Secretary 3hr \_\_\_\_\_ 3<sup>rd</sup> July 34  
Trans. 12 copies of Report of the Board of the Land and Agricultural Bank 1933.

10. Governor Byine 90 Lof \_\_\_\_\_ 3<sup>rd</sup> July 34  
Suo approval of an advance of £8000 under the Agricultural Advances Scheme to Mr. P. W. Bennett & gives circumstances of the case.  
1 copy. orig on 21047/34 - 49d. for record.

- ⓐ Note the recommendations of the Law Bank Board on page 9.
- ⓑ That the Capital of the Land Bank be increased by £500,000.
- ⓒ If the Capital is increased, the limit of advances should be raised to £5000

This is approved of in Note on 3078/33 (part) in which the Govt states that at present moment is clearly inexpedient for any attempt to increase further the Capital of the Land Bank.

Shaw to Libary

1 copy to Mr. Head  
Shaw to Libary

No 10. Register for records  
Action taken on 2.4.34

Put by  
A. J. ...  
26.7.34

copy  
made  
under  
order  
of  
the  
Govt

Mr. ...  
C. ...

No 10 ...  
...

John  
...  
30/7

30/7/34

To ...  
30 7 34

11. Govt Secretary Wade 481 \_\_\_\_\_ 25<sup>th</sup> Sept 34.  
Trans. in dup. authenticated copy of the Land and Agricultural Bank (Amend. No 2) Ordinance No 33.

1 copy of Ordinance to  
Libary.

12. A/Lt. Secretary 3hr \_\_\_\_\_ 25<sup>th</sup> Sept 34  
Trans. 12 printed copies of Ordinance No 33 of 1934.

no. subject to Libary

No 11. In his despatch of the 21 Sept 1932 the Govt saw no objection in principle to the proposal that the Land Bank should have power to act as agents for the Govt in the administration of advances to farmers & others under an indemnity of Govt, provided that such activities would be ...

NOTE  
18137/34

No way be compared with those of  
the Bank, & that it was made  
clear the arrangement was made  
solely in the interest of economy.

Section 2 of Ord. 4 of 1923  
Provides that the Land Bank Board  
may be appointed and act as  
agents for Government in the  
administration of any advances to  
farmers & others.

The present Ordinance substitutes  
the word Bank for Board.

I assume that there is a legal  
necessity for renaming the Bank  
instead of the Board.

Subject to legal opinions.

? Sanction G.S.

A. J. P. Smith  
17.10.23

B. J. P. Smith  
18/10

J. J. P. Smith  
18/10

This seems to be straight forward and  
maybe approved. It merely substitutes "Bank"  
for "Board of the Bank". As I have said on  
another paper, it is clearly desirable that the  
Agricultural Advances should come to an end as  
and when possible and be replaced by the Bank,  
the whole idea being that the Bank would be per-  
manent while the other should be temporary while  
the emergency lasted. Signify non-disallowance  
if.

J. J. P. Smith

19-10

W. J. P. Smith

7

15

To Kenya 8/2 (11/6/23) (G/S)

15 To Kenya 8/2 (11/6/23) (G/S)

14. Extract from Official Gazette, dated 11 Nov. 30

(Govt. Notice No. 24, of 11th Nov. 1930)

DM

Put by [Signature]

6/2/33 [Signature]

GOVERNMENT NOTICE No. 748

THE LAND AND AGRICULTURAL BANK  
ORDINANCE, 1930

APPOINTMENT

IN EXERCISE of the powers conferred upon him by section 4 (2) of the Land and Agricultural Bank Ordinance, 1930. His Excellency the Governor has been pleased to appoint Mr. Ernest Beasley Gill to be a member of the Land Bank Board with effect from the 1st January, 1955.

Nairobi,  
12th November 1954.

H. G. PILLING,  
*for Acting Colonial Secretary.*



129



THE SECRETARIAT,  
NAIROBI,  
KENYA.

THIS REPLYING  
PLEASE QUOTE  
NO. U/AGR.1/9/2.  
AND DATE

RECEIVED  
.15 OCT 1934  
O. O. REGY

25<sup>th</sup> SEPTEMBER, 1934.

No 12

The Acting Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the under Secretary of State for the Colonies and with reference to Kenya despatch No. 481 of the 25<sup>th</sup> September, 1934 has the honour to transmit twelve printed copies of Ordinance No. XXXIII of 1934 entitled The Land and Agricultural bank (Amendment No. 2) Ordinance 1934.

No. XXXIII.

1934



Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., O.B.,  
Governor.

Assented to in His Majesty's  
name this 27<sup>th</sup> day of August,  
1934.

J. BYRNE

Governor.

AN ORDINANCE TO AMEND THE LAND AND  
AGRICULTURAL BANK (AMENDMENT)  
ORDINANCE, 1933

ORDINANCE No. XXXIII of 1934

**An Ordinance to Amend the Land and Agricultural Bank (Amendment) Ordinance, 1933.**

ENACTED by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as the Land and Agricultural Bank (Amendment No. 2) Ordinance, 1934, and shall be read as one with the Land and Agricultural Bank (Amendment) Ordinance, 1933, hereinafter referred to as the Principal Ordinance. Short title

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by the substitution of the word "Bank" for the word "Board" wherever such word occurs therein. Amendment of section 2 of the Principal Ordinance

Passed in the Legislative Council the thirty-first day of July, in the year of Our Lord one thousand nine hundred and thirty-four.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

*Acting Clerk of the Legislative Council.*



KENYA

No 1161

GOVERNMENT HOUSE  
NAIROBI  
KENYA

RECEIVED  
15 OCT 1964  
C. O. REGY

11/13

Sir,

I have the pleasure to inform you that  
copies of the Bill for the  
Land (Amendment) Act, 1964, as  
enacted, 1964, which was passed by  
the Legislative Council on 11th August  
was assented to by His Excellency the Governor  
on 15th August, 1964 together with a  
duplicate prepared by the Attorney General.

Twelve printed copies of the Bill  
transmitted under separate cover.

2. I trust that you will be  
advised to exercise due care and diligence in  
respect of this measure.

I have the honour to be,

Sir,

Your most obedient, humble servant,

*(Signature)*  
GOVERNOR'S OFFICE.

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP CUNLIFFE-LISTER, F.C.S., F.R.S., F.R.C.S., F.R.C.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

LEGAL REPORT

THE LAND AND AGRICULTURAL BANK (AMENDMENT  
NO. 2) BILL, 1934.

It is desired to appoint the Land and Agricultural Bank as agents for the administration of the Agricultural Advances Scheme. The law as it stands provides for the appointment for this purpose of the Board of the Bank, but not of the Bank itself.

A Comparative Table is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,

2nd August, 1934.

*W. A. G.*  
ATTORNEY GENERAL

COMPARATIVE TABLE

THE LAND AND AGRICULTURAL BANK (AMENDMENT  
NO.2) BILL, 1934.

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No. of Clause.

Remarks.

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1.

Short title.

New.

KENYA

NO. 97

~~CONFIDENTIAL~~

1954.

Sir,

with reference to your telegram no. 80 of the 4th April I have the honour to request your approval of the making of an advance of £2000 under the Agricultural Advances Scheme to Mr. P. W. Barnett in the following circumstances.

2. Mr. Barnett applied to the Land bank for an advance of £2,500, on the security of a first mortgage over land valued for Land Bank purposes at £3000, for the purposes of paying off an existing first mortgage for £2000 with the sum of £1700 and of maintaining and developing the existing coffee and meeting expenses of the coming coffee crop on his farm. Subject to the first charge of £2000, for which the mortgagee has agreed to accept £1700, there is a statutory charge in favour of the Central Agricultural Advances Board securing a debt of £2000. The members of the Land Bank, after giving careful consideration to the case, are prepared to approve the application, but are faced with the following situation. Having regard to the value placed upon the property, they are not prepared to advance £2000 ranking after the agricultural advances of £2000, which would automatically rank as first ...

First ...

HIS RIGHT HONOURABLE  
MAJOR SIR PHILIP GUILFORD-LIGHTON, P.C., C.B.E., M.C., M.P.  
SECRETARY OF STATE FOR THE COLONIES,  
DOUGLAS STREET,  
LONDON, S.W.1.

first charge on cancellation of the private mortgage. On the other hand the Central Agricultural Board has no power to waive its prior charge in favour of the bank (vide Section 10 of the Agricultural Advances Ordinance, 1933).

3. The advantages to be gained from such a land bank loan to be made are that, first, the Central Agricultural Advances Board will be made reasonably secure, whereas an almost total loss of the advance of £965 is otherwise contemplated; secondly, the applicant will be saved £300 by the concession arranged with the private mortgage; thirdly, the Central Agricultural Advances Board will have a land bank charge of £2500 in front of it instead of a private mortgage of £2000; and, fourthly, the bank will have made an advance on security with which they are perfectly satisfied.

4. Since, however, the Central Agricultural Advances Board is precluded from waiving the priority of its charge, the Land Bank Board has not proposed that the advance of £965 should be paid off from the Land Bank loan, which would thus be increased to £2965, and that a new advance of £800 should be made thereafter by the Central Agricultural Advances Board to Mr. Barnett. Mr. Barnett was not one of the participants for whom a further advance is provided in paragraph 12(b) of the Agricultural Advances Ordinance, 1933 of the 5th March 1933. The proposed advance of £800 is under reference. The proposed advance of £800 is



therefore strictly a new advance not covered by existing sanctions. The proposal is recommended by the Treasurer, who states that, if the action now suggested is not approved, the prospects of the recovery of the advance of 1966 are negligible, and that, if the assistance proposed is not forthcoming, operations on the farm must cease from lack of funds.

I have the honor to be,

Sir,

Yours most obediently,  
[Signature]

G. V. N.

1966

COLONY AND PROTECTORATE OF KENYA



REPORT OF THE BOARD OF THE  
LAND AND AGRICULTURAL BANK  
OF KENYA 1952

Price 1/-

Report of the Board of the Land and  
Agricultural Bank of Kenya  
1933

# Report of the Board of the Land and Agricultural Bank of Kenya to His Excellency the Governor

For the Year ending December 31st, 1933

## YOUR EXCELLENCY

The following Report of the Board of the Land and Agricultural Bank of Kenya for the year 1933 is submitted for Your Excellency's information. The statements required by section 47 of the Ordinance have been prepared and are submitted herewith, duly audited.

## THE BOARD

1. The two official members of the Board resigned their seats during the year. The Chairman (Hon H. H. Rushton) attended his last meeting on 26th September, 1933, and the Hon. A. D. A. MacGregor, K.C., on 17th October, 1933, the former leaving the Colony on leave pending retirement from the Service, and the latter on transfer to Hongkong to assume the office of Chief Justice.

2. The Hon. G. R. Sandford was appointed Chairman of the Board, *vide* Government Notice No. 738, dated 17th November, 1933, and attended his first meeting in that capacity on 17th October, 1933.

3. Mr. W. C. Hunter was appointed to fill the vacancy caused by the retirement of the Hon. A. D. A. MacGregor, *vide* Government Notice No. 723, dated 9th November, 1933.

4. Major C. M. Taylor retired automatically from the Board on 31st December, 1933, but was reappointed by Your Excellency, *vide* Government Notice No. 791, dated 4th December, 1933.

5. The attendances of members of the Board at meetings for the period under review were as under:—

The Hon. H. H. Rushton	15
The Hon. A. D. A. MacGregor	16
The Hon. G. R. Sandford	11
Mr. E. B. Gill	31
Mr. W. C. Hunter	7
Major C. M. Taylor	29
Mr. J. E. A. Wolryche Whitmore	26

The total number of meetings held was 31.

6. At the meeting of the Board held on 20th June, 1933, it was resolved to recommend to Government that notice be given that Ordinance No. IV of 1933 come into operation on 1st July, 1933. This Ordinance provides for the Board of the Land Bank taking over the functions of the Central Agricultural Advances Board, with power to add to its numbers any members of the retiring Board for the purposes of Agricultural Advances work. Effect was given to the recommendation by Government Notice No. 427, dated 23rd June, 1933. The deliberations of the Board when sitting as the Central Agricultural Advances Board form no part of this Report. The position resulting from the application of the Ordinance was given more detailed consideration towards the end of the year, and the recommendations of the Board in this connexion are embodied in paras. 20 and 21 of this Report.

7. Since the beginning of August, the Board have met every week, and the demand upon the time of the members, outside actual board meetings, has materially increased during the past year.

In October, Major Taylor made a tour of the Uasin Gishu and Trans Nzoia districts in order to report to the Board on the coffee position there.

#### STAFF.

8. Section 7 (1) of the Ordinance provides that the Board may appoint, upon such terms and conditions as they may deem fit, such officers and clerks as may be necessary for conducting the business of the Bank, subject to Your Excellency's approval. This approval had, however, not been obtained to the original appointments, nor to the subsequent changes of personnel, and the Auditor drew attention to the irregularity of the position.

9. The matter was reported to the Board at a meeting held on 22nd August, 1933, when it was decided that the position would best be met by an amendment to the Land Bank Ordinance, giving the Board full power to appoint members of the staff, excluding the post of secretary. The Attorney General was asked to draft the necessary amendment. This was done, but it was decided by the Colonial Secretary that the time was inopportune for sending it forward to be added to the draft amending Bill already with the Secretary of State. Steps were therefore taken to secure Your Excellency's approval of all appointments made, and this approval was intimated by Your Excellency on 11th January, 1934.

10. The office staff consists at this date of the following:—
- |                                 |                                |
|---------------------------------|--------------------------------|
| Caldecott, A. B. (bookkeeper)   | Sh. 300 per month (part time)  |
| Whitelock, Miss C. (clerk)      | Sh. 500 per month              |
| Arnold, Mrs. (typist temporary) | Sh. 15 per diem                |
| Bigwood, E. (cleaner)           | Sh. 100 per month              |
| Native Messenger                | Sh. 20 per month, plus uniform |

11. An honorarium of Sh. 100 per month is paid to each of the Secretaries of the Local Agricultural Advances Boards at Eldoret and Kitale in consideration of the work done by them in connexion with Land Bank Applications.

12. The services of Mr. J. I. Hately, Secretary of the Central Agricultural Advances Board, have in addition, been largely utilized by the Land Bank during the past year without cost to the Land Bank. An adjustment of the position will be made when final arrangements have been approved covering the appointment of the Land Bank as agents for the Government in the administration of Agricultural Advances funds.

13. The Secretary was granted seven days' leave of absence from 17th March to 23rd March, 1933.

Miss Whitelock was granted seven days' leave of absence from 14th October to 21st October, 1933.

14. During the year the Secretary served on the Long Term Credits Committee and the Maize Inquiry Committee of the Board of Agriculture, and acted as Secretary to the Agricultural Mortgages Committee.

#### LOCAL AGENTS.

15. Members of the Local Agricultural Advances Boards at Eldoret and Kitale have given great assistance during the year, and their recommendations have been highly valued by the Bank. The thanks of the Board are also due to the Provincial Commissioners, District Commissioners, and District Officers who have rendered valuable services in the Bank's interest.

#### LEGAL WORK.

16. The demands upon the Legal Department in the drafting of mortgages, etc., have been heavy, especially during the last three months. Conveyancing in this Colony is a complex subject, and as, in addition, the great majority of titles submitted to the Bank are saddled with one encumbrance or another requiring removal or postponement, the delay in the

6. At the meeting of the Board held on 20th June, 1933, it was resolved to recommend to Government that notice be given that Ordinance No. IV of 1933 come into operation on 1st July, 1933. This Ordinance provides for the Board of the Land Bank taking over the functions of the Central Agricultural Advances Board, with power to add to its numbers any members of the retiring Board for the purposes of Agricultural Advances work. Effect was given to the recommendation by Government Notice No. 427, dated 23rd June, 1933. The deliberations of the Board when sitting as the Central Agricultural Advances Board form no part of this Report. The position resulting from the application of the Ordinance was given more detailed consideration towards the end of the year, and the recommendations of the Board in this connexion are embodied in paras. 20 and 21 of this Report.

7. Since the beginning of August, the Board have met every week, and the demand upon the time of the members, outside actual board meetings, has materially increased during the past year.

In October, Major Taylor made a tour of the Usin Gishu and Trans Nzoi districts in order to report to the Board on the coffee position there.

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10. The office staff consists at this date of the following:

Caldercott, A. B. (bookkeeper)	Sh. 300 per month
(part time)	
Whitelock, Miss C. (clerk)	Sh. 500 per month
Arnold, Mrs. (typist temporary)	Sh. 15 per diem
Bigwood, E. (learner)	Sh. 100 per month
Native Messenger	Sh. 20 per month plus uniform

11. An honorarium of Sh. 100 per month is paid to each of the Secretaries of the Local Agricultural Advances Boards at Eldoret and Kitale in consideration of the work done by them in connexion with Land Bank applications.

12. The services of Mr. T. L. Hately, Secretary of the Central Agricultural Advances Board, have in addition, been largely utilized by the Land Bank during the past year with out cost to the Land Bank. An adjustment of the position will be made when final arrangements have been approved covering the appointment of the Land Bank as agents for the Government in the administration of Agricultural Advances funds.

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15. Members of the Local Agricultural Advances Boards at Eldoret and Kitale have given great assistance during the year, and their recommendations have been highly valued by the Bank. The thanks of the Board are also due to the Provincial Commissioners, District Commissioners, and District Officers who have rendered valuable services in the Bank's interest.

#### LEGAL WORK.

16. The demands upon the Legal Department in the drafting of mortgages, etc., have been heavy, especially during the last three months. Conveyancing in this Colony is a complex subject, and as, in addition, the great majority of titles submitted to the Bank are saddled with one encumbrance or another requiring removal or postponement, the delay in the

issue of an approved loan is occasionally the subject of criticism. Generally speaking, such delays are unavoidable, while in some cases it is the Bank who should criticize the applicant, not vice versa. Upon receiving an offer of an advance, it is for the applicant to bring to the Bank a title capable of being mortgaged, not necessarily for the Bank to fetch it.

19. With a view to saving time and expense to the borrower, an amendment to the Ordinance has been drafted under which priority of an existing mortgage or charge may be postponed in favour of the Land Bank by the execution of a simple instrument called a "waiver of preference". This, in some cases, will obviate the necessity for cancelling an existing encumbrance and the preparation and registration of a new one, thus effecting a material economy.

20. The thanks of the Board are due to the Attorney General and his staff, and also to the Registration Division of the Surveyor General's Department, for a continuance of advice and practical assistance and for the cordiality with which such assistance is accompanied.

LEGISLATION

21. At the beginning of the year an amending Bill was submitted to Legislative Council, and passed, which provides for the Land Bank acting as agents for the Government in the administration of any advances to farmers or others, and legalizes a simplified process for recovery on default by entry and sale of a mortgaged property. The Bill received Royal assent on 24th April, 1933.

AGENCY.

22. As indicated in para. 6 above, the merging of the Land Bank Board with the Central Agricultural Advances Board was merely a formal step towards the more complete amalgamation which it was felt could be applied with economy in the administration of the Agricultural Advances Fund during the final stages of that scheme. The suggestion was accordingly made to Government that the Land Bank be appointed their agents for this purpose.

23. Under this proposal the central office organization of the Advances Board will be taken over en bloc, and the staff will become members of the Land Bank staff. All cash transactions will be centralized. Expenses of administration will

be allocated, with agreement by the Auditor, and the remuneration of the Bank will consist of an amount equal to ten per cent of the administrative costs. The Land Bank will be indemnified against loss by the Government.

INSPECTIONS

24. In the world-wide depression of the last few years the stability of land values has suffered in common with the stability of commodity values connected with the land, and it has had to be recognized with increasing force that the security for the Land Bank advances depends to a great extent, not only upon the land, but upon the continuance of successful operations upon the land. The centre of the security has shifted from the farm itself to the farm as worked by the farmer.

25. On these grounds the Board have decided to institute a systematic scheme of inspections of mortgaged properties. Although designed primarily for the protection of the Bank's interests, it is hoped the scheme will not be without benefit to mortgagors who will have an opportunity of discussing their affairs with officials in a position to give them, or procure for them, practical advice upon farming matters, finance, etc.

26. Inspectors are being appointed in the following districts: Eldoret, Kisumu, Kitale, Nairobi, Naivasha, Nakuru, Nanyuki, Nyeri, Sotik, Thika, Thomson's Falls.

As far as possible, the Secretary of the Land Bank will accompany the inspectors on their visits to the various properties. In this way it is hoped to establish a more intimate connexion between the Land Bank and its clients than is the case with ordinary finance corporations.

FINANCIAL.

27. By 31st December, 1932, all but £1,000 of the Land Bank's first instalment of capital had been allocated to meet approved applications, and a request had already been made to Government for further funds.

Consideration of new applications had in fact been suspended since June, 1932.

28. In June, 1933, intimation was received that an addition to the capital of the Land Bank amounting to £250,000 would be made available from a loan to be floated in London, thus bringing the capital up to £500,000. Consideration of applications was at once resumed, and the money was made available in August, 1933.

27. As with the first instalment of capital, the Government made arrangements under which the Land Bank was able to draw its capital as and when required, thus effecting a saving of interest to the Land Bank. The rate of interest charged to the Land Bank by the Government on the new capital is the cost price, i.e. 3.7 per cent per annum, which brings the average rate over the whole capital to 4.18 per cent.

28. The rate of interest charged to borrowers remains at 6.5 per cent, thus leaving a margin (when the whole of the capital is invested) of 2.32 per cent to meet administrative expenses and provide a reserve fund. This is a generous margin. Administrative expenses for 1933 amounted to 1.01 per cent of the capital invested. On the basis of 1 per cent for working expenses, the position when the full amount of capital (£500,000) is invested will be:—

Expenses	1 per cent of £500,000 =	£5,000
Reserve	1.32 per cent of £500,000 =	£6,600

29. A demand may therefore be anticipated for a reduction in the interest charged borrowers. But while it is recognised that a reduction in interest charges would have far-reaching effect to the benefit of the farming community in particular and the whole Colony generally, the Land Bank must regard an adequate reserve fund as the very first consideration.

30. Section 32 of the Land Bank Ordinance stipulates that "no alteration shall be made to the rate of interest on advances already made". In the event of a reduction of interest rate being found to be possible, the Board are of opinion that it would be more equitable and quite practicable slightly to reduce interest over all advances, made and to be made, rather than to offer a still lower rate of interest to future applicants only.

31. At 31st December, 1932, the total number of mortgages registered was 173, securing advances of £307,700. At 31st December, 1933, the number was 246, securing advances of £806,050. The number of mortgages registered is slightly in excess of the statistical figure of applications approved, as in some cases an applicant has executed a second mortgage in connexion with a supplementary loan.

32. During the year 239 applications were received for advances, aggregating £398,936, an average of £1,668; 22 applications, aggregating £35,150, were brought forward from the previous year, making a total of 261 applications for

£128,646. In addition to these, the Board reconsidered a large number of applications, in some cases being able to reverse or modify a previous decision to reject an application.

33. The payment by mortgagors to the Bank of instalments due has not quite maintained the satisfactory level recorded for 1932, but the drought was a major calamity which robbed many farmers, wholly or in part, of the fruits of their labours. It is, in the circumstances, satisfactory to be able to record that of all instalments due, up to and including the 30th September, 1933 instalment, 89.7 per cent of principal repayments have been received and 94.0 per cent of interest due.

34. At the end of 1932, of the original capital of £240,000, £239,000 had been allocated to 181 applicants. A minute was accordingly framed by the Board at its meeting held on 10th January, 1933, for submission to the Government. This minute recorded the Board's resolution that Government be requested to place further funds at the Land Bank's disposal. The request was supported by a statement of the Board's policy; and the principal purposes for which it was at that date anticipated that the extra capital would be required were stated to be:—

- (a) Onerous mortgages.
- (b) To meet the expenses of a change-over from maize-growing to something else, e.g. dairying, mixed farming, etc.
- (c) General farming development.

35. Meanwhile, the recommendations of the Long Term Credits Committee of the Board of Agriculture had been submitted to Your Excellency, and the Land Bank Board were asked for comments. The chief recommendations of the Long Term Credits Committee affecting the Land Bank were as under:—

- (a) Provision for a further £750,000 capital.
- (b) Advances for co-operative organizations, native or semi-native.
- (c) Provision for short term loans.
- (d) Widening of purposes for which Land Bank advances may be made.
- (e) Raising of existing maximum of Land Bank advances.



- (f) A broader interpretation on the part of the Land Bank Board of the words "onerous mortgage" as used in the Land Bank Ordinance.
- (g) Reduction of interest charged mortgagors by the Land Bank.

36. These recommendations were considered by the Board at their meeting on 21st February, 1933, when the following decisions were minuted —

- (a) That it was not desirable at this stage for the Board to take any active steps to press for a larger sum than £260,000.
- (b) The Board were not prepared to support this recommendation so far as it related to advances against produce without further evidence of a legitimate demand; but approved of advances for purchase of land, erection of buildings, and installing equipment.
- (c) This recommendation was supported.
- (d) This recommendation was supported.
- (e) That the position was well met by the existing provisions of the Land Bank Ordinance until the capital of the Bank was largely increased.
- (f) The Board did not support this recommendation.
- (g) No reduction can be contemplated until the Reserve Account has reached a point, in these difficult times, can be considered a safe ratio to the capital invested.

37. Following the recommendations of the Long Term Credits Committee came the result of investigations conducted by the Coffee Board, a deputation from which body was received by the Land Bank Board on 11th July, 1933. Further representations were submitted by the Coffee Board and by the Sisal Growers' Association towards the close of the year. These representations were considered by the Land Bank Board, and at a meeting held on 27th December, 1933, the following conclusions were reached —

- (a) Evidence has been received from the coffee and sisal industries that the present limit of £3,000 is too small to enable the Bank to offer sufficient assistance by way of Land Bank loans to any but small coffee estates, while that limit prevents assistance being given to the sisal industry, except in very rare instances.

The Board are of opinion that these representations are well founded and that the limit might well be raised so as to enable the Board, while continuing to pursue their cautious and conservative policy in making advances on adequate security, to broaden the basis of assistance for larger farming propositions which are at present debarred from participating in Land Bank advances merely by the existence of the present limit.

(b) The Board therefore recommend —

- (1) That the capital of the Land Bank be increased by £500,000, and that negotiations with Government be opened forthwith to ascertain if arrangements can be made for the issue to the Land Bank of such capital as and when required.
- (2) That if the capital of the Land Bank is increased the limit for advances should be raised to £5,000, the limit of advances for the purposes of meeting an existing mortgage (without reference to the Governor in Council) being raised to £3,500, but that the word "onerous" should remain as at present a part of section 25 (8) of the Ordinance.
- (c) The Board wish to make it clear that they do not recommend any increase in the limit of advances except on an increase in the capital of the Land Bank above the present amount of £500,000, and they further record their view that until a reserve fund of a reasonable amount has been compiled they are unwilling to consider any question of reducing the present rate of interest on Land Bank loans.

38. The Board recognize that, so far, the Land Bank has been able to do little or nothing to assist sisal growers; further, that the reduction of prime costs and the improvement in quality, which will be secured by the use of the latest machinery, appear to be essential to the health of the sisal industry. The amount involved by the installation of a complete unit of such machinery has been assessed by the Sisal Growers' Association at £8,000 for each plantation.

39. In order that the Land Bank may provide funds for this purpose, the Sisal Growers' Association ask that the maximum for advances be increased to £8,000. The Board

found themselves unable to recommend this increase, principally on the grounds that they are not satisfied that the Land Bank can, from its own resources and on its own initiative, properly bring comprehensive assistance of this kind to the sisal industry as a whole. If finance for the better equipment of the sisal industry is to be arranged from public funds, the matter appears to the Board to be one which requires consideration by Government as a separate issue. If the necessary funds were made available by the State, the Land Bank would be prepared to administer such funds, if asked to do so, under guarantee as agents for the Government. The raising of the limit recommended in para. 37 would result in a certain measure of assistance being available for sisal growers.

#### PURPOSE OF LOANS.

40. The purposes to which loans have been allocated are shown approximately in Table No. 5 annexed. Expressed in percentages, the table may be summarized as under:—

	Per cent.
Discharge of existing mortgages ...	99.8
Permanent improvements ...	18.7
Purchase of land ...	18.7
Purchase of stock ...	11.5
Farming operations ...	11.0
Purchase of machinery and implements ...	0.8
	100.0

41. The large proportion required to meet existing mortgages indicated the most difficult phase of the situation with which the Bank is confronted. An overwhelming majority of farms are mortgaged before coming to the Bank, many of them having borrowed a larger sum than in present circumstances can justifiably be repaid by a Land Bank loan. It is this difficulty that accounts for the majority of applications rejected.

42. Of the figure, £14,544, advanced for permanent improvements, £8,069 or 41 per cent is allocated to coffee-growing.

#### GENERAL.

43. During the year the Board have examined many applications deserving of the utmost consideration but falling outside the scope of the Land Bank conditions. Such applications have necessarily to be rejected. They constitute evidence

of the existence of a number of deserving cases which may ultimately go to the wall unless relief is available from some quarter. On many farms the farmer is carrying a mortgage debt, incurred in better times, which to-day is not justified by the value of the security mortgaged. The Land Bank cannot take over such mortgages, no matter how onerous their conditions, and the only way in which the Bank can help is in cases where arrangements can be made by the mortgagor with the mortgagee to surrender his first charge over the land for a sum which may be considerably less than the amount of the mortgage debt. If the mortgagee is unwilling to do this, the Land Bank can do nothing to help the farmer.

44. The year 1933 proved to be a difficult and, in some respects, a disappointing one. The drought fell with extreme severity upon a community already badly crippled by the recent depredations of the locust. The expenses of replanting and in many cases the complete failure of anticipated revenue to materialise aggravated the financial difficulties with which the farmers were already struggling. While in some districts the effects of the drought may properly be described as disastrous, others were more fortunate, and have enjoyed a harvest— notably in the wheat areas—which, in the circumstances, must be regarded as highly satisfactory. Although perhaps little material improvement can yet be recorded, the prospects during the concluding months of the year have resulted in a measure of optimism which it is sincerely to be hoped will prove to have been justified.

45. An important factor contributing to such optimism may be attributed to the lessons learned during the period of adversity. The necessity for rigid economies called for an overhaul of existing methods and processes, greater attention to organisation and elimination of waste. The result has been a reduction of prime costs. It has been realised that steady consistent grades, and concerted action are essential for the successful exploitation of the markets to-day. The position of the one-crop farmer has been emphasised, and the move towards mixed farming indicates a wise adaptation to possibilities which emerge from the experience of the past few years. Encouraging development on these lines has been made recently, and it is healthy progress in this way which will go further in equipping the farmer to take full advantage of better conditions, when they arrive, than any temporary financial assistance employed merely to tide over a bad spell.

46. During the year, two mortgagors ceased farming operations. In one case a sale was effected by the mortgagor, thus obviating any foreclosure proceedings by the Land Bank, and the other property is in process of being transferred to the Bank, the mortgagor having filed his petition in bankruptcy.

Two other loans have been completely repaid.

G. R. SANDFORD,  
*Acting Treasurer.*  
*Chairman of the Board.*

Nairobi,  
26th February, 1934.

TABLE No. 1.—APPLICATIONS RECEIVED

1933	Number of Applications Received	Amount
		£
January	1	1,000
February	2	6,850
March	5	3,300
April	2	18,200
May	6	73,550
June	37	89,370
July	59	44,578
August	30	67,498
September	42	23,095
October	16	50,560
November	29	18,525
December	12	
	239	393,526

TABLE No. 2.—APPLICATIONS RECEIVED—SIZE OF LOANS  
1st JANUARY—31st DECEMBER, 1933

For Loans of—	
£1—£500	37
£501—£1,000	50
£1,001—£1,500	34
£1,501—£2,000	45
£2,001—£2,500	27
£2,501—£3,000	43
Over £3,000	3
	239

TABLE No. 3.—ANALYSIS OF APPLICATIONS DEALT WITH  
DURING YEAR ENDING 31st DECEMBER, 1933  
NUMBERS 376 TO 614

No.	Amount		No.	Amount
22	£ 35,120	Brought forward from 1932. APPLICATIONS RECEIVED. Considered by Board Withdrawn, before consideration Awaiting valuation, etc.	22	35,120
239	393,526		41	18,200
			30	75,045
261	428,646		261	428,646
210	335,351	CONSIDERED BY BOARD		
		Granted and completed	61	30,350
		(61 applications—72 mortgagors)		
		Granted—	76	93,050
		Awaiting completion	4	4,050
		Declined by applicants	69	159,301
		Rejected		
210	335,351		210	335,351

NOTE.—The figure £159,301 includes the amount by which certain approved applications have been reduced, e.g. where an applicant for £2,000 has been granted £1,000 & taken to be rejected.



THE LAND AND AGRICULTURAL BANK OF KENYA BALANCE SHEET AS AT 31ST DECEMBER, 1933

LIABILITIES		ASSETS	
£	s. d.	£	s. d.
Cash on Hand	302,428 11 16	Sundry Debts—	
Cash Received	295,000 0 00	Loans	294,805 9 44
Sundry Creditors—Accounts Payable	46 17 50	Charges	4,446 15 46
Fees held on Account of Applicants	410 12 40	General Agricultural Advances Board	228 15 00
Fees paid on account to Valuers	23 0 00	Interest Accrued not Due	2,524 12 54
Applicants' Advances	800 3 69	Movable Assets as at 31-12-1933	175 5 00
Applicants' Advances—	1,164 0 00	At 1/1/1933	125 2 00
Particulars of Loans Unissued	1,771 11 25	Less Depreciation	301 8 09
National Bank of India, Cash Account	5 0 00	Minor Car Account	19 16 06
Reserve Account—	1,571 8 66	Salaries Advances Account	3,513 6 32
Balance at 1-1-1933	1,571 8 66	Deposit Accounts—	
Balance of Capital of Revenue Fund	1,571 8 66	General	18 50
Expenditure Account, 1-1-33-31-12-33	2,208 17 93	Post Office	7 50
		Cash on Hand	2 6 00
			5 9 90
		£	302,428 11 16

\*A overdraft was not actually incurred, funds being drawn in time to meet uncleared cheques.

REVENUE AND EXPENDITURE ACCOUNT FOR THE YEAR ENDING 31ST DECEMBER, 1933

EXPENDITURE		REVENUE	
£	s. d.	£	s. d.
To Interest on Capital Advances	622 19 56	By Interest Earned—	
Swindell and Co. Commission	1,328 17 04	Received	12,777 12 64
Traveling Allowances	221 14 75	Accrued not due	2,524 12 34
Printing and Stationery	53 15 07	Outstanding	4,446 15 48
Rent	95 10 00	Less Outstanding at 31-12-32	19,731 0 46
Post and Telegraphs	45 6 00	Less Accrued not due	1,832 1 83
Depreciation	59 19 92		3,798 5 92
Staff Allowance Fund	3 5 00	Mortgages Prepared	15,982 14 54
Postals	12 00	Mortgages Discharged	453 0 00
Legal Charges	2 8 33	Application Fees	282 15 00
General Expenses		Sundry Fees	8 16 00
Balance being Excess of Revenue over Expenditure	2,887 2 34	Bank Charges	7 19
		£	16,836 13 73

EXAMINED:  
W. H. SMITH,  
Auditor

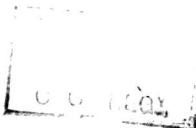
S. THORNTON,  
Secretary

G. R. SANDFORD,  
Chairman,  
ERNEST B. GILL,  
Members of the Board.



THE SECRETARIAT  
NAIROBI.  
KENYA.

WHEN REPLYING  
PLEASE QUOTE  
No. S. C/AGR. 1/9/1/114.  
AND DATE



31<sup>st</sup> MARCH, 1934.

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and with reference to Kenya despatch No. 168 of the 28th March, 1934 has the honour to transmit twelve printed copies of Ordinance No. IV of 1934 entitled "An Ordinance to Amend the Land and Agricultural Bank Ordinance, 1930".

105

the



Colony and Protectorate of Kenya

IN THE TWENTY-FOURTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, GCMG, KBE, CB.

Assented to in His Majesty's  
name this 17<sup>th</sup> day of *March*  
1934.

**J. BYRNE**

*Governor.*

AN ORDINANCE TO AMEND THE LAND AND  
AGRICULTURAL BANKS-ORDINANCE, 1930

**ORDINANCE No. IV of 1934**

**An Ordinance to Amend the Land and  
Agricultural Bank Ordinance, 1930.**

ENACTED by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Land and Agricultural Bank (Amendment) Ordinance, 1934, and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, as amended by the Land and Agricultural Bank (Amendment) Ordinance, 1933, hereinafter referred to as No. 4 of 1933 the Principal Ordinance.

2. In this Ordinance unless the context otherwise requires—

“co-operative society” means a co-operative society as defined in the Co-operative Societies (Registration) Ordinance, No. 21 of 1931, or any Ordinance amending or replacing the same;

“farmer” includes—

- (a) the duly authorized attorney of such farmer;
- (b) an executor or administrator of a deceased farmer if authorized by will or by an order of the court or otherwise by law to mortgage lands;
- (c) a trustee appointed by deed or will if authorized by such deed or will or by an order of the court or otherwise by law to mortgage lands; and
- (d) for the purposes of temporary advances under sections 3 and 4 of this Ordinance an executor or administrator of a deceased farmer, a trustee appointed by deed or will, and a receiver appointed by an order of the court or by a mortgage, even though such persons may not have been specifically authorized to mortgage lands.





Enforcement  
of security

6. (1) If any farmer shall make default in the payment of any sums due by him under section 3 of this Ordinance it shall be lawful for the Board to sell the lands in respect of which such advance was made.

No. 4 of 1933

(2) The provisions of section 45a of the Principal Ordinance as amended by the Land and Agricultural Bank (Amendment) Ordinance, 1933, shall apply to advances made under section 3 of this Ordinance as if they were advances made under Part II or Part III of the Principal Ordinance.

Consent by  
trustee to  
temporary  
advance

7. The consent by a trustee to the postponement of his security to enable an advance under section 3 of this Ordinance to be made shall not itself be deemed improper or a breach of trust so as to render such trustee liable in respect of any loss or consequences resulting from such advance having been made, any rule of law or equity to the contrary notwithstanding.

Advances to  
co-operative  
societies

8. (1) A co-operative society may, upon written application made in a form approved by the Board, obtain from the Bank on such conditions as the Board may determine an advance for the erection of buildings and equipment and the purchase of land for any one or more of the objects which that society is legally competent to pursue. Such application, when signed by the chairman and secretary of the society, or by any persons purporting to act in those capacities, shall bind the society and all members of such society at the time of the making of the application, jointly and severally, for the repayment of any advance made by the bank in pursuance of such application.

(2) Anything to the contrary notwithstanding in any law governing co-operative societies, any such society, subject to any other provisions contained in its rules, regulations or articles of association, may apply for such advances when authorized by a resolution passed by a majority of two-thirds of the members of the society present at a meeting duly convened.

(3) The advance shall be made upon the joint and several liability of the members of the society at the time of the making of the application referred to in sub-section (1) hereof, and upon such additional security as the Board may require and shall bear interest at such rate as the Governor in Council may determine, payable periodically in advance, upon such dates as the Board may direct. The advance

shall be repayable in half-yearly instalments, together with all interest due thereon, within ten years from the date thereof, unless the Board extend the period of repayment.

(4) Any bond to secure an advance under this section shall be in a form approved by the Board.

(5) Any co-operative society making an application as in sub-section (1) of this section shall at the same time lodge with the Registrar of Co-operative Societies a list of those persons who were members of the society at the time when the resolution was taken to make the said application.

(6) The Registrar of Co-operative Societies shall, at the request of the Board, furnish such lists and other information as the Board may require regarding any society registered by him.

9. The Board shall at all times have full access to all accounts, documents, papers and books of any co-operative society to which an advance has been made by the bank or from which an application for an advance has been received, and may cause all such accounts, documents, papers or books to be examined by a member of the staff or by any person appointed thereto. The Board shall not make an advance to a co-operative society unless satisfied that all such accounts, documents, papers and books are in order.

Examination  
of books of  
society

10. Notwithstanding anything to the contrary contained in any law, every member of a co-operative society shall remain liable after his withdrawal from the society for every debt or obligation to the bank which was incurred by the society while he was a member thereof and was undischarged at the date of his said withdrawal until the Board is satisfied that the society and its remaining members are capable of discharging the debt or obligation and to this end such members on withdrawal from the society shall provide full and sufficient security to the satisfaction of the Board for the due fulfilment of the said obligations.

Members of  
society to  
remain liable

When the Board is satisfied that the retiring member has provided full and sufficient security for the due fulfilment of his debts and obligations under this Ordinance, the Board may issue to such member a certificate to that effect and such certificate shall be deemed to be a full discharge from all debts and obligations incurred by such member under the provisions of this Ordinance at the date of his withdrawal from the society.

No IV

Land and Agricultural Bank

1934

Special provisions limited companies

11. Where a cooperative society is a limited liability company incorporated or registered in the Colony in accordance with the law the liability of the shareholders of such company shall be limited to the amount (if any) of the share capital not subscribed and the provisions of section 10 of this Ordinance shall not apply to a person who has ceased to be a shareholder of such company.

Secretary empowered to administer oaths, etc.

12. Notwithstanding anything contained in any other law the Secretary to the Board is hereby empowered to administer oaths and take solemn declarations in matters where statements upon oath and solemn declarations are required by the Principal Ordinance or by anything directed by the Board.

Provided that any fee payable in respect of any such oath or declaration shall be paid into the general revenues of the Colony or be accounted for by stamps.

Warrant of authority

13. Any mortgagee, chargee or other encumbrancer may by instrument under his hand agree that any mortgage, charge or encumbrance in favour of the Bank shall have priority, either for the purposes of section 3 of this Ordinance or for any of the purposes of the Principal Ordinance over his mortgage, charge or encumbrance and such agreement when registered in the same manner as the mortgage, charge or encumbrance held by him shall for all purposes be binding upon the person agreeing and as from the date of such registration upon his successors in title. No stamp duty or registration fees shall be payable in respect of any such agreement.

Passed in the Legislative Council the fifteenth day of February, in the year of Our Lord one thousand nine hundred and thirty-four

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

**J. F. G. TROUGHTON**

Acting Clerk of the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTERS, NAIROBI



KENYA

NO. 1

CONFIDENTIAL.

Sir,

I have the honour to inform you that the reference to separate correspondence contained in paragraph 2 of Kenya despatch No. 104 of 24 March, 1934 is to your confidential despatch of the 28th November, 1933 in which you suggested certain amendments to the draft Bill to Amend the Land and Agricultural Bank Ordinance.

1004

1078/34

2. It will be observed that the Ordinance as passed incorporates all the amendments which you suggested, with the exception that the words "periodically in advance" have been retained in section 2(3) at the request of the Board of the Land Bank.

I have the honour to be,

Sir,

Your most obedient, humble servant

BRIGADIER-GENERAL.  
GOVERNOR.

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP GUNLIMPE-LISEMR, P.C., G.B.E., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W.1.

KENYA

NO. 1



NAME

KENYA

MARCH, 1954.

Sir,

*General (P)*

I have the honour to transmit two authenticated copies of Ordinance No. IV of 1954 entitled an Ordinance to Amend the Land and Agricultural Bank Ordinance 1950, which passed its third reading in the Legislative Council on the 15th February and was assented to in His Majesty's name on the 17th March together with the Legal Report, in duplicate, prepared by the Attorney General. Twelve printed copies of the Ordinance are being sent under separate cover.

2. This Bill was referred to you in draft and has been the subject of separate correspondence.

I have the honour to be,

Sir,

Your most obedient, humble servant.

BRIGADIER-GENERAL.  
GOVERNOR.

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP GUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET, LONDON, S.W.1.

LEGAL REPORT

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL,  
1934.

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The objects of this Bill are three-fold,  
namely - .

- (a) to enable short-term loans up to a maximum of £500 to be made on adequate security but without charge to the borrower on account of the preparation of mortgage deeds;
- (b) to enable advances to be made to Co-operative Societies for the erection of buildings and equipment and the purchase of land ancillary thereto; and
- (c) to empower the Secretary of the Land Bank Board to administer oaths and to take solemn declarations where statements upon oath and solemn declarations are required by the Principal Ordinance or by anything prescribed by the Board.

A Comparative Table is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Dairehi,  
18th March, 1934.

*W. H. ...*  
ATTORNEY GENERAL

COMPARATIVE TABLE

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL,  
1934.

No. of Clause.	Remarks.
1.	Short title.
2.	New.
3.	New.
4.	New.
5.	New.
6.	New.
7.	New.
8.	New.
9.	New.
10.	New.
11.	New.
12.	New.
13.	New.

4

R E P O R T  
OF THE SELECT COMMITTEE OF LEGISLATIVE  
COUNCIL APPOINTED TO CONSIDER AND REPORT UPON  
THE PROVISIONS OF A BILL TO AMEND THE LAND  
AND AGRICULTURE ACTS, 1949.

Your Excellency,

I, the Secretary of the Select Committee appointed by Your Excellency to consider and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects -

1. That Clause 3 be amended -

(a) by the insertion of the following sentence after the word "Council" in the 1st line of sub-clause (1) -

"Notification of the decision of the Board to make any such advance shall be published in the Gazette."

(b) by the insertion of the words "if any" between the word "advances" and the word "made" in the second line of sub-clause (2);

(c) by the insertion of the figures and words "28(2) and 28(3)" after the figures "27(3)" in the last line of sub-clause (2);

(d) by the substitution of the word "decision" for the word "resolution" which occurs in the fourteenth line of sub-clause (4);

(e) by the insertion after sub-clause (4) of the following sub-clause as sub-clause (5) -

"(5) No payment in respect of an advance shall be made under this section until the aforesaid notification of the Board's decision to make an advance has been published in the Gazette and the provisions of section 4 have been complied with."

(f) by the deletion of the words "making of an advance authorised by" which occur in the fourth and fifth lines of the second proviso to the Clause, and the substitution therefor of the words "notification of the Board's decision to make an advance under".

2. That Clause 4(1) be amended -

(a) by the substitution of the words "publication in the Gazette or the notification required under section 3" for the words "fixing of any advances to be allowed under the last preceding section" which occur in the first and second lines thereof;

(b) by the substitution of the words "a form to be approved" for the words "the form to be prescribed" which occur in the third line thereof; and

(c) by the substitution of the word "register" for the word "book" which occurs in the sixth line thereof.

3. That sub-clause (2) of Clause 4 be deleted and sub-clause (1) be renumbered as Clause 4.

4. That Clause 2(1) be renumbered as Clause 6.(1).

5. That Clause 8 be amended -

(a) by the substitution of the words "a form approved" for the words "the form prescribed" which occur in the second line of sub-clause (1);

(b) by the substitution of the word "conditions" for the word "condition" which occurs in the third line of sub-clause (1);

(c) by the substitution of the word "direct" for the word "prescribe" which occurs in the seventh line of sub-clause (3); and

(d) by the substitution of the words "a form approved" for the words "the form prescribed" which occur in the first line of sub-clause (4).



6. That Clause 12 be amended by the substitution of the word "directed" for the word "prescribed" which occurs in the fifth line of the Clause.

7. That Clause 13 be deleted and the following Clause substituted there for -

"Waiver of priority.

13. Any mortgagee, chargee or other encumbrancer may by instrument under his hand agree that any mortgage, charge, or encumbrance in favour of the Bank shall have priority, either for the purposes of section 3 of this Ordinance or for any of the purposes of the Principal Ordinance over his mortgage, charge or encumbrance and such agreement when registered in the same manner as the mortgage, charge or encumbrance held by him shall for all purposes be binding upon the person agreeing and as from the date of such registration upon his successors in title. No stamp duty or registration fees shall be payable in respect of any such agreement."

We have the honour to be,

Your Excellency's most obedient servants,

- SD. W. HARRAGIN (CHAIRMAN)
- SD. G. R. SANDFORD (MEMBER)
- SD. CONWAY HARVEY (MEMBER)
- SD. J.G. KIRKWOOD (MEMBER)

Nairobi,

14th February, 1934.

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Kenya.

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Mr. *Frederick 4/4 aton*

Mr.

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Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Stuckburgh.

Sir G. Grindle.

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Secretary of State.

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No. *80* Your dep. 1 Feb. No. 62

Proposals approved

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KENYA.  
No. 62

GOVERNMENT HOUSE  
NAIROBI,  
KENYA

2<sup>nd</sup> Oct., 1954.

Answer 3

Sir,

I have the pleasure to inform you that a proposal has been submitted to the Government that the issue of Agricultural Advances Board (A.A.B.) advances in certain cases in which the applicants owe money to the Central Agricultural Advances Board, with the dual object of recovering Agricultural Advances which would otherwise be lost and of relieving the farmers concerned of the same.

It is understood that the Bank would be prepared to make advances in certain cases on the security of a first mortgage, if it were satisfied as to the farming and business ability of the applicants concerned, and if it were also indemnified by the Government against loss on such advances. In two typical cases the applicants owe between them a sum of £3,811 to the Agricultural Advances Board. The only means of recovery of this sum would be a forced sale of movable assets covered by a chattels mortgage in favour of the Agricultural Advances Board, and, in one case, a lien over crops. The Acting Treasurer has proposed that in the one case the Bank might advance £2,000, of which £1,305 would be credited at:

once ...

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.C.B., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

one of the Agricultural Bank's... present holder of a first mortgage... priority... mortgagee over novates.

In the other case it is suggested that the bank might advance £2,000, of which £1,000 would be credited at once to the Agricultural Advances Board, the present holder of a first mortgage taking a second mortgage.

The two properties are valued by the land bank valuers at £4,684 and £7,006 respectively.

3. One of the advantages of this proposal is that there would be an immediate cash gain to public funds in respect of debts which are, in present circumstances, virtually irrecoverable. It would also help to keep capable farmers on the land by obviation of the danger of early foreclosure and consequent forced sale. It would, moreover, tend to convert short term credit under the Agricultural Advances Ordinance, 1930 into long term credit at a lower rate of interest.

4. In order that the bank should have full statutory security for the advances made in such cases, it would be necessary that it should be indemnified by the government against loss in respect of them. There are obvious objections to such an indemnity being given, but they appear to be outweighed by the advantages of the proposal. For example, in the two cases referred to in paragraph 2, public funds would immediately benefit to the extent ...

extent of £2,300,000. The rate in one case, however, was £100,000. The balance due on the bank's advance, and the farm were then kept a going concern, but with an almost certain loss of £3,011.

5. An essential feature of the scheme is that the holder of the first mortgage should agree to the Bank taking a first charge on the land. If he does not do so, the Bank cannot assist. Instances have, however, come to the notice of the Bank where negotiations on these lines might have a successful outcome. These instances are cases in which security for a Land Bank advance would normally be sufficient, but, when a substantial proportion of the advance is hypothecated towards repayment of a debt to Government and not towards development, the risk is greater than the Bank would ordinarily accept.

6. It is extremely difficult, in view of the varying circumstances of each case, to give any precise indication of the number of cases in which it might be desirable to adopt this course. It has, however, been tentatively estimated that some 15 cases, representing a total liability of approximately £20,000 on account of agricultural advances, might be dealt with on these lines. The value placed upon the properties involved exceeds £72,000.

7. The Executive Council considered this proposal on the 12th January and advised approval of it in principle, for application to cases regarded as suitable both by the Government and by the Bank.

I concur with this advice and trust that the proposal may receive your approval. Should you have no objection, I would suggest that the Government should be in a position to furnish the required indemnities in cases individually registered as suitable both by the Government and the Bank up to a total of 210,000 in the first instance without further reference to you.

Very respectfully,  
 Sir,

Your most obedient servant,

BRIGADIER GENERAL.  
 GOVERNOR.



KENYA.  
No. 16

GOVERNMENT HOUSE,  
NAIROBI,  
KENYA

CONFIDENTIAL.

2<sup>nd</sup> Dec., 1934.

Sir,

No 57  
3048/33

I have the honour to refer to your confidential despatch of the 13th December, 1934, and to furnish you with the following information for transmission to the Lords Commissioners of His Majesty's Treasury in answer to the enquiries contained in paragraphs 2 and 3 of your despatch, relating to the Land and Agricultural Bank.

2. The rate of interest charged against the Land Bank on money advanced from the new 3½% stock, 1937-38, is 3.7% per annum. This rate covers the annual cost of the money to the Colony.

3. With reference to the second enquiry, the "period" referred to in the accounts of the Bank is the calendar year 1932. The arrangements made in regard to the funds for Land Bank purposes borrowed in the 1930 Loan were that money should be issued to the Bank as required, interest at the rate of 4.7% per annum beginning to accrue on the first day of the month following the date upon which the money was issued. The figure of £6,315,1.77 was intended to represent the whole of the interest payable ...

Copy to Treasury (3)

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP GURLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W.1.

payable during the year 1932, and this sum was paid by the bank in that belief. It was subsequently discovered that a miscalculation had occurred and that the amount of interest payable was £7,091.18.74. The difference of £276.16.97 was paid by the bank in 1933. Details of these amounts are shown in the accompanying statement.

4. with reference to paragraph 3 of your despatch, it is agreed that the three years referred to in Clause 3(3) of the Land and Agricultural Bank (Amendment) Bill should run from the date of the advance.

I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER GENERAL.  
GOVERNOR.





STATEMENT SHOWING INTEREST PAID BY THE  
 LAND BANK TO THE GOVERNMENT IN  
 RECEIPT OF BILLS PAID IN 1932  
 at 4.7%

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 END

	S.B.	Balance S.B.	S.B.	Interest.
Amount advanced on 11.31.		504,000.		
Amount during December, 1931.	200,000.	704,000.	31.	3,332.21.
Amount during January, 1932.	700,000.	1,404,000.	31.	6,242.50.
Amount during February, 1932.	300,000.	1,704,000.	31.	7,911.79.
Amount during March, 1932.	300,000.	2,004,000.	30.	7,741.40.
Amount during April, 1932.	600,000.	2,604,000.	31.	10,394.59.
Amount during May, 1932.	500,000.	3,104,000.	30.	11,990.79.
Amount during June, 1932.	350,000.	3,454,000.	31.	13,787.61.
Amount during July, 1932.	350,000.	3,804,000.	31.	15,184.73.
Amount during August, 1932.	300,000.	4,104,000.	30.	15,853.80.
Amount during September '32.	100,000.	4,204,000.	31.	16,781.44.
Amount during October, 1932.	100,000.	4,304,000.	30.	16,626.41.
Amount during November, 1932.	200,000.	4,504,000.	31.	17,976.72.

In addition, interest was charged on the following sums from  
 the date of issue:-

Amount paid on 8th September '32.	100,000.	23.	296.16.
Amount paid on 5th October '32.	100,000.	27.	347.67.

Total interest payable. S.B. 141,838.74.  
 Total interest paid in 1932. " 136,301.77.  
 balance paid in 1933. S.B. 5,536.97.