

1936

Kenya

No. 38216/2

SUBJECT

C0533/473

Agricultural Indebtedness - Legislation

- (a) The Farmers' Assistance Bill
- (b) The Land & Agricultural Bank (Amat) Bill
- (c) The Specific Loan Bill

Previous

3804/35

38128/1/37

35171/35

1939

- (1) Agriculture
- (A) Indebtedness
- (B) Loans est. Act
- (C) Land Bank Act
- (D) Municipal
- Loans.
- (E) Banks.

- 1 Report of Agricultural Indebtedness Com  
(Orig. rept. No. 14 on 38216/36)
- 2 To Kenya - Conf - 7.3.36  
(W/CC 9.11.14 on 38216/36) (Chapt. No. 13 on 38216/36)

- 3 Govt. Bygone No. 31 Conf - 21.3.36  
The Irish Commission, copies of (a) The Farmers  
Distress Bill, (b) Loan Agency Bill (amend) Bill  
(c) Specific Loan Bill requires del. approval to  
publication.

Noted on 3307/36

Before dealing with the draft BIFIS it would be as well to clear up the two points raised in paragraph 3 of the despatch.

First. The period of the short-term advances scheme. The Agricultural Indebtedness Committee said:

"Although the Stay Order (except with the consent of the creditors) will be only issued for one year we contemplate a renewal of this Stay Order from year to year where there is any short-fall on any advance, but the total period shall not exceed in all more than five years".

Page 20  
of 11/11/36

The conditions of the Treasury approval were:

"That the utilization of the sum earmarked for Agricultural Advances shall be limited in the first instance to a period covering two crops, and that any proposal to extend this period shall be subject to their Lordships' prior approval".

See Treasury  
letter of 28/1/36  
Copy annexed

The Governor points out that the real security for the money lent is the Stay Order and if the money can be advanced over a period of two years only, the Conciliation Board will become unsecured creditors for the balance. I do not

fully

(2)

- (a) Agriculture
- (b) Indebtedness
- (c) Finance est. bill
- (d) Land and tax
- (e) Municipal
- Loans
- (f) Loans

1. Report of Agricultural Indebtedness Cte  
(Orig. rept. No. 14 on 38216/36)

2. To Kanga - Conf - 7.3.36  
(Wsec 9.11.14 on 38216/36) (Draft No. 13 on 38216/36)

3. Gov? Byrns - No. 31 - Conf - 21.3.36

1. To. with Committee, copies of (a) 2<sup>nd</sup> Finance Assistance Bill, (b) Land Revenue Bill (Amend), (c) Specific Loan Bill - ~~referred to publication~~

Notes on 3807/36

Before dealing with the draft Bills it would be as well to clear up the points raised in paragraph 3 of the despatch.

The period of the short-term advances scheme. The Agricultural Indebtedness Committee said:

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Page 20  
of the Report

The conditions of the Treasury approval were:

See Treasury letter 9.2.36 Copy annexed

"That the utilization of the sum earmarked for Agricultural Advances shall be limited in the first instance to a period covering two crops, and that any proposal to extend this period shall be subject to their Lordships' prior approval"

The Governor points out that the real security for the money lent is the Stay Order and if the money can be advanced over a period of two years only, the Conciliation Board will become unsecured creditors for the balance. I do not

fully

fully understand the implications of this, but it would perhaps satisfy Treasury's requirements if the Governor reported in each case where it is proposed to renew the Stay Order after two years from the date of issue. See Section 19(b) of the draft Farmers' Assistance Ordinance, 1936.

The Governor's second point refers to the objects for which the short-term advances may be granted. The Agricultural Indebtedness Committee's proposals were that advances should be made for seasonal purposes and to assist cereal farmers in a change over to mixed farming. The proposed maximum advance for the latter was set at £200, £10 for cattle, dip and fencing. It is true that the Government's approval made no reference to advances of this kind but the Treasury saw the Committee's report, and they noted the discussion on the 14th of February and the draft despatch to Kenya. So I think that it may be taken that they agree in principle to advances being made to cereal farmers in a change over to mixed farming. But here again the period of the advance is involved. The Governor points out that a farmer desirous of changing over to mixed farming would not be able to pay off his advance within a period of two years.

Clearly we must write to Treasury (S.O. to Mr. Bridges) on these two points.

I have read through the three Bills accompanying the despatch and would draw attention to the following points:-

Draft Farmers' Assistance Ordinance, 1936.

Section 2. Interpretation.

The definition of "farmer" includes any company which is engaged in farming or pastoral operations in the Colony. I do not think there is any objection to this as it would not be possible to limit the grant of assistance to individuals only.

Section 7. The chairman and two other members of the Board shall form a quorum.

This might be unfortunate if any meeting of the Board were held when the only members present were the chairman and the two settler representatives.

Section 6. The Board shall act as agents for the Board.

This follows the recommendation in paragraph 32(b) of the report of the Agricultural Indebtedness Committee.

Section 8(1). Local Committees.

Paragraph 32(2) of the report of the Agricultural Indebtedness Committee. The Ordinance does not say that the two other members shall be "representatives of the public", or "of farming and business ability".

Sections 11-20.

Paragraph 33 of the report of the Agricultural Indebtedness Committee.

Section 21(1). Advances.

Note the limitation of advances to 70% of the anticipated crop value or 60% of the value of the security in the case of advances for permanent improvements and/or movable assets.

essential.

*Quite the case  
small companies of  
local people, and some  
large ones, with  
and*

*P.H. Bridges  
Assistant*

essential to farming operations.

Draft Land and Agricultural Bank  
Amendment Ordinance, 1938.

Sections 3 and 5.

It has been agreed that with the increase in the Capital of the Land Bank, the present maximum of an advance to any one farmer may be raised to £3,000, and the maximum amount for the discharge of a prior mortgage to £2,000.

Section 4.

This introduces a new feature, a special provision for advances not exceeding £500 in any given case for the purchase of commodities. Provided that the local amount of such advances is not more than all other advances made by the Bank for the same security, it is limited to 75% of the value of such security as determined by the Land Bank Board.

Section 7.

This provides for any reduction in interest charges which may be possible at any future date being applicable to the balance of existing mortgage debts and not only to fresh advances, as recommended by the Economic Development Committee.

Specific Loan Bill.

This closely follows the wording of the Specific Loan Ordinance, 1933. The only point for consideration is the inclusion of

Item

Item 3 in the Schedule. As the Treasury made no stipulations as regards the £13,000 the description in the Schedule is, I think, in order.

*Subject to legal views on the Draft  
Bill I write to Treasury as proposed  
above.*

*Ch. Brown*  
4.4.38.

The Governor's statement that the real security of the money lent by the Land Bank in the Stay Order lends a new point to Mr. Hordinger's observations on paragraph of the Committee's report (No. 1) where he suggests that the renewal of a Stay Order would depend on the agreement of the creditors. In the case may be that agreement is necessary for the issue of a Stay Order in the first instance; but if it is not, then this security would become precarious at the end of each twelve months, and even if the total period for which the advance may be used is allowed to be two years.

Whether this is in fact the intention is not clear from the Bill since the only reference is to the renewal of a Stay Order in Clause 19(b) which merely states that the Stay Order "shall be annually renewable by the Board". It should, I think, be made clear whether the renewal is to be at the sole discretion of the Board or whether it is to be contingent on the agreement of the creditors. In sending a copy of the Despatch to the Treasury it would perhaps be as well to say that it is proposed to draw the attention of the Government of Kenya to this point.

In addition to the points of detail to

which

which attention has been drawn by Mr. Grossmith/further small point arises on Clause 9(2) which only requires the farmer to give notice to all persons to whom his land is mortgaged or charged. In view of the fact that the issue of a Stay Order is contingent on the agreement of all the secured creditors, and the definition of "secured creditor" in Clause 2, it is for consideration whether notice should not also be given to the holder of the mortgage.

The Governor has asked for telegraphic approval and since the proposal involves a condition laid down in an official letter to the Treasury it would seem desirable to send a copy of the despatch to the Treasury instead of first writing semi-officially, though it might perhaps be desirable to write at first semi-officially to Mr. Bridges.

*J. G. B. 6/7*

This is all very awkward and very complicated. It is clearly necessary to get Treasury approval of the proposal to allow a Stay Order to run for a total period of five years and also to get a similar period for assistance in the direction of changing over from maize to mixed farming. It is necessary

to

to look at paragraph 35 of the report of the Committee where they point out that the effect of a Stay Order will be to vest the farm in the Land Board for the period of that Order and that the security will be on the crops which will be grown and reaped during the time that the Order is in existence and any other security which it will be possible to obtain from the applicant.

Section 23 of the Farmers' Assistance Bill provides that when a Stay Order is cancelled or ceases to have effect the amount of the unpaid out of sums advanced by the Board will be a charge on the property of the farmer. It will be a preferential charge on the produce for the season current at the time that the Order ceased to have effect, but it will not rank before any other mortgage charge on the land.

Accordingly, as the Governor points out, if money is only advanced for a period of two years or rather two crops as the Treasury put it which I think in practice would mean something longer than two years, the Board will probably not be able to get its money back. The position will be that there will be a Stay Order in force and the Board will have no security at all for any outstanding balance.

I think myself that the intention of the Ordinance and of the Government is that the Order shall be renewable by the Board without reference again to the creditors. In other words, when the creditors agree to the granting of the application they must understand that they are possibly committing themselves for five years. I agree with

Mr.

Mr. Paskin that the point had some importance and Mr. Nordlinger pointed out that in New Zealand the decision as to granting the initial Order lay with the Board, and the Board in such cases would make the Order for five years, and not from year to year. He recommended that the Kenya Conciliation Board should have the same power as in New Zealand.

The other point as regards changing over to mixed farming was not definitely taken by the Treasury, but if they could be induced to agree to five years in one case they clearly will do so in the other.

It is hardly possible to examine the legislation here in detail and as regards the Loan Bill and the Land Bank Amendment Bill I do not think much comment is required.

Yours faithfully,  
G. H. Paskin

9.4.36

9.4.36

*I am very busy at the time of day  
but on leave I can still be useful.*

*G. H. Paskin*  
9/4

- I agree to the draft to the Treasury. The Govt. is  
- I think right on both the points he urges.  
2. Can we save time by consulting the C Ags: now  
as to the " money " Bill?  
3. It is clearly most advisable, once sanction  
of all concerned is obtained to the " stay order " to  
avoid having an annual dog-fight as to the

renewal of that order. This point should certainly  
be made clear; and can suitably be taken when replying  
to this despatch.

4. I have not gone through the Bills in detail.

The 18-4-36.

*suppl  
15/4/36  
7/5*

*Mr. P. Keary (1070.3)* 18 APR 1936

*for Keary Sec. 103 Corp. 22 Apr 36*  
*request for discussion by given in telegram*  
*on points raised in No. 3*  
DESTROYED UNDER STATUTE  
*I have written to Mr. Board*  
*and C. A. ... the draft Bill & ask*  
*if they have any claims asking for ...*

*W. G. Bridges* 25-4-36  
DESTROYED UNDER STATUTE  
*W. G. Bridges (1070.3)* 25-4-36

DESTROYED UNDER STATUTE





Proposals were discussed in  
consultation with the Treasury.

It was I think Sir Campbell's  
suggestion that the a number  
of the Commercial banks should  
be included in the Conciliation Board  
(in the minutes of the 15<sup>th</sup> January  
Paragraph B on 80.26.36)

The effect of the modification requested  
by the elected members would be to  
allow the members to select a person  
holding "local knowledge" which can be  
of use to the Board in the  
of all applicants for  
that the Board should  
approved modification

The point raised is presumably  
who is a representative of the  
Program

I can't see why if there is any soundness in  
the idea at all, they should object to the requirement  
that one member of the Board must be chosen from the  
Banks. To do so argues a very proper mistrust  
of the whole thing.

Govt. does not agree, and I don't see why  
we should waver, as Mr. Crossmill says it was  
our policy & put in quite deliberately.

Govt. will of course be able to say "It is the  
S. of's doing" but as the telegram was sent at  
Mr. Noddlinger's request it still was not possible  
to avoid sending it through the hands of the C.O.

That of course puts the S. of in a most unenviable  
position.

Draft letter - Crossmill

1.10.36  
U.S.

X  
The one point  
is that  
of 11/2

(I should like to follow up by a deep depending on Noddlinger's  
action in regarding his "what should be a local matter")

on the point of substance, I agree that we should  
reject this suggestion. The manner of doing so  
is for the Dept.  
The 30.5.36

Mr. J. Noddlinger

The clause 3 (1) (a) is the  
A in no. 3. In the office we look  
at the office for the  
always done a banker) the practical  
effect of the alteration demanded  
is negligible. In the  
100.14 is negligible. In the  
personnel not banking experience  
should always be available in  
amongst the bankmen from  
applicant - is in practice [ of  
course no one better know all  
the sections, but as it is a matter  
in which we may expect confidence  
between the banks ]

The people who desire the  
change are foolish - they are  
leading for a claim for judicial  
representation! As proposed in the  
West 2/6/36

Mr. John Noddlinger  
2/6

16. Col. Sec. 3pn. (under cover of)----- 30th. May, 1936.  
Transmits Report of the Select Committee of the  
Legis. Council on the Bill of the Land and  
Agricult. Bank Ordinance.

Spares to Liby.  
Noted on 3524/6  
3527/36

17. Col. Sec. 3pn. (under cover of)----- 22 June, 1936.  
Transmits Report of the Select Committee of the  
Legis. Council on the Bill of the Farmers Assis-  
tance Ordinance.

-do-

18. Governor No. 308----- 16 June, 1936.  
Transmits Ordinance No. 9 of 1936: "The Specific  
Loan Ordinance" with Annual Report.

-do-

19. Governor No. 318----- 17 June, 1936.  
Transmits Ordinance 14 of 1936: "Land and Agric.  
Bank (Amendment) Ordinance" with Annual Report.

20. Governor Com. 100----- 17 June, 1936.  
No. 19; refer to conf. corres.

No. 16. put by.

No. 16. put by pending the receipt of  
the Ordinance.

No. 16. The Specific Loan Ordinance follows  
the draft prepared by the Crown Agents (see  
enclosure to No. 105 in every particular. I  
notice that against item 7 of the Schedule to

the Ordinance, the number of the Farmers  
Assistance Ordinance 1936 is not given. We  
have not yet received that Ordinance, but  
it is safe to assume that it has been, or will  
be, passed. A copy of the <sup>loan</sup> Ordinance should  
go to the Crown Agents and the Treasury when  
we know what the Governor has decided in regard  
to raising of the first instalment of the new  
loan. We await the Governor's reply to a  
despatch sent to him by air mail on the 20th of  
July on this point (on 38128/1A/36).

? Sanction the Ordinance

*It is clear from the text  
of Ordinance from and  
this year that the  
Farmers Assistance Order  
had not been passed  
at the time the loan  
Order was passed.  
But - ? this does not  
affect the operation  
of the loan Order.*

No. 19. The Land Bank (Amendment) Ordinance was  
necessary to make effective certain proposals of  
the Economic Development Committee, namely; the  
recommendations in paragraphs 475 and 487 of the  
Committee's Report. The opportunity has been taken  
to introduce certain other amendments in the Land  
Bank legislation. The present Ordinance has the full  
support of the Land Bank Board. The Bill was  
submitted to the Secretary of State in No. 3, and  
publication was authorized, but it was not examined  
here from a legal point of view.

The second and third readings of the Bill  
invoked no discussion in the Legislative Council.  
The Ordinance is dealt with very fully in the Attorney  
General's report and explanatory memorandum, and it  
does not call for any considerable comment.

Clauses 3, 7 and 8. These are in  
the draft Bill as submitted to the Secretary of State.  
The explanatory remarks in the Attorney General's  
memorandum indicate that the addition of these  
provisions are most desirable, both in the interest  
of Government and the Land Bank.

Subject to legal observations, a sanction.

*C. H. Smith*

29.7.1936

No. 19. 1936

(12) de

3. 8.

*J. J. G. 4/8  
at one*

21. To Kenya 600 (18 Amendment) } 6/3  
22. Kenya 601 (19 - - -) } = 7 AUG 1935

23. Governor No. 347. ----- 8:7.36.  
Transmits Ordinance No. 18 of 1936 "The Farmers  
Assistance Ordinance" together with Legal report.  
Spares to Liby.

In reading the debates on the Farmers Assistance Ordinance one cannot help noticing the worthy way in which the Bill in piloted very complicated measure through the Legislative Council. It is true that opposition was not to be expected except from the Industrial Chamber of points were raised, however, in the second reading. In particular the composition of the Conciliation Board and Local Committees, the inclusion of applicants to Local Committees being attended by solicitors, the absence of any compulsory members, the composition directed against creditors, the question of whether a minority of one secured creditor could regulate an application. These points, and several others, were dealt with in the Committee stage of the Bill. It is worth pointing out that in the debate on the report of the Select Committee, the Attorney General paid tribute to the particular assistance given by Captain Schwartz in working out the details of the Ordinance.

A copy of the Bill presented to the Legislative Council, showing the amendments made

made during its passage through the Council, accompanied the Governor's despatch. I think it is only necessary to draw attention to the following:-

Clause 2. See the interpretation of "grantees". This is introduced because provision has been made in the Ordinance to protect the holders of chattel mortgages.

Clause 3(1). Establishment and constitution of Farmers Conciliation Board. The Bill provided for six members:-

- (a) A Judge of Supreme Court as Chairman
- (b) The Treasurer or his deputy
- (c) A member of the Land Bank Board
- (d) A representative of the commercial banks
- (e) Two Representatives of the public

In the Ordinance the Board has been increased to seven members by the addition of another representative of the public. There are to be two persons with general experience of agriculture and one person with general experience of commerce.

Clause 4(2). Quorum and procedure of the Board. The Bill provided that the Chairman and two other members should form a quorum. The Ordinance increases the quorum to the Chairman and three other members.

Clause 9. Applications by farmers.

Sub-clauses (d) and (e) in the Bill have been deleted, the object being to avoid the possibility of clashing between two Ordinances in as much as (d) and (e) dealt with the assignment of estates to creditors and with Receiving Orders. The Select Committee considered that it would be irregular to vest an applicant's property in the Conciliation Board, if, by another Ordinance, it had been vested in a

Receiver

Receiver in Bankruptcy.

Clause 12. Interim Stay Order.

The wording of Clause 12 in the Bill has been recast so as to avoid any anomalies which might have arisen. There is no difference whatever in the effect.

Clause 14. Valuation of applicant's assets.

A proviso has been inserted in the Ordinance rendering it necessary for an applicant's wasting securities to be valued, i.e. the property on which a chattel mortgage is held, such as farming implements and machinery bought by a farmer on borrowed money the idea being to protect the holders of chattel mortgages. In this connection Section 23 of the Ordinance.

Clause 15. Meeting of Board.

The Bill is amended to provide that the Board must give 14 days' notice before they hold a meeting, in order that everyone should have an opportunity of appearing and being heard. Creditors

are not allowed to send their views in writing. An applicant and/or his authorised agent should attend the meeting. The words underlined are new.

Clause 17. Granting of application.

This is the most important amendment. The Bill provided that the Board should grant an application if the terms proposed are agreed to by

(a) the Chairman and members of the Board who are present;

(b) all the secured creditors of the applicant;

(c)

(c) a majority of such unsecured creditors of the applicant as have a claim for not less than £5.

The Ordinance amends (b) to 75 per cent. in value of the secured creditors, based on the assessed value of their security as determined by the Board. But if the application is opposed by a majority in value and in numbers of the unsecured creditors present and voting, as have a claim for not less than £5, the Board cannot grant the application. The reasons for these arrangements are, I think, fairly clear.

Clause 19. Procedure where application is granted. The Ordinance is amended in the Ordinance and put in different order only.

Clause 25. Rights of holders of chattel mortgages. This clause deals with the question of wasting securities. It is fully described on page 220 of the Debates of the 17th June.

Clause 26. Order of priority of payments. This clause is new. It sets out in what order a creditor's claim will be paid off if and when he makes good.

An enormous amount of care has been taken in the preparation of the Ordinance, and I think it only remains to be seen whether the Conciliation Board arrangements will work. Subject to legal observations, ? sanction.

CAR  
24.8.1936

No. 6/30  
W.D.Joe  
10.9

The Bill has been passed and is now in force so really there is nothing very much to do or to say, except, as Mr. Grossmith says, see whether it will work. I fully agree with the remark about Mr. Harragin and his getting it through Council, while it is refreshing to note that the Unofficials were for once disposed to be helpful. As, however, the measure was solely designed in their interests it is perhaps not so surprising as if it had been something else. Colonel Kirkwood, however, was very prudent in his support and said that it did not go nearly far enough. It is true that it goes as far as Kenya can afford and I don't think anybody really blames the gallant Colonel.

10.9.1936

21 SEP 1936

- 25. Extracts from the Official Gazette of the 28.7.36. (Appointment of Farmers Conciliation Board)
- 26. Extracts from the Official Gazette of the 11.8.36.

*[Handwritten signatures and initials]*

As regards the postscript to Mr. Flood's minute of 29/5, it is, I suggest, now too late to send the despatch.

For the record for the appointment to the appointment of a member to the Conciliation Board see speech by Mr. Hoey & Capt. Selkirk (pp. 51 & 52 of Leg. Co. Debates, vol. 133, vol. 1). The acc. Gen. (p. 97) made a statement that the Unofficial view would be accepted, but he soon refused in the statement that the app. for members had been stipulated by Mr. Hoey. This was in the debate on 21/11. It is before the fact. It was likely that Mr. Hoey would be wrong why Mr. Northcote would be prepared to be prepared later.

*[Handwritten notes and signatures]*  
 You certainly...  
 your minute of 29.7.36 (1936)  
 it copy of order 9 of 1936 add. min  
 go to C.A. of  
 the G. had a copy in No. 23  
 10/20/1/36  
 I have  
 have  
 C.A. had a copy order 9 of 1936. They were sent by hand to Mr. Ransom.  
 Put by  
 C.K. Grossmith  
 7.9.36 done

*[Handwritten initials]*

AIR MAIL

*Registered for record  
P. G.  
Ch. 2000/18  
7/11/36  
done*

13  
27

E

September 22, 1936

THE OFFICIAL GAZETTE

GOVERNMENT ORDER NO. 153

THE FARMERS ASSISTANCE ORDINANCE, 1936

(Section 11 (2)).

IN THE MATTER OF THE APPLICATION OF EMILIO DELAP HILTON, P. O. KAHAWA.

NOTICE is hereby given that I, Chairman of the Nairobi Local Committee, have appointed P. Goldhamer of Kitima, to be temporary supervisor of the estate of the above-named in pursuance of section 11 (1) (b) of the above-mentioned Ordinance.

V. M. McKEAG,

Chairman,  
Nairobi Local Committee.

GOVERNMENT ORDER NO. 153

THE FARMERS ASSISTANCE ORDINANCE, 1936

(Section 11 (1) (c)).

INTERIM STAY ORDER

Applicant's name, address and occupation: Emilio Delap Hilton, P. O. Kahawa, Kitima, Farmer.

PURSUANT to the provisions of the Farmers Assistance Ordinance, 1936, I hereby issue this Interim Stay Order in respect of the above-named applicant's estate as from the 11th day of September, 1936.

Dated at Nairobi this 11th day of September, 1936.

V. M. McKEAG,

Chairman,  
Nairobi Local Committee.



## GOVERNMENT NOTICE No. 486

## THE FARMERS ASSISTANCE ORDINANCE, 1936.

## NOTICE.

IN EXERCISE of the powers conferred upon him by section 8 of the Farmers Assistance Ordinance, 1936, His Excellency the Governor has been pleased to divide the Colony into districts as set out in the first column of the Schedule hereto, and to appoint the persons named in the second column of the said Schedule to be the Local Committees for the respective districts.

By Command of the Governor's Deputy.

Nairobi,

This 4th day of August, 1936.

H. L. G. GUTHRIE,  
Colonial Secretary.

SCHEDULE

## District.

## Local Committee.

Meru (including

The District Commissioner,  
Nairobi.

Mr. J. H. Connam,  
Mr. G. A. Tyson.

Taita

The District Commissioner,

Captain J. H. Hcarle,  
Mr. W. J. Webb, J.D.

Machakos

The District Commissioner,  
Machakos.

Major L. A. Lister,  
Mr. J. P. Manley.

North Nyeri

The District Commissioner,  
North Nyeri.

Captain W. Milton,  
Mr. T. C. C. Lewin.

## GOVERNMENT NOTICE No. 487

## THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

(Chapter 1 of the Revised Edition)

AND

## THE NORTHERN FRONTIER PROVINCE POLL TAX ORDINANCE

(No. 53 of 1930).

## DELEGATION OF POWERS.

IN EXERCISE of the powers conferred upon me by section 13 of the Interpretation and General Clauses Ordinance (Cap. 1 of the Revised Edition), and all other powers thereto enabling me, I hereby depute the person for the time being holding the office of Provincial Commissioner, Rift Valley Province, to exercise as from the 1st day of August, 1936, the powers conferred upon the Governor by sections 9, 11 and 12 of the Northern Frontier Province Poll Tax Ordinance, 1930, in respect of the Samburu tribe.

Government Notice No. 230 of the 1st day of April, 1931, is hereby varied accordingly.

Nairobi,

This 5th day of August, 1936.

A. DE V. WADE,

Governor's Deputy.

## GOVERNMENT NOTICE No. 488

## CONFIRMATION OF ORDINANCE.

THE Secretary of State for the Colonies has been pleased to direct that His Majesty's power of disallowance will not be exercised with respect to the undermentioned Ordinance:

No. V of 1936, An Ordinance to amend the Special Districts (Administration) Ordinance, 1934.

By Command of His Excellency the Governor.

Nairobi,

Dated this 7th day of August, 1936.

A. DE V. WADE,

Colonial Secretary.



Rumuruti	The District Commissioner, Rumuruti. Mr. A. Armstrong. Mr. P. H. G. Augetaud.
Nakuru (including Naivasha)	The District Commissioner, Nakuru. Captain C. T. Soames. Mr. W. Evans.
Uasin Gishu	The District Commissioner, Uasin Gishu. Commander R. K. Philpott. Major H. P. Hill.
Tana-Nzoia	The District Officer, Tana Nzoia. Mr. G. W. Reynolds. Mr. Q. H. Brown.
Nandi (including Naivasha)	The District Commissioner, Nandi. Mr. A. W. Thompson. Mr. J. H. ...
Kisumu-Londiani	The District Commissioner, Kisumu-Londiani. Mr. T. Keen, J.P. Mr. J. H. ...
Kericho	The District Commissioner, Kericho. Mr. J. H. George. Mr. R. O. Royston.

GENERAL NOTICE No. 916

FARMERS CONCILIATION BOARD

It is hereby notified for general information that the Land and Agricultural Bank of Kenya have been appointed to act as Secretaries to the Farmers Conciliation Board.

All communications should accordingly be addressed to The Secretary, Land and Agricultural Bank of Kenya, P.O. Box 1002, Nairobi.

A. H. WEBB,

Chairman.

GOVERNMENT NOTICE No. 458

THE FARMERS ASSISTANCE ORDINANCE,  
1936

APPOINTMENT OF FARMERS CONCILIATION BOARD.

IN EXERCISE of the powers conferred upon him by the Farmers Assistance Ordinance, 1936, His Excellency the Governor has been pleased to appoint the following persons to be members of the Farmers Conciliation Board:—

- (a) Mr. Justice Webb, J.C., to be Chairman of the Board.
- (b) The Treasurer, or his deputy.
- (c) W. C. Hunter, Esq., a member of the Board of the Land and Agricultural Bank of Kenya.
- (d) One of a panel of the following three persons, representing the Commercial Banks operating in the Colony:  
J. Campbell, Esq.  
A. W. Patterson, Esq.  
J. C. Shaw, Esq.
- (e) J. L. Norton, Esq.
- (f) Murray-Ray, Esq.
- (g) H. B. Hamilton, Esq.

By Command of His Excellency the Governor.

Nairobi.

This 21st day of July, 1936.

A. DE V. VERDE,

Colonial Secretary.

GOVERNMENT NOTICE No. 459

THE FARMERS ASSISTANCE ORDINANCE,  
1936

Notice.

IN EXERCISE of the powers conferred upon him by section 1 of the Farmers Assistance Ordinance, 1936, His Excellency the Governor has been pleased to appoint the 21st July, 1936, as the date on which the said Ordinance shall come into operation.

By Command of His Excellency the Governor.

Nairobi,

20th July, 1936.

H. G. PILLING,  
for Colonial Secretary.

GOVERNMENT NOTICE No. 453

THE FARMERS ASSISTANCE ORDINANCE,  
1936

APPOINTMENT OF FARMERS CONCILIATION BOARD.

IN EXERCISE of the powers conferred upon him by the Farmers Assistance Ordinance, 1936, His Excellency the Governor has been pleased to appoint the following persons to be members of the Farmers Conciliation Board:—

- (a) Mr. Justice Webb, K.C., to be Chairman of the Board.
- (b) The Treasurer or his deputy.
- (c) W. C. Huuska, Esq., a member of the Board of the Land and Agricultural Bank of Kenya.
- (d) One of a panel of the following persons, representing the Commercial Banks operating in the Colony:—

- J. Campbell, Esq.
- A. W. Patterson, Esq.
- J. C. Shaw, Esq.

- (e) R. E. Norton, Esq.
- (f) Mervyn Hay, Esq.
- (g) H. B. Henderson, Esq.

By Command of His Excellency the Governor.

Nairobi,

This 21st day of July, 1936.

A. M. WADE,  
Colonial Secretary.

GOVERNMENT NOTICE No. 459

THE FARMERS ASSISTANCE ORDINANCE,  
1936

NOTICE

IN EXERCISE of the powers conferred upon him by section 1 of the Farmers Assistance Ordinance, 1936, His Excellency the Governor has been pleased to appoint the 21st July, 1936, as the date on which the said Ordinance shall come into operation.

By Command of His Excellency the Governor.

Nairobi,

20th July, 1936.

H. G. PILLING,  
for Colonial Secretary.

C. O.

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Mr. Flood. 19. *js*  
 Mr.  
 Mr.  
 Sir C. Parkinson.  
 Sir G. Tomlinson.  
 Sir C. Bodemley.  
 Sir J. Spacknurg.  
 Permd. U.S. of S.  
 Parly. U.S. of S.  
 Secretary of State.

DOWNING STREET.

*Air Mail*

21 September, 1936.

Sir,

I have etc. to acknowledge

the receipt of your despatch No. 347  
 of the 8th of July, and to inform you  
 that His Majesty will not be advised to  
 exercise his power of disallowance in  
 respect of Ordinance No. 18 of 1936 of the  
 Legislature of Kenya, entitled, "An  
 Ordinance to provide for the constitution  
 of a Board to be known as the  
 Conciliation Board, to invest the Board  
 with certain powers for the assistance  
 and relief of farmers and for purposes  
 incidental thereto".

2. I desire to express my

appreciation of the careful manner in  
 which the Ordinance has been prepared  
 and of the way in which the Attorney  
 General took charge of this complicated

measure

DRAFT.

C.D.  
 1 21 SEP  
 D 24

KENYA  
 GOVERNOR

FURTHER ACTION.

78216/2

22/19

KENYA.

No. 347



GOVERNMENT HOUSE,

NAIROBI,

KENYA.

8 JULY, 1936.

RECEIVED  
D. AUGLASS  
O. O. REC'D

Sir,

With reference to previous correspondence regarding proposals for the relief of agricultural indebtedness in Kenya, I have the honour to transmit two authenticated copies of Ordinance No. XVIII of 1936, entitled "An Ordinance to Provide for the Constitution of a Board to be known as the Kenya Conciliation Board, to Invest the Board with certain powers for the Assistance and relief of farmers and for Purposes incidental thereto", which passed the Third Reading in the Legislative Council on 24 June and was presented to His Majesty by a name on the 29th July, together with the legal key prepared by the Attorney General.

Two printed copies of the Ordinance are being forwarded under separate cover.

2. A copy of the Bill as presented to the Legislative Council and showing the amendments made during its passage through the Council is also enclosed.

3. This Ordinance is being brought into operation forthwith.

I have the honour to be

Sir,

Your most obedient, humble servant,

*[Signature]*  
BRIGADIER-GENERAL  
GOVERNOR

THE RIGHT HONOURABLE,  
W. CRANBY-GORE, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.



Colony and Protectorate of Kenya.

IN THE FIRST YEAR OF THE REIGN OF

HIS MAJESTY KING EDWARD VIII

JOSEPH ALOYSIUS BYRNE, F.C.M.G., K.B.E., C.D.,

Governor

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

J. BYRNE

Governor

AN ORDINANCE TO PROVIDE FOR THE CONSTI-  
TUTION OF A BOARD TO BE KNOWN AS THE  
FARMERS CONCILIATION BOARD, TO INVEST  
THE BOARD WITH CERTAIN POWERS FOR  
THE ASSISTANCE AND RELIEF OF FARMERS  
AND FOR PURPOSES INCIDENTAL THERETO.

ORDINANCE No. XVIII of 1930

An Ordinance to Provide for the Constitution of a Board to be known as the Farmers Conciliation Board, to Invest the Board with Certain Powers for the Assistance and Relief of Farmers and for Purposes Incidental thereto.

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

This Ordinance may be cited as the Farmers Assistance Ordinance, 1930, and shall come into operation on such date as the Governor may appoint by notice in the Gazette.

2. In this Ordinance, unless the context otherwise requires:—

"Board" means the Board appointed under the provisions of section 6 of this Ordinance;

"applicant" means a farmer who makes an application for assistance in accordance with the provisions of this Ordinance;

"farmer" includes

(a) any person who is a resident of, and who is personally engaged in farming, planting or pastoral operations in the Colony, whether he is farming on his own account or under a share-farming agreement;

(b) the perpetual representative of any such person; and

(c) any company which is engaged in farming, planting or pastoral operations in the Colony;

"grantee" means the party to an instrument (registered within the time prescribed by the Chattels Transfer Ordinance, 1930, and given by the applicant prior to the issue of an Interim Stay Order) to whom chattels therein referred to, or any interest therein, are thereby granted or assigned, or agreed

Short title and commencement

Interpretation

No. 24 of 1930.



so to be, and includes his executors administrators and assigns and in the case of a company or corporation includes his successors and assigns of such company or corporation;

"Registrar" means the Registrar of the Supreme Court and includes a district and deputy registrar of such Court;

"secured creditor" means a person holding a mortgage, charge or lien on the property of the applicant, or any part thereof, as a security for a debt due to him from the applicant and includes a grantee;

"unsecured creditor" includes any creditor who is not a secured creditor.

Establishment  
of  
the  
Farmers  
Assistance  
Board

1. (1) There shall be constituted to be known as "the Farmers Assistance Board" (hereinafter referred to as "the Board") which shall consist of seven members, to be appointed by the Governor, of whom

(a) one shall be a Judge of the Supreme Court; who shall be the chairman of the Board;

(b) one shall be a member of the Executive Council; or his representative;

(c) one shall be a member of the board of the Agricultural Bank of the Colony;

(d) one shall be a representative of the commercial banks operating in the Colony;

(e) two shall be persons with general experience in agriculture; and

(f) one shall be a person with general experience in commerce.

(2) The chairman and members of the Board shall hold office during the Governor's pleasure.

(3) Before entering on the execution of the duties of their office, the members of the Board, other than the chairman, shall make oath or affirmation before the chairman that they will faithfully and impartially perform the duties of their office.

(4) The Board shall be a body corporate with perpetual succession and a common seal and, subject to the provisions of this Ordinance, may acquire, hold and dispose of land and other property movable or immovable for the purposes of this Ordinance, and shall be capable in law of suing and being sued under the name of "the Farmers Assistance Board".

Quorum and  
procedure of  
the Board.

4. (1) The chairman and three other members of the Board shall form a quorum.

(2) Questions before the Board shall be decided by a majority of the votes of those present and voting, and, in the case of equality of votes, the chairman shall have a second or casting vote.

(3) The chairman and members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings and proceedings of the Board shall be regulated by the Board from time to time.

(5) The Board may appoint a secretary and other necessary officers, agents and servants, and may pay him and them such remuneration as the Governor may approve.

(6) The Governor in any case in which he is satisfied that a member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, may appoint any person to be a deputy to act for such member during his incapacity, and any such deputy who so acting shall have all the powers and authorities of the member for whom he is acting.

5. With the consent of the Governor, the Board in any Delegation of powers may delegate any of its powers, duties or functions to any person or body of persons in the Colony upon such terms and conditions and subject to such restrictions as the Board thinks proper, and may in its discretion terminate any such delegation.

6. (1) The Land and Agricultural Bank of Kenya is hereby appointed to act as agent for the Board in the administration of any advances to farmers under this Ordinance.

(2) No expenses in connection with such agency shall fall to be paid out of the funds of the said agent and the agent shall be indemnified by Government against any losses, costs or expenses which may be sustained or incurred by the agent in the performance of such agency.

7. The funds available to the Board for carrying out the purposes of this Ordinance shall consist of such moneys as the agent may be authorized from time to time by the Governor in Council to place at the disposal of the Board.

Local  
Committee.

8. (1) For the purposes of this Ordinance the Governor may divide the Colony into districts and, in each such district may appoint a Local Committee, consisting of a chairman (who shall be a District Officer) and two other members approved by the Board.

(2) The chairman and members shall hold office during the Governor's pleasure.

(3) The chairman and members of a Local Committee shall, within the district for which the Committee has been appointed, be responsible for the due performance

(a) of the duties, functions and responsibilities assigned to them by this Ordinance; and

(b) of any other duties, functions and responsibilities that may from time to time be assigned to them by the Board.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings, procedure and quorum of a Local Committee shall be such as the Board may from time to time determine.

(5) The chairman and members of a Local Committee shall not be personally liable for any act done in good faith in the course of the operations of the Committee or in the course of giving effect to the instructions of the Board.

Applications  
by farmers.

D. (1) Any farmer in the Colony may make application through a Local Committee, to the Board for assistance in accordance with the provisions of this Ordinance upon all or any of the following grounds:

(a) that his liabilities exceed a reasonable selection of his assets;

(b) that such action has been taken or has been threatened against him by his creditor or creditors as to render it impracticable for the farmer to continue his farming operations with a reasonable prospect of success; or

(c) that, by reason of the extent or nature of his obligations or because of lack of stock or absence of means of working his land in a proper manner or for any other good cause, he is unable to continue farming operations with a reasonable prospect of success.

(2) Any farmer making application under this section shall forthwith give written notice of the application to all of his secured creditors.

10. (1) Every application for assistance under section 9 of this Ordinance shall be made in the form prescribed and shall be filed by the applicant in the office of the appropriate Local Committee, together with an affidavit by the applicant in verification of the particulars contained in the application.

(2) The applicant shall at the time he makes such application forward a copy thereof to the agent and such copy shall be filed in the office of the agent.

(3) The particulars in every application shall include

(a) a complete list of all the creditors and debtors of the applicant;

(b) a statement of the assets and liabilities of the applicant; and

(c) a list of the securities held by the secured creditors on the property of the applicant.

11. (1) Immediately upon the filing of the application, the Board may, in accordance with section 10 of this Ordinance, cause the chairman of the Local Committee concerned to issue an Interim Stay Order in respect of the applicant's estate.

(2) The chairman shall issue an Interim Stay Order in the prescribed form

(a) by writing under his hand and seal appointing a Temporary Supervisor to whom the estate shall be subject to the instructions of the agent;

Provided that a chairman shall have a discretion in any case to refuse to issue and substitute reasons for issuing an Interim Stay Order or to appoint a Temporary Supervisor, but in such event the chairman shall forthwith make a written report to the Board giving the reasons for his refusal, and the decision of the Board upon the matter shall be final.

(3) The chairman shall forthwith cause notices relating to the making of the Interim Stay Order and to the appointment of the Temporary Supervisor to be published in the Gazette and to be sent to the Registrar. The chairman shall also forthwith forward a copy of every such Interim Stay Order to the Principal Registrar of Titles, who shall file the same in a register to be kept for the purpose, and such register shall be open to the public for inspection free of cost.

12. (1) An Interim Stay Order shall remain in force until a meeting of the Board confirms or removes the Interim Stay Order.

Interim Stay  
Order.

(2) While an Interim Stay Order is in force—  
 (a) it shall have the effect of vesting all the property of the applicant in the agent; and

(b) all suits, actions, executions or other proceedings—whether judicial or extra judicial against the farmer shall be stayed.

(3) Notwithstanding anything contained in paragraph (b) of sub-section (2) of this section, the grant of an Interim Stay Order shall not prevent and shall be deemed never to have prevented any person—

(a) from instituting or participating with any suit, action or other proceeding for the purpose of determining the farmer's liability—

(i) for any tort committed by him;

(ii) for any injury suffered by a workman in the employ of the farmer; or

(iii) under the Divorce Ordinance or for the support of any child of the farmer; or

(b) from the institution of any litigation—

(i) for a demand arising out of default or for or by breach of covenant under any mortgage or other security for money or under any agreement for the sale or purchase or lease of any land or of immovable property or under a hire-purchase agreement;

(ii) from prosecuting any suit or other proceeding against the farmer for the administration of the estate of any will, deed or other instrument, or for any breach of trust, or for the removal of the farmer from the position of executor or administrator.

Temporary  
 Supervisor

13. A Temporary Supervisor appointed under section 11 of this Ordinance may make such arrangements with regard to the property (including crops and produce) of the applicant as the agent shall direct and, otherwise directed by the agent, shall have all the powers and be responsible for exercising all the functions of the agent as set out in sections 24 and 27 of this Ordinance until his appointment is terminated.

Valuation of  
 applicant's  
 assets

No. 3 of 1931.

14. Prior to the calling of a meeting convened in accordance with section 15 of this Ordinance, the chairman of a Local Committee may, in his discretion, direct an approved valuer appointed under the Land and Agricultural Bank Ordinance, 1930, to visit the farm of the applicant and to make a report to the chairman upon the assets of the applicant.

Provided that in the case of any wasting security of the type referred to in section 25 of this Ordinance which is subject to an instrument registered under the Chattels Transfer Ordinance, 1930, the chairman shall direct such a valuer to value such security. No. 24 of 1930.

15. (1) When he has satisfied himself that the provisions of section 11 of this Ordinance have been complied with, the chairman of the Local Committee shall call a meeting of the Local Committee to consider the application and to inquire into the financial position of the applicant with a view to arriving at an arrangement of a voluntary settlement of liabilities between the applicant and his creditors, and the making of a report to the Board. Meeting of the Local Committee.

(2) The applicant and/or his authorized agent shall be present at the meeting and the creditors of the applicant may attend in person or by duly authorized agents or they may furnish their views in writing to the chairman. No other person shall be present at the meeting.

(3) It shall be the duty of the chairman to encourage a free discussion of the applicant's financial position and he shall endeavor to obtain the view of the applicant and his creditors upon any proposed adjustment of the applicant's position which appears desirable and equitable to the Local Committee.

(4) As soon as possible after the conclusion of the meeting, the chairman shall refer the matter to the Board in the prescribed form.

16. (1) When the application has been referred to the Board, the Board, having given fourteen days' notice to the applicant and his creditors, shall meet to consider the application and the report and recommendations thereon of the Local Committee. Meeting of the Board.

(2) The applicant and/or his authorized agent shall attend the meeting and the creditors may attend such meeting either in person or by sending duly authorized agents.

17. (1) In any case where, at the meeting of the Board, the arrangement proposed for the adjustment of the applicant's affairs is agreed to by—

(a) the Board; and

Granting of  
 application

(b) seventy-five per centum in value of the secured creditors of the applicant based on the assessed value of their security as determined by the Board,

the Board shall confirm the arrangement and grant the application unless a majority in value and in numbers of the unsecured creditors present and voting has a claim for not less than five pounds upon the arrangement.

(2) Any creditor who attends the meeting convened in accordance with section 16 of this Ordinance shall, in the event of the application being granted, be deemed to have agreed to the arrangement.

18. In any case in which an arrangement in the terms of that preceding section has not been confirmed, the application shall be refused and the Board shall forthwith remove the Interim Stay Order and terminate the appointment (if any) of the Temporary Supervisor and shall publish a notice in the Gazette to that effect and shall notify the Registrar and the Principal Registrar of the result.

19. In every case where an application is granted the Board forthwith shall

(a) issue an Interim Stay Order which shall continue in force for a period of twelve months from the date of its issue by the Board, and which shall be annually renewable by the Board, but so that the total term of the Order (excluding the period of the Interim Stay Order) shall not exceed five years in all;

Provided that, subject always to the maximum period of five years, the term for which an order is originally issued by the Board may exceed twelve months in cases where the applicant and creditors have agreed upon a longer period at the meeting of the Board;

(b) terminate the appointment of the Temporary Supervisor (if any) and authorize the agent to supervise the property of the applicant;

(c) issue a written instruction to the agent specifying the amount required, in the opinion of the Board, for ensuring the successful continuance of the applicant's farming operations;

Refusal of

Proceeders where application granted.

and with the concurrence of the creditors—

(d) prepare and file with the Registrar a Deed of Adjustment in the prescribed form, containing the terms and conditions of the agreed arrangement.

20. The Board shall not grant any application made by a farmer for an advance or formulate or submit or bring into force any scheme for the adjustment of the debts of any farmer unless it is satisfied that by so doing the farmer who is to be so assisted is desirous of assistance and will be enabled to continue his farming operations with a reasonable prospect of success.

21. (1) At any time after the granting of an application and while a Stay Order is in force the Board may, after such inquiry as it may deem necessary, authorize an advance for the purpose of providing a reasonable living allowance for the farmer whose application has been granted and for his dependants and for defraying the necessary expenditure of the farmer in connection with the working and maintenance of his farm, the marketing of his produce, and for any other expenditure for which the Board deems it proper that an advance should be made.

Provided that—

(a) no advance under this section shall be made of an amount exceeding seventy per centum of the value of an average year's crop or produce as assessed by the Board;

(b) where an advance is to be applied to the cost of permanent improvements (as defined in the First Schedule to the Crown Lands Ordinance) and/or to enable assets essential to farming operations, the amount of such advance shall not exceed sixty per centum of the value of the security as assessed by the Board.

(2) As soon as may be after any such advance is authorized the Board shall publish in the Gazette the name and address of the farmer and the amount of the authorized advance.

(3) The Board may provide for the repayment of any such advance by such instalments and upon such terms and conditions as the Board thinks fit. Such terms shall include provision for the payment of interest on the amount advanced at a rate to be notified from time to time by the Governor in Council.

Restriction on amount of advance.

## Publication of Stay Order.

22. (1) The Board shall publish in the Gazette a notice of the issue of every Stay Order and a copy of the said Order shall be sent by the Board to the Registrar and to the Principal Registrar of Titles.

(2) The provisions of section 13 of this Ordinance relating to Interim Stay Orders shall equally be applicable to Stay Orders.

## Deed of Adjustment.

23. (1) Every Deed of Adjustment proposed in accordance with section 24 (3) of this Ordinance shall be executed by the chairman of the Board who shall certify that the provisions of section 17 of this Ordinance have been complied with.

(2) Every such deed shall after being filed by the Board with the Registrar and shall when so filed be deemed to be an order of the Court and shall be binding upon all parties to the deed as if it were an order of the Court.

## Agent to receive for all moneys of all property.

24. (1) The Board shall have the right to receive all moneys payable to or for the farmer to whom an order of the Board is made and any movable property transferred to or otherwise becoming vested in the farmer, and to give a valid discharge on behalf of the farmer for any such moneys or property.

(2) The agent shall have the right to receive for and receive any debts due to the farmer.

(3) Notwithstanding anything contained in this section and subject to any arrangement to the contrary contained in any Deed of Adjustment the agent shall pay to a grantee any moneys due to the agent on a sale of any chattel or land by an instrument executed in favour of such grantee unless the Board in accordance with the provisions of sub-section (2) of section 25 of this Ordinance require the chattel so sold.

## Rights of Grantee.

25. (1) Notwithstanding anything contained in section 14 of this Ordinance the grantee of an instrument which purports to transfer to him the property in any movable plant, machinery, tools, vehicle or other wasting security similar thereto may, if he so desires and shall if requested to do so by the Board, take possession of such security at any time after such security has been valued in accordance with the proviso to section 14 of this Ordinance and before the Interim Stay Order is converted into a Stay Order.

(2) If a grantee does not take possession or is not requested to take possession of such security in accordance with the provisions of sub-section (1) of this section, the Board shall assess such security, in which case, subject to any arrangement to the contrary contained in any Deed of Adjustment—

(a) the obligations imposed on the grantor by paragraph

(4) of the Third Schedule to the Chattels Transfer Ordinance, 1930, shall bind the Board in respect of the amount for which such security has been assessed; and

(b) he shall rank as an unsecured creditor in respect of the amount (if any) due to him by the applicant after deduction of the amount for which his security has been assessed together with the interest thereon which becomes due and payable to him while the Stay Order is in force.

(3) Any creditor who comes within the provisions of sub-section (1) of this section shall not be entitled to vote as a secured creditor at the meeting convened by the Board in accordance with the provisions of section 16 of this Ordinance but if prior to the meeting—

(a) he has taken the security he shall be entitled to vote as an unsecured creditor in respect of the amount (if any) due to him after deduction of the proceeds of the sale; or

(b) he has not taken the security, it shall be assessed by the Board and he shall be entitled to vote as an unsecured creditor in respect of the amount due to him after deduction of the amount for which such security is assessed.

(4) A grantee who comes within the provisions of sub-section (2) of this section shall be entitled to vote at the meeting convened by the Board in accordance with the provisions of section 16 of this Ordinance as a secured creditor in respect of the amount for which such security is assessed and as an unsecured creditor in respect of the amount due to him after deduction of the amount for which security is assessed.

26. Subject to the provisions of sub-section (3) of section 24 of this Ordinance, the agent may from time to time distribute such portion of the proceeds of the sale of the farmer's crop or of any other moneys received by the agent on behalf of the farmer, as in its discretion may seem advisable.

in payment of the farmer's debts in the following order of priority—

- (a) in payment of the advance made to such farmer under the provisions of section 21 of this Ordinance together with interest thereon;
- (b) in payment of Crown taxes and local rates which become due and payable while the Stay Order is in force;
- (c) in payment of rents which become due and payable while the Stay Order is in force;

and thereafter in accordance with the Deed of Adjustment, or if no arrangement concerning priority is contained in such Deed, then in the following order—

- (i) in payment to first mortgagees and grantees (other than those who take possession or are registered) who take possession of their security interest under the provisions of sub-section (1) of section 25 of this Ordinance, and to the holders of the principal moneys of interest which become due and payable while the Stay Order is in force; Provided that a grantee whose security is assessed by the Board in accordance with the provisions of sub-section (2) of section 23 of this Ordinance shall not be entitled to interest on the amount of his security has been so assessed;

- (ii) in payment to subsequent mortgagees in order of priority of interest which become due and payable while the Stay Order is in force;

- (iii) in payment of such debts as are given a preference under section 35 of the Bankruptcy Ordinance, 1930;

- (iv) in payment to unsecured creditors, ranking equally amongst themselves, of debts due to them;

- (v) in payment to first mortgagees and grantees, ranking equally amongst themselves, of arrears of interest which become due and payable prior to the issue of the Stay Order;

- (vi) in payment to subsequent mortgagees in order of priority of arrears of interest which become due and payable prior to the issue of the Stay Order;

- (vii) in payment of the principal moneys which become due and payable to first mortgagees and grantees (other

No. 22 of 1930.

than those who by virtue of the provisions of sub-section (2) of section 25 of this Ordinance rank in respect thereof as unsecured creditors) ranking equally amongst themselves; and

- (viii) in payment of the principal moneys which become due and payable to subsequent mortgagees in order of priority.

27. (1) The agent shall in respect of each farmer record such particulars as are necessary to reflect the financial transactions of or on account of the farmer.

Accounts to be kept by agent.

(2) The farmer, and any creditor of the farmer, may with the authority of the Board, inspect the accounts and records of the agent and make copies thereof or any extract therefrom.

28. If at any time the Board considers that it is advisable to cancel or cause the removal of any Stay Order, it may in its discretion, cancel the stay Order, by giving notice of cancellation to the Registrar and the Principal Registrar of the Registrar General, and the said Stay Order shall cease to have effect from the date of the cancellation. Prior to the cancellation of any Stay Order, the Board shall give not less than fourteen days notice in writing to the farmer of the intended cancellation.

Cancellation of Order.

29. When a Stay Order from which the farmer has derived all the rights and remedies of the farmer (except such as may be provided under the provisions of this Ordinance) at the time of the issue of the Stay Order, is cancelled, the law of limitation for computing the time within which any proceedings must be commenced or any other proceedings must be taken, the law of limitation shall be operative shall be excluded.

Continuance of proceedings when Stay Order is cancelled.

30. (1) When a Stay Order is cancelled or ceases to have effect, the amount remaining unpaid in respect of any sum of money advanced by the Board to the farmer or of any sum which the Board has paid or agreed to pay in respect of any guarantee given in pursuance of this Ordinance shall be deemed to be a charge on the property and assets of the farmer. The Board shall be deemed to have a preferential lien for the amount of such charge over the crops and produce of the property of the farmer for a period of

Advance to be a charge after cancellation of Stay Order.

twelve months from the date of the cancellation or ceasing to have effect of the Stay Order, and such lien shall be in addition to and not in substitution for such charge.

(2) Every such charge or lien shall be subject to any prior mortgage charge or lien upon any property of the farmer at the date when the Stay Order ceases to have effect.

(3) As soon as possible after a Stay Order is cancelled or ceases to have effect, the Board shall fill up a notification in a form to be approved by the Board showing the said amount remaining unpaid, and shall sign and forward the same to the Principal Registrar of Titles, who shall file the same in a register to be kept for the purpose, and such register shall be open to the public for inspection free of cost:

Provided that where the said amount remaining unpaid is in respect of land under the provisions of the Registration of Titles Ordinance, the Principal Registrar of Titles shall also endorse a memorandum of the said amount remaining unpaid on the duplicate Deeds, grants or certificate of title.

(4) Upon repayment by the farmer of the said amount remaining unpaid, the Board shall give a receipt for the same, and shall notify the Principal Registrar of Titles, who on the receipt of such notification shall write the word "Cancelled" across the notification filed in the register and across the memorandum (if any) endorsed on the duplicate Deeds, grants or certificate of title, and thereupon the charge created by this section in respect of the said amount remaining unpaid shall be extinguished.

Board may require execution of instruments to give effect to Deed of Adjustment.

31. (1) The Board may, on the application of the farmer or of any of his creditors, direct the farmer or any such creditor to execute any instrument that may be required to give effect to the Deed of Adjustment.

(2) If any person required to execute any such instrument fails or refuses to execute the same, the Supreme Court, on the application of the Board, may authorize the Registrar to execute such instrument in the name and on behalf of the farmer or creditor, as the case may be.

Deed of Adjustment to be noted on instruments affected by securities.

32. (1) Where an adjustment of a farmer's liabilities has been effected in accordance with the provisions of this Ordinance, the Registrar after the Deed of Adjustment has been filed with him shall forward forthwith a certificate in the prescribed form to the Principal Registrar of Titles and to

any other persons charged with the duty of keeping any register in which is registered any instrument of title or other instrument affecting any property to which the Deed of Adjustment relates.

(2) It shall be the duty of the Principal Registrar of Titles and of every other person to whom a certificate has been so forwarded to enter in the appropriate register or registers, and to note on the registered instrument a memorial of such certificate, without payment of any fee.

33. Notwithstanding the provisions of section 9 of the Landruptcy Ordinance, 1930, a farmer who makes a proposal for or who agrees to an adjustment of his liabilities as provided for by this Ordinance, or for whose estate a Temporary Supervisor has been appointed under the provisions of this Ordinance, and whose estate has been vested in or administered by the agent under the provisions of this Ordinance shall not be deemed to have committed thereon an act of bankruptcy:

Provided that a person whose name appears on any list of creditors or debtors filed by the applicant or any other person who makes a claim against him, or in writing addressed to the chairman of the Local Committee constituted or the Secretary of the Board, as the case may be, may at any time during office hours at the office of the Board inspect the filed list of creditors and debtors and the filed statement of assets and liabilities of such person who, not being a creditor of such applicant, knowingly looks to the said chairman or to the Secretary for the purposes of this section, or false representation to the effect that he is a creditor of such applicant shall be guilty of an offence against this Ordinance.

(3) Any inspection under this section may be made personally by the creditor or debtor or by any other person acting as the authorized agent of the creditor or debtor.

(4) A person who is authorized by the provisions of this section to inspect a list of creditors or debtors or a statement of assets and liabilities may make a copy of, or take extracts from, such list or statement.

35. (1) Any person duly authorized in writing by the agent may, at all reasonable times, enter upon any land owned or occupied by an applicant or into any premises situated on such land, and may examine and inspect any crops growing upon or severed from such land and any produce of any such crops or any farm live stock upon such land or premises.

Proposal for adjustment not act of bankruptcy. No. 1088

Right to inspect filed list.

Power to enter land and inspect farm, etc.

(2) Any person who knowingly obstructs any duly authorized person in any such inspection or examination shall be liable on conviction before a magistrate of the first or second class to a fine not exceeding twenty pounds.

False statements.

36. Any person who willfully makes any false statement in or in relation to any application, declaration, or other document made or executed in connection with anything done or proposed to be done under this Ordinance, or who willfully neglects fully to disclose any matter required by this Ordinance to be disclosed shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years or to both such fine and such imprisonment.

Forms.

37. Any application, deed or other document used or required to be used for the purposes of this Ordinance shall be in the prescribed form, in which the form is prescribed, the Board may direct that the form to be used together with any subsequent modifications, additions, or alterations which may be made.

Exemption from duties and fees. Cap. 17.

38. Notwithstanding anything contained in the Stamp Ordinance or in any other Ordinance in force in the Colony, no duty, tax or fee shall be payable to the Government on any document, instrument or thing required or used in connection with any transaction performed under this Ordinance.

Rules.

39. (1) The Board in Council may make rules containing such provisions as may from time to time appear to be necessary and proper for bringing into operation and giving full effect to the provisions and purposes of this Ordinance, and in particular, and without prejudice to the generality of the foregoing power, for

- (a) regulating the practice and procedure of the Board and of Local Committees;
- (b) prescribing the form of any applications, deeds, orders, appointments, affidavits, reports or other documents to be used in connection with this Ordinance;
- (c) fixing the limits of advances;
- (d) the keeping of accounts in connection with any matter or thing done under this Ordinance; and
- (e) fixing the remuneration of members of the Board and Local Committees, Temporary Supervisors, and valuers.

(2) Until rules have been made under the authority of this section, the Board may issue directions upon any matter connected with the purposes or provisions of this Ordinance.

Offences

40. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made thereunder, or who fails to observe any of the conditions or restrictions subject to or upon which relief has been given under this Ordinance, shall be guilty of an offence against this Ordinance, and for every such offence for which no penalty is specially provided, the offender shall be liable on conviction to a fine not exceeding ten pounds and in default of payment of the fine shall be liable to imprisonment for a term not exceeding six months.

Passed in the Legislative Council the seventeenth day of June, in the year of our Lord one thousand nine hundred and thirty six.

This printed Bill has been carefully compared by me with the Bill which passed the Legislative Council and is hereby certified to be a true and correct copy of the said Bill.

W. C. BAKER-DEALL

Acting Clerk of the Legislative Council.



(2) Any person who knowingly obstructs any duly authorized person in any such inspection or examination shall be liable on conviction before a magistrate of the first or second class to a fine not exceeding twenty pounds.

False statements.

36. Any person who wilfully makes any false statement in or in relation to any application, declaration, or other document made or executed in connection with anything done or proposed to be done under this Ordinance, or who wilfully neglects fully to disclose any matter required by this Ordinance to be disclosed shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years or to both the fine and such imprisonment.

Form.

37. Any application, deed or other instrument used or required to be used for the purposes of this Ordinance shall be in the prescribed form where no form is prescribed. The Board may decide upon the form to be used in any case and may make such modifications, additions or alterations which the Board think fit.

Exemption from duties and taxes. Cap. 57.

38. Notwithstanding anything contained in any Ordinance in force in any other Ordinance in force in the Colony, no duty, tax or fee shall be payable to the Government on any document, instrument or deed required or used in connection with any transaction referred to under this Ordinance.

Notes.

39. (1) The Governor in Council may make such regulations as may from time to time appear to be necessary and proper for bringing into operation and giving full effect to the provisions and purposes of this Ordinance and in particular and without prejudice to the generality of the foregoing power, for

- (a) regulating the practice and procedure of the Board and of Local Committees;
- (b) prescribing the form of any applications, deeds, orders, appointments, affidavits, or other documents to be used in connection with this Ordinance;
- (c) fixing the limits of advances;
- (d) the keeping of accounts in connection with any matter or thing done under this Ordinance; and
- (e) fixing the remuneration of members of the Board and Local Committees, Temporary Supervisors and valuers.

(2) Until rules have been made under the authority of this section, the Board may issue directions upon any matter connected with the purposes or provisions of this Ordinance.

Offences.

40. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made thereunder, or who fails to observe any of the conditions or restrictions subject to or upon which relief has been given under this Ordinance, shall be guilty of an offence against this Ordinance, and for every such offence for which no penalty is specially provided, the offender shall be liable on conviction to a fine not exceeding ten pounds and in default of payment of the fine shall be liable to imprisonment for a term not exceeding six months.

Passed in the Legislative Council the seventeenth day of June, in the year of our Lord one thousand nine hundred and thirty-six.

W. C. RAMESH BEALL  
Clerk of the Legislative Council.

LEGAL REPORT

THE FARMERS ASSISTANCE BILL, 1936

This Bill is intended to give effect to the main recommendations contained in the Interim Report of the Agricultural Indebtedness Committee.

The Bill makes provision for a system of Short Term Agricultural Relief in the Colony and follows to a very limited extent, the procedure adopted in New Zealand.

A copy of the Bill as presented to the Legislative Council and showing the amendments made during its passage in the House is enclosed for transmission to the Secretary of State.

A Comparative Table is also enclosed.

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

Nairobi,

17th June, 1936

*W. H. ...*

ATTORNEY GENERAL

COMPARATIVE TABLE  
THE FARMERS ASSISTANCE BILL, 1936

Clause of the Bill.	Remarks.
1.	Short title and commencement.
2.	"Agent" - new "Applicant" - new "Farmer" - see section 3 of the New South Wales Act No. 39 of 1932; "Granted" - new "Registrar" - new "Secured creditor" - see section 2 of the Southern Rhodesia Act No. 26 of 1935; "Unsecured creditor" - do.
3.	Cf. Paragraph 17 of the Secretary of State's despatch - Kenya Confidential - 7th March, 1935. Cf. Section 3(1) of the New Zealand Act No. 50 of 1934-35 Cf. Section 3(2) of the Kenya Ordinance No. 5 of 1931. New.
5.	Cf. Section 34H of the New South Wales Act No. 39 of 1932.
6.	Section 4 of the Kenya Ordinance No. 12 of 1930.
7.	Cf. Section 6 of the Kenya Ordinance No. 12 of 1930.
8.	New.
9. (1) (2)	Cf. Section 5 of the South African Act No. 48 of 1935 New.
10.	Cf. Section 6 of the South African Act No. 48 of 1935.
11.	New.
12.	New, but see section 9 of the New South Wales Act No. 39 of 1932.
13.	New, but see section 26(1) of the New Zealand Act No. 50 of 1934-35.
14.	New.
15.	New.
16.	New.
17.	New.
18.	New.
19.	New.

Clause of the Bill.	Remarks.
20.	Cf. Section 34E of the New South Wales Act No. 18 of 1935.
21.	-do-
22.	Cf. Section 4 of the Southern Rhodesia Act No. 26 of 1935.
23.	New.
24.	Cf. Section 15 of the New South Wales Act No. 33 of 1932.
25.	New.
26.	New.
27.	Cf. Section 23 of the New South Wales Act No. 33 of 1932.
28.	Cf. Section 10
	Cf. Section 10 -do-
29.	Sections 4 and 5 of the Native Ordinance No. 4 of 1934.
31.	Cf. Section 34E of the New South Wales Act No. 18 of 1935.
32.	New.
33.	Cf. Section 6 of the Southern Rhodesia Act No. 26 of 1935.
34.	Cf. Section 22 of the New Zealand Act No. 50 of 1935.
35.	New.
36.	New.
37.	New.
38.	Cf. Section 25 of the South African Act No. 48 of 1935.
39.	New.
40.	New.

**A Bill to Provide for the Constitution of a Board to be known as the Farmers Conciliation Board, to Invest the Board with Certain Powers for the Assistance and Relief of Farmers, and for Purposes Incidental thereto.**

**BE IT ENACTED** by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council, that as follows:

This Ordinance may be cited as the Farmers Conciliation Board Ordinance, 1936, and shall come into operation on the date of its publication, and shall appoint by notice in the Gazette:

In this Ordinance, unless the context otherwise requires:

"applicant" means the applicant as defined in section 6 of this Ordinance;

"farmer" includes:

- (a) any individual who is a resident of the Colony and who is personally engaged in farming or pastoral operations in the Colony, whether he is farming on his own account or under a share-farming agreement;
- (b) the personal representative of any such person; and
- (c) any company which is engaged in farming or pastoral operations in the Colony;

"Registrar" means the Registrar of the Supreme Court and includes a district and deputy registrar of such Court;

"secured creditor" means any creditor who in respect of the debt owed to him holds a security which would entitle him to a preference in bankruptcy, and includes a holder of a second mortgage or of a chattels mortgage;

"unsecured creditor" includes any creditor who is not a secured creditor (O)

agent means the agent as defined in section 6 of this Ordinance;  
"applicant" means the applicant as defined in section 6 of this Ordinance;  
for assistance in accordance with section 6 of this Ordinance;

"grantee" means the party to whom the land is granted within the time prescribed by section 1930, and given by the applicant (Interim Stay Order) to whom any interest therein, and thereby to be, and includes his executor and in the case of a company his successors and assigns of such company;

holding a mortgage, applicant, or any part from the applicant

"Land Bank" means the Land and Agricultural Bank of Kenya.

Establishment and constitution of Farmers Conciliation Board.

3. (1) There shall be constituted a Board to be known as "the Farmers Conciliation Board" (hereinafter referred to as "the Board") which shall consist of ~~the~~ members, to be appointed by the Governor, of whom—

- (a) one shall be a Judge of the Supreme Court, who shall be chairman of the Board;
- (b) one shall be the Treasurer or his deputy;
- (c) one shall be a member of the Board of the Land Bank;
- (d) one shall be representative of the committee for the operation of the Colony; and
- (e) two shall be ~~representatives of the farmers and~~ *representatives of the farmers and* ~~representatives of the Government~~ *representatives of the Government* of the Board shall hold office during the Governor's pleasure.

(2) Before entering into and exercising the duties of their office, the members of the Board shall make oath or affirmation before the chairman that they will faithfully and impartially perform the duties of the Board.

The Board shall be a body corporate with perpetual succession, and shall have the powers, authority and jurisdiction of a corporation; and shall be capable in law of suing and being sued under the name of the Farmers Conciliation Board.

Power and procedure of the Board.

4. (1) The chairman and ~~the~~ members of the Board shall form a quorum.

(2) Questions before the Board shall be decided by a majority of the votes of those present and voting, and in the case of equality of votes, the chairman shall have a second or casting vote.

(3) The chairman and members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings and procedure of the Board shall be such as the Board may from time to time determine.

(5) ~~With the consent of the Governor~~ The Board may appoint a secretary and other necessary officers, agents and servants, and may pay him and them such remuneration as the Governor may approve.

(6) The Governor in any case in which he is satisfied that a member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, may appoint some fit person to be a deputy to act for such member during his incapacity, and any such deputy while so acting shall have all the powers and authorities of the member for whom he is acting.

5. With the consent of the Governor, the Board at any time may delegate any of its powers, duties or functions to any person or body of persons in the Colony upon such terms and conditions and subject to such restrictions as the Board thinks proper, and may in its discretion terminate any such delegation.

Delegation.

(1) The Governor may appoint the Land Bank to act as agents for the Board in the administration of any advances to farmers under this Ordinance.

Land Bank to act as agents for the Board.

(2) No expenses in connection with such agency shall fall to be paid from the funds of the Land Bank, and the Land Bank shall be indemnified by the Government against any losses, costs or expenses which may be sustained or incurred by the Land Bank in the performance of such agency.

6. The funds available to the Board for carrying out the purposes of this Ordinance shall consist of such moneys as the Land Bank may be authorized from time to time by the Governor to place at the disposal of the Board.

Funds of the Board.

8. (1) For the purposes of this Ordinance the Governor may divide the Colony into districts and in each such district may appoint a Local Committee, consisting of a chairman (who shall be an administrative officer performing the duties of a District Officer) and two other members appointed by the Board.

Local Committees.

(2) The chairman and members shall hold office during the Governor's pleasure.

(3) The chairman and members of a Local Committee shall, within the district for which the Committee has been appointed, be responsible for the due performance—

- (a) of the duties, functions and responsibilities assigned to them by this Ordinance; and

"Land Bank" means the Land and Agricultural Bank of Kenya.

Establishment and constitution of Farmers Conciliation Board.

3. (1) There shall be constituted a Board to be known as "the Farmers Conciliation Board" (hereinafter referred to as "the Board") which shall consist of ~~five~~ members, to be appointed by the Governor, of whom—

- (a) one shall be a Judge of the Supreme Court, who shall be chairman of the Board;
- (b) one shall be the Treasurer, or his ~~agent~~ <sup>agent</sup>;
- (c) one shall be a member of the Board of the Land Bank;
- (d) one shall be a representative of the ~~co-operative~~ <sup>co-operative</sup> banks operating in the Colony; and
- (e) two shall be ~~representatives of the Agricultural Bank of Kenya~~ <sup>representatives of the Agricultural Bank of Kenya</sup>;

The chairman and members of the Board shall, at the pleasure of the Governor, perform the duties of their office.

(4) The Board shall be a body corporate with perpetual succession and a common seal and, subject to the provisions of this Ordinance, may acquire, hold or dispose of any other property, movable or immovable for the purposes of this Ordinance, and shall be capable of suing and being sued under the name of "the Farmers Conciliation Board".

Quorum and procedure of the Board.

4. (1) The chairman and two other members of the Board shall form a quorum.

(2) Questions before the Board shall be decided by a majority of the votes of those present and voting, and, in the case of equality of votes, the chairman shall have a second or casting vote.

(3) The chairman and members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings and procedure of the Board shall be such as the Board may from time to time determine.

(5) With the consent of the Governor, the Board may appoint a secretary and other necessary officers, agents and servants, and may pay him and them such remuneration as the Governor may approve.

(6) The Governor in any case in which he is satisfied that a member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, may appoint some fit person to be a deputy to act for such member during his incapacity, and any such deputy while so acting shall have all the powers and authorities of the member for whom he is acting.

6. With the consent of the Governor, the Board at any time may delegate any of its powers, duties or functions to any person or body of persons in the Colony upon such terms and conditions and subject to such restrictions as the Board thinks proper, and may in its discretion terminate any such delegation.

7. (1) The Governor may empower the Land Bank to act as agent for the Board in the administration of any advances to farmers under this Ordinance.

(2) No expenses in connection with such agency shall fall to be paid from the funds of the said Bank, and the Bank shall be indemnified by Government against any losses, costs or expenses which may be sustained or incurred by the Bank in the performance of such agency.

7. The funds available to the Board for carrying out the purposes of this Ordinance shall consist of such money as the Land Bank may be authorized from time to time by the Governor to place at the disposal of the Board.

8. (1) For the purposes of this Ordinance the Governor may divide the Colony into districts and, in each such district, may appoint a Local Committee, consisting of a chairman (who shall be an ~~assistant~~ <sup>assistant</sup> District Officer performing the duties of a District Officer) and two other members appointed by the Governor.

(2) The chairman and members shall hold office during the Governor's pleasure.

(3) The chairman and members of a Local Committee shall, within the district for which the Committee has been appointed, be responsible for the due performance—

(a) of the duties, functions and responsibilities assigned to them by this Ordinance; and

(2) The applicant shall at the time he makes such application forward a copy thereof to the agent and such copy shall be filed in the office of the agent.

(b) of such other duties, functions and responsibilities as may from time to time be assigned to them by the Board with the approval of the Governor.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings, procedure and quorum of a Local Committee shall be such as the Board may from time to time determine.

(5) The chairman and members of a Local Committee shall not be personally liable for any act or default of such Local Committee, done or omitted to be done in good faith in the course of the operations of the Committee or in the course of giving effect to the instructions of the Board.

Applications by farmers

10. (1) Every farmer in the Colony may make application through a Local Committee to the Board for assistance in accordance with the provisions of this Ordinance in any of the following cases:

(a) that his liabilities exceed the reasonable valuation of his assets; or

(b) that such action has been taken or has been threatened by a creditor or creditors as to render it impracticable for the farmer to carry on his farming operations with a reasonable prospect of success; or

(c) that by reason of the extent or nature of his obligations, or because of lack of stock or absence of means of working his land in a proper manner, or any other good cause, he is unable to continue farming operations with a reasonable prospect of success; or

(d) that a receiving order or order of adjudication has been made against him under the provisions of the Bankruptcy Ordinance, 1920; or

(e) that he has assigned his rights to his creditors.

(2) Any farmer making application under this section shall forthwith give written notice of the application to all persons to whom his land is mortgaged or charged.

Form of application

10. (1) Every application for assistance under section 9 of this Ordinance shall be made in the form prescribed and shall be filed by the applicant in the office of the appropriate Local Committee, together with a statement of particulars by the applicant in verification of the particulars contained in the application.

(3) The particulars in every application shall include—

(a) a complete list of all the creditors and debtors of the applicant;

(b) a statement of the assets and liabilities of the applicant; and

(c) a list of the securities held by the secured creditors of the applicant.

11. (1) Immediately upon the filing of an application as provided for in section 10 of this Ordinance the chairman of the Local Committee concerned shall, in respect of the applicant's estate—

Interim Stay Order and Temporary Receiver

(a) issue an Interim Stay Order in the prescribed form; and

(b) by writing under his hand appoint a Temporary Receiver of the estate who shall be subject to the control of the Local Committee.

12. (1) The chairman shall not be obliged to issue an Interim Stay Order or to appoint a Temporary Receiver, but in such event the chairman shall forthwith make a written report to the Board giving the reasons therefor, and the decision of the Board upon the matter shall be final.

(2) The chairman shall forthwith give notices relating to the making of the Interim Stay Order and to the appointment of the Temporary Receiver to be published in the Gazette and to be sent to the Registrar of the Supreme Court.

forthwith forward a copy of every such notice to the Principal Registrar of Titles, who shall be kept for the purpose open to the public for inspection.

12. (1) An Interim Stay Order shall remain in force until a meeting of the Board confirms or renounces the Interim Stay Order.

Interim Stay Order

(2) While an Interim Stay Order is in force—

(a) it shall have the effect of vesting all the property of the applicant in the Local Committee; and

(b) no action, execution or proceedings, whether judicial or extra judicial, (an defendant for (or or) upon breach of covenant under any mortgage or other security for money or under an agreement for sale or purchase of land or other process or proceeding shall be commenced or proceeded with or put into force against the farmer (or his estate or effects);

(b) all suits, actions, executions or other proceedings whether judicial or extra judicial against the farmer shall be stayed.









12. If a grantee does not take possession or it not requested to take possession of such security in accordance with the provisions of subsection (4) of this section, the Board shall assume such security, in which case, subject to any arrangement to the contrary contained in any Deed of Adjustment.

13. (a) The Board may deposit on the premises for possession of the same, to be taken to the Chertsey Branch of the Ordinance, any land the Board in respect of which the Board has assumed such security has been assessed, and the Board may rank as an unsecured creditor in respect of the amount due to it by him by the applicant. After termination of the agreement for which his security has been assumed, the Board may rank as an unsecured creditor in respect of the amount due to it by him by the Board if the Board is in force.

14. A grantee who comes within the provisions of subsection (1) of this section shall not be entitled to vote as a creditor at the meeting convened by the Board for adjustment with the provisions of section 16 of this Ordinance.

15. (a) The grantee who comes within the provisions of subsection (1) of this section shall be entitled to vote as an unsecured creditor in respect of the amount due to him after deduction of the proceeds of the sale; or

(b) he has not sold the security, shall be assessed by the Board and he shall be entitled to vote as an unsecured creditor in respect of the amount due to him after deduction of the amount for which such security is assessed.

16. (1) The person who comes within the provisions of subsection (1) of this section shall be entitled to vote at the meeting convened by the Board in accordance with the provisions of section 16 of this Ordinance as a secured creditor in respect of the amount for which such security is assessed and as an unsecured creditor in respect of the amount due to him after deduction of the amount for which such security is assessed.

20. Subject to the provisions of subsection (3) of section 21 of this Ordinance, the agent may from time to time distribute such portion of the proceeds of the sale of the farmer's crop or of any other moneys received by the agent on behalf of the farmer, as in its discretion may seem advisable.

Order of Priority of Payments

any law of limitation for the time being in force in the Colony according to which, any proceedings must be commenced or any step in proceedings must be taken, the period during which the Stay Order was operative shall be excluded.

3020: (1) When a Stay Order is cancelled or ceases from

effect, the Board shall in respect of each farmer record in its books of account the amount of the farmer's debt to the Board, and any creditor of the farmer, may with the Board, inspect the accounts and records made in pursuance of this section, and any extract therefrom. At any time the Board considers that it is advisable to do so, it may cause the books of account to be audited by a person appointed for the purpose, and the Board shall give not less than fourteen days' notice to the farmer of the date of such audit.

2. A Stay Order from whatever cause cancelled shall not affect the rights and liabilities of the farmer or of any creditor of the farmer, unless the provisions of this section are otherwise expressly provided.

3. (1) Where an adjustment of a farmer's liabilities has been effected in accordance with the provisions of this Ordinance, the Registrar of Titles shall issue a certificate in the prescribed form to the Registrar of Titles and to any other person charged with the duty of keeping of any register in which is registered any instrument or title of the farmer, relating to any property to which the Deed of Adjustment relates.

(2) It shall be the duty of the Registrar of Titles and of every other person to whom a certificate has been so forwarded to enter in the appropriate register or registers and to note on the registered instrument a memorial of such certificate, without payment of any fee.

Advances to be a charge after cancellation of Stay Order.

1. Any advance made to a farmer by the Board in the exercise of its powers under section 10 of this Ordinance shall be a charge on the property of the farmer, and any creditor of the farmer, may with the Board, inspect the accounts and records made in pursuance of this section, and any extract therefrom.

2. Any advance made to a farmer by the Board in the exercise of its powers under section 10 of this Ordinance shall be a charge on the property of the farmer, and any creditor of the farmer, may with the Board, inspect the accounts and records made in pursuance of this section, and any extract therefrom.

3. (1) Where an adjustment of a farmer's liabilities has been effected in accordance with the provisions of this Ordinance, the Registrar of Titles shall issue a certificate in the prescribed form to the Registrar of Titles and to any other person charged with the duty of keeping of any register in which is registered any instrument or title of the farmer, relating to any property to which the Deed of Adjustment relates.

(2) It shall be the duty of the Registrar of Titles and of every other person to whom a certificate has been so forwarded to enter in the appropriate register or registers and to note on the registered instrument a memorial of such certificate, without payment of any fee.

*Advances to be a charge after cancellation of Stay Order.*

*Advances to be a charge after cancellation of Stay Order.*

*Advances to be a charge after cancellation of Stay Order.*

*Advances to be a charge after cancellation of Stay Order.*

(2) If a grantee does not take possession or is not requested to take possession of such security in accordance with the provisions of subsection (1) shall, unless such security is arranged to be returned to the grantor, be deemed to have accepted the same.

(3) The obligation imposed by subsection (1) shall terminate when the amount of such security is paid in full to the bank as an agent for the grantor after deducting the amount of any State Order in his favor.

(4) A grantee who comes in possession of such security prior to the meeting of the Board shall be deemed to have accepted the same, but if prior to the meeting he has not sold the security in an execution or order in respect of the amount due to him after deduction of the amount of any State Order in his favor,

(5) If he has not sold the security, it shall be sold by the Board and he shall be deemed to have accepted the same as creditor in respect of the amount due to him after deduction of the amount for which such security is accepted.

(6) A grantee who comes in possession of such security after the meeting of the Board shall be deemed to have accepted the same as creditor in respect of the amount due to him after deduction of the amount for which such security is accepted.

(7) Subject to the provisions of subsection (4) of section 24 of this Ordinance, the agent may from time to time distribute such portion of the proceeds of the sale of the farmer's crops or of any other monies received by the agent on behalf of the farmer, as in its discretion may seem advisable,

As soon as possible after a Stay Order is cancelled or ceases to have effect, the Board shall file up a notification in a form to be approved by the Board, containing the amount remaining unpaid and shall forward the same to the Principal Register of Titles, who shall file the same in a register to be kept for that purpose, and such register shall be open to the public for inspection free of cost.

Provided that where the amount remaining unpaid in respect of lands in the territory of the Registration Ordinance, the Principal Register of Titles shall also endorse with the amount of the said amount remaining unpaid on the duplicate of the instrument of title.

(1) The Board shall give a receipt for the sum so received to the Principal Register of Titles, who on the receipt of such receipt shall write the word "Cancelled" across the notification filed in the register and shall thereupon issue a duplicate Crown grant or certificate of title, and thereupon the charge created by the instrument in respect of the said amount remaining unpaid shall be deemed to have been extinguished.

any land by limitation for the time being in force in the Colony according to law, any proceedings must be commenced at any step in proceedings must be taken, the period during which the Stay Order was operative shall be excluded.

3020 (1) When a Stay Order is cancelled or ceases to have effect, the amount remaining unpaid in respect of any sum of money advanced by the Board to the farmer or of any sum which the Board has paid or agreed to pay in respect of any guarantee given in pursuance of the Ordinance shall be deemed to be a charge on the property and assets of the farmer. The Board shall be deemed to have a preferential lien for the amount of such charge over the proceeds of the property of the farmer for the satisfaction of such charge, and such lien shall be in addition to and not in substitution for such charge.

(2) Such charge or lien shall be subject to any prior mortgage, charge or lien upon any part of the property of the farmer at the date when the Stay Order ceases to have effect.

3120 (1) The Board may, on the application of the farmer or of any of his creditors, direct the farmer or any such creditor to execute any instrument that may be required to give effect to the Deed of Adjustment.

(2) If any person required to execute any such instrument fails or refuses to execute the same the Court may authorize the Registrar to execute such instrument in the name and on behalf of the farmer or creditor, as the case may be.

3220 (1) Where an adjustment of a farmer's liabilities has been effected in accordance with the provisions of this Ordinance, the Registrar shall issue a Deed of Adjustment and shall file with him a duplicate of the certificate in the prescribed form to the Registrar of Titles and to any other persons charged with the duty of keeping any register in which is registered any instrument of title or other instrument affecting any property to which the Deed of Adjustment relates.

(2) It shall be the duty of the Registrar of Titles and of every office person to whom a certificate has been so forwarded to enter in the appropriate register or registers and to note on the registered instrument a memorial of such certificate, without payment of any fee.

Adverse to be a charge after cancellation of Stay Order.

Does anything from the title of the Ordinance apply to the amount of the charge?

Instrument to give effect to Deed of Adjustment.

Authority of Board.

Deed of Adjustment to be made out of instruments created by securities.

Registrar

Proposed for  
enactment  
and set out  
hereunder  
No. 12 of 1933

23. (2) Notwithstanding the provisions of section 3 of the Bankruptcy Ordinance, 1933, a person who makes a proposal for or who agrees to an assignment of his estate as provided for by this Ordinance or for whose estate a Temporary Supervisor has been appointed under the provisions of this Ordinance or whose estate has been sequestrated or administered by the provisions of this Ordinance shall not be deemed to have committed thereby an act of bankruptcy.

Right to  
inspect  
statements.

24. (1) Any person who signs or appears on any list of creditors or debtors filed by a debtor under section 10 of this Ordinance, and any other person who takes part against the debtor in writing addressed to the Chairman of the Local Committee, or any of the Secretary of the Board, or the Temporary Supervisor or any other person named in the list of creditors and debtors and the list of statements of assets and liabilities. Any person who, not being a creditor of such debtor, signs or appears in the said list or is the Secretary, for the purpose of this section, shall be deemed to be a creditor of such debtor, and shall be liable to an offence against this Ordinance.

(2) Any person who is authorized under this section to inspect the list of creditors or debtors or by any other person to sign the said list or to sign the list of assets and liabilities shall be deemed to be the authorized agent of the creditor or debtor.

(3) Any person who is authorized by the provisions of this section to inspect a list of creditors or debtors or a statement of assets and liabilities may make a copy of, or take extracts from, such list or statement.

Power to enter  
and inspect  
farms, etc.

25. (1) Any person duly authorized in writing by the Board or Local Committee may, at all reasonable times, enter upon any land owned or occupied by a debtor in connection with any process provided for by this Ordinance to inspect any crops growing upon or sown on such land and any produce of any such crops or any farm live stock upon such land or premises.

(2) Any person who knowingly obstructs any person in any such inspection or examination shall be liable on conviction before a magistrate of the first or second class to a fine not exceeding twenty pounds.

(3) During the representation of members of the Board and Local Committees, Temporary Supervisors, and

26. (1) Any person who wilfully makes any false statement in or in relation to any application, declaration, or other document made or executed in connection with anything done or proposed to be done under this Ordinance or who wilfully neglects fully to disclose any matter required by this Ordinance to be disclosed, shall be guilty of an offence against this Ordinance.

False  
statements.

Who neglects fully to disclose any matter required to be disclosed shall be guilty of an offence on conviction to a fine not exceeding twenty pounds or imprisonment not exceeding three months and such fine or imprisonment.

27. (1) Any application, deed or other document used or required to be used for the purposes of this Ordinance shall be in the form prescribed by this Ordinance or by rules made thereunder. In cases where no form is prescribed, the Board may decide upon the form to be used together with any necessary modifications, additions or alterations which the Board thinks fit.

Form.

(2) Notwithstanding anything to the contrary contained in any Ordinance or in any other law, the duty, tax or fee payable in connection with any document, instrument or deed required or used in connection with any transaction provided for by this Ordinance shall be as follows:

Stamp  
duty, tax  
and fees.

28. (1) The Governor in Council may make rules containing such provisions as may from time to time appear to be necessary and proper for bringing into operation and giving full effect to the provisions and purposes of this Ordinance, and may, in particular and without prejudice to the generality of the foregoing power, for

Rules.

(a) regulating the practice and procedure of the Board and of Local Committees;

(b) prescribing the form of any applications, deeds, orders, appointments, affidavits, reports or other documents to be used in connection with this Ordinance;

(c) fixing the security and terms of repayment required in connection with any advance made for the purposes of this Ordinance and fixing the date of such advances;

(d) the keeping of accounts in connection with any matter or thing done under this Ordinance;

(e) Until rules have been made under the authority of this section, the Board may issue directions upon any matter connected with the purposes or provisions of this Ordinance.

Offences

4086. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made thereunder, or who fails to observe any of the conditions or restrictions subject to or upon which relief has been given under this Ordinance, shall be guilty of an offence against this Ordinance, and for every such offence for which no penalty is specially provided, the offender shall be liable on conviction to a fine not exceeding ten pounds and in default of payment of the fine shall be liable to imprisonment for a term not exceeding six months.

#### THE BILL AND REASONS

The Bill is intended to give effect to the main recommendations in the Interim Report of the Kenya Agricultural Committee, dated 1961.

The Bill makes provision for a system of Short Term Agricultural Loans in the Colony and follows, to a very limited extent, the procedure adopted in New Zealand.

If the Bill becomes law it is anticipated that it will be necessary for the Land Bank to set aside a sum of approximately £200,000 to give effect to the scheme.

KENYA.

No. 68

CONFIDENTIAL.



10 17  
GOVERNMENT HOUSE.

NAIROBI.

KENYA.

17 June, 1936.

Sir,

19

with reference to my despatch No. 578 of 17<sup>th</sup> June, transmitting copies of the Land Bank (Amendment) Ordinance, 1936, I have the honour to inform you that the correspondence referred to therein is the correspondence ending with your predecessor's Confidential Despatch of 30th April, 1936.

I have the honour to be,

Sir,

your most obedient, humble servant,

G. V. M. O. H.

G. V. M. O. H.

THE RIGHT HONOURABLE

W. GRIMSBY-GORE, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W. 1.



KENYA.  
No. 318



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

RECEIVED  
JUL 1936

June, 1936.

Sir,

With reference to previous correspondence regarding the proposals for the raising of a new loan to enable the Land Bank to assist in the scheme for the relief of agricultural indebtedness in the Colony,

I have the honour to transmit two autographed and twelve printed copies of Ordinance No. 10 of 1936,

entitled "An Ordinance to amend the Land Bank Ordinance, 1930", together with the legal report

thereon prepared by the Attorney-General,

which was presented to the Legislative Council on 25rd May 1936, and

presented to it in His Majesty's name on 19th June, 1936.

I have, Sir, the honour to be,

Your most obedient servant,

G O V E R N O R

THE RIGHT HONOURABLE  
W. ORESBY-GORE, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

170/101015  
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109

LEGAL REPORT

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL, 1936

The objects of this Bill may be summarized as follows -

- (a) To meet the demand for long term finance from agriculturalists who in the present state of the law are debarred from applying to the Land Bank, as their requirements exceed the present limits laid down for advances. Provision is accordingly made for the raising of these limits and to provide facilities on special terms for advances for the purpose of combating soil erosion;
- (b) to provide for a reduction in interest charge which may be possible at any future date being applicable to the balance of existing mortgage debts not only to fresh advances;
- (c) To provide for prompt action by the Land Bank being authorised in cases where (a) with the consent of the mortgagor or (b) the mortgaged property has been abandoned, it is necessary for the Bank to expand further moneys and exercise personal supervision of a property subject to an otherwise rapid deterioration of any of the permanent improvements, e.g. coffee trees; and
- (e) To provide for minor alterations in the administrative work which experience has shown to be desirable.

No Comparative Table accompanies the Bill since the amendments contained therein are not modelled on any Ordinance or Imperial Act. An Explanatory Memorandum is attached together with a copy of the Bill showing the sections of the Principal Ordinance which are proposed to be amended or replaced for transmission to the Secretary of State.

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

22nd Dec. 1937

*[Signature]*  
GENERAL

EXPLANATORY MEMORANDUM

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL, 1936

Clause of the Bill.

Remarks.

1. Short title.

2. The provision, which is to be omitted by this Clause from the Principal Ordinance is considered to be unnecessary.

3. When Crown land farms are sold by auction or tender it is customary for one-fifth of the purchase price to be paid in cash and the remaining nine-tenths to be payable in nine equal annual instalments, in accordance with the provisions of section 29(3) of the Crown Land Ordinance (Chapter 122) of the Revised Edition. This title is issued as a condition of sale and is a condition as to the payment of the outstanding instalments. It has recently been brought to the notice of Government that the Land Bank, in order to advance money under the provisions of sub-section (3) of section 28 of the Principal Ordinance, has advanced loans on Crown land farms on which instalments to stand premia are still due. The position at present is, therefore, that in the event of the failure of land holders whose titles are subject to the payment of stand premium instalments to meet their obligations being followed by a successful foreclosure action by Government, there must be paid by Government to the Land Bank the total amount of the defaulted landowner's debts to the Land Bank. This constitutes a liability upon Government to meet losses incurred by the Land Bank on account of loans of the issue of which it has not even been informed - a liability which in certain circumstances may exceed the market value of the property at the time of the forfeiture proceedings. This Clause is designed to amend section 18(a) so as to make it apply to land held on unencumbered title, save as provided in section 25(2) on which no portion of the purchase price, if any, due to Government remains outstanding, and to amend paragraph (b) to apply to land held from the title providing for the payment of purchase price by instalments.

Provides for maximum advances for mortgages to be £3500. The date mentioned in sub-clause (2) is the date on which the Principal Ordinance came into operation.

*See paragraph 475 of the Economic Development Commission Report*

Clause of  
the Bill.

Remarks

- 48
5. This Clause is designed to provide facilities on special terms for advances for the purpose of combating soil erosion.
6. Provides for maximum advance to any one farmer to be £5,000.
7. Please see remarks on Clause 3 of the Bill. Section 28(5) is considered to be an unnecessary limitation.
8. Please see remarks on Clause 3 of the Bill.
9. Provides for any reduction in interest rate to be applicable to the outstanding portion of any advances already repaid, except that the old rate of interest shall apply to any portion of an advance which is overdue for repayment.
10. Please see paragraph (d) of the Legal Page.
11. Since the form of mortgage deed will be under both sections 18(a) and 18(b), section 29(3) will apply to both; section 30(1)(1) is considered to be redundant, which it is to be repeated in Clause.
12. Verbal amendments only.
13. The provisions of the Land (Agricultural (Amendment) Ordinance, 1934, so far as they relate to short-term advances, are considered to be unnecessarily cumbersome and difficult to administer and the object of this and succeeding Clauses is to simplify the procedure without sacrifice of security.
14. -do-
15. -do-

50  
COLONY AND PROTECTORATE OF KENYA



A BILL TO AMEND THE LAND AND  
AGRICULTURAL BANK ORDINANCE,

930

516-35c. A.C.-324-35

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

COLONY AND PROTECTORATE OF KENYA



A BILL TO AMEND THE LAND AND  
AGRICULTURAL BANK ORDINANCE,

1930

**A-DIII to Amend the Land and Agricultural Bank Ordinance, 1930.**

BE IT ENACTED by the Governor of the Colony of Sierra Leone, 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, 1936, and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

2. Section 10 of the Principal Ordinance is hereby amended by substituting the words as printed thereon by the Board in each case, which occur in the fourth and fifth lines thereof.

3. Paragraphs (a) and (b) of section 18 of the Principal Ordinance are hereby repealed and the following paragraphs are substituted therefor:

- (a) to advance money to farmers on mortgage of land within the Colony which is used for agricultural or pastoral purposes and on which no part of the purchase price, if any, payable to the Crown remains outstanding;
- (b) to advance money to farmers holding land from the Crown on titles providing for the payment of the purchase price or stand premium by instalments.

Section 10 of the Principal Ordinance which it is proposed to amend:

10. All instruments, contracts and other documents and receipts shall be executed by or on behalf of the Bank if signed by the Chairman of the Board and a member of the Board appointed thereto by the Board in each case, and in the name of the Bank, and that no cheque shall be drawn from any banking account of the Bank which is not countersigned by the Secretary and one member of the Board.

Section 18 of the Principal Ordinance which it is proposed to amend:

18. Subject to the provisions of this Ordinance, the business of the Bank shall be:
- (a) to advance money to farmers on mortgage of land within the Colony which is used for agricultural or pastoral purposes;
  - (b) to advance money to farmers holding land from the Crown under an agreement to purchase;
  - (c) to advance money to farmers for the purposes of dipping tanks or fencing as provided in Part IV of this Ordinance.

Amendment of section 18 of the Principal Ordinance



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

BE IT ENACTED by the Governor of the Colony of Guyana, 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, 1936, and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

2. Section 10 of the Principal Ordinance is hereby amended by the deletion of the words "and the name of the Board in each case," which occur in the fourth and fifth lines of the said section.

3. Paragraphs (a) and (b) of section 18 of the Principal Ordinance are hereby repealed and the following paragraphs are substituted therefor:—

- (a) to advance money to farmers on mortgage of land within the Colony which is used for agricultural or pastoral purposes and on which no part of the purchase price, if any, payable to the Crown remains outstanding;
- (b) to advance money to farmers holding land from the Crown under an agreement to purchase;

Section 10 of the Principal Ordinance which it is proposed to amend:—

10. All deeds, mortgages and other documents shall be deemed to be duly executed by or on behalf of the Bank if signed by the Chairman of the Board and either member of the Board and attested thereto by the Secretary underneath the name of the Bank. Provided that a cheque drawn on any account kept by the Bank shall be signed by the Secretary and one member of the Board.

Section 18 of the Principal Ordinance which it is proposed to amend:—

18. Subject to the provisions of this Ordinance, the business of the Bank shall be—

- (a) to advance money to farmers on mortgage of land within the Colony which is used for agricultural or pastoral purposes;
- (b) to advance money to farmers holding land from the Crown under an agreement to purchase;
- (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 25 of this Ordinance;

and generally to make all such advances and do all such acts as the Bank may, by this Ordinance or any other law, be authorized to make or do.

Sub-section (3) of section 25 of the Principal Ordinance which it is proposed to replace :-

(3) Advances may be made for the purpose of discharging a mortgage of prior date if such mortgage is in the opinion of the Board meritorious, and the amount thereof together with an interest and charges due thereon does not exceed three thousand Pounds: Provided that no advance shall exceed three thousand Pounds may be made for any purpose without the sanction of the Council.

4. (1) Sub-section (3) of section 25 of the Principal Ordinance is hereby repealed and the following sub-section substituted therefor :-

(3) An advance not exceeding three thousand five hundred pounds may be made for the purpose of reducing or discharging an existing first mortgage if in the opinion of the Board such mortgage is meritorious:

Provided that no advance shall be made for the purpose of reducing any such existing mortgage unless the mortgagor has obtained a waiver of priority in accordance with the provisions of section 13 of the Land and Agricultural Bank (Amendment) Ordinance, 1931.

(2) This section shall be deemed to have come into operation on the 3rd day of March, 1931.

5. The Principal Ordinance is hereby amended by inserting therein, next after section 25, the following as section 26 of the Principal Ordinance.

(1) Notwithstanding anything in this Ordinance contained, special advances not exceeding two hundred pounds may be made at any time by the Bank to a person who makes application therefor for the purpose of obtaining assistance in preventing soil erosion.

Provided that the total amount of such advance and of all other advances made by the Bank upon the same security shall not exceed seven and a half per centum of the value of such security as determined by the Board.

(2) The Bank may in its discretion make such an advance upon the security of property already encumbered by a mortgage or by a charge in favour of a person other than the Bank and may permit the advance to rank in respect of such security subsequent to such mortgage or charge, but in any such case the Bank, before making the advance, shall call for further and adequate security in addition to the security so mortgaged or charged.

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

and generally to make all such advances and do all such acts as the Bank may, by this Ordinance or any other law, be authorized to make or do.

Sub-section (3) of section 25 of the Principal Ordinance which it is proposed to replace:

(3) Advances may be made for the purpose of discharging a mortgage of property if such mortgage is in the opinion of the Board onerous, and the amount thereof together with interest and charges does not exceed three hundred 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

4. (1) Sub-section (3) of section 25 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:

Repeal and replacement of section 25 (3) of the Principal Ordinance.

(1) An advance not exceeding three thousand five hundred pounds may be made for the purpose of reducing or discharging an existing first mortgage if in the opinion of the Board such mortgage is onerous:

Provided that no advance shall be made for the purpose of reducing any such existing mortgage unless the mortgagee executes a waiver of priority in accordance with the provisions of section 13 of the Land and Agricultural Tenure (Amendment) Ordinance, 1954, No. 4 of 1954.

(2) This section shall be deemed to have come into operation on the 3rd day of March, 1951.

The Principal Ordinance is hereby amended by inserting therein, next after section 25, the following as section 26A:

Amendment of the Principal Ordinance.

26A. (1) Notwithstanding anything in this Ordinance contained a special advance not exceeding two hundred pounds in amount may be made at any time by the Bank to a person who makes application therefor for the purpose of obtaining assistance in preventing soil erosion:

Advance for preventing soil erosion.

Provided that the total amount of such advance and of all other advances made by the Bank upon the same security shall not exceed seventy-five per centum of the value of such security as determined by the Board.

(2) The Bank may in its discretion make such an advance upon the security of property already encumbered by a mortgage or by a charge in favour of a person other than the Bank and may permit the advance to rank in respect of such security subsequent to such mortgage or charge, but in any such case the Bank, before making the advance, shall call for further and adequate security in addition to the security so mortgaged or charged."

Sub-section (3) of section 27 of the Principal Ordinance which it is proposed to replace :-

(3) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than three thousand pounds or of sums which in the aggregate exceed three thousand pounds, except for the purpose of erecting any educational works or improvements specially authorized by any resolution of Council. Provided that no advance shall be made to any one farmer of a sum greater than five thousand pounds if the aggregate of the sums of five thousand pounds.

Section 28 of the Principal Ordinance which is proposed to amend :-

(1) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made upon the security of any property other than land or any interest therein. Provided that any such advance may be accepted as collateral security if it does not constitute a charge upon the security.

(2) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made for an amount exceeding fifty per centum of the full market value of the land, as determined by the Board. An advance made on the security of land shall be made only in the case of land which in the satisfaction of the Board is permanently occupied and either beneficially cultivated or used for farming or stock raising, provided that land used exclusively for raising stock may be regarded as permanently occupied when it is worked as one holding with other land beneficially occupied.

(3) Except in the case of Government settlement schemes in accordance with which advances and interest thereon are specifically guaranteed by the Government, no advance under the provisions of paragraph (b) of section 18 of this Ordinance upon the security of Crown land, the purchase price thereof not being fully paid, shall exceed fifty per centum of the amount already paid as part of the purchase price, but the Board may advance an additional amount up to fifty per centum of the value of improvements approved by the Board made since the date of the title under which the land is

Sub-section (3) of section 27 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :-

(3) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than five thousand pounds or of sums which in the aggregate exceed five thousand pounds.

(Repeal and replacement of section 27 (3) of the Principal Ordinance.)

Sub-section (3) of section 28 of the Principal Ordinance is hereby amended by deleting the first line of the sub-section and by substituting therefor the following :-

Sub-section (3) of section 28 of the Principal Ordinance is hereby amended by deleting the first line of the sub-section and by substituting therefor the following :-

(3) Sub-section (3) of section 28 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor :-

(3) Except in the case of Government settlement schemes in accordance with which advances and interest thereon are specifically guaranteed by the Government, no advance under the provisions of paragraph (b) of section 18 of this Ordinance upon the security of Crown land, the purchase price thereof not being fully paid, shall exceed fifty per centum of the amount already paid as part of the purchase price, but the Board may, with the prior consent of the Governor, advance an additional amount up to fifty per centum of the value of improvements approved by the Board made since the date of the title under which the land is held and such value shall be determined by the Board. Provided that, in the event of the land being resumed by the Crown, there shall be paid out of general revenue so much of the advance and the interest due thereon as the Bank is unable to recover from the mortgagor. Provided further that the Governor may approve of the making of advances for the fencing of Crown land to an amount in excess of fifty per centum of the value of such fencing.

(Amendment of section 28 of the Principal Ordinance.)

Sub-section (3) of section 27 of the Principal Ordinance which it is proposed to replace:—

(3) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than three thousand pounds or of sums which in the aggregate exceed three thousand pounds, except for the purpose of executing large agricultural works or improvements specially authorized by the Governor in Council: Provided that no sum advanced for any such works or improvements shall exceed in the aggregate the sum of five thousand pounds.

Section 28 of the Principal Ordinance which it is proposed to amend:—

(a) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made on the security of any piece of land less than ten acres in extent: Provided that any land less than ten acres in extent may be accepted as collateral security if it does not constitute the main part of the security.

(b) No advance under the provisions of paragraph (a) of section 18 of this Ordinance shall be made for an amount exceeding sixty per centum of the fair agricultural or pastoral value of the land, as determined by the Board. An advance made on the security of land shall be made only on the security of land which to the satisfaction of the Board is permanently occupied and either beneficially cultivated or used for grazing stock, provided that land used exclusively for grazing stock may be regarded as permanently occupied when it is worked as one holding with other land beneficially occupied.

(c) Except in the case of Government settlement schemes in accordance with which advances and interest thereon are specifically guaranteed by the Government, no advance under the provisions of paragraph (b) of section 18 of this Ordinance upon the security of Crown land, the purchase price thereof not being fully paid, shall exceed fifty per centum of the amount already paid as part of the purchase price, but the Board may advance an additional amount up to fifty per centum of the value of improvements approved by the Board made since the date of the title under which the land is

Sub-section (3) of section 27 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

(3) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than five thousand pounds or of sums which in the aggregate exceed five thousand pounds.

Repeal and replacement of section 27 (3) of the Principal Ordinance.

Section 28 of the Principal Ordinance is hereby amended by deleting the first line of the section and by substituting therefor the following:—

(a) No advance under the provisions of paragraph (a) of section 18 of this Ordinance shall be made on the security of any piece of land less than ten acres in extent: Provided that any land less than ten acres in extent may be accepted as collateral security if it does not constitute the main part of the security.

(b) No advance under the provisions of paragraph (a) of section 18 of this Ordinance shall be made for an amount exceeding sixty per centum of the fair agricultural or pastoral value of the land, as determined by the Board. An advance made on the security of land shall be made only on the security of land which to the satisfaction of the Board is permanently occupied and either beneficially cultivated or used for grazing stock, provided that land used exclusively for grazing stock may be regarded as permanently occupied when it is worked as one holding with other land beneficially occupied.

(c) Except in the case of Government settlement schemes in accordance with which advances and interest thereon are specifically guaranteed by the Government, no advance under the provisions of paragraph (b) of section 18 of this Ordinance upon the security of Crown land, the purchase price thereof not being fully paid, shall be made which shall exceed fifty per centum of the amount already paid as part of the purchase price, but the Board may, with the prior consent of the Governor, advance an additional amount up to fifty per centum of the value of improvements approved by the Board made since the date of the title under which the land is held and the value shall be determined by the Board: Provided that, in the event of the land being resumed by the Crown, there shall be paid out of general revenue so much of the advance and the interest due thereon as the Bank is unable to recover from the mortgagor: Provided further that the Governor may approve of the making of advances for the fencing of Crown land to an amount in excess of fifty per centum of the value of such fencing.

Amendment of section 28 of the Principal Ordinance.

held and such value shall be determined by the Board; Provided that in the event of any such agreement being cancelled and the land resumed by the Crown, there shall be paid out of general revenue so much of the advance and the interest thereon as the Bank is unable to recover from the mortgagor; Provided further, that the Governor may approve of the making of advances for the fencing of Crown land to an amount in excess of fifty per centum of the value of such fencing.

(4) For the purpose of sub-section (3) of this section it shall be in the discretion of the Board to take into account the value of such permanent improvements as well as beyond the period for which the advance was made.

(5) An advance made under sub-section (3) of this section shall be secured in such manner as the Board may determine and, anything to the contrary notwithstanding contained in the deed, any such advance shall, together with the interest thereon, be repaid within a period not exceeding twenty years upon such conditions as may be determined by the Board.

In the case of a Crown land scheme of settlement in accordance with which advances and interest thereon are guaranteed by the Government, the terms and period of an advance shall be such as are provided for in the scheme.

Section 29 of the Principal Ordinance which it is proposed to amend.

29. (1) The Board may make an advance under section 18 of this Ordinance on such terms as it may deem fit and may determine that such advances shall be repaid in equal half-yearly instalments of capital and interest within such period, not exceeding thirty years, as it may prescribe.

(2) The rate of interest on advances shall be from time to time fixed by the Board with the consent of the Governor in Council.

(3) The form of mortgage deed for securing any advance under paragraph (a) of section 18 of this Ordinance shall be as prescribed by the Board.

Provided that the provisions of this sub-section shall not apply to any advances made before the commencement of this Ordinance but the provisions of sub-section (3) of section 28 of the Principal Ordinance, as the same appeared in that Ordinance before the coming into operation of this Ordinance, shall continue to apply to any such advances.

(3) Sub-section (5) of section 28 of the Principal Ordinance is hereby repealed, and sub-section (5) of section 28 is hereby amended by renumbering the same as sub-section (6).

8. Sub-section (3) of section 29 of the Principal Ordinance is hereby amended by the deletion of the words "paragraph (a) of" which occur in the second line thereof.

Amendment of section 29 (3) of the Principal Ordinance

held and such value shall be determined by the Board; Provided that in the event of any such agreement being cancelled and the land resumed by the Crown, there shall be paid out of general revenue so much of the advance and the interest due thereon as the Bank is unable to recover from the mortgagee: Provided further, that the Governor may approve the making of advances for the fencing of Crown land to an amount in excess of fifty per centum of the value of such fencing.

(4) For the purpose of this section (3) of this section it shall be in the discretion of the Board to take into account the period of such permission or improvement as will last beyond the period by which the advance was made.

(5) An advance made under sub-section (1) of this section shall be secured in such manner and in such form as the Board may determine and according to the contrary stipulations contained in the mortgage deed. Any such advance shall, together with the interest thereon, be repaid within a period not exceeding twenty years upon such terms and conditions as may be determined by the Board.

(6) In the case of a Crown land scheme of settlement in accordance with which advances and interest thereon are provided for by the Government, the terms and period of an advance shall be such as are provided for in the scheme.

Section 20 of the Principal Ordinance which it is proposed to amend:

(1) The Board may make an advance under section 18 of this Ordinance on such terms as it may deem fit and may direct that such advance shall be repaid in equal half-yearly instalments of capital and interest within such period, not exceeding thirty years, as it may prescribe.

(2) The rate of interest on advances shall be from time to time fixed by the Board with the consent of the Governor in Council.

(3) The form of mortgage deed for securing any advance under paragraph (a) of section 18 of this Ordinance shall be as prescribed by the Board.

Period for which advance may be made  
method of repaying  
rate of interest  
form of mortgage deed

Provided that the provisions of this sub-section shall not apply to any advance made before the commencement of this Ordinance but the provisions of sub-section (3) of section 28 of the Principal Ordinance, as the same appeared in that Ordinance before the coming into operation of this Ordinance, shall continue to apply to any such advance.

(7) Sub-section (5) of section 28 of the Principal Ordinance is hereby repealed, and sub-section (6) of section 28 is hereby amended by renumbering the same as sub-section (5).

B. Sub-section (3) of section 20 of the Principal Ordinance is hereby amended by the deletion of the words "part of the" in paragraph (a) of which occur in the second line thereof.

Amendment of section 20 (3) of the Principal Ordinance to read:

(3) Provided that no such sale shall take place until the expiry of at least thirty days from the date of a notice in the Gazette and in some newspaper circulating in the district stating the date, hour and place, and the terms and conditions of the sale and provided that every reasonable endeavour shall be made by the Board to communicate to persons interested that such sale is intended.

(4) The provisions of section 5 of this Ordinance shall not apply to a transfer of land or other security by the Board to a person under this section.

Sub-section (1) of section 30 of the Principal Ordinance in which it is amended.

(1) The Governor in Council may make rules as to all or any of the following matters, namely:

- (a) the meetings and places;
- (b) the rights and privileges and the duties of the staff, the duties of other persons employed by the Board, and the manner of their appointment;
- (c) the powers of officers;
- (d) the management of the Bins and its agencies;
- (e) the specific cases in which property given as security shall be insured;
- (f) the rules of good bandry;
- (g) the conditions which may be imposed in regard to improvements or new works, and the payment of such advances as work proceeds;
- (h) the forms to be used, and the books, registers and records to be kept;
- (i) the registration by the Registrar of mortgages executed to secure the repayment of advances made in terms of section 18 (b) of this Ordinance and interest on such advances and the form in which such registration shall be made, the inspection of such Register and other matters incidental thereto; and
- (j) generally for fully and effectually carrying out and giving effect to the objects and purposes and for guarding against violations of this Ordinance.

11. Sub-section (1) of section 30 of the Principal Ordinance is hereby amended.

- (a) by deleting paragraph (i) thereof;
- (b) by renumbering paragraph (i) as paragraph (j).

Section 30 of the Principal Ordinance

11. Sub-section (1) of section 30 of the Principal Ordinance is hereby amended.

- (a) by deleting paragraph (i) thereof;
- (b) by adding the word "and" after the word "kept" at the end of paragraph (j) thereof;
- (c) by renumbering paragraph (j) as paragraph (k).



Increase or  
reduction of  
rates of  
interest

Section 32 of the Principal Ordinance which it is proposed to amend:

32. The Board may from time to time with the approval of the Governor in Council increase or reduce the rate of interest payable on advances made out of the funds of the Bank: Provided that no alteration shall be made to the rate of interest on advances already made: Provided, further, that the rate of interest charged in respect of any advances shall not be less than sufficient to cover the average rate payable by the Bank on the following funds, namely—

(a) those provided under sub-section 1 (a) or (b) of section 20 of this Ordinance;

(b) those borrowed under the provisions of section 21 of this Ordinance and including redemption thereof;

together with the costs of administration and other charges.

Section 33A of the Principal Ordinance which it is proposed to amend:

33A. If three months after the date of the repayment of an advance made under Part II or Part III of this Ordinance has been made by the registered borrower addressed to the address given by the debtor in his application for the advance and after three months' notice of such demand has been given to all subsequent assignees of the property upon which the advance was made, the Board may, without recourse to public auction the whole or any part of the security for the advance, upon such terms and conditions as to the Board shall appear in all the circumstances to be just: Provided that in the circumstances mentioned in sub-section (c) of section 45 of this Ordinance, the Board may enter upon and take possession of and sell the whole or any part of such security, and as the Board may deem expedient after the happening of any of the events in the said paragraph (c) mentioned.

(2) The Board may transfer such land or other security to a purchaser and give a good and valid title thereto, and may execute all such documents and do all other acts as may be necessary to perfect the same.

9. Section 32 of the Principal Ordinance is hereby amended by the deletion of the words "Provided that no alteration shall be made to the rate of interest on advances already made" which occur in the fourth and fifth lines thereof and by the substitution thereof of the following:—

"Provided that no increase in the rate of interest shall be made on advances already made and, in the case of reduction of the rate of interest, such reduction shall only apply to the unpaid balance of the advances outstanding at the time of such reduction but the rate of interest on any portion of an advance which was due and payable before such reduction of interest shall be based on the rate of interest payable on advances before such reduction."

Section 33 of the Principal Ordinance is hereby amended by the deletion of the words "and" which occur after the words "and" in the opening of sub-section (1) thereof and by substitution thereof of the words "and/or"; and by the addition at the end of sub-section (1) of the following proviso:—

"Provided further that the Board may, in the exercise of such power of three months mentioned in this section, so enter upon and take possession of and/or sell the whole or part of the security"

(a) if the debtor and the subsequent mortgagee consent to such action or actions being taken; or

(b) if such land has been abandoned by the debtor and in the opinion of the Board such action or actions are necessary for the purposes of safeguarding the well-being of the mortgaged property. Notice of such intended action or actions under this paragraph shall be given to the debtor by registered letter addressed to the address given by the debtor in his application for the advance."

Section 32 of the Principal Ordinance which it is proposed to amend

Increase or reduction of rates of interest.

32. The Board may from time to time with the approval of the Governor in Council increase or reduce the rate of interest payable on advances made out of the funds of the Bank: Provided that no alteration shall be made to the rate of interest payable on advances already made: Provided, further, that the rate of interest charged in respect of any advance shall not be less than is sufficient to cover the average rate payable by the Bank on the following day, to-wit:-

- (a) those provided under section 21 (a) or (b) of section 20 of this Ordinance;
- (b) those borrowed under the provisions of section 21 of this Ordinance, but including the application thereof to the interest on the administration of the Bank as provided in section 22 of this Ordinance.

Section 33 of the Principal Ordinance which is proposed to amend

Provision for the transfer of the property.

33. In the event of the demand for the repayment of any advance made under section 31 or Part II of this Ordinance, the Board may, if the registered letter addressed to the debtor given by the debtor in his application for the advance and after three months notice of such demand has been given to all sub-judicial mortgages of the property upon which the advance was made, the Board may, without recourse to a court of law, enter upon and take possession of the whole or any part of the security for the advance upon such terms and conditions as to the Board shall appear to be just in the circumstances to be just: Provided that in the circumstances mentioned in paragraph (c) of section 31 of this Ordinance the Board may, upon and take possession of and sell the whole or any part of such security as soon as the Board may deem expedient after the happening of any of the events in the said paragraph (c) mentioned.

34. The Board may transfer such land or other security to a purchaser and give a good and valid title thereto, and may execute all such documents and do all other acts as may be necessary to perfect the same.

Section 33 of the Principal Ordinance is hereby amended by the deletion of the words "Provided that no alteration shall be made to the rate of interest on advances already made;" which occur in the fourth and fifth lines thereof and by the substitution thereof of the following:-

"Provided that no increase in the rate of interest shall be made on advances already made and, in the case of reduction of the rate of interest, such reduction shall apply to the unpaid balance of the advance outstanding at the date of such reduction but the rate of interest on any portion of an advance which was due and payable before such reduction of interest shall be based on the rate of interest payable on advances before such reduction."

Section 34 of the Principal Ordinance is hereby amended by the deletion of the words "and" which occur after the word "of" in the ninth line of sub-section (1) of section 34 of the Principal Ordinance and by the substitution at the end of sub-section (1) thereof of the following proviso:-

"Provided that if the Board may, at any time before the expiration of the period of three months mentioned in this section, so enter upon and take possession of and sell the whole or part of the security."

- (d) if the debtor and the subsequent mortgagee consent to such action or course being taken;
- (e) if the land has been abandoned by the debtor and in the opinion of the Board, such action or actions is or are necessary for the purposes of safeguarding the well-being of the mortgaged property. Notice of such intended action or actions under this paragraph shall be given to the debtor by registered letter addressed to the address given by the debtor in his application for the advance.

(3) Provided that no such sale shall take place until the expiry of at least thirty days from the date of a notice in the Gazette and in some newspaper circulating in the district stating the date, hour and place, and the terms and conditions of the sale and provided that every reasonable endeavour shall be made by the Board to communicate to persons interested in such sale.

(4) The provisions of section 9 of this Ordinance shall not apply to a transfer of land or other property by the Board to a purchaser under this section.

Sub-section (1) of section 50 of the Principal Ordinance which it is hereby amended.

Power to

59. (1) The Governor in Council, upon the recommendations of the Board, may make rules in relation to the following matters:

- (a) the meetings and proceedings of the Board;
- (b) the rights and privileges and the duties of the staff and of other persons employed by the Board, and the manner of their performance;
- (c) the management of the Bank and its branches;
- (d) the specific cases in which property given as security shall be insured;
- (e) the rules of land husbandry;
- (f) the conditions which may be imposed in regard to advances for improvements or for works, and the payment of such advances as work proceeds;
- (g) the forms to be used and the books, accounts and records to be kept;
- (h) the registration by the Registrar of mortgages executed to secure the repayment of advances made in terms of section 18 (b) of this Ordinance and interest on such advances and the form in which such registration shall be made, the inspection of such register, and other matters incidental thereto; and
- (i) generally for fully and effectually carrying out and giving effect to the objects and purposes and for guarding against violations of this Ordinance.

Amendment of section 50 of the Principal Ordinance.

11. Sub-section (1) of section 50 of the Principal Ordinance is hereby amended by deleting paragraph (b) thereof and by inserting paragraph (d) thereof as follows:

- (a) by deleting paragraph (d) thereof;
- (b) by adding the word "and" after the word "kept" at the end of paragraph (d) thereof; and
- (c) by renumbering paragraph (j) thereof as paragraph (i).

(3) Provided that no such sale shall take place until the expiry of at least thirty days from the date of a notice in the Gazette and in some newspaper circulating in the district stating the date, hour and place, and the terms and conditions of the sale and provided that every reasonable endeavour shall be made by the Board to communicate to persons interested that such sale is intended:

(4) The provisions of section 9 of this Ordinance shall not apply to a transfer of land or other security by the Board to a purchaser under this section.

Sub-section (1) of section 50 of the Principal Ordinance which is hereby amended to read:

50. (1) The Governor in Council, upon the recommendation of the Board, may make rules as to all or any of the following matters, namely:

- (a) the meetings and proceedings of the Board;
- (b) the powers and privileges and the duties of the Board and the duties of other persons employed by the Board, and the manner of their performance;
- (c) the establishment of agencies;
- (d) the management of the Bank and its agencies;
- (e) the special cases in which property given as security shall be insured;
- (f) the rules of good husbandry;
- (g) the conditions which may be imposed in regard to advances for improvements or new works, and the payment of such advances as work proceeds;
- (h) the forms to be used, and the books, accounts and records to be kept;
- (i) the registration by the Registrar of mortgages executed to secure the repayment of advances made in terms of section 18 (b) of this Ordinance and interest on such advances and the form in which such registration shall be made, the inspection of such register, and other matters incidental thereto; and
- (j) generally for fully and effectually carrying out and giving effect to the objects and purposes and for guarding against violations of this Ordinance.

The First Schedule to the Principal Ordinance which is hereby amended as follows:—

FIRST SCHEDULE.

(Section 44.)

Covenants to be implied in every mortgage on the part of the person executing the same, as if the mortgagor were a mortgagee in favour of the Land and Agricultural Bank of Kenya, its successors and assigns, as mortgagee.

(1) That the mortgagor will from time to time, so long as money shall remain owing in respect of the mortgage, well and lawfully repair and keep in good and substantial repair the buildings and other improvements erected and made upon the said land; and the mortgagor shall at all times have full liberty by himself, its agents or servants to go upon the said land to view and inspect the said buildings and improvements.

(2) That if the mortgagor fail or neglect to repair the said buildings and improvements, or to keep them in good and substantial repair and condition, the mortgagee shall then and in any such case and as often as the same shall be required shall be lawful for the mortgagee to enter upon the said land, at the cost and expense in any such case of the mortgagor, to repair the said buildings and improvements and keep them in good and substantial repair and condition.

(3) That the mortgagee shall be entitled to be repaid by the Bank in respect of any sum expended by the Bank in repairing or keeping in repair any of the said buildings and improvements as aforesaid, or in the insurance thereof or in attempting to exercise any power, right or remedy herein contained or implied in favour of the Bank, which shall be payable to the Bank by the mortgagor on demand; and until paid shall be charged on the said land, together with interest at the rate of not more than the rate per centum charged in the said mortgage computed from the date or dates of such moneys being expended.

(4) Insurance shall be effected as may be prescribed by regulations or instruction of the Board in the joint names of the applicant and the Bank. Every policy of insurance so effected and every renewal receipt shall be deposited with the Bank.

12. The First Schedule to the Principal Ordinance is hereby amended as follows:—

Amendment of Schedule I of the Principal Ordinance

(a) by the insertion of the words "pay the rent after the same became due under any agreement, lease or licence under which he holds the land, and" between the word "security," and the word "well" which occur in the second line of paragraph (1) thereof;

(b) by the insertion of the words "to pay the rent as aforesaid" between the word "neglect" and the word "to" which occur in the first line of paragraph (2) thereof;

(c) by the insertion of the words "to pay the said rent" between the word "mortgagor" and the word "to" which occur in the seventh line of paragraph (2) thereof; and

by the insertion of the words "in paying rent as aforesaid" between the word "Bank" and the word "and" which occur in the eighth line of paragraph (2) thereof.

(3) Every such advance made under this section with interest thereon shall become due and payable on the thirtieth day of June next following the date of the advance: provided, however, that the Board may, at its discretion, from time to time postpone the date of repayment for a total period not exceeding three years.

(4) All moneys advanced under the provisions of this section, and all interest thereon and charges incidental thereto shall be a charge on the lands in respect of which the advance is made and upon the crops and produce grown or to be grown thereon, when reaped or gathered therefrom, and on the product thereof to be cured, made or manufactured from such crops and produce; and such crops and produce, as well as any moneys advanced under the provisions of this section to be cured, made or manufactured therefrom, shall be deemed to be a charge on the lands in respect of which the advance is made, and shall have priority in law and in equity to all other debts due to His Majesty, from the date on which notice of the intention to make such advance is published in the Gazette.

(5) No payment in respect of an advance shall be made under this section until the aforesaid notice 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.

Provided, however, that before any advance is made under the provisions of this section the farmer shall first obtain the consent in writing of the several encumbrancers (if any) of the lands in respect of which the advance is applied for to such advance being made; and a charge created under the provisions of this section shall have priority to an encumbrance where the farmer has obtained the consent in writing of the encumbrancer.

Provided further that notwithstanding anything in the Registration of Titles Ordinance or in any other Ordinance contained or any provision of law or equity to the contrary, immediately upon the publication in the Gazette of the notification of the Board's decision to make an advance under this section, all persons dealing with the lands or any interest therein shall be deemed to have notice of such advance, and all such dealings shall be and be construed to be subject to the charge and priority created by this section.

Cap. 132.

Provided that no advance shall be made under this section on the security of any property which is encumbered by any mortgage charge or other encumbrance, other than a mortgage or charge in favour of the Bank, unless the encumbrancer has executed a waiver of priority in accordance with the provisions of section 13 of this Ordinance in favour of the Bank:

Provided further that no advances shall be made under this section of a sum which, together with advances (if any) made to the same farmer under paragraphs (a) and (b) of section 18 of the Principal Ordinance, exceeds the maximum advance which can be made under sections 27 (3), 28 (2) and 29 (3) thereof.

(6) All moneys advanced under the provisions of this Ordinance and all interest thereon and charges incidental thereto shall be a charge on the lands in respect of which the advance is made, and shall, subject to the proviso contained in this sub-section, become due and payable within three months after the date of the advance:

Provided, however, that the Board may, at its discretion, from time to time postpone the date of repayment for a total period not exceeding three years from the date of the advance.

(7) Written notification of an advance under this section shall be given by the Secretary of the Bank to the Principal Registrar of Titles, who shall without charging any fee register such notification:

Provided that where the advance is in respect of land held under the provisions of the Registration of Titles Ordinance the Principal Registrar of Titles shall also endorse a memorandum of the advance upon the Crown grant or the certificate of title.

(8) Notwithstanding anything in any other Ordinance contained the registration of such notification shall constitute a charge upon the land in respect of which the advance has been made, and, subject to the provisions of any waiver of priority which may be given under section 13 of this Ordinance, shall rank for priority with effect from the time and date of such registration.

Section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, which it is proposed to repeal:

Notification to Principal Registrar of Titles.

4. As soon as possible after the publication in the Gazette of the notification required under section 3 the Board shall fill up a notification in a form to be approved by the Board and shall sign and forward the same to the Principal Registrar of Titles, who shall file the same in a register to be kept for the purpose, and such register shall be open to the public for inspection free of cost. It is provided that where the advance to be allowed is in respect of lands held under the provisions of the Registration of Titles Ordinance the Principal Registrar of Titles shall also add to the register a column of the advance upon the Crown grant or certificate of title.

Cap. 132

Section 6 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, which it is proposed to repeal:

Repayment of advance

6. When the repayment by the farmer of any advance made under section 3 of this Ordinance together with interest at the rate prescribed to the date of such repayment, has been received, the receipt for the same, and the Principal Registrar of Titles shall, upon presentation to him of such receipt, cross the word "Cancelled" across the notification filed in the register and across the memorandum of title entered on the Crown grant or certificate of title, and thereupon the charge created by this Ordinance in respect of the said advance shall be extinguished. Notice of the extinguishment of any advance shall be published in the Gazette as soon as possible after the date of such extinguishment.

14. Section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed.

Repeal of section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

15. Section 6 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following is substituted therefor:

Repeal and substitution of section 6 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

5. Upon the repayment of an advance made under section 3 of this Ordinance, together with interest thereon, the Secretary of the Bank shall forthwith give written notice of such repayment to the Principal Registrar of Titles who shall, without charging any fee register such notification and endorse on the Gazette of Titles or certificate of title (if any) notice of such repayment, and thereupon the charge entered in respect of such advance shall be extinguished.

Repayment of advance

Notice of the extinguishment of any advance shall be published in the Gazette as soon as possible after the date of such extinguishment.

(1) To meet the demand for long term finance from agriculturalists who in the present state of the law are debarred from applying to the Land Bank, as their requirements exceed the present maxima laid down for advances. Provision is accordingly made for the raising of these maxima.

(2) To provide facilities on special terms for advances for the purpose of combating soil erosion.

(3) To provide for any reduction in interest charge which may be possible at any future date being applicable to the balance of existing mortgage debts and not only to fresh advances.

(4) To provide for prompt action by the Land Bank being authorized in cases where (a) with the consent of the mortgagor or (b) the mortgaged property has been abandoned, it is necessary for the Bank to advance money and exercise personal supervision of a property subject to an otherwise rapid deterioration of any of the permanent improvements, e.g. coffee trees.

(5) To provide for minor alterations in the nature of the work which the Bank has shown to be desirable in the course of public utility work involved if the Government will be pleased to sanction the same.





Colony and Protectorate of Kenya.

IN THE FIRST YEAR OF THE REIGN OF  
**HIS MAJESTY KING EDWARD VIII.**

**JOSEPH LOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.**

*Governor*

Assented to in His Majesty's  
name this 15th day of 0  
1936.

**J. BYRNE**

*Governor*

**AN ORDINANCE TO AMEND THE LAND AND  
AGRICULTURAL BANK ORDINANCE, 1930**



Colony and Protectorate of Kenya.

IN THE FIRST YEAR OF THE REIGN OF  
**HIS MAJESTY KING EDWARD VII.**

**JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.**

Governor

Assented to in His Majesty's  
name at the City of London  
1936.

**J. BYRNE**

Governor

**AN ORDINANCE TO AMEND THE LAND AND  
AGRICULTURAL BANK ORDINANCE, 1930**

**ORDINANCE No. XIV of 1936**

**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:

This Ordinance may be cited as the Land and Agricultural Bank (Amendment) Ordinance, 1936, and to be read as one with the Land and Agricultural Bank Ordinance, No. 14 of 1930, hereinafter referred to as the Principal Ordinance.

2. Section 10 of the Principal Ordinance is hereby amended by the deletion of the words "deputed thereto by the Board in each case" which occur in the fourth and fifth lines thereof.

Amendment of section 10 of the Principal Ordinance.

3. Paragraphs (c) and (b) of section 18 of the Principal Ordinance are hereby repealed and the following paragraphs are substituted therefor:

Amendment of section 18 of the Principal Ordinance.

(a) to advance money to farmers on mortgage of land within the Colony which is used for agricultural or pastoral purposes and on which no part of the purchase price, if any, payable to the Crown remains outstanding;

(b) to advance money to farmers holding land from the Crown on titles providing for the payment of the purchase price or stand premium by instalments.

4. (1) Sub-section (3) of section 25 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 25 (3) of the Principal Ordinance.

"(3) An advance not exceeding three thousand five hundred pounds may be made for the purpose of reducing or discharging an existing first mortgage if in the opinion of the Board such mortgage is onerous:

Provided that no advance shall be made for the purpose of reducing any such existing mortgage unless the mortgagee executes a waiver of priority in accordance with the provisions of section 13 of the Land and Agricultural Bank (Amendment) Ordinance, 1934."

Section 4 of 1934

(2) This section shall be deemed to have come into operation on the 3rd day of March, 1931.

Amendment of the Principal Ordinance

Advances for purchasing and erecting

5. The Principal Ordinance is hereby amended by inserting therein, after section 20, the following as section 20A:

20A. (1) Notwithstanding anything in this Ordinance contained a special advance not exceeding two hundred pounds in amount may be made at any time by the Bank to a person who makes application therefor for the purpose of obtaining assistance in preventing soil erosion:

Provided that the total value of such advance and of all other advances made by the Bank upon the same security shall not exceed seventy-five per centum of the value of the security as determined by the Board.

(2) The Bank may in its discretion make such an advance upon the security of property already encumbered by a mortgage or by a charge of a person other than the Bank and may permit the advance to rank in respect of such property subsequent to such mortgage or charge but in any such case the Bank, before making the advance, shall call for further and adequate security in addition to the security so mortgaged or charged."

Repeal and replacement of section 27 (b) of the Principal Ordinance

6. Sub-section (3) of section 27 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:

(3) No advance under the provisions of paragraphs (a) and (b) of section 20 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than five thousand pounds or of sums which in the aggregate exceed five thousand pounds."

Amendment of section 28 of the Principal Ordinance

7. (1) Sub-section (2) of section 28 of the Principal Ordinance is hereby amended by deleting the first line of the sub-section and by substituting therefor the following:

(2) Save where provision to the contrary is expressly made, no advance under the provisions of paragraph (a) "

(2) Sub-section (2) of section 28 of the Principal Ordinance is, subject to the proviso contained in this sub-section, hereby repealed and the following sub-section is substituted therefor:

(2) Except in the case of Government settlement schemes in accordance with which advances and interest thereon are specifically guaranteed by the Government, no advance under the provisions of paragraph (b) of section 18 of this Ordinance upon the security of Crown land, the purchase price thereof not being fully paid, shall be made except with the prior consent of the Governor and no such advance shall exceed fifty per centum of the amount already paid as part of the purchase price, and the Board may with the prior consent of the Governor advance an additional amount up to fifty per centum of the value of improvements approved by the Board made since the date of the title under which the land is held and such amount shall be determined by the Board: Provided that, in the event of the land being resumed by the Crown, there shall be paid out of general revenue so much of the advance and the interest due thereon as the Bank is unable to recover from the mortgagor: Provided further that the Governor may approve of the making of advances for the fencing of Crown land to an amount in excess of fifty per centum of the value of such fencing."

Provided that the provisions of this sub-section shall not apply to any advance made before the commencement of this Ordinance but the provisions of sub-section (3) of section 28 of the Principal Ordinance, as the same appeared in that Ordinance before the coming into operation of this Ordinance, shall continue to apply to any such advance.

(3) Sub-section (3) of section 28 of the Principal Ordinance is hereby repealed, and sub-section (6) of section 28 is hereby amended by renumbering the same as sub-section (5).

8. Sub-section (3) of section 20 of the Principal Ordinance is hereby amended by the deletion of the words "paragraph (a) of" which occur in the second line thereof.

Amendment of section 20 (3) of the Principal Ordinance.

9. Section 32 of the Principal Ordinance is hereby amended by the deletion of the words "Provided that no alteration shall be made to the rate of interest on advances

Amendment of section 32 of the Principal Ordinance.

Provided that no advance shall be made for the purpose of reducing any such existing mortgage unless the mortgagee executes a waiver of priority in accordance with the provisions of section 13 of the Land and Agricultural Bank (Amendment) Ordinance, 1934."

(2) This section shall be deemed to have come into operation on the 3rd day of March, 1931.

Amendment of  
the Principal  
Ordinance.

Advice for  
preventing  
soil erosion.

5. The Principal Ordinance is hereby amended by inserting therein, next after section 26, the following as section 26A:

"26A. (1) Notwithstanding anything in this Ordinance contained a special advance not exceeding two hundred pounds in amount may be made on any land by the Bank to a person who makes application therefor for the purpose of obtaining a special licence for affixing soil erosion fences on such land, provided that the total amount of such advance together with any other advances made by the Bank on the same security shall not exceed the value of the land and the amount of such security as determined by the Board.

(2) The Bank may in its discretion make such special advance on the security of property already encumbered by a mortgage or by a lien in favour of a person other than the Bank and may permit the advance to be repaid in respect of such security subsequent to the date of such mortgage or charge, but in any such case the Bank, before making such advance, shall call for further and adequate security in addition to the security for such mortgage or charge."

Repeal and  
amendment of  
section 27, 28  
of the  
Principal  
Ordinance.

6. Sub-section (3) of section 27 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:

"(3) No advance under the provisions of paragraphs (a) and (b) of section 16 of this Ordinance shall be made for a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than five thousand pounds or of sums which in the aggregate exceed five thousand pounds."

Amendment of  
section 28 of  
the Principal  
Ordinance.

7. (1) Sub-section (4) of section 28 of the Principal Ordinance is hereby amended by deleting the first line of the sub-section and by substituting therefor the following:

"(2) Save where provision to the contrary is expressly made, no advance under the provisions of paragraph (a) "

(2) Sub-section (3) of section 24 of the Principal Ordinance is, subject to the proviso contained in this sub-section, hereby repealed and the following sub-section is substituted therefor:—

"(3) Except in the case of Government settlement schemes in accordance with which advances and interest thereon are specifically guaranteed by the Government, no advance under the provisions of paragraph (b) of section 18 of this Ordinance upon the security of Crown land, the purchase price thereof not being fully paid, shall be made except with the prior consent of the Governor and so such advance shall exceed fifty per centum of the amount already paid as part of the purchase price, but the Board may, with the prior consent of the Governor, advance an additional amount up to fifty per centum of the value of improvement effected by the Board made since the date of the title under which the land is held and such value shall be determined by the Board. Provided that, in the event of the land being resumed by the Crown, there shall be paid out of general revenue so much of the advance and the interest due thereon as the Bank is unable to receive from the mortgagee. Provided further that the Governor may approve of the making of advances for the fencing of Crown land to an amount in excess of fifty per centum of the value of such fencing."

Provided that the provisions of this sub-section shall not apply to any advance made before the commencement of this Ordinance but the provisions of sub-section (3) of section 28 of the Principal Ordinance, as the same appeared in that Ordinance before the coming into operation of this Ordinance, shall continue to apply to any such advance.

(4) Sub-section (7) of section 20 of the Principal Ordinance is hereby repealed, and sub-section (7) of section 28 is hereby amended by renumbering the same as sub-section (5).

8. Sub-section (5) of section 20 of the Principal Ordinance is hereby amended by the deletion of the words "paragraph (a) of" which occur in the second line thereof.

Amendment of  
section 29 (3)  
of the  
Principal  
Ordinance.

9. Section 32 of the Principal Ordinance is hereby amended by the deletion of the words "Provided that no alteration shall be made to the rate of interest on advances

Amendment of  
section 32 of  
the Principal  
Ordinance.

already made;" which occur in the fourth and fifth lines thereof and by the substitution thereof of the following:—

"Provided that no increase in the rate of interest shall be made on advances already made and, in the case of reduction of the rate of interest, such reduction shall only apply to the unpaid balances of the advance outstanding at the time of such reduction but the rate of interest on any portion of an advance which was due and payable before such reduction of interest shall be based on the rate of interest payable on advances before such reduction."

Amendment of section 45a of the Principal Ordinance

10. Section 45a of the Principal Ordinance is hereby amended by the deletion of the word "and" which occurs after the word "and" in the ninth line of section (1) thereof and by the substitution thereof of the words "and/or" and by the deletion of sub-section (1) thereof and by the following further proviso:

"Provided further that the Board may, at any time, if it is satisfied that such rate of interest is not excessive, reduce the rate of interest in this section:

- (a) so enter upon and take possession of and/or sell any or part of the security if the debtor has failed to pay the subsequent mortgage instalments or such other action or actions being taken; or
- (b) so enter upon and take possession of the whole or part of the security if such land has been abandoned by the debtor and in the opinion of the Board, such action or actions is or are necessary for the purposes of safeguarding the well-being of the mortgaged property. Notice of such intended action or actions under this paragraph shall be given to the debtor by registered letter addressed to the address given by the debtor in his application for the advance."

Amendment of section 50 (1) of the Principal Ordinance

11. Sub-section (1) of section 50 of the Principal Ordinance is hereby amended—

- (a) by deleting paragraph (a) thereof;
- (b) by adding the word "and" after the word "kept" at the end of paragraph (b) thereof; and
- (c) by renumbering paragraph (f) thereof as paragraph (g).

12. The First Schedule to the Principal Ordinance is hereby amended as follows:—

- (a) by the insertion of the words "pay the rent after the same became due under any agreement, lease or licence under which he holds the land, and" between the word "security," and the word "well" which occur in the second line of paragraph (1) thereof;
- (b) by the insertion of the words "to pay the rent as aforesaid" between the word "neglect" and the word "and" which occur in the first line of paragraph (2) thereof;
- (c) by the insertion of the words "to pay the said rent" between the word "mortgagor," and the word "to" which occur in the seventh line of paragraph (3) thereof; and
- (d) by the insertion of the words "in paying rent as aforesaid, and" between the word "Bank" and the word "which" which occur in the first line of paragraph (4) thereof.

13. Section 3 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following substituted therefor:

(1) Notwithstanding anything contained in the Principal Ordinance it shall be lawful for the Board out of the funds of the Bank to make temporary advances, up to a maximum of five hundred pounds, to farmers, on such conditions and upon such security as to the Board may seem fit, for the following purposes in addition to those set forth in section 10 of the Principal Ordinance:—

- (a) to meet expenses of farming operations to be incurred; or
- (b) to meet existing liabilities incurred in farming.

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

(3) Every such advance shall bear interest at such rate, per annum, as may from time to time, with the consent of the Governor in Council, be fixed by the Board.

Amendment of Schedule I of the Principal Ordinance

Repeal and replacement of section 3 of the Land and Agricultural Bank (Amendment) Ordinance, 1934

No. 3 of 1934

already made which occur in the fourth and fifth lines thereof and by the substitution thereof of the following:—

"Provided that no increase in the rate of interest shall be made on advances already made and, in the case of reduction of the rate of interest, such reduction shall only apply to the unpaid balance of the advance outstanding at the time of such reduction but the rate of interest on any portion of an advance which was due and payable before such reduction of interest shall be based on the rate of interest payable on advances before such reduction:—"

Amendment of  
Ordinance

10. Section 45A of the Principal Ordinance is hereby amended by the deletion of the word "and" which occurs after the word "of" in the ninth line of sub-section (1) thereof and by the substitution of the words "and/or"; and by the addition at the end of sub-section (1) thereof of the following:—

"Provided that the Board may at any time before the expiration of such period of one month mentioned in this section:—"

(a) to enter upon and take possession of and/or sell the whole or part of the property of the debtor and the subsequent mortgagee consent to such action or actions being taken;

(b) to enter upon and take possession of the whole or part of the security if such land has been abandoned by the debtor and in the opinion of the Board, such action or actions is or are necessary for the purpose of safeguarding the well-being of the mortgaged property. Notice of such intended action or actions under this paragraph shall be given to the debtor by registered letter addressed to the address given by the debtor in his application for the advance;

Amendment of  
section 50 (1)  
of the  
Principal  
Ordinance.

11. Sub-section (1) of section 50 of the Principal Ordinance is hereby amended:—

- (a) by deleting paragraph (4) thereof;
- (b) by adding the word "and" after the word "kept" at the end of paragraph (b) thereof; and
- (c) by renumbering paragraph (f) thereof as paragraph (i).

12. The First Schedule to the Principal Ordinance is hereby amended as follows:—

(a) by the insertion of the words "pay the rent after the same became due under any agreement, lease or licence under which he holds the land, and" between the word "security" and the word "well" which occur in the second line of paragraph (1) thereof;

(b) by the insertion of the words "to pay the rent as aforesaid" between the word "neglect" and the word "to" which occur in the first line of paragraph (2) thereof;

(c) by the insertion of the words "to pay the same rent" between the word "mortgagor" and the word "to" which occur in the seventh line of paragraph (3) thereof; and

(d) by the insertion of the words "in paying rent as aforesaid and" between the word "Bank" and the word "and" which occur in the first line of paragraph (4) thereof.

13. Section 3 of the Land and Agricultural Bank (Amendment) Ordinance, 1933 is hereby repealed and the following is substituted therefor:—

"3. (1) Notwithstanding anything contained in the Principal Ordinance it shall be lawful for the Board out of the funds of the Bank to make temporary advances, up to a maximum of five hundred pounds, to farmers, on such conditions and upon such security as to the Board may seem fit, for the following purposes in addition to those set forth in section 10 of the Principal Ordinance:—

- (a) to meet expenses of farming operations to be incurred; or
- (b) to meet existing liabilities incurred in farming.

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

(3) Every such advance shall bear interest at such rate per annum as may from time to time, with the consent of the Governor in Council, be fixed by the Board:

Amendment of  
Schedule I of  
the Principal  
Ordinance.

Repeal and  
replacement of  
section 3 of the  
Land and  
Agricultural  
Bank  
(Amendment)  
Ordinance,  
1933.  
Temporary  
advances.

No. 3 of 1933

Provided that no advance shall be made under this section on the security of any property which is encumbered by any mortgage charge or other encumbrance, other than a mortgage or charge in favour of the Bank, unless the encumbrancer has executed a waiver of priority in accordance with the provisions of section 13 of this Ordinance in favour of the Bank:

Provided further that no advances shall be made under this section of a sum which, together with interest thereon, exceeds the maximum sum which can be made under sections 12 and 13 of this Ordinance.

(4) All moneys advanced under the provisions of this Ordinance and all interest thereon and charges incidental thereto shall be repaid to the Bank on the date on which the advance is made and shall, subject to the provisions contained in this Ordinance, become due and payable with interest from the date of the advance.

Provided, however, that the Bank may, at its discretion, from time to time postpone the date of repayment for a total period not exceeding three months from the date of the advance.

(5) Written notification of an advance under this section shall be given by the Secretary of the Bank to the Principal Registrar of Titles, who shall without charging any fee register such notification.

Provided that where the advance is in respect of land in respect of which the provisions of the Registration of Titles Ordinance apply, the Principal Registrar of Titles shall also endorse a memorandum of the advance upon the Crown Grant or the certificate of title.

(6) Notwithstanding anything in any other Ordinance contained the registration of such notification shall constitute a charge upon the land in respect of which the advance has been made, and, subject to the provisions of any waiver of priority which may be given under section 13 of this Ordinance, shall rank for priority with effect from the time and date of such registration.

14. Section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed.

Repeal of section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

15. Section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following is substituted therefor:

Repeal and replacement of section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

5. (1) On the repayment of an advance made under section 3 of this Ordinance, together with interest due thereon, the Secretary of the Bank shall forthwith give written notice of such repayment to the Principal Registrar of Titles who shall, without charging any fee, register such notification and endorse on the Crown grant or certificate of title (if any) the amount of such repayment and thereupon the advance shall be deemed to be extinguished. Notice of the extinguishment of any advance shall be published in the Gazette as soon as possible after the date of such extinguishment.

Replacement of advances.

Passed in the Legislative Council on the 15th day of May, in the year of our Lord one thousand nine hundred and thirty-six.

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.

R. W. C. BAKER-BEALL

Acting Clerk of the Legislative Council.



Provided that no advance shall be made under this section on the security of any property which is encumbered by any mortgage charge or other encumbrance, other than a mortgage or charge in favour of the Bank, unless the encumbrancer has executed a waiver of priority in accordance with the provisions of section 13 of this Ordinance in favour of the Bank:

Provided further that no advances shall be made under this section of a sum which, together with advances (if any) made to the same farmer under paragraphs (a) and (b) of section 10 of the Principal Ordinance, exceed the maximum advance which can be made under sections 7, 8, 25 and 29 (a) thereof.

(4) All moneys advanced under the provisions of this Ordinance and all interest thereon and all other incidental charges shall be a charge on the land in respect of which the advance is made, and shall, subject to the proviso contained in this section, be payable and repayable within twelve months after the date of the advance:

Provided, however, that the Board may, at its discretion, allow time to time, for the date of repayment for a total period not exceeding three years from the date of the advance.

(5) Written notification of an advance under this section shall be given by the Secretary of the Bank to the Principal Registrar of Titles, who shall, without charge, register such notification:

Provided that where the advance is in respect of land held under the provisions of the Registration of Titles Ordinance the Principal Registrar of Titles shall also endorse a memorandum of the advance upon the Crown Grant or Certificate of Title.

(6) Notwithstanding anything in any other Ordinance contained the registration of such notification shall constitute a charge upon the land in respect of which the advance has been made, and, subject to the provisions of any waiver of priority which may be given under section 13 of this Ordinance, shall rank for priority with effect from the time and date of such registration.

14. Section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed.

Repeal of section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

15. Section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following is substituted therefor:—

Repeal and replacement of section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

5. Upon the repayment of an advance made under section 3 of this Ordinance, together with interest due thereon, the Secretary of the Bank shall, together with give written notice of such repayment to the Principal Registrar of Titles who shall, without charging any fee on the borrower, register such notification on the Crown grant or Certificate of Title. If any notice of such repayment is given thereupon the charge entered upon the advance shall be extinguished. The extinguishment of any advance shall be published in the Gazette as soon as possible after the date of such extinguishment.

Repeal of section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

Passed in the Legislative Council the twenty-third day of May, in the year of our Lord one thousand nine hundred and thirty-eight.

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

R. W. C. BAKER-BEALL

Acting Clerk of the Legislative Council.

KENYA.  
No. 508



18  
GOVERNMENT HOUSE  
RECEIVED  
6. JUN 1936  
KENYA

16 JUNE, 1936.

Sir,

I have the honour to forward two authenticated and twelve printed copies of Ordinance No. IX of 1936 entitled "An Ordinance to make provision for the Loan of Six hundred and twenty-five thousand pounds sterling for certain public purposes" together with a Legal Report thereon by the Attorney General.

This Ordinance passed its third reading in the Legislative Council on the 21st day of May, 1936. I assented thereto in His Majesty's name on the 10th June, 1936.

I have the honour to be,

Sir,  
Your most obedient  
humble servant,

*H. G. ...*  
Brigadier General,  
GOVERNOR.

THE RIGHT HONOURABLE  
W. ORMSBY-GORE, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET, LONDON, S.W.1.

LEGAL REPORT

THE SPECIFIC LOAN BILL, 1936.

This Bill makes provision for raising a loan of £825,000 and such further sum as may be necessary to defray the expenses of issue, for the purposes set out in the Schedule to the Bill.

A Comparative Table is attached.

I, Sir John A. Inon, His Excellency the Governor, do hereby assent to this Bill in the name and on behalf of His Majesty.

*John A. Inon*  
ATTORNEY GENERAL

Nairobi, 21st May, 1936.

COMPARATIVE TABLE

THE SPECIFIC LOAN BILL, 1936.

Clause of the Bill.		Remarks.
1.	Short title.	
3.	Cf. Clause 1 of the draft Bill submitted by the Crown Agents to the Secretary of State in their letter of the 28th April 1936.	
5.	Cf. Clause 2	-do-
4.	Cf. Clause 3	-do-
5.	Cf. Clause 4	-do-
6.	Cf. Clause 5	-do-
7.	Cf. Clause 6	-do-
8.	Cf. Clause 7	-do-
Schedule	New.	



Colony and Protectorate of Kenya.

IN THE FIRST YEAR OF THE REIGN OF  
HIS MAJESTY KING EDWARD VIII

JOSEPH ALOYSIUS BYRNE, C.C.M.G., EBE, C.B.

Governor

Assented to in His Majesty's  
name this 7<sup>th</sup> day of June

J. BYRNE

Governor

AN ORDINANCE TO MAKE PROVISION FOR  
RAISING A LOAN OF SIX HUNDRED AND  
TWENTY-FIVE THOUSAND POUNDS STERLING  
FOR CERTAIN PUBLIC PURPOSES

ORDINANCE No. IX of 1936

An Ordinance to make Provision for Raising a Loan of Six Hundred and Twenty-Five Thousand Pounds Sterling for Certain Public Purposes.

WHEREAS it is expedient to raise a loan of six hundred and twenty-five thousand pounds sterling for the purposes specified in the Schedule hereto;

BE IT 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 Specific Loan Short Title Ordinance, 1936.

2. In this Ordinance, unless the context otherwise requires

the expression 'Governor' means the person for the time being administering the Government of the Colony or the Governor of the Colony;

the expression the 'Crown Agents' means any person or persons for the time being as Crown Agents for the Colonies in England;

3. The Governor or the Crown Agents acting on his Authority to behalf may raise by loan in London an amount sufficient to produce as nearly as may be the sum of six hundred and twenty-five thousand pounds sterling and such other sum as may be necessary to defray the expenses of issue.

4. The principal moneys and interest represented by the loan issued under the provisions of this Ordinance are hereby charged upon and shall be payable out of the general revenue and assets of the Colony.

5. The money to be borrowed under the authority of this Ordinance shall be appropriated and applied to the purposes specified in the Schedule hereto.

6. The loan hereby authorized or any part of it may be used under the provisions of the General Loan and Inscribed Stock Ordinance or notwithstanding anything to the contrary contained in the said Ordinance independently of that Ordinance as the Governor or the Crown Agents acting on his behalf may decide.

7. The loan hereby authorized shall be used under the provisions of the General Loan and Inscribed Stock Ordinance then the contribution to Sinking Fund as contemplated by the provisions of sections 14 and 15 of the said Ordinance shall commence in respect of any debentures or stock issued under this Ordinance not later than three years after the date from which the interest on such debentures or stock shall commence to run.

8. If it should be decided to issue the loan hereby authorized independently of the General Loan and Inscribed Stock Ordinance then the following provisions shall apply:

(a) As long as any portion of the loan remains outstanding the Governor shall in each half year ending with the day on which the interest on the loan falls due appropriate out of the general revenues and assets of the Colony a sum equal to one-half of the interest on the whole of the loan outstanding and shall remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half year's interest on the day on which it falls due.

(b) The Governor shall also in each half year ending as aforesaid appropriate out of the said revenues and assets of the Colony for the formation of a sinking fund for the repayment of the loan at par an additional sum in respect of the total nominal amount of the loan outstanding equal to one-half of the annual contribution to be decided upon by the Governor on the issue of the loan and shall remit that sum to the Crown Agents with the remittance hereinbefore mentioned provided that the said contribution shall in respect of any money raised under this Ordinance commence not later than three years after the date from which the interest on such money shall commence to run.

(c) The Crown Agents shall invest so much of the money so remitted to them as aforesaid as shall not be required for the payment of interest for the current half-year in the purchase of such securities as may be approved by the Secretary of State as a sinking fund for the final extinction of the debt and the Crown Agents shall also invest the dividends, interest or produce of such investments in the purchase of like securities and may from time to time with the approval of the Secretary of State change any such investments and shall hold such funds in trust for the repayment of the principal moneys for the time being represented by the loan.

(d) In case the sinking fund provided for by this Ordinance shall be insufficient for the payment of all the principal moneys borrowed under the authority of this Ordinance prior to the date when the same shall have become due the Governor shall make good the deficiencies out of the general revenues and assets of the Colony.

#### SCHEDULE

1. Land and Agricultural Bank (of which the sum of £500,000 may be placed at the disposal of Farmers Conciliation Board constituted under the provisions of the Farmers Assistance Ordinance, 1936)	£500,000	No. 10 of 1936.
2. Loans to Local Authorities - Nairobi Water Supply	£112,000	
3. Such further items as the Governor may, with the approval of the Legislative Council signified by resolution, and of the Secretary of State, determine	£13,000	
TOTAL	£625,000	





No. IX

*Specific Loan*

1938

Passed in the Legislative Council the twenty-first day of May in the year of our Lord one thousand nine hundred and thirty-eight

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

R. W. C. BAKER-BEAL

*Acting Clerk of the Legislative Council*

Apr 2/6 17

R E P O R T  
O F

THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL APPOINTED  
TO CONSIDER AND REPORT ON THE PROVISIONS OF A BILL  
TO PROVIDE FOR THE CONSTITUTION OF A BOARD TO BE  
KNOWN AS THE FARMERS CONCILIATION BOARD, TO  
INVOLVE THE BOARD WITH CERTAIN POWERS FOR  
THE ASSISTANCE AND RELIEF OF FARMERS  
AND FOR PURPOSES INCIDENTAL THERETO

Your Excellency,

We, the members of the above Committee,  
recommend that the Farmers Assistance Bill, 1936, be amended  
in the following respects -

1. That Clause 8 be amended -

(a) by deleting the definition of "agent" and by  
substituting therefor the following -

"agent" means the holder of a lease under the  
provisions of section 3 of this Ordinance;

and by deleting the definition  
of "agent" the following definition -

"applicant" means a person who makes an  
application for assistance in accordance  
with the provisions of this Ordinance;

(b) by inserting the word "planting" after the  
word "farming" where it occurs in the second  
line of paragraph (a) and in the first line

of paragraph (c) of the definition of  
"farmer";

(c) by adding immediately after the definition of  
"farmer" the following definition -

"grantee" means the party to an instrument,

(registered within the time prescribed by  
the Chattels Transfer Ordinance, 1930, and  
given by the applicant prior to the issue  
of an Interim Stay Order) to whom chattels

therein referred to, and any interest therein, and therein, shall be deemed to be or affected to be, and includes his executors, administrators and assigns and in the case of a company or corporation includes the successors and assigns of such company or corporation;"

(e) by deleting the definition of "secured creditor" and by substituting therefor the following:

"secured creditor" means a person holding a mortgage, charge or lien on land or property of the applicant, or any interest therein, as a security for a debt due to him from the applicant and includes a grantee;"

(f) by deleting the section which occurs at the end of the definition of "unsecured creditor" and by substituting therefor a full stop;

(g) by deleting the definition of "Land Bank"

2. That Clause 3 be amended:-

(a) by substituting the word "seven" for the word "six" which occurs in the third line of sub-clause (1);

(b) by substituting the word "agent" for the words "Land Bank" which occur in paragraph (c) of sub-clause (1);

(c) by deleting the word "and" which occurs at the end of paragraph (d) of sub-clause (1);

(d) by deleting paragraph (e) of sub-clause (1) and by substituting therefor the following:-

"(c) two shall be persons with general experience of agriculture; and"

(c) by adding at the end of a clause of the following paragraph -

"(f) one shall be a person with general experience of commerce."

3. That Clause 4 be amended -

(a) by substituting the word "three" for the word "two" which occurs in the first line of sub-clause (1);

(b) by deleting the first line of sub-clause (6) and by substituting therefor the following

"The Secretary"

(b) by substituting the word "Secretary" for the word "Member" which occurs in the last line of sub-clause (6).

4. That Clause 6 be amended -

(a) by deleting sub-clause (1) and by substituting therefor the following

"6.(1) The Land and Agricultural Bank shall act as agent for the Board in the administration of any advances to farmers under this Drainage;"

Note - The marginal note should read

"Land Bank to act as agent for the Board"

(b) by substituting the word "agent" for the word "Bank" wherever the latter word occurs in sub-clause (2).

5. That Clause 7 be amended -

(a) by substituting the word "agent" for the words "Land Bank" which occur in the third line; and

(b) to substitute for the words "the Governor in Council" for the word "Government" which occurs in the third and the fourth lines.

5. That Clause 8 be amended -  
by deleting the fourth and the fifth lines of sub-clause (1) and by substituting therefor the following -

"who shall be a District Officer, a Magistrate or other members approved by the Board."

(b) by deleting the words "with the approval of the Board" which occur in the last line of sub-clause (1);

(c) by substituting the word "such" for the word "that" which occurs in the second line of sub-clause (1).

7. That Clause 9 be amended -

(a) by deleting the semicolon and the word "or" which occur at the end of para. (a) of sub-clause (1) and by substituting therefor a full-stop; and

(b) by deleting paragraphs (d) and (e) of sub-clause (1).

8. That Clause 10 be amended -

(a) by substituting the words "an affidavit" for the words "a statutory declaration" which occur in the fourth line of sub-clause (1);

(b) by adding the following sub-clause as sub-clause (2) -

"(2) The applicant shall at the time he makes such application forward a copy thereof

the office of the agent."

and

(c) by renumbering sub-clause (b) as sub-clause (3), and by deleting paragraph (c) of that sub-clause and by substituting therefor the following -

"(c) a list of the securities held by the secured creditors on the property of the applicant."

9. That Clause 11 be amended -

(a) by substituting the words "and the" for the words "and" which occur in the 11th line of paragraph (b) of the clause (1); and  
(b) by adding at the end of sub-clause (1) the following -

"The chairman shall also forthwith forward a copy of every such Interim Stay Order to the Principal Registrar of Titles, who shall file the same in a register to be kept for the purpose, and such register shall be open to the public for inspection free of cost."

10. That Clause 12 be deleted, and the following Clause be substituted therefor -

"Interim Stay Order."

12.(1) An Interim Stay Order shall remain in force until a meeting of the Board confirms or removes the Interim Stay Order.

(2) While an Interim Stay Order is in force -

(a) it shall have the effect of vesting all the property of the applicant in the agent; and

all suits, actions, proceedings or other proceedings whatsoever, or any proceedings against the farmer which are stayed

(3) Notwithstanding anything contained in paragraph (b) of sub-section 13 or in section 14, the grant of an Interim Stay Order shall not prevent and shall be deemed never to have prevented any person -

(a) from instituting or proceeding with any suit, action or other proceeding for the purpose of determining the farmer's liability -

(i) for any tort committed by the farmer; or

(ii) for any injury suffered by a person in the use of the farmer; or

Cap. 170.

(iii) under the Divorce Ordinance or for the support of the wife or children of the farmer; or

(iv) in respect of any unilateral demand

other than a demand arising out of default

or for or upon breach of covenant under any mortgage or other security for money

or under an agreement for sale or purchase or lease of any movable or immovable

property or under a hire-purchase agreement; or

(b) from prosecuting any suit or other proceeding against the farmer for the administration of, the trusts of any will, deed or other instrument, or for any breach of such trusts, or for the removal of the farmer from the position of executor or administrator or trustee."

11. That Clause 13 be deleted, and the following clause be substituted therefor -

"Temporary Supervisor.

10. A Temporary Supervisor appointed under section 11 of this Ordinance may make such arrangements with regard to the property (including crops and produce) of the applicant as the agent shall direct and, until otherwise directed by the agent, shall have all the powers and be responsible for exercising all the functions of the agent as set out in sections 24 and 27 of this Ordinance until his appointment is terminated."

12. That Clause 14 be amended

(a) by substituting the word "convened" for the word "provided" which occurs in the first line; and

(b) by substituting a colon for the full-stop which occurs at the end thereof and by adding immediately thereafter the following proviso

"Provided that in the case of any floating security of the type referred to in section 25 of this Ordinance which is subject to an instrument registered under the Chattels Transfer Ordinance, 1960, the chairman shall direct such a valuer to value such security."

No. 24 of 1960.

13. That Clause 15 be amended -

(a) by substituting the expression "section 11" for the expression "sections 11, 1, and 14" which occurs in the second line of sub-section (1);

(b) by inserting after the word "view" which occurs in the fifth line of sub-clause (1) the words "inter alia";



by deleting sub-clause (a) and substituting therefor the following -

"(2) The applicant and, or his authorized agent and the creditors of the applicant may attend either in person or by duly authorized agents or they may forward their views in writing to the chairman. No other persons shall be permitted to be present at the meeting."

(d) by deleting sub-clause (4) and

(e) by renumbering sub-clause (3) as clause (4) and by substituting the word "as" for the word "so" which occurs at the beginning of the sub-clause.

14. That Clause 16 be deleted, and the following Clause be substituted therefor -

Meeting of the Board

16. (1) When the application has been referred to the Board, the Board, having given fourteen days' notice to the applicant and his creditors shall meet to consider the application and the report and recommendations thereon of the Local Committee.

(2) The applicant and/or his authorized agent shall attend the meeting and the creditors may attend such meeting either in person or by sending duly authorized agents."

15. That Clause 17 be deleted, and the following Clause be substituted therefor -

Granting of application

17. (1) In any case where, at the meeting of the Board, the arrangement proposed for the adjustment of the applicant's affairs is agreed to by -

(a) the Board; and

(b) seventy-five per centum in value of the secured creditors of the applicant based on the assessed value of their security as determined by the Board,

the Board shall confirm the arrangement and grant the application unless a majority in value and number of the unsecured creditors present and voting do have a claim for not less than five pounds oppose the arrangement.

(2) Any creditor who fails to attend the meeting convened in accordance with section 16 of this Ordinance shall, in the event of the application being granted, be deemed to have agreed to such arrangement.

16. That Clause 18 be amended -

(a) by substituting the word "arrangement" for the word "agreement" which occurs in the first line;

(b) by substituting the word "confirmed" for the word "reached" which occurs in the second line; and

(c) by substituting the words "and the Principal Registrar of Titles." for the words "of the Supreme Court and thereafter the applicant and his creditors shall be free to pursue any legal remedy available to them." which occur in the sixth, seventh and eighth lines thereof.

17. That Clause 19 be amended -

(a) by deleting paragraph (a) and by renumbering paragraphs (b), (c) and (d) as (a), (b) and (c);

- (b) by substituting the word "agent" for the words "Land Bank" wherever these words occur in the Clause; and
- (c) by substituting a semicolon at the end of the Clause and by adding thereafter the following -  
"and with the concurrence of the creditors -"
- (d) prepare and file with the Registrar a Deed of adjustment in the prescribed form, containing the terms and conditions of the agreed arrangement."

18. That Clause 20 be amended by substituting the word "or" for the word "and" which the word "or" occurs three in the second line.

19. That Clause 21 be amended -  
(a) by deleting the fourth line of the proviso to sub-clause (1) and by substituting therefor the following -  
"of an Average year's crop or produce as assessed by the Board;"

and  
(b) by inserting between the word "to" and the word "Crown", which occur in the seventh line of the proviso to sub-clause (1), the word "the".

20. That Clause 22 be amended by deleting sub-clause (1) and by substituting therefor the following -

"Publication of Stay Order.

22.(1) The Board shall publish in the Gazette a notice of the issue of every Stay Order and a copy of the said Order shall be sent by the Board to the Registrar and to the Principal Registrar of Titles."

"Deed of Adjustment."

21. That Clause 20 be amended by deleting sub-clause (1) and by substituting therefor the following -

20. (1) Every Deed of Adjustment prepared in accordance with section 19(d) of this Ordinance shall be executed by the chairman of the Board who shall certify that the provisions of section 17 of this Ordinance have been complied with."

22. That Clause 21 be deleted, and the following clause be substituted therefor -

"Agent to receive for farmer all moneys or other property."

24. (1) The agent shall have the sole right to receive all moneys payable to a farmer, and to receive any movable property and any movables transferred to or otherwise becoming vested in the farmer, and to give a valid discharge of such farmer for any such moneys or property.

(2) The agent shall have the sole right to sue for and recover any debts due to the farmer.

(3) Notwithstanding anything contained in this section and subject to any arrangement to the contrary contained in any Deed of Adjustment the Agent shall pay to a grantee any moneys received by the agent on a sale of any chattel secured by an instrument executed in favour of such grantee unless the Board in accordance with the provisions of sub-section (2) of section 25 of this Ordinance replace the chattel so sold."

23. That after Clause 24 there be inserted the following Clauses -

"Rights of  
grantees."

25. (1) Notwithstanding anything contained in section 12 of this Ordinance the grantee of an instrument which purports to transfer to him the property in any movable plant, machinery, tools, vehicle or other wasting security similar thereto may, if he so desires or if requested to do so by the Board, take possession of such security at any time after such security has been valued in accordance with the provisions to section 14 of this Ordinance and before the Interim Stay Order is converted into a Stay Order.

(2) If a grantee does not take possession or is not requested to take possession of such security in accordance with the provisions of this section, the Board shall assess such security, in which case, subject to any arrears due to the authority containing any Debtors Adjustment

(a) the obligations imposed on the grantor by paragraph

(1) of the Third Schedule to the Chattels Transfer Ordinance, 1950, shall bind the Board in respect of the amount for which such security has been assessed, and

(b) he shall rank as an unsecured creditor in respect of the amount (if any) due to him by the applicant after deduction of the amount for which his security has been assessed together with the interest thereon which becomes due and payable to him while the Stay Order is in force.

(3). A grantee who comes within the provisions of subsection (1) of this section shall not be entitled to vote as a secured creditor at the meeting convened by the Board in accordance with the provisions of section 15 of this Ordinance, but if prior to the meeting -

(a) he has sold the security he shall be entitled to vote as an unsecured creditor in respect of the amount (if any) due to him after deduction of the proceeds of the sale; or

(b) he has not sold the security, it shall be assessed by the Board and he shall be entitled to vote as unsecured creditor in respect of the amount due to him after deduction of the amount for which the security is assessed.

(4) A granted who comes within the provisions of section (2) of this section shall be entitled to vote at any meeting convened by the Board in accordance with the provisions of section 10 of this Ordinance as an unsecured creditor in respect of the amount for which the security is assessed and as an unsecured creditor in respect of the amount to him after deduction of the amount for which

Order of priority of payment. Subject to the provisions of sub-section (c) of section 24 of this Ordinance, the agent shall from time to time

contribute such portion of the proceeds of the sale of the farmer's crops or of any other moneys received by the agent on behalf of the farmer, as in its discretion may be advisable, in payment of the farmer's debts in the following order of priority -

- (a) in payment of the advance made to such farmer under the provisions of section 21 of this Ordinance together with interest thereon;
- (b) in payment of Crown taxes and local rates which become due and payable while the Stay Order is in force;
- (c) in payment of rents which become due and payable while the Stay Order is in force.

and thereafter in accordance with the Deed of Adjustment, or if no arrangement concerning priority is contained in such Deed, then in the following order -

(i) in payment to first mortgagees and grantors (other than those who take possession or are requested to take possession of their security in accordance with the provisions of sub-section (1) of section 25 of this Ordinance) ranking equally amongst themselves of interest which becomes due and payable after the Stay Order is in force; provided that a mortgagee whose security is assessed by the court in accordance with the provisions of sub-section (2) of section 25 of this Ordinance shall only be paid in respect of the amount of interest on his security which has been so assessed;

(ii) in payment to subsequent mortgagees in order of priority of interest which becomes due and payable while the Stay Order is in force;

No. 32 of 1950.

(iii) in payment of arrears of interest which are given a preference under section 35 of the Bankruptcy Ordinance, 1950;

(iv) in payment to unsecured creditors, ranking equally amongst themselves, of arrears due to them;

(v) in payment to first mortgagees and grantors, ranking equally amongst themselves, of arrears of interest which became due and payable prior to the issue of the Stay Order;

(vi) in payment to subsequent mortgagees in order of priority of arrears of interest which became due and payable prior to the issue of the Stay Order;

(vii) in payment of the principal moneys which become due and payable to first mortgagees and grantors (other than those who by virtue of the provisions of sub-

section (2) of section 25 of this Ordinance  
rank in respect thereof as unsecured creditors  
ranking equally amongst themselves; and  
(viii) in payment of the principal monies which  
become due and payable to subsequent mortgagees  
in order of priority."

24. That Clauses 25 to 28 be renumbered 27 to  
40.

25. That Clause 25 (now Clause 27) be amended  
(a) by deleting sub-clause (1) and substituting  
herefor the following:  
"...pays to ... The ... in respect  
of ... which ...  
... necessary to refer to the ...  
... actions of or on account of the ..."

(b) by substituting the word "agent" for the  
words "Land Broker" which occur in the ...  
of sub-clause (2).

26. That Clause 27 (now Clause 28) be amended  
by substituting the words "and to the Principal Registrar  
Titles" for the words "of the Supreme Court" which occur in  
the fourth line of the Clause.

27. That Clause 27 (now Clause 29) be amended  
substituting the words "any law of limitation for the time  
being in force in the Colony" for the word "law" which occurs  
in the sixth line thereof.

28. That Clause 28 (now Clause 30) be deleted,  
and the following Clause be substituted therefor -



advanced to  
to a charge  
after  
cancellation  
of Stay  
Order.

30.(1) When a Stay Order is cancelled or ceases to have effect, the amount remaining unpaid from any cause to have effect, the amount remaining unpaid in respect of any sum of money advanced by the Board to a farmer or of any sum which the Board has paid on behalf of a farmer in respect of any guarantee given in pursuance of this Ordinance shall be deemed to be a charge on the property and assets of the farmer. The Board shall as deemed to have a preferential lien for the amount of such charge on the crops and produce of the property of the farmer for a period of three months from the date of the cancellation or ceasing to have effect of the Stay Order, and such lien shall in addition to the lien in substitution for such charge.

(2) Such lien shall not be subject to any prior mortgage, charge or lien upon any property of the farmer at the time when the Stay Order ceases to have effect.

(3) As soon as possible after a Stay Order has been cancelled or ceases to have effect, the Board shall issue a notification in a form to be prescribed by the Board, containing the amount remaining unpaid, and shall sign and forward the same to the Principal Registrar of Titles, who shall enter the same in a register to be kept for the purpose, and such register shall be open to the public for inspection free of cost.

Provided that where the said amount remaining unpaid is in respect of lands under the provisions of the U.P. 142. Registration of Titles Ordinance, the Principal Registrar of Titles shall also endorse a memorandum of the said amount remaining unpaid on the duplicate Crown grant or certificate of title.

(4) Upon repayment by the farmer of the said amount remaining unpaid, the Board shall give a receipt for the same, and shall notify the Principal Registrar of Titles.

who on the receipt of such notification shall write the word "Cancelled" across the notification filed in the register and across the memorandum (if any) endorsed on the duplicate Crown grant or certificate of title, and thereupon the charge created by this section in respect of the said amount remaining unpaid shall be extinguished."

That Clause 29 (now Clause 31) be amended by substituting the words "Supreme Court" for the application of the word "Court" which occurs in the second line of sub-clause (1).

30. That Clause 30 (now Clause 32) be amended

(a) by deleting the words "of the Supreme Court" which occur in the third line of sub-clause (1).

(b) by inserting the word "Principal" before the words "Registrar of Titles" wherever the latter words occur in the Clause; and

(c) by deleting the word "of" which occurs after the word "keeping" in the sixth line of sub-clause (1).

31. That Clause 31 (now Clause 33) be amended by substituting the word "agent" for the word "Land Bank" which occur in the seventh line thereof.

32. That Clause 32 (now Clause 34) be amended

(a) by substituting the words "the applicant" for the word "a farmer" which occur in the second line thereof;

(b) by inserting the words "at the office of the agent" after the word "inspect" which

occurs in the seventh line of sub-clause (i);

(e) by substituting the word "applicant's" for the word "farmer's" which occurs in the eighth line of sub-clause (1); and

(d) by substituting the word "applicant" for the word "farmer" which occurs in the ninth lines and the twelfth line of sub-clause (1).

33. That Clause 33 (now Clause 35) be amended

(a) by substituting the word "Board" for the words "Board or by a Local Committee" which occur in the second line of sub-clause (1) and

by substituting the word "an applicant" for the words "an applicant" which occur in the third line of sub-clause (1).

34. That Clause 34 (now Clause 36) be amended

by deleting all the words after the word "offence" which occurs in the fourth line of the Clause and by substituting therefor the following words: "who willfully neglects fully to disclose any matter required by this Ordinance to be disclosed shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years or to both such fine and such imprisonment."

35. That Clause 35 (now Clause 37) be amended by

substituting the words "prescribed form" for the words "form prescribed by this Ordinance or by rules made thereunder" which occur in the third and the fourth lines of the Clause.

36. That Clause 37 (now Clause 39) be amended

- (a) by substituting the word "Committees" for the word "Committee" which occurs in paragraph (a) of sub-clause (1);
- (b) by deleting paragraph (c) of sub-clause (1) and by substituting therefor the following:
  - "(c) fixing the limits of advances;"
- (c) by substituting a semicolon for the full-stop which occurs at the end of paragraph (d) of sub-clause (1), and by adding the word "and" and
- (d) by adding at the end thereof the following:
  - (by fixing the composition of members of the Board and of Committees, Temporal Supervisors and valuers."

We have the honour to be  
 your Majesty's most obedient servants,

	SD.	W. YARPAGIN	(CHAIRMAN)	
	SD.	G. WALSH	(MEMBER)	
	SD.	H. B. WATERS	(MEMBER)	
Subject to reservation below	}	SD.	H. E. SCHWARTZ	(MEMBER)
		SD.	E. S. GROGAN	(MEMBER)
Subject to reservation below	}	SD.	CONWAY HARVEY	(MEMBER)
		SD.	SHAMS UD DEEN	(MEMBER)

© - R. The European Elected Members of the Select Committee recommend that paragraph (d) of sub-clause (1) of Clause 3 be deleted and the subsequent paragraphs of that sub-clause be renumbered accordingly.

& Mr. Shams ud Deen recommends that paragraph (e) of sub-clause (1) of Clause 3 be deleted and the following

paragraph be substituted therefor -

"(c-i) one shall be a person representing Indian interests;

(c-ii) one shall be a person representing native  
interest."

The amendments recommended are so numerous that,  
for facility of reference, the Bill (attached hereto) incorporated  
in the amendments has been printed.

Madras,

9th June 1936.

38216/2

12/5/36

16

Colonial Secretary 3p.n.

30th May, 1936.

E

R E P O R T  
O F

THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL  
APPOINTED TO CONSIDER AND REPORT UPON THE  
PROVISIONS OF A BILL TO AMEND THE LAND  
AND AGRICULTURAL BANK ORDINANCE, 1930.

Your Excellency,

I, the members of the Select Committee of  
Legislative Council appointed to consider and report upon  
the provisions of the above Bill, have the honour to inform  
that the Bill is amended in the following respects:

That Clause 10 be deleted and the following

Clause be inserted therefor

of the  
Principal

of the Principal is hereby amended by the deletion of the word "and" which

occurs after the word "or" in sub-section (1) thereof and by the substitution therefor

of the words "and/or" and by the addition at the end

or sub-section (1) thereof of the following words: -

Provided further that the Board may, at any time  
before the expiration of such period of three months  
mentioned in this section:

- (a) so enter upon and take possession of and/or sell the whole or part of the security if the debtor and the subsequent mortgagee consent to such action or actions being taken; or
- (b) so enter upon and take possession of the whole or part of the security if such land has been abandoned by the debtor and in the opinion of the Board, such action or actions is or are necessary for the purposes of safeguarding the well-being of the mortgaged property. Notice of such intended action or actions under this

Paragraph shall be given to the holder by registered letter addressed to the address given by the holder in his application for the advance.

2. That Clause 11 be deleted and the following Clause be substituted therefor -

- (a) by deleting sub-clause (1) of section 11 of the principal Ordinance is hereby amended -
- (b) by deleting paragraph (1) thereof -
- (c) by deleting the word "and" with the word "kept" and the word "and" which (d) -
- (e) by renumbering paragraph (2) thereof as paragraph (1) -

3. That Clause 13 be amended -

- (1) by renumbering sub-clause (1) thereof as sub-clause (2) -
- (2) by inserting the following new sub-clause as sub-clause (1) -
- (3) "Notification of the decision of the Board to make any such advance shall be published in the Gazette."

4. That Clause 15 be amended by adding at the end thereof the following new sentence -

"Notice of the extinguishment of any advance shall be published in the Gazette as soon as possible after the date of such extinguishment."

Mr. How 25-5

Mr.

Mr. J. Campbell

Mr. Parkinson

Mr. Tomlinson

X Sir C. Bottomley 2/6

Sir J. Skelburgh

+ Perm. U.S. of S.

Partly U.S. of S.

Secretary of State

*Handwritten notes:*  
1/1/26  
1/1/26  
1/1/26

*Handwritten notes:*  
Coded & sent  
9.30 pm  
2.6.36  
NW

C. O.
113-101
D 5

No. 137

Your tel. 185 confidential

**DRAET.**

*Faded handwritten text:*  
... affairs great importance to having  
... banker as member of ...  
... not be prepared to ...  
... especially ...

**FURTHER ACTION.**



RECEIVED  
REGISTRATION  
2 MAY 1936  
O. O. REGY

38219

Telegram from the Deputy Governor of Kenya to the Secretary of State for the Colonies

Dated 28th May 1936. Received at 11.2 am. 28th May 1936.

~~Non-confidential~~ Your despatch of the 7th March 1936 (2) ~~confidential~~. Paragraph 17 ~~referring~~ is concerned the ~~subject~~ of ~~persons~~ referred to therein begins: "European elected members on the select committee appointed to consider ~~the~~ Bill very ~~difficult~~ ~~to~~ ~~insert~~ ~~in~~ ~~the~~ ~~Bill~~ ~~the~~ ~~provision~~ ~~that~~ ~~sub~~ ~~sections~~ ~~(a)~~ ~~(d)~~ ~~shall~~ ~~be~~ ~~altered~~ ~~to~~ ~~read~~ ~~as~~ ~~follows~~ ~~and~~ ~~the~~ ~~commercial~~ ~~community~~". They state that this will not necessarily exclude a ~~banker~~ they object to special provision being made to include banker(s) qua banker(s) ~~in~~ ~~the~~ ~~Bill~~".

Government ~~Members~~ and Indian members of Committee ~~not~~ ~~agree~~ and Government ~~dis~~ ~~regards~~ ~~itself~~ ~~from~~ ~~the~~ ~~suggestion~~.

I should be glad to receive an early reply.

(15)

CONFIDENTIAL REGISTRATION  
2 MAY 1936  
O. O. REGY

1016  
14

Telegram from the Deputy Governor of Kenya to the Secretary of State for the Colonies

Dated 28th May 1936. Received at 11.2 am. 28th May, 1936.

No. 135 confidential. Your despatch of the 7th March 1936 (2) confidential. Paragraph 17. Following is sent at the request of person referred to in paragraph 17: "European elected members of the select committee appointed to consider Farmers' Agitation and very insistent that clause 3 (b) (ii) should be altered so that it should not necessarily exclude a banker but that subject to special provision being made to include banker/2) and banker/1) ends".

Government members and Indian members of Committee do not agree and Government do not state itself free of suggestion. I should be glad to receive an early reply.

5  
and (5)

12

C. O.

Mr. Grossmith.

Mr. Paine

Mr. Flood 28.

Sir C. Parkinson.

Sir G. Teminson.

X Sir C. Mellorby 28 f

Sir J. Shuckburgh.

Permt. U.S. of S.

Early. U.S. of S.

Secretary of State.

DOWNING STREET.

30 April, 1936.

Sir,

I am etc. to acknowledge

(2) the receipt of your letter

No. S. 32902/04/3 of the 25th of April

and to request that you will

the Treasury his appreciation of their

acceptance of the proposed

Order procedure in connection with

the scheme for the relief of

agricultural indebtedness in Kenya.

2 Mr. Thomas agrees that the

power to extend the Stay Orders over

the full period of five years should

not be exercised as a general rule,

but only where the circumstances of

individual

DRAFT.

THE SECRETARY,

TREASURY

DEPARTMENT

copy to Kenya (2)  
Tel. 28/4/36  
28/4/36

FURTHER ACTION.

Copy with copies  
478 a. 20. 4.  
C.P.

11

38216/2/35.

C. O.

Mr. Crossmith.  
Mr. Paskin 29/4.  
Mr. Flood 29 April

Coded 430m  
4.30 PM. 36  
29.4.35

Sir C. Parkison.  
Sir G. Tomkinson.  
Sir G. Boleyn.  
Sir J. Shackburgh.

27.4.35 10.104  
6.29.4.35

Permt. U.S. of S.  
Party U.S. of S.  
Secretary of State.

Confidential. My telegram No. 102

Confidential. From Agents

DRAFT TELEGRAM

GOVERNOR  
NAIROBI

observe that Loan Bill in its present form for a loan to be raised under General Loan and Inscribed Stock Ordinance and suggest that it should also make provision for raising the loan independently of that Ordinance in case circumstances should make it advisable to take that course.  
Draft of Bill in appropriate form follows by air mail immediately.

FURTHER ACTION.

Secar.

individual cases render it desirable.

A copy of a telegram which has been

sent to the Governor of Kenya is

enclosed for their Lordships information.

*a copy of your letter of the 25<sup>th</sup> Feb, etc.*

*of which is also being sent*

(Signed) J. J. PASKIN.



DUP.

10

ALL COMMUNICATIONS  
TO BE ADDRESSED TO THE  
CROWN AGENTS FOR THE COLONIES,  
THE FOLLOWING REFERENCE AND THE  
DATE OF THIS LETTER BEING QUOTED.

① A/1255

4, MILLBANK,

LONDON, S.W.1.

TELEGRAMS: "CROWN, LONDON".  
TELEPHONE: VICTORIA 7732.

RECEIVED  
29 APR 1936

28th April, 1936

Sir,

I have the honour to acknowledge the receipt  
of your letter dated the 25th April, No: 38210/2/36,  
transmitting for our observations a copy of a draft  
bill to make provision for raising the proposed Kenya  
loan of £625,000.

It is in the usual form for a loan  
to be raised under the provisions of the General Loan  
and Inscribed Stock Ordinance but we suggest that it  
should also make provision for raising the loan  
independently of the Ordinance, in case circumstances  
should arise it advisable to take the draft of a bill in an appropriate form.

I have the honour to be,

Sir,

Your obedient servant,

*Edgewood*

for Crown Agents.

13  
2  
1/1/36

The Under Secretary of State,  
COLONIAL OFFICE,  
S.W.1.

CA



10

ALL COMMUNICATIONS  
TO BE ADDRESSED TO THE  
CROWN AGENTS FOR THE COLONIES,  
THE FOLLOWING REFERENCE AND THE  
DATE OF THIS LETTER BEING QUOTED.

N/1255

4, MILLBANK,

LONDON, S.W.1.

TELEGRAMS: "CROWN, LONDON".  
TELEPHONE: VICTORIA 7723.

28th April, 1936

RECEIVED  
28 APR 1936  
BY

Sir,

I have the honour to acknowledge the receipt  
of your letter dated the 25th April, No. 38216/2/36,  
transmitting for our observations a copy of a draft  
bill to make provision for raising the proposed Kenya  
loan of £625,000.

The Bill is in the usual form for a loan  
raised under the provisions of the Loan  
and Investment Ordinance but we suggest that it  
should also make provision for raising the loan  
independently of that Ordinance, in case circumstances  
should make it advisable to take that course. We enclose  
the draft bill in an appropriate form.

*Handwritten note:* Draft Bill

I have the honour to be,

Your obedient servant,

*Handwritten signature*

for Crown Agents.

The Under Secretary of State,  
COLONIAL OFFICE,  
S.W.1.

CA

DRAFT ORDINANCE

Whereas it is expedient to raise a loan of pounds sterling for the purposes specified in the schedule hereto: Be it therefore enacted by the Governor of by and with the advice and consent of the Legislative Council thereof as follows :-

(1) In this Ordinance unless the context otherwise requires:

The expression 'Governor' means the person for the time being administering the Government of

The expression the 'Crown Agents' means the person or persons acting for the time being as Crown Agents for the Colonies in England.

(2) The Governor or the Crown Agents acting on his behalf may raise by loan in London a sufficient sum not exceeding nearly as may be a sum of pounds sterling and a further sum as may be necessary to defray the expenses of raising the same.

(3) The principal monies and interest represented by the loan issued under the provisions of this Ordinance are hereby charged upon the said sum payable out of the general revenue and assets of the Colony of

(4) The money to be borrowed under the authority of this Ordinance shall be appropriated and applied to the purposes specified in the schedule hereto.

(5) The loan hereby authorised or any part of it may be raised under the provisions of the General Loan and Inscribed Stock Ordinance 19 or, notwithstanding anything to the contrary contained in the said Ordinance, independently of that Ordinance, as the Governor or the Crown Agents acting on his behalf may decide.

(6) If the loan hereby authorised shall be issued under the provisions of the General Loan and Inscribed Stock

Ordinance 19 then the contribution to Sinking Fund, as contemplated by the provision of Sections of the said Ordinance shall commence in respect of any debentures or stock issued under this Ordinance not later than three years after the date from which the interest on such debentures or stock shall commence to run.

(7) If it should be decided to issue the loan hereby authorised independently of the General Loan and Inscribed Stock Ordinance 19 then the following provisions shall apply :-

(a) So long as any portion of the loan remains outstanding the Governor shall in each half-year ending with the day on which the interest on the loan falls due appropriate out of the general revenues and assets of the Colony a sum equal to one-half-year's interest on the whole of the loan outstanding and shall remit that sum to the Crown Agents at such time as will be able then to pay thereout the then current half-year's interest on the day on which it falls due.

(b) The Governor shall in each half-year appropriate out of the revenues and assets of the Colony a sum to be applied to the Sinking Fund for the repayment of the loan at par an additional sum in respect of the total nominal value of the loan outstanding equal to one-half of the annual contribution to be decided upon by the Governor on the issue of the loan and shall remit that sum to the Crown Agents with the remittance hereinbefore mentioned provided that the said contribution shall in respect of any money raised under this Ordinance commence not later than three years after the date from which the interest on such money shall commence to run.

(c) The Crown Agents shall invest so much of the money so remitted to them as may be required as shall not be required for the payment of interest for the current half-year in the purchase of such securities as may be approved by the Secretary of State as a sinking fund for the final extinction of the debt and the Crown Agents shall also invest the dividends, interest or produce of such investments in the purchase of like securities and may from time to time with the approval of the Secretary of State change any such investments and shall hold such funds in trust for the repayment of the principal monies for the time being represented by the Loan.

(d) In case the sinking fund provided for by this Ordinance shall be insufficient for the payment of all the principal monies borrowed under the authority of this Ordinance at the time the same shall have become due the Governor shall make good the deficiencies out of the general revenues and assets of the Colony.

(8) This Ordinance shall be cited as "



C. O.

*Copy sent  
8.0 pm  
28.4.36*

104

Mr. Grossmith. *28/4*  
Mr. *Proctor* 28/4.  
Mr. *Flax* 28

Sir C. Parkinson.  
Sir G. Tomlinson.

*28 June*

Sir C. Bottomley.  
Sir J. Shuckburgh.  
Parlt. U.S. of S.  
Parly. U.S. of S.  
Secretary of State.

No. 102. Confidential.

*Dep. No 31*  
Your confidential telegram

No. 103. Farmers' Assistance Bill.

With the concurrence of the Treasury

I agree that Conciliation Board

should have power to extend a Stay

Order from year to year up to a

total period not exceeding

case of advance to enable farmers

to change from crop farming to

farming. It is important however

that the power to extend Stay orders

over the full period should only be

exercised where the circumstances of

individual cases render this course

desirable. The three draft Bills

may *as you propose* be published but I may have to

address you later on points of detail

when examination has been completed.

**DRAFT TELEGRAM**

GOVERNMENT  
SECRET

**FURTHER ACTION:**

*Copy to Treasury with*

*They have not been examined from legal point of view but Loan Bill has been referred to C.A. & I will telegraph further if they have any obsns. to offer.*

P.T.O.

SECRET

105  
8

Any reply to this letter should be addressed to—

THE SECRETARY,

TREASURY,

WHITEHALL, LONDON, S.W.1.

and the following number quoted:—

S. 32902/04/3.

TREASURY CHAMBERS.

April, 1936.



RECEIVED  
27 APR 1936

I have the honor to acknowledge the receipt of your letter of the 18th instant (38216/4/36 Kenya) further respecting the proposed scheme for the relief of agricultural indebtedness in the Colony, and forwarding a copy of the same to the Governor, covering the drafts of three Bills to carry out the necessary legislative measures to give effect to the proposal.

of His Majesty's Treasury Mr. Flood's letter of the 18th instant (38216/4/36 Kenya) further respecting the proposed scheme for the relief of agricultural indebtedness in the Colony, and forwarding a copy of the same to the Governor, covering the drafts of three Bills to carry out the necessary legislative measures to give effect to the proposal.

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copy of letter

COPY SENT TO ACCOUNTS DEPARTMENT

The Under Secretary of State,  
Colonial Office.

is advised that there is much force in the Governor's contention that the power suggested ought to be available, as is proposed in the draft of the Farmers' Assistance Bill 1936.

3. Further, the Governor is content that in the case of advances made to enable them to change from crop farming to livestock farming, a period of two years should enable a farmer, however he may prefer, to pay off his advance from the proceeds of livestock farming.

4. Finally I am to request you to inform Mr. Secretary Thomas that in the circumstances represented, My Lords raise no objection to the enactment of legislation on the lines proposed. Their Lordships note that the Governor contemplates that use will only be made of the power to extend the Stay Orders over the full period where the circumstances of individual cases render this course

course desirable, and they regard it as important that a period of five years should not become the general practice.

I am,

SIR,

Your obedient servant,

*J. Curzon*

course desirable, and They regard it as important that a period of five years should not become the general practice.

I am,

SIR,

Your obedient servant,

*J. P. [Signature]*

is advised that there is much force in the Governor's contention that the power suggested ought to be available as proposed in the Draft of the Farmers Assistance Bill, 1934.

Further, the Governor is of opinion that in the case of farmers to whom it is proposed to extend their interests from crop-farming to mixed farming a period of two years is too short to enable them, however he may prosper, to pay off his advance from the proceeds of livestock farming.

In reply I am glad to inform Mr. Secretary Thomas that in the circumstances represented

My Lords raise no objection to the enactment of legislation on the lines proposed. Their Lordships note that the Governor contemplates that use will only be made of the power to extend the Stay Orders over the full period where the circumstances of individual cases render this course

C. O.

4

Mr. Flood. 9. 4.36.

38216/2/36. Kenya.

Mr. Clauson

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shickhugh.

Perml. U.S. of S.

Parly. U.S. of S.

Secretary of State.

*15/4/36*  
*15-4/36*

*Ann 8*

Downing Street.

18 April, 1936.

Sir,

**DRAFT.**

THE SECRETARY,

PARLIAMENT.

I am etc. to refer to the

letter from the Office of the

March and previous correspondence

on the subject of the

Government of Kenya in raising

a new loan in order to enable the

Land Bank to assist in the scheme for

the relief of agricultural

indebtedness in the Colony.

I now to transmit to you, for the

consideration of their Lordships

the enclosed copy of a despatch

from the Governor, in which he

forwards the drafts of three

Bills to carry out the necessary

legislative measures which would be

required.

*Gov. Kenya. 21.3.36*  
*(3)*

*(3)*  
*copy in file*

**FURTHER ACTION:**

required and, in addition, makes certain amendments upon the scheme as approved.

3. Mr. Thomas does not propose in this letter to consider the details of the draft legislation, but I am to draw special attention to the third paragraph of the Governor's despatch in which he points out that the Committee which considered the question in Kenya had intended that the Conciliation Board should have power in certain circumstances to extend a Stay Order from year to year up to a total period exceeding five years. This is made quite clear from the thirty-third paragraph of the interim report of the Committee on Agricultural Indebtedness, a copy of which was enclosed in the letter from this Office of the 18th of February, and Mr. Thomas is advised that there is much force in the Governor's contention that the power suggested <sup>ought to</sup> should be available. The relevant section of the Bill appears to be No. 19 which, it will be noted,

has

C. O.

- Mr.
- Mr.
- Mr.
- Sir C. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Comptroller of State.

DRAFT.

*Should be removed from the Bill though it will be preferential charge against crops of the current season. It is not to be a charge on the land.*

FURTHER ACTION.

has been drafted so as to make a Stay Order annually renewable up to a maximum of five years, and, in view of Sir Joseph Byrne's representations, Mr. Thomas would press strongly that the five-year period should be allowed. It will be noted that, if a Stay Order can be valid for only two years, on the one hand, and, if it is necessary to call in advances made by the Land Bank, there will be no real security for the outstanding balance, if any, of such advances, and there will be a real risk of financial loss. By spreading the period of recovery over five years the risk of loss will at any rate be very largely reduced.

4. The other point on which the Governor seeks instruction relates to the advance of money to enable

AIR MAIL

KENYA  
No. 31. CONFIDENTIAL.



GOVERNMENT HOUSE  
NAIROBI  
KENYA

RECEIVED  
30 MAR 1936  
O. O. REGY

21 MARCH, 1936.

Sir,

(15) (2)

I have the honour to acknowledge the receipt of your Confidential despatch of the 7th March, 1936, authorising this Government to take powers to raise a new loan of £825,000 on certain conditions, and to express my appreciation of your assistance in this direction.

2. The accompanying copies of the following Bills which have been prepared accordingly by the Attorney-General are forwarded for your consideration:

- (1) the Farmers Assistance Bill, 1936;
- (2) the Agricultural Debtors (Amendment) Bill, 1936; and
- (3) the Specific Charge Bill, 1936.

3. It will be observed from the Farmers Assistance Bill that provision is made for a stay order to last for five years and for advances to be made against such capital expenses as crop dips, etc.

I am advised by the Attorney-General, who is Chairman of the Agricultural Indebtedness Committee, that your despatch leaves in doubt two points which his Committee had regarded of major importance. It has, therefore, appeared desirable to refer the Bill to you for your approval.

In paragraph 55 of the Committee's Report it was contemplated that it should in certain circumstances be possible to extend the Stay Order for a total period

/not

THE RIGHT HONOURABLE  
J. H. THOMAS, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

*Copy to Secretary  
21/3/36*

*(15) (1)  
3857436*

(11)  
38216/36

not exceeding five years. It is clear that the real security for the money lent is the Stay Order and if the money can be advanced over a period of two years only, as is suggested in paragraph 5 (3) of the Treasury letter No.S.52902/04/5 of the 28th February, the Farmers Conciliation Board to be set up under the Bill will become unsecured creditors for the balance.

Further, in your despatch you welcome the change over from crop farming to mixed farming. This entails the advancing of money for the purchase of cattle, fencing, cattle dips, etc. The Lords Commissioners of His Majesty's Treasury, however, seem to have considered the matter solely from the crop aspect; whereas it is clear that a farmer desirous of changing over to mixed farming is not able to pay off his loans against the purchase of stock, etc. within a period of two years.

The second Bill amending the Land and Agricultural Bank Ordinance, 1960, is necessary in order to make effective certain proposals of the Economic Development and the Agricultural Inadequacy Committees. The relevant clauses are the third, fourth, fifth and seventh of the draft Bill.

(18)  
38216/36

Reference has already been made in my confidential telegram No. 76 of the 19th March to the recommendation now provisionally incorporated in clauses 3 and 5. Clause 4 makes special provision for advances not exceeding a sum of £200 in any given case for the purpose of combating soil erosion; and by clause 7 effect has been given to paragraph 487 of the Report of the Economic Development Committee which envisaged participation by all clients of the Land Bank in any reduction in interest charges which might be found possible.



5. The Specific Loan Bill follows closely the wording of the Specific Loan Ordinance, 1955, and section 2 provides for the raising of a sum of £825,000 and such further sum as may be necessary to defray the expenses of issue. In your despatch under reply no reference was made to the purpose to which the balance of £15,000 should be put. It is, however, considered desirable that the sum of £15,000 should be included in the Schedule to the Bill as item 3 and that power should be taken to add the expenses of issue to the total of £825,000. This follows the precedent of the 1955 Ordinance and will ensure that the expenses of issue will be covered without encroachment upon the sum of £500,000 and £100,000 reserved for financing and bank and for loans to Local Authorities respectively.

6. In view of the urgent need to initiate this legislation I shall be grateful, if it is in any way possible, for your telegraphic approval to publication of these terms.

I have the honour to be,

Sir,

Your most obedient, humble  
servant,

Brigadier General,,

GOVERNOR.

A BILL TO PROVIDE FOR THE CONSTITUTION OF A BOARD TO BE KNOWN AS THE FARMERS CONCILIATION BOARD, TO INVEST THE BOARD WITH CERTAIN POWERS FOR THE ASSISTANCE AND RELIEF OF FARMERS AND FOR PURPOSES INCIDENTAL THERE TO

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

Short title and commencement.

1. This Ordinance may be cited as the Farmers Conciliation Board Ordinance, 1956, and shall come into operation on such date as the Governor shall appoint by notice in the Gazette.

Interpretation.

Notwithstanding anything in this Ordinance, unless the context otherwise requires -

"Court" means the High Court of Kenya;

(a) any person who is a resident of, and who is personally engaged in farming or pastoral operations in the Colony, whether as a farmer on his own account or under a share-farming agreement;

(b) persons representing any such person; and

(c) any company which is engaged in farming or pastoral operations in the Colony;

"Registrar" means the Registrar of the Supreme Court and includes a district and deputy registrar of such Court;

"Secured Creditor" means any creditor who in respect of the debt owed to him holds a security which would entitle him to a preference in bankruptcy, and includes a holder of a second mortgage or of a chattels mortgage;

"Unsecured Creditor" includes any creditor who is not a secured creditor;

"Land Bank" means the Land and Agriculture Bank of Kenya.

Establishment  
and constitution  
of Farmers  
Conciliation  
Board.

3.(1) There shall be constituted a Board to be known as  
"the Farmers Conciliation Board" (hereinafter referred to as  
"the Board") which shall consist of six members, to be  
appointed by the Governor, of whom -

- (a) one shall be a judge of the Supreme Court, who shall be chairman of the Board;
- (b) one shall be the Treasurer, or his deputy;
- (c) one shall be a member of the Board of the Land Bank;
- (d) one shall be a representative of the commercial banks operating in the Colony; and
- (e) two shall be representatives of the public.

The chairman and members of the Board shall hold office during the Governor's pleasure.

(2) Before entering on the duties of their office, the chairman and members of the Board shall make oath or affirmation before the chairman that they will faithfully and honestly perform the duties of their office.

(3) The Board shall be a body corporate with perpetual succession and a common seal and, subject to the provisions of this Ordinance, may acquire, hold and dispose of land and other property movable or immovable for the purposes of this Ordinance, and shall be capable in law of suing and being sued under the name of "the Farmers Conciliation Board".

4.(1) The chairman and two other members of the Board shall form a quorum.

(2) Questions before the Board shall be decided by a majority of the votes of those present and voting, and, in the case of equality of votes, the chairman shall have a second or casting vote.

(3) The chairman and members of the Board shall not be personally liable for any act or default of the Board.

done or omitted to be done in good faith in the course of the operations of the Board.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings and procedure of the Board shall be such as the Board may from time to time determine.

(5) With the consent of the Governor, the Board may appoint a secretary and other necessary officers, agents and servants, and may pay him and them such remuneration as the Governor may approve.

(6) The Governor in any case in which he is satisfied that a member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, may appoint some fit person as a deputy to act for him during his incapacity, and any such deputy while so acting shall have all the powers and authorities of the member for whom he is acting.

**Delegation**

5. With the consent of the Governor, the Board of Land Bank may delegate any of its powers, duties or functions to any person or body of persons in the Colony upon such terms and conditions and subject to such restrictions as the Board thinks proper, and may in its discretion terminate any such delegation.

**Land Bank may act as agents for the Board.**

6.(1) The Governor may appoint the Land Bank to act as agents for the Board in the administration of any advances to farmers under this Ordinance.

(2) No expenses in connection with such agency shall fall to be paid from the funds of the said Bank, and the Bank shall be indemnified by Government against any losses, costs or expenses which may be sustained or incurred by the Bank in the performance of such agency.

Funds of the Board.

7. The funds available to the Board for carrying out the purposes of this Ordinance shall consist of such moneys as the Land Bank may be authorized from time to time by Government to place at the disposal of the Board.

Local Committees. 8.(1) For the purposes of this Ordinance the Governor may divide the Colony into Districts and, in each such district may appoint a Local Committee, consisting of a chairman (who shall be an administrative officer performing the duties of a district officer) and two other members.

(2) The chairman and members shall hold office during the pleasure of the Governor.

(3) The chairman and members of a Local Committee shall be responsible for the performance

(a) of the duties, functions and responsibilities assigned to them by this Ordinance; and

(b) of such other duties, functions and responsibilities as may from time to time be assigned to them by the Board with the approval of the Governor.

(4) Subject to the provisions of this Ordinance and of any rules made thereunder, the meetings, procedure and quorum of a Local Committee shall be such as the Board may from time to time determine.

(5) The chairman and members of a Local Committee shall not be personally liable for any act or default of their Local Committee, done or omitted to be done in good faith in the course of the operations of the Committee or in the course of giving effect to the instructions of the Board.

Applications by farmers.

9.(1) Any farmer in the Colony may make application, through a Local Committee, to the Board for assistance in accordance with the provisions of this Ordinance upon all or any of the following grounds -

- (a) that his liabilities exceed a reasonable valuation of his assets; or
- (b) that such action has been taken or has been threatened against him by his creditor or creditors as to render it impracticable for the farmer to continue his farming operations with a reasonable prospect of success; or
- (c) that by reason of the extent or nature of his obligations or because of low stock or absence of means of working his land in a proper manner or for any other good cause he is unable to continue farming operations with a reasonable prospect of success; or
- (d) that a receiving order or an order of adjudication has been made against him under the provisions of the Bankruptcy Ordinance, 1930; or

(e) that he has assigned his estate to his creditors.

(2) Any farmer making application under this section shall forthwith give written notice of the application to all persons to whom his land is mortgaged or charged.

Form of application.

10.(1) Every application for assistance under section 9 of this Ordinance shall be made in the form prescribed and shall be filed by the applicant in the office of the appropriate Local Committee, together with a statutory declaration by the applicant in verification of the particulars contained in the application.

- (2) The particulars in every application shall include
  - (a) a complete list of all the creditors and debtors of the applicant;
  - (b) a statement of the assets and liabilities of the applicant; and

(e) a list of the securities held by the secured creditors of the applicant.

Interim Stay  
Order and  
Temporary  
Supervisor.

11.(1) Immediately upon the filing of an application as provided for in section 10 of this Ordinance the chairman of the Local Committee concerned shall, in respect of the applicant's estate -

(a) issue an Interim Stay Order in the prescribed form; and

(b) by writing under his hand appoint a Temporary Supervisor of the estate who shall be subject to the instructions of the Land Bank.

It is provided that a chairman shall have a discretion in any case to refuse for good and sufficient reasons so to issue an Interim Stay Order and appoint a Temporary Supervisor, but if he exercises this discretion he shall forthwith make a written report to the Board giving the reasons for his refusal, and the decision of the Board upon the matter shall be final.

(2) The chairman shall forthwith give notices relating to the making of the Interim Stay Order and to the appointment of the Temporary Supervisor to be published in the Gazette and to be sent to the Registrar of the Supreme Court.

Interim Stay  
Order.

22.(1) An Interim Stay Order shall remain in force until a meeting of the Board confirms or removes the Interim Stay Order.

(2) While an Interim Stay Order is in force -

(a) it shall have the effect of vesting all the property of the applicant in the Land Bank; and

(b) no action, execution or proceedings whether judicial or extra judicial, on default or for or upon breach of covenant under any mortgage or other security for money or under an agreement for sale or purchase of

land or other process or proceeding shall be commenced or proceeded with or put into force against the farmer or his estate or effects:

Provided that the grant of an Interim Stay Order shall not prevent and shall be deemed never to have prevented any person -

(a) from instituting any proceeding to judgment in any action, suit or other proceeding against the farmer (but so that judgment shall not be entered nor any further proceedings taken thereon) for the purpose of determining the farmer's liability -

(i) for any tort committed by the farmer; or

(ii) for any injury suffered by a workman in the employ of the farmer;

(iii) for any injury to the support of the wife or children of the farmer; or

(iv) in respect of any demand other than a demand arising out of default or force upon breach of covenant under any mortgage or other security or money loan agreement for sale and purchase or lease of any movable or immovable property or under a hire purchase agreement; or

(b) from prosecuting any suit or other proceeding against the farmer for the administration of the trustee of any will, deed or other instrument, or for any breach of such trust, or for the removal of the farmer from the position of executor or administrator or trustee.

Cap. 170

Temporary Supervisor.

13. A Temporary Supervisor appointed under section 11 of this Ordinance may make such arrangements with regard to the property (including crops and produce) of the applicant as the Land Bank shall direct and shall have all the powers and be responsible for exercising all the functions of a



Supervisor as set out in sections 24 and 25 of this Ordinance until his appointment is terminated.

**Valuation of applicant's assets.**

**No. 3 of 1931**

**Meeting of the Local Committee**

14. Prior to the calling of a meeting provided in accordance with section 15 of this Ordinance, the chairman of a Local Committee may, in his discretion, direct an approved valuer appointed under the Land and Agricultural Bank Ordinance, 1930, to visit the farm of the applicant and to make a report to the chairman upon the assets of the applicant.

15. (1) When he has notified himself that the provisions of sections 11, 13 and 14 of this Ordinance have been complied with, the chairman of the Local Committee shall call a meeting of the Local Committee to meet the applicant and to enquire into the financial position of the applicant with a view to the making of an arrangement for a voluntary settlement of liabilities between the applicant and his creditors, and the making of a report to the Board.

(2) The applicant shall be present at the meeting and the creditors of the applicant may attend either in person or by duly authorized agents or they may forward their views, in writing, to the chairman.

(3) At the meeting it shall be the duty of the chairman to encourage a free discussion of the applicant's financial position and he shall endeavour to obtain the view of the applicant and of his creditors upon any proposed adjustment of the applicant's position which appears desirable and equitable to the Local Committee.

(4) No person shall be permitted to be present at the meeting other than the chairman, and members of the Committee and the applicant and his creditors.

(5) No soon as may be after the conclusion of the meeting, the chairman shall refer the matter to the Board in the prescribed form.

Meeting of the Board.

16. (1) So soon as may be after the application has been referred to the Board by a Local Committee, the Board shall meet to consider the application and the report and recommendations thereon of the Local Committee.

(2) The applicants and his creditors shall be entitled to attend the meeting either in person or by sending a duly accredited representative, or they may, if they so desire, send to the Secretary of the Board a statement in writing of their views.

Granting of application.

17. In any case where, at a meeting of the Board, the terms proposed for the adjustment of the applicant's affairs are agreed to by

(a) the majority of the members of the Board then present, and

(b) all the secured creditors of the applicant;

(c) a majority of such unsecured creditors of the applicant, as have a claim for not less than five pounds,

the Board shall grant the application.

Refusal of application.

18. In any case where an agreement in the terms of the last preceding section has not been reached, the application shall be refused and the Board shall forthwith remove the Interim Stay Order and terminate the appointment (if any) of the Temporary Supervisor, and shall publish a notice in the Gazette to that effect and shall notify the Registrar of the Supreme Court and thereafter the applicant and his creditors shall be free to pursue any legal remedy available to them.

Granting of application Procedure where application is granted.

19. In every case where an application is granted the Board forthwith shall -

- (a) prepare, and file with the Registrar of the Supreme Court, a Deed of Adjustment in the prescribed form, containing the terms and conditions of the agreed arrangement;
- (b) convert the Interim Stay Order into a Stay Order which shall continue in force for a period of twelve months from the date of its issue by the Board, and which shall be annually renewable by the Board, but so that the total ~~max~~ term of the Order (excluding the period of the Interim Stay Order) shall not exceed five years in all:

Provided that, subject always to the maximum period of five years, the term for which a Stay Order is originally ~~made~~ issued by the Board may exceed twelve months in cases where the applicant's creditors have agreed upon a longer period at the meeting of the Board;

- (c) terminate the appointment of the Temporary Supervisor (if any) and authorize the Land Bank to appoint him or some other person as Supervisor of the property of the applicant; and
- (d) issue a written instruction to the Land Bank specifying the amount required, in the opinion of the Board, for ensuring the successful continuance of the applicant's farming operations.

Restriction on grant of assistance.

30. The Board shall not grant any application made by a farmer for an advance nor formulate nor submit nor bring into force any scheme for the adjustment of the debts of any farmer unless it is

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satisfied that by so doing the farmer who is to be assisted is deserving of assistance and will be enabled to continue his farming operations with a reasonable prospect of success.

#### Advances.

81. (1) At any time after the granting of an application and while a Stay Order is in force the Board may, after such enquiry as it may deem necessary, authorise an advance for the purpose of providing a reasonable living allowance for the farmer whose application has been granted and for his dependents and for defraying the necessary expenditure of the farmer in connection with the working and maintenance of his farm, and the marketing of his produce, and for any other expenditure for which the Board deems it proper that an advance should be made:

Provided that

(a) no advance under this section shall be made of an amount exceeding seventy per centum of the value (as determined by the Board) of the anticipated crop;

(b) where an advance is to be applied towards the cost of permanent improvements (as defined in the First Schedule to Crown Lands Ordinance) and/or movable assets essential to farming operations the amount of such advance shall not exceed sixty per centum of the value of the security as assessed by the Board.

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(2) As soon as may be after any such advance is authorised the Board shall publish in the Gazette the name and address of the farmer and the amount of the authorised advance.

(3) The Board may provide for the re-payment of any such advance by such instalments and upon such

terms and conditions as the Board thinks fit. Such terms shall include provision for the payment of interest on the amount advanced at a rate to be notified from time to time by the Governor in Council.

**Publication of Stay Order.**

28. (1) Notice of the issue of every Stay Order shall be published in the Gazette and a copy of the Order shall be sent by the Board to the Registrar of the Supreme Court.

(2) The provisions of section 18 of this Ordinance relating to Interim Stay Orders shall equally be applicable to Stay Orders.

(1) Every Deed of Adjustment prepared in accordance with section 19(a) of this Ordinance shall be executed by the Chairman of the Board and by all the common creditors of the applicant whose affairs the Deed relates.

(2) Every such deed shall, after execution, be filed by the Board with the Registrar of the Supreme Court and shall when so filed be deemed to be an Order of the Supreme Court and shall be binding upon all parties to the Deed and upon the applicant and all his creditors.

**Land Bank  
Empowered to  
receive for  
farmer all  
moneys or other  
property.**

29. (1) The Land Bank shall have the sole right to receive all moneys payable to the farmer, and any movable property transferred to or otherwise becoming vested in the farmer, and to give a valid discharge on behalf of the farmer for any such moneys or property.

(2) The Land Bank may also sue for and recover any debts due or other moneys payable to the farmer.

(3) Nothing in this section contained shall affect any rights conferred on any person by an instrument under the Chattels Transfer Ordinance, 1950.

if such instrument -

- (a) was given by the farmer before the issue of a Stay Order; and
- (b) was registered within the time prescribed by the said Chattels Transfer Ordinance.

No. 24 of 1930.

Accounts to be kept by Land Bank.

25. (1) The Land Bank shall in respect of each farmer keep proper books of account reflecting the financial transactions of or on account of the farmer.

(2) The farmer, and any creditor of the farmer, may with the authority of the Board, inspect the accounts and records of the Land Bank, and make copies thereof or any extract therefrom.

Cancellation of Stay Order.

26. If at any time the Board considers that it is advisable to cancel or refuse to issue a Stay Order the Board may, in its discretion, cancel the Stay Order, by issuing a notice of cancellation to the Registrar of the Supreme Court and by publishing a copy of the said notice in the Gazette, and thereupon the said Order shall ~~cease to~~ have any effect whatsoever. Prior to the cancellation of a Stay Order, the Board shall give not less than fourteen days' notice in writing to the farmer of the intended cancellation.

Continuance of proceedings when Stay Order is cancelled.

27. When a Stay Order from ~~whenever~~ whatsoever cause ceases to have any effect, all the rights and liabilities of the farmer (except such as have been adjusted under the provisions of this Ordinance) at the time of the issue of the Stay Order shall forthwith revive, and in computing the time within which, according to law, any proceedings must be commenced or any step in proceedings must be taken, the period during which the Stay Order was operative shall be excluded.

if such instrument -

- (a) was given by the farmer before the issue of a Stay Order; and
- (b) was registered within the time prescribed by the said Chattels Transfer Ordinance.

No. 84 of 1950.

5/16/50

Accounts to be kept by Land Bank.

25. (1) The Land Bank shall in respect of each farmer keep proper books of account reflecting the financial transactions of or on account of the farmer.

(2) The farmer, and any creditor of the farmer, may with the authority of the Board, inspect the accounts and records of the Land Bank, and make copies therefrom or any extract therefrom.

Cancellation of Stay Order.

26. If at any time the Board considers that it is advisable to cancel or refuse the Stay Order the Board may, in its discretion, cancel the Stay Order by issuing a notice of cancellation to the Registrar of the Supreme Court and by putting a copy of the said notice in the Gazette, and thereupon the said Order shall cease to have any effect whatsoever. Prior to the cancellation of any Stay Order the Board shall give not less than fourteen days' notice in writing to the farmer of the intended cancellation.

Continuance of proceedings when Stay Order is cancelled.

27. When a Stay Order from whatever cause ceases to have any effect, all the rights and liabilities of the farmer (except such as have been adjusted under the provisions of this Ordinance) at the time of the issue of the Stay Order shall forthwith revive, and in computing the time within which, according to law, any proceedings must be commenced or any step in proceedings must be taken, the period during which the Stay Order was operative shall be excluded.

Advances to be a charge after cancellation of Stay Order.

28. (1) When a Stay Order is cancelled or ceases to have effect, the amount remaining unpaid in respect of any sum of money advanced by the Board to the farmer or of any sum which the Board has paid or agreed to pay in respect of any guarantee given in pursuance of this Ordinance shall be deemed to be a charge on the property and assets of the farmer. The Board shall be deemed to have a preferential lien for the amount of such charge over the crops and produce of the property of the farmer for the season then current. Such lien shall be in addition to and not in substitution for such charge.

(2) Any such charge or lien shall be subject to any mortgage, charge or lien upon any property of the farmer at the time the Stay Order ceases to have effect.

Board may require execution of instruments to give effect to Deed of Adjustment.

29. (1) The Board may, on the application of the farmer or of any of his creditors, direct the farmer or any of his creditors to execute an instrument that may be required to give effect to the Deed of Adjustment.

(2) If any person required to execute any such instrument fails or refuses to execute the same the Court may authorise the Registrar to execute such instrument in the name and on behalf of the farmer or creditor, as the case may be.

Deed of Adjustment to be noted on instruments affected by securities.

30. (1) Where an adjustment of a farmer's liabilities has been effected in accordance with the provisions of this Ordinance, the Registrar of the Supreme Court after the Deed of Adjustment has been filed with him shall forward forthwith a certificate in the prescribed form to the Registrar of Titles and to any other persons charged with the



duty of keeping of any register in which is registered any instrument of title or other instrument affecting any property to which the Deed of Adjustment ~~referax~~ relates.

(2) It shall be the duty of the Registrar of Titles and of every other person to whom a certificate has been so forwarded to enter in the appropriate register or registers and to note on the registered instrument a memorial of such certificate, without payment of any fee.

Proposal for adjustment and act of bankruptcy. No. 52 of 1930.

51. Notwithstanding the provisions of section 8 of the Bankruptcy Ordinance, 1930, a farmer who makes a proposal for or who agrees to an adjustment of his liabilities as provided for by this Ordinance or for whose estate a Receiver has been appointed for the purposes of this Ordinance shall be deemed to have committed thereby an act of bankruptcy.

Right to inspect filed statement

52. (1) Any person whose name appears on any list of creditors or debtors filed by a farmer in accordance with section 10 of this Ordinance, and any other person who makes a claim against the applicant in writing addressed to the chairman of the Local Committee concerned or the Secretary of the Board, as the case may be, may at any time during office hours inspect the filed list of creditors and debtors and the filed statement of such farmer's assets and liabilities. Any person who, not being a creditor of such farmer, knowingly makes to the said chairman or to the Secretary, for the purposes of this section, a false representation to the effect that he is a creditor of such farmer shall be guilty of an offence against this Ordinance.

(2) Any inspection under this section may be

made personally by the creditor or debtor or by any other person acting as the authorised agent of the creditor or debtor.

(5) Any person who is authorised by the provisions of this section to inspect a list of creditors or debtors or a statement of assets and liabilities may make a copy of, or take extracts from, such list or statement.

Power to enter  
and inspect farm,  
etc.

55. (1) Any person duly authorised in writing by the Board or by a Local Committee may, at all reasonable times, enter upon any land owned or occupied by a farmer or into any premises situated on such land and may examine and inspect any crops growing upon or severed from such land and any produce of any such crops or any farm livestock upon such land or premises.

(2) Any person who knowingly obstructs any duly authorised person in any such inspection or examination shall be liable on conviction before a magistrate of the first or second class to a fine not exceeding twenty pounds.

False statements.

54. Any person who wilfully makes any false statement in or in relation to any application, declaration, or other document made or executed in connection with anything done or proposed to be done under this Ordinance, or who wilfully neglects fully to disclose any matter required by this Ordinance to be disclosed, shall be guilty of an offence against this Ordinance.

Forms.

55. Any application, deed or other document used or required to be used for the purposes of this Ordinance shall be in the form prescribed by this Ordinance or by rules made thereunder. In cases

where no form is prescribed, the Board may decide upon the form to be used together with any subsequent modifications, additions or alterations which the Board thinks fit.

Exemption from duties and fees.

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56. Notwithstanding anything contained in the Stamp Ordinance or in any other Ordinance in force in the Colony, no duty, tax or fee shall be payable to the Government on any document, instrument or deed required or used in connection with any act or transaction performed under this Ordinance.

Rules.

37.(1) The Governor in Council may make rules containing such provisions as may from time to time appear to be necessary and proper for bringing into operation and giving full effect to the provisions and purposes of this Ordinance and in particular and without prejudice to the generality of the foregoing power, for -

- (a) regulating the practice and procedure of the Board and of Local Committee;
- (b) prescribing the form of any applications, appeals, orders, appointments, affidavits, reports or other documents to be used in connection with this Ordinance;
- (c) prescribing the security and terms of repayment required in connection with advances made for the purposes of this Ordinance and fixing the limit of such advances; and
- (d) the keeping of accounts in connection with any matter or thing done under this Ordinance.

(2) Until rules have been made under the authority of this section, the Board may issue directions upon any matter connected with the purposes or provisions of this Ordinance.

Offences.

38. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made thereunder, or who fails to observe any of the conditions or restrictions subject to or upon which relief has been given under this Ordinance, shall be guilty of an offence against this Ordinance, and for every such offence for which no penalty is specially provided, the offender shall be liable on conviction to a fine not exceeding ten pounds and in default of payment of the fine shall be liable to imprisonment for a term not exceeding six months.

OBJECTS AND REASONS

This Bill is intended to give effect to the main recommendations contained in the Interim Report of the Kenya Agricultural Indebtedness Committee, 1935.

The Bill makes provision for a system of Short-Term Agricultural Relief in the Colony and follows, to a very limited extent, the procedure adopted in New Zealand.

If the Bill becomes law it is anticipated that it will be necessary for the Government to set aside a sum of approximately £25,000 to give effect to the Bill.

COMPARATIVE TABLE.  
THE FARMERS ASSISTANCE BILL, 1956.

Clause of the Bill.	Remarks.
1.	Short title and commencement.
2.	"Farmer" - see Section 3, New South Wales Act No. 55 of 1955;
	"secured creditor" - see Section 2, Southern Rhodesia Act No. 28 of 1955;
	"unsecured creditor" - do -
3.	Paragraph 17 of the Secretary of State's Despatch - Kenya Confidential 24 March, 1956. Cf. Section 5 of New Zealand Act No. 50 of 1954-55. Cf. Section 5 (8) of Kenya Ordinance No. 3 of 1951.
4.	Cf. Section 54 F of New South Wales Act No. 18 of 1955.
	Cf. Section 1 of Kenya Ordinance No. 4 of 1953.
	Cf. Section 6 of Kenya Ordinance No. 12 of 1950.
5.	New.
9.	Cf. Section 5 of South African Act No. 48 of 1955. New.
	Cf. Section 5 of South African Act No. 48 of 1955.
11.	New.
12.	New, but see Section 5 of New South Wales Act No. 55 of 1955.
13.	New, but see Section 28(1) of New Zealand Act No. 50 of 1954-55.
14.	New.
15.	New.
16.	New.
17.	New.
18.	New.
19.	New.
20.	Cf. Section 54 E of Act No. 18 of 1955 (New South Wales).
21.	- do -
22.	Cf. Section 4 of Southern Rhodesia Act No. 28 of 1955.
25.	New.

Clause of the Bill.	Remarks.
24.	Cf. Section 15, New South Wales Act No. 55 of 1952.
25.	Cf. Section 45, - do -
26.	Cf. Section 10, - do -
27.	Cf. Section 10, - do -
28.	New.
29.	Cf. Section 54 E of the New South Wales Act No. 18 of 1955.
30.	New.
31.	Section 6 of Southern Rhodesia Act No. 20 of 1955.
32.	Section 22, New Zealand Act No. 50 of 1954-55.
33.	New.
34.	New.
35.	New.
36.	Cf. Section 14, South African Act No. 48 of 1955.
37.	New.
38.	New.

A BILL TO AMEND THE LAND AND AGRICULTURAL BANK ORDINANCE, 1930.

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

Short title. 1. This Ordinance may be cited as the Land and Agricultural Bank (Amendment) Ordinance, 1936, and shall be read as one with the Land and Agricultural Bank Ordinance No. 3 of 1931. 1930, hereinafter referred to as the Principal Ordinance.

Amendment of section 10 of the Principal Ordinance. 2. Section 10 of the Principal Ordinance is hereby amended by the deletion of the words "deputed thereto by the Board in each case," which occur in the fourth and fifth lines thereof.

Amendment of section 25 of the Principal Ordinance. 3. (1) Sub-section (c) of section 25 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor -

"(3) An advance not exceeding three thousand five hundred pounds may be made for the purpose of reducing or discharging an existing first mortgage if in the opinion of the Board such mortgage is unsecured. Provided that no advance shall be made for the purpose of reducing any such existing mortgage unless the mortgagee executes a waiver of priority in accordance with the provisions of section 13 of the Land and Agricultural Bank (Amendment) Ordinance, 1934."

No. 4 of 1934. (2) This section shall be deemed to have come into operation on the ..... day of ..... 19..

Amendment of the Principal Ordinance. 4. The Principal Ordinance is hereby amended by inserting therein, next after section 26, the following as section 26A -



"Advances for preventing soil erosion.

26A. (1) Notwithstanding anything in this Ordinance contained a special advance not exceeding two hundred pounds in amount may be made at any time by the Bank to a person who makes application therefor for the purpose of obtaining assistance in preventing soil erosion.

Provided that the total amount of such advance and of all other advances made by the Bank upon the same security shall not exceed seventy five per centum of the value of such security as determined by the Bank.

(2) The Bank may in its discretion make such an advance upon the security of property already encumbered by a mortgage or other charge in favour of a person other than the Bank and may permit such advance to rank in priority with such security subsequent to such mortgage or charge, but in any such case the Bank, before making the advance, shall call for further and adequate security in addition to the security so mortgaged or charged.

Repeal and replacement of section 27(3) of the Principal Ordinance.

5. Sub-section (3) of section 27 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor -

"(3) No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than five thousand pounds or of sums which in the aggregate exceed five thousand pounds."

Amendment of section 28 of the Principal Ordinance.

6. Sub-section (2) of section 28 of the Principal Ordinance is hereby amended by deleting the first line of the sub-section and by substituting therefor the following -

expressly made, no advance under the provisions of paragraph (a)\*.

Amendment of Section 32 of the Principal Ordinance.

7. Section 32 of the Principal Ordinance is hereby amended by the deletion of the words "Provided that no alteration shall be made to the rate of interest on advances already made" which occur in the fourth and fifth lines thereof and by the substitution thereof of the following -

"Provided that no increase in the rate of interest shall be made on advances already made and, in the case of reduction of the rate of interest, such reduction shall only apply to the unpaid balance of the advance outstanding at the time of such reduction but the rate of interest on any portion of an advance which was due and payable before such reduction of interest shall be based on the rate of interest payable on advances before such reduction."

Amendment of Section 45A of the Principal Ordinance.

8. Section 45A of the Principal Ordinance is hereby amended by the deletion of the word "and" which occurs after the word "or" in the ninth line of sub-section (1) thereof and by substitution thereof of the words "and/or"; and by the addition at the end of sub-section (1) thereof of the following proviso -

"Provided further that the Board may, at any time before the expiration of such period of three months mentioned in this section, so enter upon and take possession of and/or sell the whole or part of the security -

- (a) if the debtor and the subsequent mortgagee consent to such action or actions being taken; or
- (b) if such land has been abandoned by the debtor and in the opinion of the Board, such action or actions is or are necessary for the purposes of

safeguarding the well being of the mortgaged property. Notice of such intended action or actions under this paragraph shall be given to the debtor by registered letter addressed to the address given by the debtor in his application for the advance."

Amendment of Schedule I of the Principal Ordinance.

9. The First Schedule to the Principal Ordinance is hereby amended as follows -

- (a) by the insertion of the words "pay the rent after the same becomes due under any agreement, lease or licence under which he holds the land, and" between the word "debtor," and the word "well" which occur in the second line of paragraph (1) thereof;
- (b) by the insertion of the words "pay the rent as aforesaid" between the word "and" and the word "thereof" which occur in the first line of paragraph (2) thereof;
- (c) by the insertion of the words "to" the said rent" between the word "debtor," and the word "and" which occur in the seventh line of paragraph (2) thereof; and
- (d) by the insertion of the words "and paying rent as aforesaid, and" between the word "and" and the word "in" which occur in the first line of paragraph (3) thereof.

10. Section 3 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following is substituted therefor -

Repeal and replacement of section 3 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

\*Temporary advances.

3.(1) Notwithstanding anything contained in the Principal Ordinance it shall be lawful for the Board out of the funds of the Bank to make temporary advances, up to a maximum of five hundred pounds, to farmers, on such conditions and upon such security

as to the Board may seem fit, for the following purposes in addition to those set forth in section 19 of the Principal Ordinance -

No.3 of 1931.

- (a) to meet expenses of farming operations to be incurred; or
- (b) to meet existing liabilities incurred in farming.

(2) Every such advance shall bear interest at such rate per annum as may from time to time, with the consent of the Governor in Council, be fixed by the Board:

Provided that no advance shall be made under this section on the security of any property which is encumbered by a mortgage charge or other charge, unless the encumbrance is a mortgage charge in favour of the Bank, priority in the mortgage with the provisions of section 18 of this Ordinance in favour of the Bank.

Provided further that no advance shall be made under this section of a sum which, together with advances (if any) made to the same farmer under paragraphs (a) and (b) of section 18 of the Principal Ordinance, exceeds the maximum advance which can be made under sections 27(5), 28(2) and 28(3) thereof.

(3) All moneys advanced under the provisions of this Ordinance and all interest thereon and charges incidental thereto shall be a charge on the lands in respect of which the advance is made and shall, subject to the proviso contained in this sub-section, become due and payable within twelve months after the date of the advance:

Provided, however, that the Board may, at its discretion, from time to time postpone the date of repayment for a total period not exceeding three years from the date of the advance.

(4) Written notification of an advance under this section shall be given by the Secretary of the Bank to the Principal Registrar of Titles, who shall without charging any fee register such notification:

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Provided that where the advance is in respect of land held under the provisions of the Registration of Titles Ordinance, the Principal Registrar of Titles shall also endorse a memorandum of the advance upon the Crown grant or the certificate of title.

(5) Notwithstanding anything in any other Ordinance contained the registration of such notification shall constitute a charge upon the land in respect of which the advance has been made, and subject to the provisions of any writ or writ of priority which may be given under section 13 of this Ordinance shall rank for priority with all other charges from the date of such registration."

Repeal of section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

11. Section 4 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed.

Repeal and replacement of section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934.

12. Section 5 of the Land and Agricultural Bank (Amendment) Ordinance, 1934, is hereby repealed and the following is substituted therefor -

"Repayment of advances.

5. Upon the repayment of an advance made under section 3 of this Ordinance, together with interest due thereon, the Secretary of the Bank shall forthwith give written notice of such repayment to the Principal Registrar of Titles who shall without charging any fee register such notification and endorse on the Crown grant or certificate of title (if any) notice of such repayment, and thereupon the charge entered in respect of such advance shall be extinguished."

OBJECTS AND REASONS

The objects of this Bill may be summarised as follows -

- (1) to meet the demand for long term finance from agriculturists who in the present state of the law are debarred from applying to the Land Bank, as their requirements exceed the present maximum laid down for advances. Provision is accordingly made for the raising of these maxima;
- (2) to provide facilities on special terms for advances for the purpose of combatting soil erosion;
- (3) to provide for a reduction in the interest charge which may be levied on any sum or sums being applicable to the balance of existing mortgage debts and not only on advances;
- (4) to provide for prompt action if the Land Bank being authorised in cases where (a) with the consent of the mortgagee or where the mortgaged property has been abandoned, it is necessary for the Bank to expect further monies and exercise personal supervision of a property subject to an otherwise rapid deterioration or any of the permanent improvements, e.g. coffee trees; and
- (5) to provide for minor alterations in the administrative work which experience has shown to be desirable.

No expenditure of public monies will be involved if the provisions of this Bill become law.

A BILL TO MAKE PROVISION FOR RAISING A LOAN OF SIX HUNDRED AND TWENTY-FIVE THOUSAND POUNDS STERLING FOR CERTAIN PUBLIC PURPOSES.

WHEREAS it is expedient to raise a loan of six hundred and twenty-five thousand pounds sterling for the purposes specified in the Schedule hereto:

BE IT ENACTED THEREFORE ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows --

short title 1. This Ordinance may be cited as the Specific Loan Ordinance, 1960.

Authority to borrow Government securities or debentures or inscribed stock Chapter 40. 2. The Governor is hereby authorized to issue General Loan and Inscribed Stock Ordinance to an amount sufficient to produce as nearly as may be the sum of six hundred and twenty-five thousand pounds sterling and such further sum as may be necessary to defray the expenses of issue.

Application of loan. 3. The money borrowed under the authority of this Ordinance shall be appropriated and applied to the purposes specified in the Schedule hereto.

Commencement of contribution to Sinking Fund. Chapter 48. 4. Contribution to the sinking fund as contemplated by sections 14 and 28 of the General Loan and Inscribed Stock Ordinance shall commence in respect of any stock or debentures issued under this Ordinance not later than three years after the date from which the interest on such stock or debentures shall commence to run.

Power to issue Treasury Bills. Chapter 49. 5. Pending the issue of the whole or any portion of the loan hereby authorized, the Governor may, if necessary, raise instalments of the money as required by the issue of the Treasury Bills under the Colonial Treasury Bills Ordinance.

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SCHEDULE.

No.	of 1936.	1. Land and Agricultural Bank (of which £200,000 may be placed at the disposal of Farmers Conciliation Board, constituted under the provisions of the Farmers Assistance Ordinance, 1936)	£500,000
		2. Loans to Local Authorities - Nairobi Water Supply	£112,000
		3. Such further items as the Governor may, with the approval of the Legislative Council signified by resolution, and of the Secretary of State determine	£ 13,000
		TOTAL	£625,000

OBJECTS AND REASONS.

This Bill makes provision for raising a loan of £325,000, and such further sum as may be necessary to defray the amount of interest for the purposes set out in the Schedule to the Bill.

Expenditure of public moneys will be involved to the extent necessary to meet the service of the loan, but as to £500,000, Government will receive interest on money provided for the Land Bank, and as to loan to the Nairobi Municipal Council, Government will be reimbursed to an extent necessary to meet loan charges.



KENYA.

CONFIDENTIAL

Colonial Office.

Downing Street.

17th March, 1936.

Sir,

I have the honour to confirm Confidential Telegram No. 43 of the 19th of February, in which I informed you that, with the concurrence of the Lords Commissioners of His Majesty's Treasury, and subject to certain conditions, I approve the proposals submitted in your Confidential Telegram No. 4 of the 4th of January for the provision of funds for the purpose of:

(a) increasing the capital of the Land Bank and the amount of the loan which is to be earmarked for the Agricultural Advances Scheme recommended in the Interim Report of the Agricultural Development Committee a copy of which was enclosed in your Confidential Telegram No. 102 of the 6th of January; and

(b) the loan of £1,100,000 to the Land Bank for the purpose of the new water supply scheme.

I enclose a copy of correspondence with the Bank from which it will be seen that their directors have agreed to power being taken to raise a loan of £625,000, of which however only £375,000 is to be raised in the first instance. Of this sum the amount to be allocated to the Land Bank is to be restricted in the first instance to £250,000, of which £100,000 may be earmarked for the Agricultural Advances Scheme.

3.

GOVERNOR,

BRIGADIER GENERAL

SIR JOSEPH BYRNE, G.C.M.G., K.B.E., C.B.,

etc.

etc.,

etc.

3. The conditions on which this authority has been given are set out in the Treasury letter of the 13th of February. As regards condition (2) in paragraph 5 of that letter I suggest for your consideration that the advances to be made under the Agricultural Advances Scheme should not exceed seventy per cent of the estimated value of the crop.

4. The proposals to increase the capital of the Land Bank and to re-lend £1,000,000 to the Nairobi Municipality have, as you know, been under consideration for some time. Your recommendation, and I have no wish to comment upon them further. I feel bound, however, in this despatch to refer to them upon the new Agricultural Advances Scheme.

In the first place, I consider that the Committee appointed to be constituted on having produced its Report on a difficult and involved subject in such a short time, and although I am unable to accept some of the conclusions arrived at, I believe that it has shown the existence of a serious situation which requires careful and sympathetic treatment.

5. I observe that no evidence has been given to the Committee by the tea, wheat, sisal, and sugar interests, from which fact it would appear that the scheme now put forward is designed to afford immediate relief to the principal remaining industries, namely those of maize and coffee growing, which, without some assistance, are said to be unable to continue their operations. It must, however, be assumed that when the Conciliation Board has been set up, no farmer or other producer who had got into difficulties could be denied access to it, and it is obvious that if it is to be completely efficient the

Board

Board must be prepared to deal with every application which comes before it.

7. The proposals of the Committee are in fact that a Board should be created for the double purpose of mediating between debtors and creditors and administering a system of short-term advances to debtors on certain clauses. With the first part of the proposal I have very sympathy. I consider that the establishment of the Conciliation Board will have a useful purpose in enabling indebted settlers to avert bankruptcy and to come to satisfactory arrangements with their creditors in cases where such arrangements are possible. I should much prefer to express my doubts as to the wisdom of the second part of the proposal.

8. The scheme of the Committee has one great advantage, in that it does definitely propose effective liquidation, whereas the uncontrolled advance for which any assistance is usually provided is only a palliative, and those in this class it may be expected that the uncontrolled advance may lead to ultimate bankruptcy. For this reason I am prepared to agree that the scheme may be tried, and in considering the question of what are and what are not the needs of farmers I desire to offer the following observations. I will divide these observations into four heads: - maize farming, wheat farming, mixed farming and coffee.

9. Taking first maize farming, I feel bound to say that if the matter is considered from a purely abstract economic point of view, I find it difficult to see how the proposal to assist small maize farmers in Kenya can be justified. I observe that the Committee argue that Kenya is in a very favourable position to compete, given equal terms, with other countries in placing maize upon the market,

market, because the yield of maize per acre in Kenya is comparatively high. But yield per acre is only one, and by no means the most important, element to be taken into account. If any proof were needed of this statement, it is to be found in the fact that the average production of wheat in the United Kingdom during the years 1934-35 was the equivalent of 9.88 bags per acre (as compared with 2.77 bags in Kenya, and other comparatively low figures in the great producing countries such as the United States of America, Canada and the Argentine) and yet wheat farming in the United Kingdom is only rendered possible by the very substantial assistance given by the Wheat Subsidy Act. The principal reasons which impair Kenya's competitive position are the high cost of transport from the coast to the ultimate market and, on the part of the small European farmer, the heavy overhead burden of the maintenance of the farmer and his family.

I have made certain enquiries into the prospects of the maize market, and am informed that during the next few months owing to the great size and good quality of the Argentine crop, the tendency of prices is likely to be downwards rather than upwards. When the Committee reported, the standard price of Argentine maize in London was a little over 10s. per quarter; it has since dropped to 13s.6d. and recovered again to a little over 10s., but the underlying tendency is weak. Looking at the future over a period of years, it would I think be rash to assume that any maize farmer in Kenya could be regarded as an economic producer unless he could survive with an average price for Argentine maize in the United Kingdom over a period of years of about 10s. per quarter. If he cannot produce at this

price

price, then the only alternatives are that he should abandon his farm, or turn over to mixed farming, or to some other crop.

10. Turning now to wheat farming, I do not understand that there is any prospect of wheat being produced for export from Kenya in any quantity at the present range of prices, which are of any rate not lower than those which are likely to prevail in future since they represent an advance of nearly 50% over the prices prevailing this time last year, but the industry appears to be based on a highly restricted domestic market. In so far as production does not exceed the demands of that market, the industry may be regarded as economic. If the industry which demands wheat is to be protected, then the industry of wheat and its economic but for obvious reasons will have to be controlled accordingly. Under these conditions it may be that the time has now come when some of the wheat farmers also should be encouraged to turn over to mixed farming.

11. As I have pointed out above that there seems to be no justification on purely economic grounds for government intervention to assist the small maize farmers. It is possible, however, to regard the proposals contained in your telegram from other than a purely economic standpoint, and to take into account the circumstances of Kenya, the way in which farming, especially European farming, has developed there and the admitted fact that a large part of the trouble, apart from that brought about by the general depression, has been caused by the necessity of development work which has prevented the farmers from laying up any reserve of capital to meet the present situation; while, in the case of coffee, a serious situation has been created by the withdrawal of the usual

short

short term advances.

The Committee, in the 18th paragraph of their Report, point out, and with much force, that maize should be regarded as a pioneer crop, and that the time may now have arrived for farmers, who at present grow only maize or wheat, to be encouraged to turn over to mixed farming, since the majority of the maize and wheat growing areas are suitable for such mixed farming, which possesses definite advantages over the present method of growing cereal crops.

13. The extent to which this process of turning over to mixed farming can be justified depends principally on the extent to which the production of Kenya can be increased. It is, of course, since the principal medium of exchange, such a change would be a disadvantage in the dairy industry in Kenya, with a corresponding increase in the quantity of butter available for export, on which the farmers will have to rely for their income. In this connection I must inform you that His Majesty's Government are at present engaged in framing a long term agricultural policy, designed to assist the dairy farming industry in the United Kingdom.

I am not yet in a position to give the details of these proposals, but broadly speaking it can probably be assumed that the general principle will be to secure the position of the United Kingdom farmer by arrangements similar to those embodied in the Meat Subsidy Act, and to leave the Empire producer to compete freely with the foreign producer for the rest of the market, with such assistance as he can derive from the preference of 15s. per cwt. provided by the Ottawa Agreements Act. In these circumstances, I think it well to suggest that any schemes which would involve an increase in Kenya's dairy farming and butter exporting

industries

industries should be based on the assumption that the market price of Kenya butter in the United Kingdom is unlikely, over a period of years, to exceed 85s. to 90s. per cwt. It might even be less. From the figures noted in the report it will be seen that the price in recent years has frequently been below 80s. and at one time fell as low as 74s. per cwt; but it must be remembered that the farmer has a relatively high price in the domestic market, and that this has enabled him to fall his output to a relatively low price. The result of butter increased in price is that the value of the domestic market to the individual farmer is not proportionately so diminished. In my view the Government should not be expected to lead to a price increase, unless they were satisfied that to do so would be in the interest of the economy.

In the case of coffee, the case of coffee growers is entirely different. It can be justified in that industry there seems to be a reasonable prospect that the grant of immediate financial assistance to selected growers, will have a salutary and beneficial effect, and will probably enable the assisted growers to avoid further indebtedness, and even to reach a reasonable degree of prosperity, within a fairly short period. Such advice as I am able to obtain is that there is no good reason for expecting a materially higher general level of coffee prices than that which exists at present.

Admittedly, the average quality of Kenya coffee has been low during the past two years, and with improvement in quality, higher prices for Kenya's best products may well be expected, in which case the crop as a whole will

certainly

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certainly fetch higher prices. At the present time, owing to a great shortage of good quality coffees, the prices of really high-class coffees are somewhat higher than they have been during the last twelve months. This however appears to be little more than a temporary phase. In the absence, which seems inevitable, of any organization for promoting cooperation between coffee growers in all countries, coffee prices in general appear likely over a period of years to tend downwards rather than upwards, and if there is a substantial increase in the production of high-class coffee of good quality, that tendency may well be enhanced in regard to those classes of coffee, since the demand for them is somewhat restricted. It is probable that coffee production in Kenya is likely in the near future to prove abundant and of high quality being shown that it can be raised on the basis of about the present price structure, and the larger yields which are being anticipated in future years.

It is suggested in the discussion as to how the proceeds of the proposed fund for the creation of a Development Fund, and I am prepared to envisage the assumption by that fund of the duty of administering some fund for the provision of short-term advances to deserving farmers and other producers, to assist them either to maintain their farms on the present basis, or to put them on new ones.

It must, however, be made quite clear that the assistance must be given, in accordance with sound business practice, as a loan, upon the best security available. The history of the Agricultural Advances Account shows what may be expected, if the assistance is not given on such principles.



16. There are in the Report some traces of the suggestion that Kenya ought not to be slower in coming to the assistance of her farmers than have been the United Kingdom, the Union of South Africa, and other Empire and foreign countries. It seems to me that this analogy is a false one. In the United Kingdom, while the farming community has an importance, both economically and in other respects, out of all proportion to its annual income, the cost to the country at large of supplementing that income sufficiently to make it adequate, is relatively insignificant. In the Union of South Africa, it has been possible to make farming in effect a charge upon the flourishing gold-mining industry, which has no such need of supplementary assistance as the farming industry of a less prosperous nation, since they are in fact by far the largest items in the economy. It would be wholly unreasonable to impose a burden upon those industries which are reasonably prosperous, but relatively small in dimension, such as tea, sugar, coal and gold-mining, for the benefit of the larger and less prosperous industries; nor indeed could they long support such a burden.

16. This principle excludes any question of a grant from revenue; it is obvious that, if assistance is to be given, it must be by utilizing surplus balances, or by raising a loan for re-lending in appropriate cases.

It is necessary in this connection to consider the financial position of the Government of Kenya. Were there any substantial sum available in cash, I should have had no hesitation in approving proposals to use such balances in assisting farmers to recovery, in all reasonable instances. Kenya, however, possesses no substantial

substantial balances; such amounts as Government had in its possession have been advanced already, and, I fear, can only be regarded as completely 'frozen'. The assistance desired will now be provided from loan funds; but it will be obvious that such a process cannot continue indefinitely, and that the flotation of a loan, or the diversion of loan funds to supporting unremunerative industries, can have no other result than to impose a heavy burden on the general community, including those who will have received assistance. There is no likelihood of any money being forthcoming from the Imperial Government for purposes such as you realize, and your loan commitments cannot be allowed to grow indefinitely. I therefore consider that if the Government fails to take steps to be responsible for the Government's money, it is its present policy, viz. to maintain a sound financial position, I have been given to understand that already some uneasiness has been felt on the part of those interested in foreign exchange, and that some may not have been able to obtain the assistance of those engaged in business of which the economic stability is in doubt.

IV. I have expressed above my approval of the creation of a Conciliation Board. The composition of the Board is not fully specified: there will be five members, with a Judge as chairman, and one member drawn from the Board of the Land Bank. In order to secure that intimate local knowledge, which will be essential, of the position and financial standing of all applicants for advances, I consider it advisable that a representative of one of the existing commercial banks should always sit on the Board, as one of its members. This representative could from time to time as the circumstances require, be drawn from a roster on which the existing commercial banks would

would all be represented. These banks clearly have exceptional knowledge of the position of all their debtors; and the sense of this knowledge should in a way be available to the Board. I presume that either the Treasurer or Deputy Treasurer will be member of the board. Its composition would then be:- a Judge as Chairman, a Senior Treasury Official, a representative (chosen as required) of one of the commercial banks, a representative of the Land Bank and one or two other members, who might be selected as you think fit. In the case of an equality of votes, the Treasurer should I presume be given a casting vote.

10. I should give that... has signed the...  
 ...and is also an advocate of the...  
 ...devaluation... do not promote...  
 ...despatch, to discuss the reasons... devaluation...  
 but I agree with my predecessor... it would prove...  
 ...to... ..

19. Subject to the observations in this despatch and in the enclosed correspondence with the Treasury I approve of your proceeding to establish a consolidation board and to enact the necessary legislation to authorise the raising of a loan of £625,000 of which only £375,000 is to be actually raised in the first place. I am requesting the Crown Agents for the Colonies to make arrangements to place at the disposal of your Government such funds as may be required pending the issue of the first

first instalment of the loan, and I enclose a copy of a letter addressed to them by my direction.

I have the honour to be,

Sir,

Your most obedient

humble servant,

GEORGE J. H. THOMAS

COPY.

TREASURY CHAMBERS.

S. 32902/04/3.

28th February, 1936.

Sir,

I have laid before the Lords Commissioners of His Majesty's Treasury Mr. Flood's letter of the 14th February 1936 (38216/36) and previous correspondence regarding the position and future requirements of the Land and Agricultural Bank of Kenya with particular reference to the Interim Report of the Land and Agricultural Bank Committee of the Treasury and the Hon. Mr. Flood's letter of the 14th February 1936 and I have accordingly conveyed to Mr. Secretary Thomas the following reply.

2. The Secretary of the Treasury proposes that Government should have power to raise a loan of £625,000 to provide (a) £300,000 for the Land Bank, of which some £200,000 would be set aside for the proposed Agricultural Advances Scheme and (b) £112,000 for financing the water supply of Nairobi.

3. For the moment the actual sum to be raised will be limited to £375,000, the amount raised in respect of (a) above being restricted to £250,000, of which sum £100,000 would be earmarked for the Agricultural Advances Scheme.

4. Subject to the following observations My Lords approve these proposals and They agree that the Governor may proceed to enact the necessary legislation with a view to authorising the flotation of a loan up to a maximum of £525,000 and that meanwhile advances may be obtained from the Crown Agents for the Colonies pending the issue of the first portion of the loan.

Their Lordships' authority is given on the understanding

that any advance to raise the balance of the authorised issue of the loan will be subject to their prior approval and

(9) that the advances to be made under the Agricultural Advances Scheme to individual farmers or producers will provide for an adequate margin of security based on the value of the crop, i.e., they should not exceed an appropriate percentage of the estimated crop value; and further that advances will be made only in those cases where the Conciliation Board is satisfied that the farmer or other producer is deserving of assistance and that the grant of such

temporary

4. Subject to the following observations My Lords approve these proposals and They agree that the Governor may proceed to enact the necessary legislation with a view to authorising the flotation of a loan up to a maximum of £625,000 and that meaningful advances may be obtained from the Crown Agents for the Colonies pending the issue of the first portion of the loan.

Their Lordships' authority is given on the understanding

- (1) that the proposals to raise the balance of the authorised total of the loan will be subject to the following conditions and
- (2) that the advances to be made under the Agricultural Advances Scheme to individual farmers or producers shall provide for an adequate margin of security based on the value of the crop i.e., they should not exceed an appropriate percentage of the estimated crop value, and further that advances will be made only in those cases where the Conciliation Board is satisfied that the farmer or other producer is deserving of assistance and that the grant of such

temporary

temporary assistance may lead ultimately to his financial reestablishment.

- (3) That the utilisation of the sum earmarked for Agricultural Advances shall be limited in the first instance to a period covering two crops and that any proposal to extend this period shall be subject to Their Lordships' prior approval.

I am etc.

(Sd/-) R. V. ...

The Secretary of State  
Colonial Office.



temporary assistance may lead ultimately to his financial reestablishment.

- (3) That the utilisation of the sum earmarked for Agricultural Advances shall be limited in the first instance to a period covering two crops and that any proposal to extend this period shall be subject to Their Lordships' prior approval.

I am, etc.

(Sgd) R. V. ...

The Under Secretary of State  
Colonial Office.

AGRICULTURAL INDEBTEDNESS IN KENYA.

Note of a discussion at the Colonial Office on the 14th February regarding a loan for the Kenya Land Bank, to include the provision of funds for an Agricultural Advances Scheme.

Present :

Mr. Cecil Bottomley

Mr. Bridges (Treasury)

Sir John Campbell

Mr. Speed

Mr. Speed

Mr. Clauson

Mr. Puckin

Mr. With

Sir Cecil Bottomley explained that the views of the Committee on the Agricultural Indebtedness were set out in a draft despatch which had been sent to Mr. Bridges. It would be seen from that despatch that it had been intended only to approve the creation of the Conciliatory Board. It had been considered, however, before sending the despatch to ascertain the views of the Treasury on the scheme in general and particularly with regard to the provision of funds.

Mr. Bridges asked whether it was quite clear that the money to be advanced would be utilised for crop advances only.

Sir John Campbell observed that page 31 of the Report of the Committee on Agricultural Indebtedness showed that the funds devoted to the scheme would be used for the provision of seasonal finance and assistance to cereal farmers in a change over to mixed farming.

Mr. Speed

Mr. Speed referred to the position of unsecured creditors as shown on page 20 of the Report and asked whether the overriding of the existing claims of any unsecured creditor would not give rise to political difficulties.

Sir C. Bottomley suggested that there was no reason to expect such difficulties. The Governor had expressed no misgivings on the point, and in the terms of the Report no application for assistance could be made unless the consent of a majority in number and value of the unsecured creditors had been obtained.

Mr. Speed argued that the advance was to be on the basis that the advance should provide for a value as had been laid down in the Mauritius Agricultural Bank Bill, 1940, viz. 70% of the value of the assets.

It was agreed that the point should be put to the Governor.

Mr. Bristow referred to the question of providing funds. He suggested that Kenya's credit was now too good in the City and that a loan for these advances would not be viewed with favour there.

Mr. Speed suggested that Kenya's cash position was such that funds for the scheme could be found either from the Colony's liquid cash or from unexpended loan funds. Of course, in the latter case there would have to be a guarantee that the amount utilised would be restored.

Mr. Flood stated that Kenya's minimum cash requirement for till purposes was <sup>(well over)</sup> £100,000 and that the Govt. had been compelled to have temporary recourse to

Mr. Speed referred to the position of unsecured creditors as shown on page 20 of the Report and asked whether the overriding of the existing claims of any unsecured creditor would not give rise to political difficulties.

Sir C. Bottomley suggested that there was no reason to expect such difficulties. The Governor had expressed no misgivings on the point, and in the terms of the Report an application for assistance could succeed unless the consent of a majority in number and value of the unsecured creditors had been obtained.

Mr. Speed argued that as the advance was provided on the value of the crop to be advanced and provide for a margin, i.e. 25 should be added to the crop value as had been laid down in the Mauritius Agricultural Advancement scheme.

It was agreed that the point should be put to the Governor.

Mr. Price referred to the question of providing funds. He suggested that Kenya's credit was none too good in the City and that a loan for crop advances would not be viewed with favour there.

Mr. Speed suggested that Kenya's cash position was such that funds for the scheme could be found either from the Colony's liquid cash or from unexpended loan funds. Of course, in the latter case there would have to be a guarantee that the amount utilised would be restored.

Mr. Flood stated that Kenya's minimum cash requirement for till purposes was <sup>(well over)</sup> £100,000 and that the Govt. had been compelled to have temporary recourse to

loan funds to meet its cash deficit. He added that Kenya's surplus balances must be regarded as entirely "frozen".

Sir C. Bottomley observed that even if the funds for the scheme were found from the Colony's cash and were administered by the Land Bank, the Bank would not have the same interest in controlling the funds as it would if the money were Land Bank money.

Mr. Bridges asked whether it was suggested that the loan prospectus should specifically state that £200,000 was for agricultural advances.

Sir C. Bottomley and Mr. Spence replied that about £200,000 of immediate assistance should be provided for the Land Bank, of which sum up to £100,000 to be used for a scheme for agricultural advances.

In response to a question by Mr. Spence, Sir J. Campbell suggested that the money advanced for the scheme would be in the nature of a revolving fund.

Mr. Bridges asked if the scheme was put forward for purely political reasons or could it be regarded as a business proposition.

Sir C. Bottomley replied that it was a matter of life and death for a large number of farmers.

Mr. Clouston pointed out that from the economic standpoint the scheme is justified in the case of coffee growers. He suggested that the scheme could be extended justifiably to sisal and pyrethrum growers, but that as regards the utility of grants to maize growers and mixed.

loan funds to meet its cash deficit. He added that Kenya's surplus balances must be regarded as entirely "frozen".

Sir C. Bottomley observed that even if the funds for the scheme were found from the Colony's cash and were administered by the Land Bank, the Bank would not have the same interest in controlling the funds as it would if the money were Land Bank money.

Mr. Bridges asked whether it was suggested that the loan prospectus should specifically state that £200,000 was for agricultural advances.

Sir C. Bottomley and Mr. Campbell reported that the immediate requirements of the scheme should show £200,000 for the Land Bank, of which sum up to £100,000 to be available for a scheme for agricultural advances.

In answer to a question by Mr. Speed Sir J. Campbell suggested that the money advanced for the scheme would be in the nature of a revolving fund.

Mr. Bridges asked if the scheme was put forward for purely political reasons or could it be regarded as a business proposition.

Sir C. Bottomley replied that it was a matter of life and death for a large number of farmers.

Mr. Clauson pointed out that from the economic standpoint the scheme is justified in the case of coffee growers. He suggested that the scheme could be extended justifiably to sisal and pyrethrum growers, but that as regards the utility of grants to maize growers and mixed

farmers, the views of the Colonial Office were as shown in paragraphs 8 and 9 of the draft despatch.

Mr. Bridges said that if the Treasury agreed to the loan proposals they would ask that the despatch should be specifically in regard to the basis on which the Agricultural Advances Scheme should be worked, ~~and that~~ ~~advances to be~~ restricted to 70% of the crop value, etc. He agreed that expenditure from the 1952-53 cash would be ~~unavoidable~~ and that the raising of ~~the~~ ~~loan~~ would be ~~only~~ ~~for~~ ~~the~~ ~~purpose~~ of ~~the~~ ~~scheme~~. Bridges promised to communicate the Treasury's views for the ~~only~~ ~~purpose~~ ~~of~~ ~~the~~ ~~proposal~~.

It was proposed that KONYA should take power to raise a loan of £200,000 to provide

(a) £50,000 of the Land Bank of which

£200,000 shall be set aside for

the Agricultural Advances Scheme;

(b) £150,000 for the Nairobi Water Supply.

Of (a) only £250,000 (Land Bank £150,000, Agricultural Advances Scheme £100,000) should be actually raised now.

The second £250,000 <sup>must</sup> should not be raised without prior approval.

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COLONY AND PROTECTORATE OF KENYA

Interim Report of the Agricultural  
Indebtedness Committee

Price 1/-

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1961



Interim Report of the Agricultural  
Indebtedness Committee

## Interim Report of the Agricultural Indebtedness Committee

YOUR EXCELLENCY,

### TERMS OF REFERENCE.

We have the honour to submit the following interim report on the terms of reference entrusted to us in September, 1935 (Government Notice No. 662 published in the Official Gazette of 2nd October, 1935), which read as follows:

"To explore the possibilities of lightening the burden of agricultural indebtedness."

### PERSONNEL.

3. The personnel of the Committee is as follows:

The Attorney General (The Hon. W. Harragin, K.C.)

(Chairman)

The Treasurer (The Hon. G. Walsh, C.B.E.)

W. Evans, Esq.

J. Nordlinger, Esq.

J. Campbell, Esq.

W. C. Hunter, Esq.

with P. L. Hatley, Esq., the Assistant Secretary, Land and Agricultural Bank of Kenya, as Secretary.

### MEETINGS.

3. The first meeting of the Committee was held on the 19th September, 1935. Thereafter the Committee sat on one day during September, five in October, two in November, and four in December.

### ATTENDANCE.

4. The attendances of members of the Committee at meetings were as follows:

The Attorney General	13
The Treasurer	18
W. Evans, Esq.	13
J. Nordlinger, Esq.	18
J. Campbell, Esq.	18
W. C. Hunter, Esq.	18

**WITNESSES.**

5. Evidence was heard by the Committee from the following persons:—

- |                         |                      |
|-------------------------|----------------------|
| Aicher, C. Kenneth      | Kirton, Capt. W.     |
| Aulford, Major          | Knapman, Major L.    |
| Boedecker, H. B.        | Kopperud, B.         |
| Caldham, P. J. H.       | Martin, J. B.        |
| Calley, Major           | Miligan, Major J. W. |
| Griffiths, Col. G. C.   | Morrison, G. H.      |
| Grogan, Major E. S.     | Robson, W. J.        |
| Hamilton, G. A. H.      | Schwartz, Capt. F.   |
| Hamilton, J. H.         | Tannahill, C. C.     |
| Harvey, The Hon. Conway | Taylor, Major C. M.  |
| Hudson, G.              | Wells, H.            |
| Hunter, G.              | Wells, H. B.         |
| Keatinge, Dr.           | Wills, H. D.         |
| Upton, Major W.         |                      |

**MEMORANDA.**

6. Memoranda from the following persons and bodies were received and considered:—

- |                                 |                                   |
|---------------------------------|-----------------------------------|
| Abbey, Col. D. W.               | Taylor, H.                        |
| Bargman, E. F.                  | Thomson, J.                       |
| Beesly, B. N.                   | Viner, E.                         |
| Brown, C. H.                    | White, H. D.                      |
| Carterwright, A.                | Wright, C. A.                     |
| Cavendish Bentinck, The Hon. F. | Wynter, J. M.                     |
| Coyeman, Col. M. D. D.          | Coffee Board of Kenya             |
| Elliott, L. A.                  | Eltham Association, Eldoret       |
| Figgis, E. K.                   | Kaparakwa Farmers' Association    |
| Lillywhite, The Hon. W. G.      | Koru Farmers' Association         |
| Lipcombe, J.                    | Lakipia Farmers' Association      |
| Long, Charles                   | Makuyu District Farmers' Assoc.   |
| Medekjohan, I. H.               | Nyanza Indian Farmers' Assoc.     |
| Mitchell, R. J.                 | North Kenya Settlers' Assoc.      |
| Morgan, R. H. W.                | Naivua Farmers' Association       |
| Newton, B. M.                   | St. Austin's Catholic Mission     |
| Pullen, J. E.                   | Songhor Farmers' Association      |
| Scarborough, J.                 | Thika Farmers' Association        |
| Shaw, W. A.                     | Trans-Naivua Farmers' Association |
| Singh, Hakam                    | Wheat Advisory Board              |

An invitation to submit memoranda or give evidence was extended to all farmers' and district associations, both European and Indian. Only two Indian associations replied, one in terms which brought forward no relevant matters for consideration. One prominent Indian submitted a case for consideration which fell outside the terms of reference of the Committee. This matter was referred to the Standing Board of Economic Development, in whose province the matter lay.

**ACKNOWLEDGMENTS.**

7. We take this opportunity of acknowledging our indebtedness to those who submitted memoranda or gave evidence before us.

We desire also to record our indebtedness to the able and valuable memorandum submitted by the Coffee Board of Kenya, extracts from which are given elsewhere in this report.

**HISTORICAL.**

8. During the early stages of the Committee's deliberations it was represented that a real danger existed of deserving farmers having implements and stock, necessary to a continuance of farming operations, sold up under distraint by unsecured creditors.

With the object of extending the protection from attachment afforded by existing legislation, the Committee urged the introduction of an amendment to the Civil Procedure Ordinance, 1924, to protect such live stock and implements and husbandry as may be necessary to enable a farmer to earn his livelihood, up to a value of £500, and agricultural produce up to a value of £25.

A Bill amending Ordinance on these lines was introduced in the Official Gazette of 6th November, 1935 (Government Notice No. 761), and was duly passed into law on the 23rd November, 1935 (Ordinance No. 80 of 1935).

**ARGUMENT.**

9. From the minutes recording evidence offered to the Committee and the discussions thereon, and having regard to the above report to produce a reasoned argument leading up to and justifying the conclusions and recommendations contained in the final paragraphs.

The arguments set forth under the following heads:—

- (a) Long term finance.
- (b) Kenya and primary products.
- (c) Meteorological.
- (d) Markets.
- (e) Value of experience.
- (f) Preservation of non-native activities.
- (g) Importance of European maize industry.
- (h) Importance of coffee industry.
- (i) Desirability of extending dairying and mixed farming.
- (j) The present position of agricultural indebtedness.
- (k) Causes of present position.
- (l) Ill effect on farming operations.
- (m) Prices of various commodities.

**WITNESSES.**

5. Evidence was heard by the Committee from the following persons:—

- Archer, C. Kenneth
- Ashford, Major
- Boedeker, H. S.
- Coldham, P. J. H.
- Osiker, Major
- Griffiths, Col. G. C.
- Grojan, Major E. S.
- Hamilton, G. A. H.
- Hamilton, H. B.
- Hilvey, The Hon. Conway
- Hudson, G.
- Hunter, G.
- Keatings, Dr.
- Kirton, Major W.

- Kirton, Capt. W.
- Knapman, Major L.
- Kopperud, B.
- Martin, J. R.
- Milligan, Major J. W.
- Morrison, G. R.
- Robson, W. J.
- Schmiedtze, Capt. F.
- Tannahill, A. G.
- Taylor, Major C. M.
- Wolfe, H. B.
- Wollen, H. S.
- White, H. D.

**MEMORANDA**

6. Memoranda from the following persons and bodies were received and considered:

- Abbey, Col. R. W.
- Burmann, H. F.
- Beedley, B. N.
- Brown, Q. H.
- Cartwright, A.
- Cavendish Bentinck, The Hon. F.
- Copeman, Col. H. G.
- Finer, E. A.
- Fisher, E. R.
- Lillywhite, The Hon. W. D.
- Lipscomb, J.
- Long, C. E.
- McEljohn, R. H.
- Stibbe, R. J.
- Marshall, R. W.
- Newton, R. M.
- Pullen, J. E.
- Scarborough, J.
- Shaw, W. A.
- Singh, Hakam

- Taylor, H.
- Thornton, S.
- Vincent, P.
- White, H. D.
- Wright, C. A.
- Wynter, J. N.
- Indian Association of Kenya
- Indian Association, Nairobi
- Kipkarren Farmers' Association
- Koru Farmers' Association
- Lakinya Farmers' Association
- Makuyu District Farmers' Assoc.
- Nyansa Indian Farmers' Assoc.
- North Kenya Settlers' Assoc.
- Ravine Farmers' Association
- St. Austin's Catholic Mission
- Songhor Farmers' Association
- Tuka Farmers' Association
- Trans Naita Farmers' Association
- Wheat Advisory Board

An invitation to submit memoranda or give evidence was extended to all farmers' and district associations, both European and Indian. Only two Indian associations replied, one in terms which brought forward no relevant matters for consideration. One prominent Indian submitted a case for consideration which fell outside the terms of reference of the Committee. This matter was referred to the Standing Board of Economic Development, in whose province the matter lay.

**ACKNOWLEDGMENTS.**

7. We take this opportunity of acknowledging our indebtedness to those who submitted memoranda or gave evidence before us.

We desire also to record our indebtedness to the able and valuable memorandum submitted by the Coffee Board of Kenya, extracts from which are given elsewhere in this report.

**HISTORICAL.**

8. During the early stages of the Committee's deliberations it was represented that a real danger existed of deserving farmers having implements and stock, necessary to a continuance of farming operations, sold up under distraint by unsecured creditors.

With the object of extending the protection from attachment afforded by existing legislation, the Committee urged the introduction of an amendment to the Civil Procedure Ordinance, 1924, to protect such live stock and implements of husbandry as may be necessary to enable a farmer to earn his livelihood, up to a value of £500, and agricultural produce up to a value of £25.

A draft amending Ordinance on these lines was published in the Official Gazette of 5th November, 1935 (L.C. Notice No. 761), and was duly passed into law on the 20th November, 1935 (Ordinance No. 81 of 1935).

**ARGUMENT.**

9. From the minutes recording evidence offered the Committee and the discussion thereon, endeavour has been made in this report to produce a reasoned argument leading up to and justifying the conclusions and recommendations contained in the final paragraph.

The argument is set forth under the following heads:

- (a) Long term finance.
- (b) Kenya and primary products.
- (c) Meteorological.
- (d) Markets.
- (e) Value of experience.
- (f) Preservation of non-native activities.
- (g) Importance of European maize industry.
- (h) Importance of coffee industry.
- (i) Desirability of extending dairying and mixed farming.
- (j) The present position of agricultural indebtedness.
- (k) Causes of present position.
- (l) Ill effect on farming operations.
- (m) Prices of various commodities.

- (n) Attitude of mortgagees.
- (o) Assistance to agriculture in other dominions and colonies.
- (p) Wheat, tea, sugar, and sisal: No evidence of immediate assistance required.
- (q) Assistance recommended only to approved farmers.
- (r) Necessity for immediate relief.
- (s) A middle class.
- (t) Recommendations.

#### LONG TERM FINANCE.

If it must be understood that the recommendations contained in paras. 29 et seq. of this report are not related to any issue of Government bonds or to the provision of long-term finance, but are confined to the relief only of urgent and approved cases, due regard being given to the necessity for providing as far as possible such disturbance of existing conditions as will not interfere with legitimate mortgage business between private borrowers and investors.

We examined at length a proposal for a bond issue to liquidate mortgage debts, but consider that we cannot express an opinion on or recommend a scheme which to the best of our knowledge has no parallel in other dependencies, without an assurance that such scheme or modification thereof would meet with the approval of the Secretary of State.

We recommend therefore that the draft proposal be submitted to the Secretary of State for examination by financial experts, and, if the scheme is considered feasible or politic, we shall then make recommendations for its particular application to the needs of this Colony.

Since this report was drafted we have received a detailed statement from the Secretary, Colonists' Vigilance Committee, giving summarized particulars of the outcome of a questionnaire issued to all farmers on the question of their urgent indebtedness. We propose to forward this memorandum, together with the original questionnaire and covering letter, and an elaborated memorandum on the Government Bond proposal, to Government for despatch to the Secretary of State at the earliest convenient opportunity.

#### KENYA AND PRIMARY PRODUCTS.

11. The conclusions reached by the Committee start from the conviction that this Colony is in a very favourable position to compete, given equal terms, with other countries in placing

certain primary products on the world's markets. For example, the following tables show the average yield per acre in Kenya of maize and wheat as compared with other countries:—

#### MAIZE.

Yield per Acre Over the Past Three Years	
Kenya	7.14 bags per acre
Argentina	7.70 " "
South Africa	2.82 " "
S. Rhodesia	4.63 " "
U.S.A.	0.21 " "

Over the period 1928 to 1934-35, which includes seasons when locusts destroyed a large proportion of the crop, the yield per acre in Kenya averaged 6.74 bags.

WHEAT.	
Yield per Acre Over the Past Three Years	
Kenya	1021-34 2.77 bags per acre
Argentina	1021-30 2.77 " "
U.S.A.	1927-30 2.4 " "
Kenya	1927-30 2.7 " "

The yield per acre of wheat in Kenya for the years 1927 to 1933-34 was as follows:

1927-30	4.22
1930-31	2.87
1931-32	3.81
1932-33	2.11
1933-34	4.10

We are indebted to the Agricultural Economist and to figures from *Bromfield's Statistics*, kindly supplied by Colonel Griffiths, for the above information.

#### RAINFALL.

12. We are indebted to the British East African Meteorological Service for the following statistics for the years 1900-1934, giving the rainfall in the principal maize, wheat and coffee-growing areas and stock and dairying districts:—

- (n) Attitude of mortgagees.  
 (o) Assistance to agriculture in other dominions and colonies.  
 (p) Wheat, tea, sugar, and sisal: No evidence of immediate assistance required.  
 (q) Assistance recommended only to approved farmers.  
 (r) Necessity for immediate relief.  
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11. The conclusions reached by the Committee start from the conviction that this Colony is in a very favourable position to compete, given equal terms, with other countries in placing

certain primary products on the world's markets. For example, the following tables show the Average yield per acre in Kenya of maize and wheat as compared with other countries:—

#### MAIZE

YIELD PER ACRE OVER THE PAST THREE YEARS	
Kenya	7.14 bags per acre
Argentina	7.75 " "
North Africa	2.82 " "
S. Rhodesia	4.83 " "
U.S.A.	3.21 " "

Over the period 1924-26 to 1927-28, which includes seasons when locusts destroyed a large proportion of the crop, the yield per acre in Kenya averaged 6.74 bags.

#### WHEAT

Kenya	1921-24 2.77 bags per acre
Argentina	4.20 " "
U.S.A.	3.20 " "
N. Rhodesia	1925-30 2.4 " "
S. Africa	1921-30 5.7 " "

The yield per acre of wheat in Kenya for the years 1929-30 to 1933-34 is as follows:—

1929-30	4.04 bags per acre
1930-31	2.82 " "
1931-32	2.01 " "
1932-33	2.77 " "
1933-34	4.10 " "

We are indebted to the Agricultural Department for the figures from *British East African Statistics*, kindly supplied by Colonel Griffiths for the above information.

#### RAINFALL

12. We are indebted to the British East African Meteorological Service for the following statistics for the years 1930-1934, giving the rainfall in the principal maize, wheat and coffee growing areas and stock and dairying districts:—

Station	Area of Rainfall		1930		1931		1933		1935 to August	
	Altitude	Feet	Inches	Feet	Inches	Feet	Inches	Feet	Inches	Feet
<b>MAIZE AND WHEAT AREAS</b>										
KWALE	6,700	124-24	49.64	57.72	54.13	54.13	54.13	39.27	32.60	32.60
SARAWA	5,150	152-34	41.53	51.18	47.77	47.77	47.77	29.64	31.40	31.40
SHEUNGOMI	6,071	168-34	37.75	51.28	47.77	47.77	47.77	39.61	35.29	35.29
N. KENYA	8,250	195-34	33.80	54.80	47.77	47.77	47.77	35.77	35.03	35.03
SOY	6,254	231-34	33.41	44.63	47.77	47.77	47.77	38.33	36.28	36.28
ELDONO	6,700	122-34	32.55	44.63	47.77	47.77	47.77	38.33	35.97	35.97
KALPI YA MOTO	5,430	134-34	32.55	44.63	47.77	47.77	47.77	38.33	38.14	38.14
HOY'S BRIDGE	6,300	1018-34	40.51	48.59	44.12	44.12	44.12	35.21	35.00	35.00
SOY	6,254	195-34	40.51	52.15	51.84	51.84	51.84	35.21	35.00	35.00
KWALE (Health Office)	6,254	207-54	44.71	52.15	51.84	51.84	51.84	32.95	27.97	27.97
								32.95	46.50	46.50
<b>Coventry Areas</b>										
SOMRON	5,500	1917-34	19.10	35.94	19.10	19.10	19.10	40.88	48.12	48.12
TURBO	6,120	1624-31	19.10	35.94	19.10	19.10	19.10	40.88	36.95	36.95
THEKA (Dnyro Gubul)	5,620	1077-34	19.10	35.94	19.10	19.10	19.10	40.88	34.61	34.61
KILABU (D.C.)	5,000	1077-34	37.09	52.28	47.77	47.77	47.77	37.21	34.61	34.61
THEKA (Gethambini)	13,270	1016-34	37.09	52.28	47.77	47.77	47.77	37.21	18.22	18.22
KILABU (Gethambini)	13,270	1016-34	37.09	52.28	47.77	47.77	47.77	37.21	18.22	18.22
KILABU (Kilgona)	6,700	1023-34	37.09	52.28	47.77	47.77	47.77	37.21	18.22	18.22
MAKUYU	5,050	1023-34	37.09	52.28	47.77	47.77	47.77	37.21	55.42	55.42
FOOT TRACKS	5,894	1811-34	37.09	52.28	47.77	47.77	47.77	37.21	25.10	25.10
MAMON (Hailway)	5,441	1811-34	37.09	52.28	47.77	47.77	47.77	37.21	19.43	19.43
KALROSE	5,104	1811-34	37.09	52.28	47.77	47.77	47.77	37.21	44.72	44.72
<b>Stock and Dairying Areas</b>										
TURBO'S FIELDS	6,070	1077-34	37.09	52.28	47.77	47.77	47.77	37.21	20.30	20.30
ROBERTS	6,070	1077-34	37.09	52.28	47.77	47.77	47.77	37.21	27.71	27.71
MARO MOTO	6,070	1077-34	37.09	52.28	47.77	47.77	47.77	37.21	51.10	51.10
GRUZE	6,070	1077-34	37.09	52.28	47.77	47.77	47.77	37.21	25.10	25.10
NAVAYHA (Nabahi) (Kilgona)	3.5	191-34	37.09	52.28	47.77	47.77	47.77	37.21	25.10	25.10

**MARKETS.**

13. The geographical position of Kenya opens up to it the markets of South Africa and East Africa, India and the Far East, which offer an outlet capable of extension and supplementary to the markets in Europe, America and Canada, in which Kenya enterprise has already secured its principal footing for such commodities as Kenya can produce in competition with other sources of supply.

**VALUE OF EXPERIENCE.**

14. We do not consider it necessary to stress the importance to the Colony of an economically sound European agricultural industry, or the value to the Colony of farmers who have gained experience of the varying conditions and special difficulties of the country.

A number of European farmers in Kenya came to the country without previous agricultural experience. Their knowledge of the modes of control of diseases and pests, preservation and improvement of soil, and the various farming conditions, and the cost of considerable loss, time and money represents an asset which the Colony cannot afford to lose. The full beneficial results of this will be more apparent when favourable climatic conditions return and the world's market recovers.

**RESERVATION OF NATIVE ACTIVITIES.**

15. We concur in the policy underlying practically the whole of the evidence received that the economic progress and prosperity of the Colony, the consolidation of Kenya's position within the Empire, and the healthy development of the native along progressive lines towards a higher standard of life can be furthered best by active promotion of the stated policy that is the parallel development of non-native in conjunction with and supplementary to native activities.

This is in accordance with the policy of the Imperial Government.

**IMPORTANCE OF EUROPEAN MAIZE INDUSTRY.**

16. We are also satisfied of the importance to Kenya and neighbouring territories of the European maize industry. We agree with the view of the Economic Development Committee that the preservation of the present organization and structure of the maize industry justifies a "national effort to assist it and safeguard its interests" (vide Economic Development Committee Report, para. 618), and with the further opinion of the same Committee that "Maize must be regarded as an essential

Station	Advanced Rice Mill					Advanced Rice Mill				
	Altitude Feet	Harvest	Trial	1930 Inches	1931 Inches	1932 Inches	1933 Inches	1934 Inches	1935 Inches	1935 to August Inches
<b>MAIZE AND WHEAT AREAS</b>										
KEMATA	6,770	1927-34	6,984	51,790	16,146	36,993	37,377	38,240	38,608	(To Oct.)
SARATA	6,740	1927-34	6,110	54,732	16,671	39,075	38,410	39,299	39,599	(To Oct.)
CHEBANANI	6,110	1927-34	41,333	438,448	49,466	33,644	31,131	32,608	32,608	
NAKURU	6,379	1911-31	39,773	31,718	37,067	31,100	32,714	32,673	33,077	
SOY	6,350	1911-31	39,800	36,880	41,111	31,111	31,111	31,111	31,111	
ENOHOR	6,250	1927-34	—	—	—	—	—	—	—	
KENDU, Moyo	5,311	1914-34	—	—	—	—	—	—	—	
KARU, Moyo	6,067	1927-34	—	—	—	—	—	—	—	
KARU, Moyo	6,067	1927-34	—	—	—	—	—	—	—	
SOYAL	6,223	1926-34	—	—	—	—	—	—	—	
<b>KEWALE (Health Centre)</b>										
<b>COFFEE AREAS</b>										
BOROMDA	6,500	1917-34	9,311	53,874	39,379	33,616	40,688	49,022	38,608	(To Oct.)
TOMO	6,150	1927-34	9,343	53,019	43,670	35,531	38,819	43,437	38,608	(To Oct.)
KARATA	6,798	1917-34	10,778	65,211	44,177	42,222	39,511	44,691	38,608	(To Oct.)
KURUA (Gohambwini)	5,000	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
KARU (Voc. Laboratory)	6,000	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
KEMBU (Jambui)	6,700	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
KIANGU (Kigwe)	6,050	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
MARU	6,900	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
FORT TRENK	5,485	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
KAMBON (Mashery)	5,485	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
KAMBON	5,300	1917-34	10,229	69,511	41,000	48,148	39,511	44,691	38,608	(To Oct.)
<b>BROOK AND DANIBIRO AREAS</b>										
TROMBO'S FARM	7,150	1921-34	3,333	37,141	32,671	32,671	32,671	32,671	32,671	
RUMUATI	6,000	1917-34	29,933	24,311	27,141	27,141	27,141	27,141	27,141	
NABO Moyo	6,180	1917-34	29,933	24,311	27,141	27,141	27,141	27,141	27,141	
Grain	6,200	1917-34	29,933	24,311	27,141	27,141	27,141	27,141	27,141	
NAVALA (Mashery) (Kakipip)	6,200	1917-34	29,933	24,311	27,141	27,141	27,141	27,141	27,141	

**MARKETS.**

13. The geographical position of Kenya opens to the markets of South Africa and East Africa, India and the Far East, which offer an outlet capable of extension and supplementary to the markets in Europe, America and Canada, in which Kenya enterprise has already secured its principal footing for such commodities as Kenya can produce in competition with other sources of supply.

**VALUE OF THE LAND USE.**

14. It is not considered necessary to stress the importance to the Colony of an economically sound European agricultural industry, or the value of the Colony of farmers who have gained experience of the varying conditions of the social and economic life of the country.

A number of European farmers in Kenya have acquired the country without previous agricultural experience. Their knowledge of methods of cultivation, use of tools, and the principles of crop improvement, soil fertility and drainage (facilities) conditions have been gained at considerable cost, but now represents an asset which the Colony cannot afford to lose. The full beneficial results of this will be more apparent when favourable climatic conditions return and the world markets are open.

**IMPORTANCE OF NON-NATIVE ACTIVITIES.**

15. We acquiesce in the view that, practically the whole of the experience received that the economic progress and prosperity of the Colony is the consequence of Kenya's position within the Empire, and the healthy development of the native along progressive lines towards a higher civilization can be furthered best by active promotion of the dual policy; that is, the parallel development of non-native in conjunction with and complementary to native activities.

This is in accordance with the policy of the Imperial Government.

**IMPORTANCE OF EUROPEAN MAIZE INDUSTRY.**

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crop. Its production in Kenya is one of the Colony's greatest safeguards against famine, for it is now a staple food of most of the native population and, apart from famine considerations, it is required in large quantities as a basic factor in other local industries. We regard the maize industry as of vital importance to the economic welfare of the Colony. (Ibid. para. 173.) Native-grown maize is not sufficient to meet local requirements in times of famine; European-grown maize has to be imported into the British East Africa, Uganda, and Tanganyika would also rely on Kenyan maize to supplement internal shortages, and if European maize production proved inadequate the only alternative would be, as has been done in the past, to import from abroad at great expense.

As the result of the efforts of European growers, Kenyan maize has now definitely established itself in the world's markets and commands a premium over Argentine maize; and the average production per acre in Kenya compares favourably with that of the growing countries, as is shown in the following paragraph.

**IMPORTANCE OF COFFEE INDUSTRY.**

According to the Report of the Economic Development Committee (para. 155) the value of coffee exports over the period 1931-1932 has been given at 41 per cent of the total exports of the Colony. For the year 1932 the figure was 61.7 per cent of the total.

The coffee industry as a whole gives employment equivalent to the full-time services of 50,000 natives.

There are 930 coffee growers, representing 65 per cent of the total number of occupiers of agricultural holdings, and in addition to the large number of natives managing their own farms, the industry gives employment to 689 Europeans.

The Agricultural Census Report for 1934 gives the total acreage of planted coffee as 103,238 acres, of which only 65,643 acres are fully mature. 14,046 acres are still under three years old, and 23,549 acres are between three and six years old.

Data obtained from the Coffee Board of Kenya show that the capital invested in 418 coffee-estates is approximately £4,500,000.

Kenya coffee has established a high reputation for quality on the London market, and despite the setback caused by abnormal conditions prevailing over the past three years there is no occasion to suppose that in due course this reputation

should not be enhanced when normal conditions return. In general it provides the best demonstration and advertisement of the Colony's suitability and scope for European enterprise. It constitutes a serious attempt to exploit one of the best of the Colony's natural assets, and we are of opinion that its vigorous development is in the best interests of Kenya and the Empire.

**MILK-FARMING.**

18. Milk must be regarded as a "pioneer" crop, essential to the development of the territory. In other countries similarly situated, milk production has formed the stepping stone towards more diversified farming, and in our opinion the time has arrived for farmers now growing maize or wheat only, to be encouraged and assisted to change over to mixed farming.

The majority of certain areas are suitable for mixed farming and not only do such areas benefit themselves, but the cattle and dairy produce, but such extension of the farmer's activities would enable him to utilize the arable land more profitably and assist in maintaining soil fertility. Many of these areas stressed the advisability of such a change over and its advantages over the present widespread reliance on maize crops alone.

**THE PRESENT POSITION OF AGRICULTURAL INDEBTEDNESS.**

19. Apart from the scaling down of loans which may be effected through Consultation Boards, we have not recommended the institution of any machinery which will directly lighten the burden of agricultural indebtedness, for the reasons given in paragraph 17. We had an opportunity of ascertaining the actual total burden of debt. In the absence of any details covering loans by companies we had no proper assessment of the actual indebtedness of agriculture is impossible, but the following figures may give some indication of the position. In the Report of the Economic Development Committee (para. 135) a figure of £3,750,000 is given as representing loans and advances to agriculture outstanding in the books of the Kenya banks at the end of 1932. At the end of 1933 loans to the extent of £472,316 had been made by the Land Bank, and advances outstanding in the books of the Agricultural Advances Board at the end of 1934 amounted to £104,759.

So far as the position of the coffee industry is concerned the memorandum of the Coffee Board of Kenya deals with returns as at 30th June, 1934, from coffee estates producing 87.6 per cent of the total Kenya crop, and indicates that on these estates the total indebtedness in respect of mortgages,

bank overdrafts and other loans secured on the land or upon security other than crops or chattels mortgage is £1,312,110, the annual interest charge being £82,019.

The total indebtedness in respect of shortfalls on advances made against crops by merchant firms is shown as £71,803, the annual interest charge calculated at 5 per cent amounting to £4,308.

Seasonal indebtedness, secured on crops or by chattels mortgage, excluding shortfalls, is estimated to amount to £173,912 as at 31st December, 1934. The annual interest charge calculated at 5 per cent plus interest on advances against stock (from amount of £12,920).

The total interest charges to be met by the coffee industry each year is summarized as follows:

On mortgage, etc.	£82,019
On shortfalls	4,308
Seasonal finance	12,920
	£99,247

The Coffee Board emphasizes that while the above figures present a general picture of the indebtedness of the industry, they are largely averages, and are insufficient to ascertain the actualities of a great number of individual cases, and that any measures to be taken to improve the position can only be taken after individual consideration of individual cases. While most of the opinion is that the position at the present time must be materially more serious as the result of the climatic conditions and the still further fall in world prices during the last twelve months.

The picture of agricultural indebtedness provided by the foregoing extracts from evidence is of very limited service to us, inasmuch as it fails to give any indication of how the figures might be allocated as between indebtedness and oppressive indebtedness.

#### CAUSES OF PRESENT POSITION.

20. The present position of agricultural indebtedness can be attributed to the prolonged period of adverse agricultural conditions occasioned by the incidence of locusts and drought, which caused great damage from 1929 to 1933 on European-owned farms and in native areas, and to the low prices realized for primary products on the world's markets.

In 1929-30 the prices of primary products fell after a long period of prosperity. In the preceding years farms had been purchased at prices which in some cases have proved to be too high, commitments were entered into on the basis of the high prices then being realized for coffee, maize and other farm products; and total costs of production (management, implements, labour, etc.) were on a generous scale which could only be justified, if at all, by the prices then being realized for crops.

The collapse in the world's markets found a very large proportion of producers with no reserves to fall back on and with commitments which on the reduced return obtainable from the sale of farm produce, were too high in relation to the resources of their farms.

The coffee industry was not to any extent still in the development stage which was carried during the period of high prices having been confined to the land by bringing further areas under development, erecting more extensive dwellings, buildings, etc., and so on, which only came into full bearing after the collapse of prices had occurred.

The main coffee-producing areas have had the unprecedented incidence of three consecutive years of drought, the effect of which is reflected in the low percentage of the crop, poor quality, and falling yields of recent years. The same general conditions applied, though to a lesser extent, to the cotton and pastoral industries. Maize and wheat growing areas suffered from the severe locust infestation of 1930-1932. The above facts losses due to locusts were approximately 20 per cent or more of grain crops, making a shortage of over 250,000 bags of grain (see Economic Development Committee's Report, para. 380 (a)).

#### THE EFFECT ON FARMING OPERATIONS.

21. The reduced prices, inferior quality and low prices obtainable for produce have had the inevitable result of curtailing expenditure on farming operations. In many cases below the level required for the proper maintenance of the farm, of good husbandry and even of the individual.

Farmers have not had the finance necessary to carry out essential manuring and anti-erosion measures, implements have not been replaced and buildings have not been kept in a good state of repair. Such neglect has materially affected the efficiency of farming operations and the soil fertility of cultivated areas.

We also regard as a matter of great and far-reaching benefit the psychological effect of the removal of any condition which constitutes an ever-present menace to the farmer's security of tenure and continuance of operations.

#### PRICES OF VARIOUS COMMODITIES.

23. We are indebted to the Agricultural Economist for the following tables showing the prices realized during the past few years for coffee, maize, butter and milk.

#### COFFEE PRICES.

Monthly average prices actually realized at the London auction during the last five years were as follows:

MONTH	1929		1930		1931		1932		1933		1934		1935	
	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.
January	121	100	111	70	108	73	102	70	102	73	102	73	102	73
February	122	101	111	70	108	73	102	70	102	73	102	73	102	73
March	123	88	72	72	72	62	62	62	62	62	62	62	62	62
April	118	83	73	76	76	67	69	66	66	66	66	66	66	66
May	112	69	65	66	66	55	63	61	61	61	61	61	61	61
June	90	63	66	63	63	59	63	63	63	63	63	63	63	63
July	95	68	68	67	67	57	67	67	67	67	67	67	67	67
August	94	62	62	64	64	57	62	62	62	62	62	62	62	62
September	75	62	62	62	62	57	62	62	62	62	62	62	62	62
October	94	62	62	62	62	57	62	62	62	62	62	62	62	62
November	93	79	60	72	72	63	63	63	63	63	63	63	63	63
December	101	76	93	71	71	68	68	68	68	68	68	68	68	68
YEAR	116	77	74	86	86	64	63	63	63	63	63	63	63	63

#### PRICES OF PLATE YELLOW MAIZE IN LONDON (FROM BOARD OF TRADE JOURNAL)

MONTH	1929		1930		1931		1932		1933		1934		1935	
	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.	Sh. per 100 lb.
January	6-14	3-49	4-02	4-35	4-18	3-98	4-19	4-51	4-22	4-78	4-27	4-04	3-76	3-69
February	5-77	3-00	4-30	4-18	3-98	4-19	4-51	4-22	4-78	4-27	4-04	3-76	3-69	3-69
March	5-07	4-26	4-48	4-13	4-30	4-51	4-22	4-78	4-27	4-04	3-76	3-69	3-69	3-69
April	6-88	6-76	4-73	4-60	3-91	4-22	4-78	4-27	4-04	3-76	3-69	3-69	3-69	3-69
May	5-23	3-09	4-46	4-02	3-88	4-27	4-04	3-76	3-69	3-69	3-69	3-69	3-69	3-69
June	5-59	3-53	4-00	3-77	4-04	3-76	3-69	3-69	3-69	3-69	3-69	3-69	3-69	3-69
July	6-24	3-44	4-25	3-86	4-21	3-69	3-69	3-69	3-69	3-69	3-69	3-69	3-69	3-69
August	6-67	3-18	4-28	3-67	5-25	3-45	3-45	3-45	3-45	3-45	3-45	3-45	3-45	3-45
September	5-60	3-18	4-33	3-85	5-09	3-09	3-09	3-09	3-09	3-09	3-09	3-09	3-09	3-09
October	7-44	4-56	3-68	4-07	3-47	4-06	4-06	4-06	4-06	4-06	4-06	4-06	4-06	4-06
November	6-97	3-84	4-21	4-00	3-90	4-49	4-49	4-49	4-49	4-49	4-49	4-49	4-49	4-49
December	6-49	4-10	3-95	4-01	4-43	4-69	4-69	4-69	4-69	4-69	4-69	4-69	4-69	4-69

#### BUTTER—NEW ZEALAND LBS IN LONDON (FROM BOARD OF TRADE JOURNAL)

MONTH	1929		1931		1932		1933		1934		1935	
	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.	Sh. per Cwt.
January	121	100	111	80	74	86	102	70	102	73	102	73
February	122	101	111	70	108	73	102	70	102	73	102	73
March	123	88	72	72	72	62	62	62	62	62	62	62
April	118	83	73	76	76	67	69	66	66	66	66	66
May	112	69	65	66	66	55	63	61	61	61	61	61
June	90	63	66	63	63	59	63	63	63	63	63	63
July	95	68	68	67	67	57	67	67	67	67	67	67
August	94	62	62	64	64	57	62	62	62	62	62	62
September	75	62	62	62	62	57	62	62	62	62	62	62
October	94	62	62	62	62	57	62	62	62	62	62	62
November	93	79	60	72	72	63	63	63	63	63	63	63
December	101	76	93	71	71	68	68	68	68	68	68	68

#### MAIZE—NEW ZEALAND LBS IN LONDON. PER TON

AVERAGE 1930

MONTH	1921	1932	1933	1934	1935
January	16 7	12 16	15 16	14 6	22 6
February	16 7	12 16	15 16	14 6	22 6
March	16 7	12 16	15 16	14 6	22 6
April	16 7	12 16	15 16	14 6	22 6
May	16 7	12 16	15 16	14 6	22 6
June	16 7	12 16	15 16	14 6	22 6
July	16 7	12 16	15 16	14 6	22 6
August	16 7	12 16	15 16	14 6	22 6
September	16 7	12 16	15 16	14 6	22 6
October	16 7	12 16	15 16	14 6	22 6
November	16 7	12 16	15 16	14 6	22 6
December	16 7	12 16	15 16	14 6	22 6

#### ATTITUDE OF MORTGAGEES

It is to be gathered from evidence submitted by mortgagees and mortgagees that the majority of secured creditors have extended a very large measure of concession to debtors during the period of depression. Rates of interest in many cases have been reduced or interest waived for a period, and few actions for foreclosure have been instituted. While it may be true that the prudent lender to fear that a return to more prosperous times would result in a change in this attitude, we endorse the view expressed by the Coffee Board of Kenya that "leniency is too often a matter of day-to-day arrangement. The plauter has no security of tenure, and although he may be leniently treated by creditors, his urge is to sacrifice the proper cultivation of his estate rather than run the risk of failing to meet his commitments. A composition arranged for a definite period of time would thus enable the plauter to devote all his energies to the proper maintenance of his estate. Such proper maintenance is vital in the interests of creditors as well as debtors."

### ASSISTANCE TO AGRICULTURE IN OTHER DOMINIONS AND COLONIES.

24. The Committee have had access to records of the various relief measures adopted in the following Dominions and Colonies:—

*New Zealand.*—Mortgagors and Tenants Relief Act, 1933; Rural Intermediate Credit Act, 1927, and Reports, 1930-1935.

*Rhodesia.*—Report of Committee of Inquiry into the economic condition of the Agricultural Industry, 1931; Farmers' Debt Adjustment Act, 1935.

*South Africa.*—1931 Relief Act, 1931; Farmers' Special Relief Act, 1931; South African Farm Mortgage Interest Act, 1933; Export Subsidies Act, 1931; Debt Restructuring Act (amendment), 1932; Farmers' Assistance Act, 1935.

*British Columbia.*—Mortgagors and Tenants Relief Act, 1931; Farmers' Creditors Arrangement Act, 1931.

*Manitoba.*—Debt Adjustment Act, 1931.

*New Guinea.*—Debt Relief Ordinance, 1931.

*New South Wales.*—Farmers' Relief Act, 1931.

The Committee are aware of the large measure of assistance, direct and indirect, given in the United Kingdom to producers of agricultural products.

It has been further noted that the aid provided by the Government of the Union of South Africa, plus the excess profits met by consumers, plus the amount of loss on export (quota), for the protection of agricultural industries amounted for the year 1933 to less than £7,473,000 (see South African Journal of Economics, September, 1935).

### WHEAT, TEA, SUGAR AND SISAL.

25. No evidence has been given to this Committee that immediate assistance is required by any of these industries.

### ASSISTANCE RECOMMENDED ONLY TO APPROVED FARMERS.

26. Our investigations show that while measures of relief are necessary to the agricultural industry generally, there are cases where, owing to the unsuitability of the soil, location of the farm or to lack of experience or ability of the farmer, no assistance can be afforded with any prospect of the ultimate success of the farm or relief of the farmer. We are of the

opinion that any form of assistance should be granted only after adequate enquiries into the financial position and farming ability of the farmer, the history and past production of the farm and the prospects of ultimate recovery.

### NECESSITY FOR IMMEDIATE RELIEF.

27. We realize and wish to stress the fact that many farmers will not be able to continue operations unless some measure of relief can be afforded without delay. Apart from the position outlined in paragraph 19 the fact that for a prolonged period farming operations have been conducted at a loss, has left many farmers without any working capital with which to meet labour costs, etc., to plant another crop or to maintain existing areas.

The coffee industry is further affected by the decision of merchant houses to curtail and in some cases to discontinue seasonal anticipatory advances on which planters have relied in past years.

The coffee industry is further upset all the calculations of the planters concerned, and although it is reasonable to suppose that the merchant houses may be looked to for a crop advance in July to September when the crop is sufficiently advanced to admit of an estimate of the harvest and make in very few instances have these planters been able to make any financial arrangements for bridging the gap from January to June. The crop already raised is held by the merchants against the advances made for its production and as the crop advances any detailed have combined to deprive last season's operations of any profit; the planter has no source of income from which to meet the cost of maintenance until the next crop is in sight. The necessity for finding a means to alleviate this position is vital and immediate.

We are satisfied that financial aid should be made available to approved farmers to enable this gap to be bridged and are of the opinion that such assistance would go a long way towards establishing a sound system of coffee crop finance and would save many worthy and experienced planters from failure.

### A MIDDLE CLASS.

28. It is anticipated that the majority of applications for financial assistance will come from planters embarrassed by a variety of commitments to secured and unsecured creditors, the total amount of which renders it almost certain that the creditors cannot be satisfied in full from the result of next season's operations. This involves a threat of possible

disaster emanating from action by one of several parties, the mortgagee, the holder of a chattel mortgage, or the unsecured creditor. The recommendations of the Committee embrace an endeavour to meet this position by a scheme involving protection for the participant over a period during which it is hoped he will rehabilitate himself by means of carefully controlled finance.

There is, in addition, another class to be reckoned with, i.e. the planter who, although not actually comprehended by the threat of possible action by a creditor, relied upon assistance from a merchant house to finance his crop. This assistance being denied him, he has no funds with which to carry on.

It was suggested to the Committee with the proposed conditions founding any Government advances, as set out in the concluding paragraphs of this Report, to appear kindly exacting in such a case. After consideration of the point we have decided that no real hardship would be imposed in coming to the aid of such a planter, but, on the contrary, the terms of the advances and conditions attached to them should work for the actual protection and benefit of the borrower, the Government and the mortgagee.

In any case, it is hoped that the Government should make available to the Land Bank the granting of the wide powers asked for in the Land Bank Bill. A considerable number of planters will then be eligible for ordinary Bank advances.

## RECOMMENDATIONS

### Introductory

29. Agricultural finance falls into two classes:

- (a) *Long Term*, to meet the mortgage provision and such other purposes as are defined in the Land Bank Ordinance.
- (b) *Short Term*, to meet seasonal finance to assist cereal farmers in a change-over to mixed farming.

The difficulty with which we are faced is to suggest remedial measures which come within the bounds of practicability, and can be recommended to the Imperial Government.

We feel that no action should be recommended which would have the effect of creating a feeling of insecurity among investors and are of the opinion that any settlement between

debtor and creditor should be voluntary. Some witnesses have stated that without compulsion any attempt to arrive at an equitable adjustment of the indebtedness position will be unsuccessful, others were in favour of nothing being done to prejudice the existing rights of secured creditors.

Kenya Colony depends very largely on imported capital for the development of its resources and any step taken which will result in loss of confidence by lenders, however beneficial to the debtor for the moment, must react to the detriment of the agricultural industry as a whole.

### Long Term Capital

30. With regard to Long Term finance we have already referred to a scheme based on a bond issue but at this stage we should like to support the recommendations of the Economic Development Committee for an increase of the capital of the Land Bank by £200,000, and the raising of the maximum of an advance to any one farmer to £5,000, and the maximum of a prior mortgage charge of a prior mortgage to £20,000 (Economic Development Committee Report, Chap. VI, paras. 100-103).

It is understood that this proposal has been supported by Government and is now receiving consideration by the Secretary of State.

The scheme which has been put before us with regard to the adjustment of debts is of such magnitude (though on the face of it of such simplicity) that, without the most careful consideration by experts, we consider that at this stage it would be folly to express an opinion either in favour of or against it, particularly as, short of going to the London Market for a loan of several millions, which we are told we should never be able to obtain, we have not yet evolved any other scheme which could take its place.

### Finance for Short Term

31. We recommend that of the £200,000 referred to in the preceding paragraph, Government should be empowered to direct the Land Bank to set aside a sum not exceeding £200,000 (which amount, with interest, shall be guaranteed by Government to the Land Bank) in order to supply funds for the provision of seasonal finance and assistance to cereal farmers in a change over to mixed farming, the procedure for which is set forth in the following pages.

The £200,000 to be set aside is not to be regarded in any sense as a subsidy in any industry, it is to be advanced as a business proposition, at an interest as low as Government considers reasonable, having regard to such factors as the interest payable on the loan, cost of administration, establishment of a reserve fund, etc.

It may be thought that, in considering and reporting on the advisability of inaugurating a scheme of Short Term advances, we are following our task which was to explore the possibilities of lightening the burden of agricultural indebtedness, and, on the strict interpretation of our terms of reference, there might be some substance in the criticism, but we feel that the position is so critical that action must be taken immediately.

It would be fatal for us in a leisurely manner to propound some scheme of long term finance which we know would involve long and detailed consideration before it could be brought into operation by Government, when we believe that the time is not taken promptly, and that the position of the farmers of this Colony will be ruined, and that the reason that we hasten to forward to Government this interim report.

We trust that by recommending this procedure we shall not be considered as having called in our main task, which we are in fact recommending, as given in paragraph 10.

#### Proposed Machinery:

32. We recommend that the following items be taken immediately:-

(1) That a Conciliation Board be appointed to consist of five members one of whom shall be drawn from the Land Bank Board, with one of His Majesty's Judges as Chairman.

(2) That Local Committees be appointed in various districts composed of the District Officer as Chairman and two members of farming and business ability.

(3) That all applications, together with the recommendations of Local Committees be submitted to the Conciliation Board with whom the final decision shall rest.

(4) That definition of the powers of Local Committees and Conciliation Board and regulations governing advances be the subject of an instruction by the Governor in Council.

(5) That the administration of advances approved by the Conciliation Board be in the hands of the Land Bank, which shall be appointed Agent for Government in the administration of the scheme. (Where reference is made to the Land Bank in the following pages it is in this capacity as Agent for Government.)

(6) That Land Bank agents in each district report at stated intervals to the Land Bank with a copy to the Local Committee.

#### Procedure.

33. Having established these bodies the procedure envisaged by us will be as follows:-

Upon a farmer determining that it is necessary for him to obtain assistance he will apply to the Local Committee stating his requirements and providing a complete list of his indebtedness which will be open inspection by any of his creditors.

Upon receipt of the application the Chairman of the Local Committee will immediately issue what is called a "Stay Order" over the whole property of the applicant which will have the effect of vesting the property of the applicant temporarily in the Land Bank, but this Stay Order will permit the applicant to make deliveries of stock or other property already mortgaged to other lenders with the approval of the Land Bank.

The Chairman of the Local Committee may also direct an agent to visit the farm of the applicant, and make a report upon his assets and will in due course call a meeting of the Local Committee. At this meeting the position of the applicant's affairs will be freely discussed and the conditions under which, in the opinion of the Committee, an equitable adjustment of the applicant's position could be arranged (should it be necessary). The whole matter will then be referred to the Conciliation Board.

Every opportunity should be taken to discuss the position with the applicant and his creditors before submitting the matter to the Conciliation Board. The Conciliation Board will then call a meeting which the applicant and his creditors shall have the right to attend in person or by a fully authorized representative, or they may send in their views in writing with the object of arriving at a settlement.

Should a majority of the creditors refuse to consent to the proposed adjustments or conditions of the settlement the Board will refuse the application in which case the "Stay Order" will be removed, and the debtor and creditors permitted to follow their usual legal remedies.

When the terms of the proposal or any variation thereof are agreed to by—

- (a) the Conciliation Board,
- (b) all the secured creditors, and
- (c) a majority in number and value of the unsecured creditors.

and whether such agreement involves an adjustment of debts or not, the Chairman of the Conciliation Board will require the terms to be written down in this document (which in many ways will resemble a "Scheme of Arrangement") in the form of a deed. This document will be binding on all parties, at the same time extending the Stay Order for a period not exceeding one year, unless a longer period has been provided for in the deed. In calculating the majority of creditors provided for by this section no account shall be taken of those who are reckoned in number unless they claim to be of the value of at least five pounds; holders of second mortgages or other interests in land to be considered as secured creditors.

Although the Stay Order (except with the consent of the creditors) will be subject to renewal from year to year, the renewal of the Stay Order from year to year shall be subject to any shortfall on any advance, but the total period shall not exceed more than five years.

Government funds can only be issued when reasonable security is offered and for this reason the Stay Orders are necessary under the Bill. Before advances can be authorized.

In cases where it is considered necessary that Government Funds are required for the purpose of continuing existing operations the decision of the Conciliation Board should include an instruction specifying the amount which the Land Bank should advance.

#### *Suggested Regulations.*

21. (1) The security and terms for repayment of any advance to be such as are deemed fitting by the Conciliation Board.
- (2) All securities to be registered in the name of the Land Bank.

(9) No stamp duty to be payable on any document, instrument or deed issued by or in favour of the Land Bank.

(4) Full particulars of all persons in respect of whose estates Stay Orders have been issued or removed to be notified for public information, in the Official Gazette on the issue or removal of the Stay Order.

(5) Accounts of revenue and expenditure to be kept by participants in a form to be prescribed by the Land Bank.

(6) The Secretary or Assistant Secretary of the Land Bank to act as Secretary to the Conciliation Board and clerical services for the work of the Conciliation Board to be supplied by the Land Bank.

#### *Security for Advances.*

25. The next point to consider is the security to be held by the Land Bank.

It should be clearly understood, the effect of the Stay Order is to vest the farm in the Land Bank for the period of the Stay Order. It is not to be clearly understood that this does not in any way curtail the rights of any secured creditor, except that it will postpone his remedies, e.g. the sale or foreclosure of any property movable or otherwise over which he has a lien.

The security will be on the crops which will be grown and reaped during the time that the Stay Order is in existence and any other security which will be possible to obtain from the applicant. Thus, if money is advanced to a farmer to enable him to plant a crop of maize and also to start a herd of cattle, the security for the money would be the value of the crop together with a chattel mortgage on the cattle and their progeny, while the proceeds of any milk or milk products sold would also be paid to the Land Bank.

#### *Limit for Advances.*

26. Under the proposed scheme of Short Term advances it is suggested that the maximum advance should be limited as follows:

Coffee.—27 per acre of fully bearing coffee, save in exceptional cases.

Maize.—Sh. 30 per acre of planted area.

For cattle, dip and fencing.—£500.

For any other purpose.—At the discretion of the Conciliation Board.

Should the crop be wholly or partially lost through locusts, diseases or other unforeseen calamity, admittedly for that year there would be a loss and the only hope of recovery of advances would be in carrying the farmer for another year.

We fully realize that there is an element of risk attached to such investments, but, having considered all the existing circumstances, we are of the opinion that it is a risk that the country should take.

#### THE FARMER.

37. Having outlined the procedure for and the security of the Land Bank it is necessary to point out the advantages of this project to the farmer. So far we have shown that, by the granting of a Stay Order, he is secure in his farm so long as the order is in force, but as against that all his property has been vested in the Land Bank. The procedure

by which the farmer is visualized is as follows: As soon as the Conciliation Society have agreed to accept the instrument the farmer will ordinarily be appointed a manager of the estate of the Land Bank (or their agent) and will receive in amounts paid to him a monthly salary, which should represent an amount sufficient to support himself and his family, having regard to all the circumstances of his case. All other expenses necessary for the production of the crop up to the agreed limit, will be paid to him and will be repaid by the Land Bank after his vouchers have been duly passed by the Land Bank or its agent in his district. He thus obtains a living, a certain security of tenure and has a better prospect of being able to keep his land so cultivated and managed that he will be able to take advantage of the rise in commodity prices which must, we trust, take place in the near future.

#### THE CREDITORS.

38. The advantage of this scheme to the creditors lies in this fact: Few creditors are in a position to take over and run the farm themselves nor are many in a position to finance the farmer to run it. In view of the present world prices the prospect of an advantageous sale of the farm is almost negligible and their security, as we have shown, is yearly deteriorating through the farmer's financial inability to cultivate his land.

By consenting to a Stay Order and/or an equitable Deed of Arrangement the creditor knows that funds will be provided to cultivate the land and that the farmer will be supervised by the Land Bank agent, thus preserving the value of his

security, and he also knows that if the crop realizes more than the Land Bank advance the surplus will be divided in the usual order of priority which will be laid down in the Ordinance.

39. We trust that the scheme which we are now suggesting will not be dismissed as idealistic, socialistic or impracticable, for we feel sure that it can be worked, that it will be a godsend to many deserving farmers and that the risk to Government is infinitesimal in comparison with the possibility and probability of good to the country in general.

We realize that some farmer will be disappointed at our recommendations but it must be understood that we do not represent a philanthropic society and are therefore unable to recommend help to any but those who, in the opinion of the Board, will be able with help to make good. The true farmer is a good farmer with bad land, the possibly good farmer with good land who is so heavily involved that no arrangement with his creditors or his master are all beyond our help.

40. The above scheme may appear to our critics cumbersome and perhaps a little expensive, but it is hoped that in conjunction with the assistance and cooperation of such bodies as the Kenya Farmers' Association, who have already offered to help the Land Bank in every possible way to implement the smooth working of our scheme, our much time and money will be saved.

41. For conclusion we would like to place on record our appreciation of the industry and ability of our Secretary, and also the great assistance given to us voluntarily by Mr. Thornton, both as Acting Secretary during the temporary absence of Mr. Hatley, and also as our special emissary in certain country districts.

W. HARRAGIN (Chairman).

G. WALSE.

W. EVANS.

J. NORDLINGER.

J. CAMPBELL.

W. C. HUNTER.

23rd December, 1935.

T. L. HATELY, Secretary.



POSTSCRIPT.

We desire to place on record our grateful appreciation of the ability and patience with which our Chairman has conducted the deliberations of the Committee. Proceedings have been expedited and our somewhat onerous task has been materially lightened by his unflinching courtesy and experienced guidance.

G. WALSH.  
W. EVANS.  
J. NORDLINGER.  
J. CAMPBELL.  
W. C. HUNTER.

T. L. HANCOCK, Secy.

NOTE BY MR. JOHN NORDLINGER.

The Majority Report became in the main I agree with the elements set forth and also with the proposed scheme for short term finance.

There are certain vital points on which the views are not in accord with those expressed in the report and I beg to set those forth as follows.

Under heading "Procedure" the report recommends that all the secured and a majority of the value of the unsecured creditors must appear before the farmer can be granted any assistance. It is even stated that the Conciliation Board. This is not the case in the New Zealand Act on which the proposals are based, which reserves the decision as to whether a Stay Order shall be granted or not to the Conciliation Board and where a Stay Order is granted it is for a period of five years and not for year periods as recommended in our report.

In my opinion if this scheme is to be successful in keeping the deserving farmer on his land it is essential that the same power should be given to our Conciliation Board. As it is at present the recalcitrancy of even one unscrupulous creditor can prevent the most deserving case from obtaining any assistance under the proposed scheme. Further, even if all his creditors agree to the Stay Order being granted for the period of one year, there is grave reason to fear that an improvement in values is likely to result in his failing to obtain a renewal of their agreement from year to year for that further period which is necessary in order for him to make good the past losses which, it is agreed, have been incurred through circumstances beyond his control.

It is hardly necessary to point out that under the suggested conditions the good farmer on his well-farmed land who happens to have a small first mortgage compared to the total normal value of his farm is the one likely to have the most difficulty in obtaining this agreement, especially if and when values start rising again.

This is hardly in accordance with the opinion expressed by the Committee (vide paragraph 14) that the experience of the European farmer "represents an asset which the Colony cannot afford to lose".

The Committee also express the opinion (vide paragraph 21) that: "We regard as a matter of great and far reaching benefit the psychological effect of the removal of any condition which constitutes an ever present menace to the farmer's confidence, tenore and continuance of operations".

In my opinion the scheme suggested does little or nothing however to remove the serious dangers which threaten the very existence of many deserving farmers.

The farmer is entitled to relief from by the State as recognised in the case of the British possessions in 1930/1. It is quite true that it could be noted that these Able in almost every case date back to 1930/1 and that fact that we in Kenya have waited till 1936 to take similar action is unfortunate. One of the causes of the aggravation of the present burden of agricultural indebtedness.

In the New Zealand Act, during the five year period of the five year Stay Order, the Conciliation Board endeavours to arrange a voluntary composition with the farmer's creditors in cases where the Board considers this necessary. It is suggested a Board of Review has large powers of enforcing a composition at the end of the five year period. Any such composition is based on the productivity of the farm during the period the Stay Order is in force. The farmer's debt and efficiency is taken into due consideration by the Board. It is, however, expressly laid down that the amount of his debt is not to be the guiding factor but that the Board is to be guided by the value of the farm and the efficiency of the farmer. On the face of it, this may seem to be unduly hard on the creditors but it must be remembered that the purchasing power of money at the present time is immensely greater than when the money was lent.

I consider that in order to give the farmer a reasonable opportunity of getting on his feet again the Conciliation Board should have the power to enforce a Stay Order for the same

period as in New Zealand, viz. five years, and that they should be granted the same power of enforcing a composition at the end of the period that the Board of Review has under the New Zealand Act; such power only to be used if the purchasing power of money remains abnormally high.

The Government of Kenya has recognized the necessity of exceptional measures in passing the Mortgagors' Relief Act and I can see no reason whatsoever why the Conciliation Board, which is to be under the chairmanship of one of His Majesty's judges, should not be granted the same powers as are granted to similar bodies under the New Zealand Act.

I consider further that steps for reducing the rate of interest on Agricultural Mortgages, such as have been taken in other British possessions, are essential in Kenya and should be taken at once. Evidence led before the Committee has in most instances emphasized the necessity for this and the late Governor Sir Edward Irving stated in His Majesty's Report that it is absolutely essential.

A further step for lightening the burden of agricultural indebtedness is a measure of controlled devaluation of the East African currency, i.e. the controlling of the East African shilling at a discount with the sterling shilling instead of, as at present, controlling it at par. This method has been adopted by several of the Commonwealth countries, including Australia and New Zealand. It has also been adopted almost universally by all the coffee-producing countries.

It is a very severe handicap on our primary products to have to compete in the world market with the products of other countries. It is to be hoped that the Secretary of State for the Colonies will give his reasons at an early date as to why similar steps should not be taken by the East African Territories.

There are good reasons against this when I feel that it is essential that the Secretary of State should suggest to the local Government alternative measures to afford equivalent relief.

The accumulated burden of debts, the necessity of the alleviation of which was recognized by Government in the setting up of our Committee, is to some considerable extent due to this handicap.

JOHN NORDLINGER.

23rd December, 1935.

PUBLIC RECORD OFFICE

END

TOTAL EXPOSURES →

# PUBLIC RECORD OFFICE

C0533/474

ORDER NO.           ⇨ FN/E475  
CAMERA NO.         ⇨ 19  
OPERATOR.           ⇨ EM  
REDUCTION.         ⇨ 12  
EMULSION NO.       ⇨ 341081  
DATE.               ⇨ 25/7/72

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