

1950

Kenya

No. 16248

SUBJECT

C0533/401

Shuttles Transfer Bill.

Ordinance No 24 & 41 (Amend) 1950

Previous

See 16164/50.
(Legal Services Office)

Subsequent

3059/53.

1. Secretariat 3.p.n. 20th. June 30.
The Report of Select Committee on the
Chattels Transfer Bill.

2. Copy of Legislative Council Debates, dated
30th. and 31st. May, 1930.

We can assist the Order
of the Honorary Secy.
Give a copy of the Bill
(as published in the Gazette)
when the order is received

See the Report
of the Honorary
Commissioner

J. Eastwood
17.7.30
above

3. Gov. GRISSE. 426. 26th. June 30.

One authenticated
copy to Library.

Two authenticated copies of the Chattels
Transfer Ordinance, 1930., with copy of the Legal
Report with record of the debate on second reading
of the Bill.

This subject is even more technical than the
~~Amendment~~
Advances Ordinance on 16164/30 and the advice of Sir
John Campbell and Mr. Bushe is clearly required.

The object of the Ordinance is to allow
farmers to raise money upon their crops or stock
by creating a charge thereon, and the Ordinance
follows closely the corresponding New Zealand Act.

So far as a layman can judge, it appears to be
unobjectionable. It may, however, be remarked that
it was pushed through in a tremendous rush as part of
the scheme for increasing credit facilities, but that
it is really of a permanent nature.

Chapter 22 of the existing Laws is repealed and
also the Imperial Bills of Sale Acts which ~~will~~ apply
to

to the Colony. Subject to ^{legal} ~~local~~ observations.
? Signify non-disallowance G/3.

G. Eastwood
31.7.30

I see no reason why disallowance should be recommended.

(I have not examined the Ordinance in detail: most of its provisions do not concern me. But I doubt if its wording is altogether happy, in places. It begins, for example, by using the word " stock" in the ordinary financial sense, and then proceeds, in the same section, to define it as " including any sheep, cattle, horses, pigs, poultry, and any other living animals".)

The 7th: August 1930.

*suppl
1/8/30*

(Was was circulating with the General Credit paper).

11/11/30 46

[Received this file on 4/9/30.]

This Ordinance follows the New Zealand Chartered Transfer Act 1924 almost word for word, and I see no legal objection to it. It is true, as Sir J. Campbell points out, that "Stock" is used in section 2 (b) in the ordinary financial sense, & that it is subsequently defined in the same section as "including

any sheep, cattle, horses, pigs"; but as the section opens with the words: "In this Ordinance unless the context otherwise requires," I do not think that any alteration in the wording (which has been copied from the N.Z. Act) is necessary.

Noticed one minor point, namely, that in sections 11 & 12 the fee for searches and for copies are much higher than those in the N.Z. Act (vide sections 15 & 16)

e.g. 2/- as opposed to 1/- (searches)

1/- for every 100 words as opposed to 4/- for every 72 words

* 10/- as opposed to 2/- for a certificate under the latter part of the respective sections 12 & 16.

19/9/30. J.H. Duncan.

I don't think the fees need be varied. ? as proposed

Yes? sanction G.3.

11/11/30
23.9.30

23.9.30 done

* 2/- is the fee (e.g.) in the case of searches of Deeds or registers. & under the 1924 Act the fee is 4/- for the first 100 words & 1/- a 100 thereafter.
* 10/- is the fee for a certificate issued for a transfer in 1924.

✓ *act*

10/24/30
11/1/30
11/1/30

4 To Gov. 748. 3 Rev. - C/3 - 25/9/30

5. O.A.G. 644. 3rd. Oct. 30.

1 auth. and printed
copies to Library.

Trs 2 authenticated and 12 printed copies of
The Chattels Transfer (Amendment) Ordce, with
copies of the legal repprt.

? sanction 5.3.

James
28. x 30

No legal observation.

29/10/30 - H. Duncan

Hyndley

30/10

at once

11/1/30
11/1/30
11/1/30

6 To Gov 858 - S. Howard - C/3 - 8 NOV 1930

Handwritten notes in top left corner, including "L. 10/10/30" and "C. 10/10/30".

4 To Gov. 746, 3 Am. G/3 - 25/9/30

Handwritten signature or initials in the top center.

5. O.A.G. 644. 3rd. Oct. 30.

1 auth. and printed copies to Library.

Trs 2 authenticated and 12 printed copies of The Chattels Transfer (Amendment) Ordce, with copies of the legal repprt.

? sanction 5.3.

Handwritten signature "James" and "28 x 20".

No local observations.

29/10/30 H. Duncan

W. Allen

30/10

atance

Handwritten notes in bottom left corner, including "L. 10/10/30" and "C. 10/10/30".

6 To Gov 858 - 5. Howard - G/3 - 8 NOV 1930

Handwritten signature or initials in the bottom left.

KENYA.

No. 644



GOVERNMENT HOUSE
NAIROBI,
KENYA.

RECEIVED
27 OCT 1930
COL. OFFICE

3rd October, 1930.

My Lord,

(No. 3)

With reference to Kenya despatch No. 428 of the 26th June, 1930, on the subject of the Chattels Transfer Ordinance, 1930, I have the honour to transmit two authenticated copies of an Ordinance intituled "the Chattels Transfer (Amendment) Ordinance, 1930," which passed its third reading in the Legislative Council on the 28th August, 1930, and to which the Governor duly assented in His Majesty's name on the 12th September, 1930.

2. A legal report prepared by the Attorney General is also enclosed together with twelve printed copies of the Ordinance.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble
-servant,

Wm. McKinnon

ACTING GOVERNOR.

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

Ansard - 858 - 8 NOV 1930 9/3

54

KENYA.

No. 644



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H. H. ...

ACTING GOVERNOR.

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

858 - 8 NOV 1930 G/d



Colony and Protectorate of Kenya.

IN THE TWENTY-FIRST YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.

EDWARD WILLIAM MACLEAY GRIGG,
K.C.M.G., K.C.V.O., D.S.O., M.C.,

Governor.

Assented to in His Majesty's
name this day of 1930.

EDWARD GRIGG,

Governor.

**An Ordinance to make Provision Relating to
Chattel Securities and the Transfer of
Chattels.**

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 Chattels Short title
Transfer Ordinance, 1930."

2. In this Ordinance unless the context otherwise Interpretation
requires—

"Chattels" means any movable property that can be
completely transferred by delivery, and includes machinery,
stock and the natural increase of stock as hereinafter men-
tioned, crops, and wool, but does not include—

- (a) title-deeds, choses-in-action, negotiable instruments;
- (b) shares and interests in the stock, funds, or securities
of any Government or local authority;

- (c) shares and interests in the capital or property of any company or other corporate body; or
- (d) debentures and interest coupons issued by any Government, or local authority, or company; or other corporate body.

"Crops" means coffee berries, tea leaves, sisal leaves, sugar cane, cotton, hemp, hop, wheat, maize, wattle, barley, oat and grass (whether for hay or for grain), and all cereal and root crops, fruit, and all other crops grown above or below the ground.

"Executed" means signed by the grantor or his attorney.

"Factory" or "workshop" means any premises on which any manual labour is exercised by way of trade or for purposes of gain in or about the making, altering, repairing, ornamenting, finishing or adapting for sale of any article of part of any article.

"Grantee" means the party to an instrument to whom chattels therein referred to, or any interest therein, are thereby granted or assigned, or agreed so 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.

"Grantor" means the party to an instrument who thereby grants or assigns, or agrees to grant or assign, chattels therein referred to, or any interest therein, 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.

"Instrument" means any instrument given to secure the payment of money or the performance of some obligation and includes any bill of sale, mortgage, lien, or any other document that transfers or purports to transfer the property in or right to the possession of chattels, whether permanently or temporarily, whether absolutely or conditionally, and whether by way of sale, security, pledge, gift, settlement, or lease, and also the following—

- (a) Inventories of chattels with receipt thereto attached
- (b) Receipts for the sale of money of chattels
- (c) Other assurances of chattels
- (d) Deeds of gift, without transfer
- (e) Powers of attorney, authorities, or licences to take possession of chattels as security for any debt
- (f) Assignments, whether intended to be followed by the execution of any other instrument or not, by which a right in equity to any chattels, or to any interest therein, or to any security thereon, is conferred

Instruments which do not include the following—

- (a) Receipts for the lease of fixtures (except trade machinery as hereinafter defined), when mortgaged or leased, or the mortgage or lease of any freshhold or leasehold interest in any land or building to which they are affixed, and whether or not such fixtures are separately mortgaged or leased by mention thereof in separate words, and whether or not power is given by such mortgage or lease to sever such fixtures from the land or building to which they are affixed without otherwise taking possession of or dealing with such land or building

- (b) Assignments for the benefit of the creditors of the person making the same.
- (c) Transfers or agreements to transfer instruments by way of security.
- (d) Transfers or assignments of any ship or vessel or any share thereof.
- (e) Transfers of chattels in the ordinary course of business of any trade or calling.
- (f) Debentures and interest coupons issued by any Government or local authority.
- (g) Bills of sale of chattels in any foreign parts, or at sea.
- (h) Bills of lading, warehouse-keepers' certificates, warrants, or orders for the delivery of chattels, entries in auctioneers' books, or any other document used in the ordinary course of business as proof of the possession or control of chattels, or authorising or purporting to authorise, either by indorsement or delivery, the possessor of such document to transfer or receive the chattels thereby represented.
- (i) Debentures and interest coupons issued by any company or other corporate body and secured upon the capital stock or chattels of such company or other corporate body.
- (j) Mortgages or charges granted or created by a company incorporated or registered under the Companies Ordinance.
- (k) Hire-purchase agreements.

"Registrar" means the Registrar-General.

"Registration" means the filing of an instrument with schedule or inventories, or a true copy thereof, with the affidavit hereinafter mentioned.

"Schedule" includes inventory.

"Stock" includes any sheep, cattle, horses, pigs, poultry, and any other living animals.

"Trade machinery" means the machinery used in or attached to any factory or workshop, as hereinafter defined but does not include—

- (a) the fixed motive powers, such as the waterwheels, and steam and other engines, and the steam boilers, donkey-engines, and other fixed appurtenances of the said motive powers;
- (b) the fixed power machinery (such as the shafts, wheels, drums, and their fixed appurtenances) for transmitting the action of the motive powers to the other machinery, fixed and loose; or
- (c) the pipes for steam, gas, and water.

8. (1) An attornment or agreement (not being a mining lease) whereby a power of distress is given or agreed to be given by one person to another by way of security for any present, future, or contingent debt or advance, and whereby any rent is reserved or made payable as a means of providing for the payment of interest on such debt or advance, or otherwise for the purpose of such security only, shall be deemed to be an instrument within the meaning of this Ordinance so far as regards any chattels seized or taken under the power of distress.

Attornment or agreement giving power of distress by way of security to be instrument within meaning of Ordinance.

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Provided that where a mortgagee of any interest in land, after entering (under the powers contained or implied in the mortgage) into possession of the mortgaged land, or into receipt of the rents and profits thereof, demises the said land or any part thereof to the mortgagor at a fair and reasonable rent, the instrument whereby such demise is effected shall not be deemed to be an instrument within the meaning of this Ordinance.

(2) Machinery and plant used in connexion with the production, preparation or manufacture of agricultural products shall not by reason of being attached to buildings or land become part of the land, nor shall any estate or interest therein pass by virtue of such attachment.

REGISTRATION.

Registration of instrument to be notice

4. All persons shall be deemed to have notice of an instrument and of the contents thereof when and as soon as such instrument has been registered as provided by this Ordinance.

Provided that if registration of such instrument is not renewed pursuant to the provisions of this Ordinance, prior registration shall not be deemed to operate as notice after the lapse of the period within which renewal is required by this Ordinance.

Mode of registration

5. Registration of an instrument shall be effected by filing the same and all schedules indorsed thereon, annexed thereto, or referred to therein, or a true copy of such instrument and the schedules, and an affidavit as the form numbered (1) in the First Schedule hereto or to the like effect, in the office of the Registrar.

Limitation of time for registration

6. The period within which an instrument may be registered is twenty-one days from the day on which it was executed.

Provided that when the time for registering an instrument expires on a day whereon the Registrar-General's office is closed, the registration shall be valid if made on the next business day on which such office is open.

(2) If there are more grantors than one, the date of execution of the instrument shall be deemed to be the date of the execution by the grantor who last executes the instrument.

(3) The day on which the instrument is executed shall not be included in the period for registration; but the instrument may be registered on that day.

Register book and index to be kept

7. (1) The Registrar shall cause every instrument registered in his office under this Ordinance to be numbered, and shall mark on each such instrument, or on the filed copy thereof, the date of registration and the number, and shall at the time of registration enter in a register to be kept for the purpose in his office the particulars of the instrument registered according to the form numbered (2) in the First Schedule hereto.

(2) The Registrar shall also keep an index of the names of grantors and grantees of instruments, and shall refer therein to the entries in the register book of the instruments given by each such grantor.

(3) Such index shall be arranged in divisions corresponding with the letters of the alphabet, so that all grantors and grantees whose surnames begin with the same letter (and no others) shall be comprised in one division, but the arrangement within each such division need not be strictly alphabetical.

(4) Where the instrument describes the residence of the person making or giving the same to be in some place outside the province in which the registry is situate or where the instrument describes the chattels enumerated therein as being in some place outside such province, the Registrar shall forthwith and within three clear days after registration in the registry, and in accordance with the prescribed directions transmit an abstract in the prescribed form of the contents of such instrument to the provincial commissioner in those provinces such places are situate, and if such places are in more than one to each such provincial commissioner. Every abstract so transmitted shall be filed, kept, and inspected by the provincial commissioner, and any person may search, inspect, make extracts from, and obtain copies of the abstract so registered in the like manner and upon the like terms as to payment or otherwise as near as may be as in the case of instruments registered by the Registrar.

Local registration of abstracts of instruments.

8. There shall be paid to the Registrar upon the registration of every instrument the fee of five shillings.

Fee on registration.

9. The Supreme Court, on being satisfied that the omission to register an instrument or an affidavit of renewal thereof within the time prescribed by this Ordinance, or according to the form or effect required by this Ordinance or that the omission or misstatement in the register or in any affidavit of the name, residence, or occupation of any person, or of any other matter, was accidental or due to inadvertence, may order such omission or misstatement to be rectified by extending the time for such registration, or by the filing of a supplementary affidavit, or by the insertion in the register of the true name, residence, or occupation, on such terms and conditions as it thinks fit.

Time for registration may be extended, and mistakes in register corrected.

RENEWAL OF REGISTRATION.

10. (1) The registration of an instrument, whether executed before or after the coming into operation of this Ordinance shall, during the subsistence of such instrument, be renewed in manner hereinafter mentioned once in every period of five years, commencing from the day of the registration.

Registration to be renewed every five years.

(2) If not so renewed, the registration shall cease to be of any effect at the expiration of any period of five years during which a renewal has not been made as hereby required.

(3) The registration of an instrument shall be renewed by filing in the office of the Registrar an affidavit in the form numbered (3) in the First Schedule hereto or to the like effect.

Mode of renewal.

(4) The Registrar shall thereupon number such affidavit as if the same were an instrument presented for registration, and renumber the instrument originally registered in the said office, or the filed copy thereof, with a similar number, and mark thereon the date of renewal of registration, and shall enter particulars of the instrument in the register book in like manner as on an original registration, and shall also enter the date of renewal of registration in the column provided therefor in the register book.

(5) There shall be paid to the Registrar upon the renewal of registration of any instrument the fee of five shillings.

Fee on renewal.

(6) The provisions of sub-section (4) of section 7 of this Ordinance shall apply *mutatis mutandis* to the renewal of the registration of any instrument.

SEARCHES AND OFFICE COPIES.

Register book and instruments may be searched and viewed.

11. The register books and indices hereinbefore provided for, and every instrument registered as aforesaid, or the filed copy thereof, may be searched and viewed by all persons during the office hours of the Registrar upon payment of a fee of two shillings for every search against any one person.

Office copies may be had.

12. Any person shall be entitled to have an office copy or an extract of or from any instrument with the schedules filed therewith or of from the copy thereof registered as aforesaid, and an office copy of any affidavit filed under this Ordinance, on paying for the same at the rate of one shilling for every folio of one hundred words contained in such copy or extract; or if he makes such copy or extract himself the Registrar shall, upon satisfying himself that such copy or extract is correctly made, certify the same upon payment of a fee of ten shillings for each instrument or extract therefrom, and of fifty cents for every folio of one hundred words after the first ten folios.

EFFECT OF NON-REGISTRATION.

Unregistered instruments to be void in certain cases.

13. (1) Every instrument, unless registered in the manner hereinbefore provided, shall, upon the expiration of the time for registration, or if the time for registration is extended by the Supreme Court, then upon the expiration of such extended time, be deemed fraudulent and void as against—

- (a) the official receiver or trustee in bankruptcy of the estate of the person whose chattels or any of them are comprised in any such instrument;
- (b) the assignee or trustee acting under any assignment for the benefit of the creditors of such person;
- (c) any person seizing the chattels or any part thereof comprised in any such instrument, in execution of the process of any Court authorising the seizure of the chattels of the person by whom or concerning whose chattels such instrument was made, and against every person on whose behalf such process was issued.

so far as regards the property in or right to the possession of any chattels comprised in or affected by the instrument which, at or after the time of such bankruptcy, or of the execution by the grantor of such assignment for the benefit of his creditors, or of the execution of such process (as the case may be), and after the expiration of the period within which the instrument is required to be registered, are in the possession or apparent possession of the person making or giving the instrument, or of any person against whom the process was issued under or in the execution of which the instrument was made or given, as the case may be.

(2) So long as an instrument continues to be registered hereunder, the chattels comprised in that instrument shall not be deemed to be in the possession, order, or disposition of the grantor, within the meaning of the Bankruptcy Ordinance, 1925.

14. No unregistered instrument comprising any chattels whatsoever shall, without express notice, be valid and effectual as against any *bond fide* purchaser or mortgagee for valuable consideration, or as against any person *bond fide* selling or dealing with such chattels as auctioneer or dealer or agent in the ordinary course of his business.

Instrument not registered within time limited not to affect *bond fide* purchaser for value without notice.

AS TO INSTRUMENTS GENERALLY.

15. Sealing shall not be essential to the validity of any instrument; but every execution of an instrument shall be attested by at least one witness, who shall add to his signature his residence and occupation.

Instrument to be attested.

16. Every instrument shall be deemed to be made on the day on which it is executed, and shall take effect from the time of its registration.

Instrument to take effect from execution.

17. Every instrument shall contain or shall have endorsed thereon or annexed thereto, a schedule of the chattels comprised therein; and save as is otherwise expressly provided by this Ordinance, shall give a good title only to the chattels described in the said schedule, and shall be void as against the persons mentioned in sections 13 and 14 hereof in respect of any chattels not so described.

Instrument to have inventory of chattels.

18. Save as is otherwise expressly provided by this Ordinance, an instrument shall be void as against the persons mentioned in sections 13 and 14 hereof in respect of any chattels which the grantor acquires or becomes entitled to after the time of the execution of the instrument.

Instrument void where grantor not owner of chattels.

19. (1) If an instrument is made or given subject to any defeasance, condition, or declaration of trust not contained in the body thereof, such defeasance, condition, or declaration of trust shall for the purposes of this Ordinance be taken as part of such instrument, and shall be written on the same paper or parchment on which such instrument is written, otherwise such instrument shall be void as against the persons mentioned in sections 13 and 14 hereof so far as regards the property in or right to the possession of any chattels comprised in or affected by such instrument.

Instrument subject to defeasance, etc., void in certain cases.

(2) In the case of a document securing the payment of the moneys or any part thereof payable by virtue of an instrument it shall not be necessary for the purposes of this section to write such document on the same paper or parchment so long as the date, names of the parties thereto, and the nature of the security are set forth in the instrument or in some schedule thereto.

20. Nothing in the three last preceding sections shall render an instrument void in respect of any of the following chattels, that is to say:—

Saving.

- (a) Stock, wool, and crops.
- (b) Fixtures, plant, or trade machinery where the same are used in, attached to, or brought upon any place in substitution for any of the like nature described in, or on the schedule to, such instrument.

21. Nothing in this Ordinance shall be deemed to affect any law for the time being in force—

Saving of laws prescribing formalities as to execution of instruments or securing rights thereunder.

- (a) prescribing any formalities to be observed on or about the execution of instruments within the meaning of this Ordinance; or
- (b) conferring or securing any rights or claims under or in respect of any such instrument.

8
FORM OF INSTRUMENTS.

Form of instrument by way of security.

22. (1) Every instrument under this Ordinance may be in the form number (4) in the First Schedule hereto or to the like effect with such variations or modifications thereof and additions thereto as are expressed in the instrument.

(2) An instrument securing an account current continues in full force and effect notwithstanding that the grantor may from time to time be in credit on such account.

Where successive securities are given over same chattels.

23. Where an instrument is executed after the execution of a prior instrument which has never been registered, and comprises all or any of the chattels comprised in such prior instrument then if such subsequent instrument is given as a security for the same debt as is secured by the prior instrument, or for any part of such debt, it shall, to the extent to which it is a security for the same debt or part thereof, and so far as respects the chattels comprised in the prior instrument, be void as against the persons mentioned in sections 13 and 14 hereof unless it is proved to the Court having cognizance of the case that the subsequent instrument was *bona fide* given for the purpose of correcting some material error in the prior instrument, and not for the purpose of evading this Ordinance.

INSTRUMENTS COMPRISING STOCK.

How stock to be described.

24. Where stock are comprised in any instrument they shall be described or referred to therein or in the schedule thereto by some brand or brands, earmark or earmarks, or other mark or marks upon them or shall be so described or referred to by sex, age, name, colour, or other mode of description as to be reasonably capable of identification, otherwise the instrument shall be void as against the persons mentioned in sections 13 and 14 hereof so far as regards such or so much of such stock as are not so described or referred to or are not reasonably capable of identification; and the land or premises on which such stock are or are intended to be depastured or kept shall be described or mentioned in such instrument or schedule.

Stock to include increase of stock etc.

25. An instrument comprising stock shall, unless the contrary be expressed therein, be deemed to include not only the stock comprised therein as provided by the last preceding section, but also the natural increase of such stock, and all stock of the class or classes described in the instrument, the property of the grantor, branded, earmarked, or marked as specified in the instrument or which the grantor has covenanted or agreed by such instrument to so brand, earmark, or mark, and which after the execution of such instrument are depastured or are at, in, or upon any lands or premises mentioned in such instrument or in the schedule thereto, or any land and premises used and worked as part of the first-mentioned land and premises, whether or not such stock be removed therefrom. The grantee shall have the same legal property and right in all stock which by force of this section are deemed to be included in the instrument as he has in the stock described in the instrument or in the schedule thereto.

ASSIGNMENT OF BOOK AND OTHER DEBTS.

Instrument may comprise book debts.

26. (1) Book or other debts shall be deemed to be chattels situate in the place where the grantor of the instrument comprising them longest resided or carried on business during the period of six months next before the execution of the instrument.

9
(2) In every instrument comprising book or other debts each debt shall be deemed to be a separate chattel, and shall be described in the schedule thereto by setting forth the name of the debtor or firm of debtors and the amount of the debt, so far as is reasonably necessary to show by whom the debts are owing and every such instrument shall be void as against the persons mentioned in sections 13 and 14 of this Ordinance in respect of any debt not so described.

(3) Nothing in this section shall apply to any debt secured or charged on land.

(4) Nothing in this section shall apply to any floating security granted by a company registered under the Companies Ordinance, over the assets of such company, provided that such security is registered in the manner required by that Ordinance.

Cap. 25.

27. (1) Nothing in the last preceding section shall apply to any deed or agreement in writing purporting to assign to or to authorise the grantee to receive any moneys due at the date thereof or thereafter from time to time to become due to the grantor for or in respect of any milk, cream, or butterfat, supplied by such grantor to any butter, cheese or other factory for the manufacture of dairy products.

Assignments of moneys payable to suppliers of dairy produce.

(2) Such a deed or agreement is not an instrument to which this Ordinance applies.

SECURITIES OVER CROPS.

28. An instrument may be granted over the crops described or referred to therein or in the schedule thereto that are actually sown or growing or planted or to be sown or grown or planted in or upon the lands mentioned in the instrument, and shall entitle the grantee thereof to the whole of the crops therein mentioned, not only while growing, but afterwards when cut or separated from the soil, and whether stacked or stored on the land where the same were grown or on any other land or premises, or whether the nature of the crop has been altered by a process of curing or manufacture.

Security may be given over crops.

29. No such instrument shall prejudicially affect the rights of any landlord or mortgagee of any land whereon the said crops are growing, unless and so far as the landlord or mortgagee has consented in writing to such instrument.

Saving of rights of landlord or mortgagee.

Provided that no such instrument being duly registered shall be extinguished or prejudicially affected by any subsequent sale, lease, mortgage or other encumbrance of or upon the land described or referred to in the instrument or in any schedule thereto.

SECURITIES OVER WOOL.

30. An instrument may be granted over the wool of the next ensuing clip to be shorn from the sheep described or referred to therein, or in the schedule thereto, then depastured upon the lands mentioned therein or in such schedule, and shall entitle the grantee thereof to the wool of such sheep, not only while growing but afterwards when shorn from the sheep, and wherever such wool may be.

Security may be given over wool.

31. No subsequent sale, mortgage, or other encumbrance of or affecting the sheep mentioned in any such instrument shall extinguish, suspend, impair, or prejudicially affect that instrument if duly registered, or the rights of the grantee thereof to the wool specified or referred to therein.

Wool securities not affected by sale, etc., of sheep.

8
FORM OF INSTRUMENTS.

Form of instrument by way of security.

32. (1) Every instrument under this Ordinance may be in the form number (4) in the First Schedule hereto or to the like effect with such variations or modifications thereto and additions thereto as are expressed in the instrument.

(2) An instrument securing an account current continues in full force and effect notwithstanding that the grantor may from time to time be in credit on such account.

Where successive securities are given over same chattels.

23. Where an instrument is executed after the execution of a prior instrument which has never been registered, and comprises all or any of the chattels comprised in such prior instrument, then if such subsequent instrument is given as a security for the same debt as is secured by the prior instrument, or for any part of such debt, it shall, to the extent to which it is a security for the same debt or part thereof, and so far as respects the chattels comprised in the prior instrument, be void as against the persons mentioned in sections 13 and 14 hereof, unless it is proved to the Court having cognizance of the case that the subsequent instrument was ~~not~~ ^{not} given for the purpose of correcting some material error in the prior instrument, and not for the purpose of evading this Ordinance.

INSTRUMENTS COMPRISING STOCK.

How stock to be described.

24. Where stock are comprised in any instrument they shall be described or referred to therein or in the schedule thereto by some brand or brands, earmark or earmarks, or other mark or marks upon them or shall be so described or referred to by sex, age, name, colour, or other mode of description as to be reasonably capable of identification, otherwise the instrument shall be void as against the persons mentioned in sections 13 and 14 hereof, so far as regards such or so much of such stock as are not so described or referred to or are not reasonably capable of identification; and the land or premises on which such stock are or are intended to be depastured or kept shall be described or mentioned in such instrument or schedule.

Stock to include increase of stock etc.

25. An instrument comprising stock shall, unless the contrary be expressed therein, be deemed to include not only the stock comprised therein as provided by the last preceding section, but also the natural increase of such stock, and all stock of the class or classes described in the instrument, the property of the grantor, branded, earmarked, or marked as specified in the instrument, or which the grantor has covenanted or agreed by such instrument to so brand, earmark, or mark, and which after the execution of such instrument are depastured or are kept in or upon any lands or premises mentioned in such instrument or in the schedule thereto, or any land and premises used and worked as part of the first-mentioned land and premises, whether or not such stock be removed therefrom. The grantee shall have the same legal property and right in all stock which by force of this section are deemed to be included in the instrument as he has in the stock described in the instrument or in the schedule thereto.

ASSIGNMENT OF BOOK AND OTHER DEBTS.

Instrument may comprise book debts.

26. Book or other debts shall be deemed to be chattels situate in the place where the grantor of the instrument commencing them longest resided or carried on business during the period of six months next before the execution of the instru-

(2) In every instrument comprising book or other debts each debt shall be deemed to be a separate chattel, and shall be described in the schedule thereto by setting forth the name of the debtor or firm of debtors and the amount of the debt, so far as is reasonably necessary to show by whom the debts are secured, and every such instrument shall be void as against the persons mentioned in sections 13 and 14 of this Ordinance in respect of any debt not so described.

(3) Nothing in this section shall apply to any debt secured or charged on land.

(4) Nothing in this section shall apply to any floating security granted by a company registered under the Companies Ordinance, over the assets of such company, provided that such security is registered in the manner required by that Ordinance.

Cap. 23.

Assignments of moneys payable to suppliers of dairy produce.

27. (1) Nothing in the last preceding section shall apply to any deed or agreement in writing purporting to assign to or to authorise the grantee to receive any moneys due at the date thereof or thereafter from time to time to become due to the grantor for or in respect of any milk, cream, or butterfat, supplied by such grantor to any butter, cheese or other factory for the manufacture of dairy products.

(2) Such a deed or agreement is not an instrument to which this Ordinance applies.

SECURITIES OVER CROPS.

28. An instrument may be granted over the crops described or referred to therein or in the schedule thereto then actually sown or growing or planted or to be sown or grown or planted in or upon the lands mentioned in the instrument, and shall entitle the grantee thereof to the whole of the crops therein mentioned, not only while growing, but afterwards when cut or separated from the soil, and whether stacked or stored on the land where the same were grown or on any other land or premises, or whether the nature of the crop has been altered by a process of curing or manufacture.

Security may be given over crops.

29. No such instrument shall prejudicially affect the rights of any landlord or mortgagee of any land whereon the said crops are growing, unless and so far as the landlord or mortgagee has consented in writing to such instrument.

Saving of rights of landlord or mortgagee.

Provided that no such instrument being duly registered shall be extinguished or prejudicially affected by any subsequent sale, lease, mortgage or other encumbrance of or upon the land described or referred to in the instrument or in any schedule thereto.

SECURITIES OVER WOOL.

30. An instrument may be granted over the wool of the next ensuing clip to be shorn from the sheep described or referred to therein, or in the schedule thereto, then depastured upon the lands mentioned therein or in such schedule, and shall entitle the grantee thereof to the wool of such sheep, not only while growing but afterwards when shorn from the sheep, and wherever such wool may be.

Security may be given over wool.

31. No subsequent sale, mortgage, or other encumbrance of or affecting the sheep mentioned in any such instrument shall extinguish, suspend, impair, or prejudicially affect that instrument if duly registered, or the rights of the grantee thereof to the wool specified or referred to therein.

Wool securities not affected by sale, etc., of sheep.

Security may be given over wool of mortgaged sheep.

32. The grantor of any instrument over sheep may, with the consent in writing of the grantee thereof, and so far as is authorised by such consent, but not otherwise, give to some third person a valid security on the next ensuing clip of the wool of such sheep.

Further provision as to security given over wool.

33. (1) If under any instrument comprising sheep, whether such instrument has been executed before or after the commencement of this Ordinance, the grantee thereof shall from time to time be entitled to require the grantor to execute and give to such grantee an instrument over the wool growing, or to grow, upon the sheep for the time being subject to such instrument, or be entitled to require the grantor to deliver to the grantee the wool shorn from such sheep in each year during the continuance of such instrument, then and in such case the grantee shall, during the subsistence of the registration of such first-mentioned instrument, be deemed, notwithstanding the provisions of section 30 hereof, to possess a lien or security over each clip in the same degree and manner as if an instrument in respect of the wool had been actually executed by the grantor and registered under this Ordinance, and such lien or security shall have the consequences mentioned in section 31 hereof.

(2) In every instrument comprising sheep, executed after the commencement of this Ordinance, there shall be implied (unless such implication is expressly negated) a covenant by the grantor to deliver to the grantee the wool shorn from such sheep in each year during the continuance of such instrument.

ENTRY OF SATISFACTION.

Memorandum of satisfaction may be filed

34. (1) In the case of an instrument, upon the production to the Registrar of a memorandum of satisfaction in the form numbered (5) in the First Schedule hereto or to the like effect, signed by the grantee thereof or his attorney, discharging the chattels comprised in such instrument or any specified part thereof from the moneys secured thereby or any specified part thereof, or from the performance of the obligation thereby secured or any specified part thereof, and on production of such instrument and payment of a fee of five shillings, the Registrar shall file such memorandum and make an entry thereof in the register book on the page where the instrument is registered.

(2) The execution of such memorandum shall be attested by at least one witness, who shall add to his signature his residence and occupation, and shall be verified by the affidavit of that witness.

(3) The Registrar may, in his discretion, dispense with the production of the instrument on proof by affidavit to his satisfaction that the instrument has been destroyed, cannot be found, or cannot be produced.

Effect of filing such memorandum.

35. From and after the filing of any such memorandum the debt or charge created by the instrument shall be vacated to the extent specified in the memorandum, and the interest of the grantee of the chattels expressed to be discharged shall vest in the person for the time being entitled to the equity of redemption therein, but so far only as such interest is expressed by the memorandum to be determined, and subject to any lien or equity affecting the chattels.

36. Where the grantee of an instrument by way of security is absent from the Colony, and there is no person in the Colony authorised to discharge the same on his behalf at or after the date appointed for the payment of the moneys secured by such instrument, the Public Trustee may receive such moneys in trust for the person entitled thereto, and may sign a memorandum of satisfaction in lieu of such person, and upon the filing thereof such memorandum, signed by the Public Trustee, shall be as effectual as a memorandum signed by the person entitled to such moneys.

Public Trustee may sign memorandum in certain cases.

37. The Supreme Court may, upon application made for that purpose, order a memorandum of satisfaction to be filed in respect of any instrument if it appears that the debt (if any) for which such instrument was given as security has been satisfied or discharged, or that the obligation for securing the performance of which the instrument was given has been performed; and thereupon such order may be filed by the Registrar and entered in his book in like manner as if the same were a memorandum within the meaning of section 34 hereof.

Judge may order memorandum to be filed.

SALES.

38. Chattels under this Ordinance or any part thereof may be sold along with or separately from land (if any) mortgaged to secure payment of the same moneys as are secured by any instrument under this Ordinance.

Sales by Registrar

SALE OF GRANTOR'S INTEREST.

39. (1) Where legal process issues against the chattels of a judgment-debtor for the execution of a judgment of any Court, and the said chattels, or any of them, are comprised in any instrument under this Ordinance, the officer charged with the execution of the process may, in lieu of seizing and selling the chattels so comprised, sell the right, title, and interest of the judgment-debtor in the same.

Grantor's interest in chattels may be sold in execution of judgment against him.

(2) The grantee of the instrument, on receiving notice of the purchase of that right, title, and interest, may take possession of the chattels comprised in the instrument.

(3) A grantee so taking possession shall be deemed to hold the chattels in trust for the purchaser of the said right, title, and interest, subject to payment of all moneys due under the instrument.

(4) If the chattels are afterwards sold under the power of sale expressed or implied in the instrument, and any surplus remains out of the proceeds of the sale after payment of all moneys due under the instrument, the grantee shall on demand pay over that surplus to the purchaser of the said right, title, and interest.

(5) If the grantee makes default herein, the purchaser may bring an action against him to recover the surplus, as money received to the use of the purchaser.

40. Nothing in the last preceding section shall be deemed to affect the right of an execution creditor to test the validity of any instrument by interpleader process.

Not to affect interpleader process.

IMPLIED COVENANTS, ETC.

Covenants for title.

41. There shall be implied in every instrument the covenants for title on the part of the grantor set forth in the Second Schedule hereto, and such implied covenants shall have the same effect as if the same were respectively set out at length in the instrument.

Covenants, etc. implied in instruments.

42. There shall be implied in every instrument the covenants, provisos, agreements, and powers set out in the Third Schedule hereto, or such of them as are applicable; and such implied covenants, provisos, agreements, and powers shall, subject to any modifications of the same expressed in the instrument, have the same effect as if the same were respectively set out therein at length.

Meaning of abbreviated expressions.

43. Such of the expressions defined in section 2 hereof or in the Fourth Schedule hereto as are used in any instrument, or in any of the covenants, provisos, agreements, or powers implied therein by this Ordinance, shall, unless the contrary is expressed in such instrument, or unless manifestly inconsistent with the context, have the meanings given to the same in the said section 2 of Fourth Schedule, and such meanings shall be implied in such instrument as fully and effectually as if the same were set out therein.

Covenants to be several as well as joint.

44. Where there are two or more grantors or two or more grantees of any instrument, then any covenants, conditions, provisos, agreements, and powers expressed in such instrument, or implied therein by this Ordinance, and imposing an obligation on such grantors or grantees, shall, except in so far as a contrary intention appears, be deemed to impose such obligation, or confer such benefit, as the case may be, severally as well as jointly.

Covenants to bind executors.

45. Except in so far as the contrary intention appears, all covenants, conditions, provisos, agreements, and powers expressed in any instrument, or implied therein by this Ordinance, shall bind the executors, administrators, and assigns of the person, or the successors and assigns of a company or corporation, upon whom such covenants, conditions, provisos, agreements, and powers impose an obligation, and shall operate for the benefit of the executors, administrators, and assigns of the person or the successors and assigns of the company or corporation for whose benefit the same enure.

Covenants may be negatived or varied.

46. All or any of the covenants, provisos, conditions, agreements, or powers set forth in the Second, Third and Fourth Schedules hereto may be negatived, modified, or altered, or others may be added to them, by express words in the instrument.

TRANSFERS OF INSTRUMENTS.

Form of transfer of instrument.

47. Every instrument may be transferred by a document in the form in the Fifth Schedule hereto or to the like effect, and every transferee, his executors, administrators, and assigns, shall, in respect of the instrument transferred, have the same rights, powers, and remedies, and be subject to the same obligations, as the transferor.

48. Transfers of instruments may be registered at any time after the execution thereof in like manner as instruments are registered; and, in case two or more transfers of any one such instrument are executed, a registered transfer shall have priority over an unregistered transfer; and, in case two or more transfers of any one such instrument are registered, priority shall be given to such transfers in the order of their time of registration.

PENAL.

49. Every grantor of an instrument under this Ordinance who, by sale or delivery without the consent of the grantee of any chattels comprised in or affected by such instrument, or by any other means, defrauds or attempts to defraud the grantee of the same or any part thereof, and thus or by any other means directly or indirectly defeats, invalidates, or impairs the grantee's security over the same or attempts so to do, and every person who wilfully aids and abets any person in defrauding or attempting to defraud the grantee by defeating, invalidating, or impairing such instrument or in attempting to do so, is liable to six months' imprisonment or to a fine not exceeding one hundred pounds or to both such fine and imprisonment.

50. The Bills of Sale Act, 1878, and the Bills of Sale Act, 1882, as applied to the Colony, and the Bills of Sale Ordinance (Chapter 22 of the Revised Edition) are hereby repealed.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

(1) AFFIDAVIT ON REGISTRATION OF INSTRUMENT.

In the Supreme Court of Kenya In the matter of the Chattels Transfer Ordinance, 1930.

I, [full name of deponent], of [place of residence or business], in the Colony of Kenya, [occupation], make oath and say as follows:—

1. The paper writing hereto annexed and marked "A" is a true copy of an instrument under the above-mentioned Ordinance, and of every schedule or inventory thereon endorsed or thereto annexed or therein referred to, and of every attestation of the execution thereof, as made and given and executed by [full name of grantor].

2. The said instrument was made and given by the said [full name of grantor] on the day of 19.....

3. I was present, and saw [full name of grantor] duly execute the said instrument on the day of 19..... at [state place where instrument executed].

4. The said [full name of grantor] resides at [place of residence], and is [occupation].

(This may be varied to describe residence at date of instrument.)

5. The name subscribed to the said instrument as that of the witness attesting the due execution thereof by the said [name of grantor] is in the proper handwriting of me, this deponent.

6. I am [occupation] and reside at [place of residence].

Sworn at the day of 19...
Before me..... G.H.

N.B.—If the grantor is absent from Kenya and executes the instrument by attorney, it shall be sufficient if the deponent states his belief as to the present address of the grantor. In the case of a company the registered office should be stated instead of the place of residence.

Where the original instrument is filed, the first paragraph of this affidavit should be struck out, and the second and third paragraphs will require some alterations.

12 REGISTER BOOK

No.	By whom given	To whom given	Nature and Date of Instrument	Date and time of Registration	Date of Renewal	Satisfaction
	Name Residence Occupation	Name Residence Occupation				

13 AFFIDAVIT ON RENEWAL OF REGISTRATION OF INSTRUMENT.
In the Supreme Court of Kenya. In the matter of the Chattels Transfer Ordinance, 1930.

I, [full name of deponent], of [place of residence or business] in the Colony of Kenya, [occupation], make oath and say as follows:—

1. I am the grantee of the instrument registered under the above Ordinance, as No. and made between [state names of parties to instrument, their residences and occupations, as appearing therein, also names of the parties to the instrument, their residences and occupations at the time of the making of the affidavit].

(If the affidavit is made by an agent, clerk, or servant of the grantee or grantor, state such fact, and also state briefly how deponent has become acquainted with the facts deposed to.)

2. The said instrument was registered on the day of 19...

3. The registration of the said instrument was last renewed on the day of 19...
(This paragraph is inapplicable where registration of the instrument is being renewed for the first time.)

4. The said instrument is still subsisting, and in full force and effect.

Sworn at..... this..... day of..... 19...
Before me..... G.H.

(4) INSTRUMENT.

A. B., of [state residence and occupation], being owner of the chattels mentioned in the schedule hereto [where a schedule is necessary], in consideration of the sum of £..... lent and advanced to him by C.D., of [state residence and occupation] [or, if consideration not an advance of money, state any other consideration for which mortgage given], does hereby assign and transfer the same to the said C.D. by way of mortgage to secure the payment of the said sum of £..... on the day of 19... with interest thereon in the meantime, and so long as the same or any part thereof remains unpaid, at the rate of per centum per annum by payments on the day of the months of and in each year. (Implied covenants, powers, and provisions may be varied or negatived).

In witness whereof A. B. has hereunto subscribed his name, this day of 19...

[Schedule.]

Signed by the above-named A. B. in the presence of E.F.
[Residence and occupation.]

(5) MEMORANDUM OF SATISFACTION.

I, C.D. hereby consent to a memorandum of satisfaction being written upon the instrument [or registered copy of the instrument] given for securing the sum of £..... bearing the date the day of 19... and made between and and registered on the day of 19... as No. under the Chattels Transfer Ordinance, 1930, the moneys for which such instrument was given as a security having been satisfied.

Dated this day of 19...
..... C.D.
(Grantee or Assignee.)

Witness E.F.
[Residence and occupation.]

5. The name subscribed to the said instrument as that of the witness attesting the due execution thereof by the said [name of grantor] is in the proper handwriting of me, this deponent.

6. I am [occupation] and reside at [place of residence].

..... E.F.

Sworn at the day of 19...

Before me..... G.H.

N.B.—If the grantor is absent from Kenya and executes the instrument by attorney, it shall be sufficient if the deponent states his belief as to the present address of the grantor. In the case of a company the registered office should be stated instead of the place of residence.

Where the original instrument is filed, the first paragraph of this affidavit should be struck out, and the second and third paragraphs will require some alterations.

(2) REGISTER BOOK

No.	By whom given	To whom given	Nature and Date of Instrument	Date and Date of Registration	Date of Renewal	Satisfaction received
	Name Residence	Name Occupation	Name Residence	Name Occupation		

AFFIDAVIT OF RENEWAL OF REGISTRATION OF INSTRUMENT

In the Supreme Court of Kenya.

In the matter of the
Chattels Transfer
Ordinance, 1930

I, [full name of deponent], of [place of residence or business] in the Colony of Kenya, [occupation], make oath and say as follows—

1. I am the grantee of the instrument registered under the above Ordinance as No. and made between [state names of parties to instrument, their residences and occupations as appearing therein, also names of the parties to the instrument, their residences and occupations at the time of the making of the affidavit].

If the affidavit is made by an agent, clerk, or servant of the grantee or grantor, state such fact, and also state briefly how deponent has become acquainted with the facts deposed to.

2. The said instrument was registered on the..... day of..... 19...

3. The registration of the said instrument was last renewed on the..... day of..... 19...

(This paragraph is inapplicable where registration of the instrument is being renewed for the first time.)

4. The said instrument is still subsisting, and in full force and effect.

..... C.D.

Sworn at..... this..... day of..... 19...

Before me..... G.H.

(4) INSTRUMENT

A.B., of [state residence and occupation], being owner of the chattels mentioned in the schedule hereto [where a schedule is necessary], in consideration of the sum of £..... lent and advanced to him by C.D., of [state residence and occupation] [or, if consideration not an advance of money, state any other consideration for which mortgage given], does hereby assign and transfer the same to the said C.D. by way of mortgage to secure the payment of the said sum of £..... of the..... day of..... 19... with interest thereon in the meantime, and so long as the same or any part thereof remains unpaid, at the rate of £..... per centum per annum by..... payments on the..... day of the months of..... and..... in each year. (Implied covenants, powers, and provisions may be varied or negated).

In witness whereof A.B. has hereunto subscribed his name, this..... day of..... 19...

[Schedule.]

A.B.

Signed by the above-named A.B. in the presence of

E.F.

[Residence and occupation.]

(5) MEMORANDUM OF SATISFACTION

I, C.D. hereby consent to a memorandum of satisfaction being written upon the instrument [or registered copy of the instrument] given for securing the sum of £....., bearing the date the..... day of..... 19... and made between..... and..... and registered on the..... day of..... 19... as No..... under the Chattels Transfer Ordinance, 1930, the moneys for which such instrument was given as a security having been satisfied.

Dated this..... day of..... 19...

..... G.D.
(Grantee or Assignee.)

Witness..... E.F.

[Residence and occupation.]

SECOND SCHEDULE.

COVENANTS FOR TITLE.

1. That the grantor has good right and full power to assign to the grantee the chattels purporting to be hereby assigned; and that they are free and clear from encumbrances other than such as are herein mentioned.

2. That the grantor will, at his own cost, do and execute all such acts, deeds, matters, and things for the better assigning the chattels hereby assigned, or intended so to be, as by the grantee may from time to time be reasonably required.

THIRD SCHEDULE

COVENANTS, PROVISOS AND POWERS IMPLIED IN INSTRUMENT.

1. That the grantor will pay to the grantee the principal money and interest hereby secured, after the rate and at the time herein mentioned, without any deduction whatever.

2. That the grantor will also pay interest on any further advances that may be secured by this instrument, computed from the time of making the same respectively, at the rate and on the date mentioned for the payment of interest in this instrument.

3. That the grantor will not, at any time while any moneys remain owing on his security, do or allow any act or deed whereby the chattels hereby assigned shall or may become prejudicially affected, and will at all times, while any moneys remain owing on this security, duly pay all rents from time to time coming due in respect of any lands or premises in which any of the chattels hereby assigned are for the time being situate.

4. That the grantor will at all times while any moneys remain owing on this security, keep and maintain all and singular the chattels hereby assigned in the like good order and condition in which they are at the date hereof, and if any of the same are damaged or destroyed, or cease to exist, will repair such damage, or replace the chattels so destroyed or ceasing to exist with other chattels of a like nature; and further will if required so to do by the grantee, execute any instrument that may be necessary to give to the grantee security over chattels replacing the chattels which have been destroyed or have ceased to exist.

Provisos and Agreements Implied in Instruments

5. Provided always, and it is hereby declared and agreed, that until the grantor makes default in the payment of any of the moneys hereby secured, or in the observance or performance of any covenant, condition, or agreement herein expressed or implied, and on his part to be observed and performed, or until the grantor becomes bankrupt, or until execution is levied against the goods of the grantor and such execution is not stayed or satisfied within ten days, the grantor may retain possession and use of the chattels hereby assigned.

6. Provided further that the giving by the grantor to the grantee of any bill of exchange or promissory note for the whole or any part of the money hereby secured shall not, until such bill or note is honoured or met, be considered as payment of or on account of the moneys secured by this instrument, or in any way affect or alter the rights or powers of the grantee by virtue of this instrument; and no promissory note or bill of exchange which before, at, or at any time after the execution of this instrument may be given by the grantor to the grantee for the whole or any portion of the moneys hereby secured, or the remedy thereon of the grantee or of the holder thereof, shall merge in the covenants herein expressed or implied.

Powers Implied in Instruments.

7. Provided always, and it is hereby declared and agreed, that if default is made by the grantor in payment of any of the principal or interest moneys hereby covenanted to be paid on the day on which the same ought to be paid according to the terms hereof, or in the observance or performance of any of the covenants, conditions or agreements herein expressed or implied, and on the grantor's part to be observed and performed, or if the grantor becomes bankrupt, or if at any time execution is levied against the goods of the grantor such execution is not stayed or satisfied within ten days, then and in such case the grantee, either personally or by his agent or servants may immediately thereupon or at any time thereafter, without any further consent by the grantor, and without giving to the grantor any notice or waiting any time, and notwithstanding any subsequent acceptance of any payment of any money due on this security, enter upon any lands or premises whereon the chattels for the time being subject to this security may be, and take possession thereof, and sell or dispose of same or any part thereof by private sale or public auction, separately or together, in such lots and generally in such manner in every respect as the grantee deems expedient, with power to allow time for payment of purchase money, or to buy in the said chattels or any part thereof at such auction, and to rescind or vary the terms of any contract or sale, and to resell without being answerable for any loss or expense occasioned thereby, and to execute all such assurances and do all such things for giving effect to any such sale as may be necessary or proper; and the receipt of the grantee or his agent shall be a sufficient discharge to any purchaser at such sale for any of the purchase money; and upon any sale purporting to be made in exercise of the powers herein expressed or implied no purchaser shall be bound to inquire as to the propriety or regularity of any such sale, or be affected by notice express or constructive that any such sale is improper or irregular.

And it is hereby declared and agreed that the grantee shall stand possessed of the proceeds of any such sale upon trust, after paying thereout the costs, charges, and expenses of and incidental to such taking possession, sale, and the preparation and registration of this instrument, to apply the same in reduction of the moneys then owing on the security of this instrument, including all moneys herein covenanted to be paid, notwithstanding that the same may not then have become due, or that any promissory notes or bills of exchange may then be current for the same, and to pay the balance to the grantor.

Powers, Covenants, and Provisions to be Implied in Instruments over Stock.

8. That during the continuance of this security, the grantee, his agents, or servants, may from time to time, and at reasonable times for that purpose, enter into and upon the said lands or premises, or any other lands or premises whereon the stock for the time being subject to this security are depasturing, for the purpose of viewing the state and condition of the same; and that the grantor will upon receiving seven days previous notice in writing delivered to him personally or addressed to him through the ordinary course of post or otherwise at his last-known place of abode in the Colony, give, and afford to the grantee, his agents or servants, all reasonable assistance to enable the grantee, his agents or servants, to view the same accordingly.

9. That there are now depasturing upon the said lands and premises all the stock herein respectively mentioned as depasturing thereon. And that the grantor will not, during the continuance of this security, without first obtaining the grantee's consent in writing, further encumber the stock for the time being subject to this security, or change the general quality, character, or description of the same or remove the same or any part thereof from the said lands or premises, sell the same or any part thereof except in the ordinary course of business, but no sale shall be made so as to reduce the number of the stock stated in this security.

And that the grantor will, during the continuance of this security, at the usual and convenient season for so doing, well and properly brand, earmark, and mark with the brand, earmark, and mark herein specified, all stock for the time being subject to this security, so that all such stock shall bear and continue to bear the brands, earmarks and marks herein specified.

And will not without the leave in writing of the grantee, brand, earmark, or mark, or permit to be branded, earmarked, or marked, any stock for the time being subject to this security with any brands, earmarks or marks, other than the brands, earmarks, or marks herein specified.

And will at all times during the continuance of this security take care, and adopt all due and proper means for keeping and maintaining all stock now depasturing or that may during the continuance of this security be brought upon the said lands or premises or any part thereof, free from disease, and in clean and healthy condition. And will at all times during the continuance of this security, pay and defray all expenses in and about the good and proper conduct and management of the said lands, stock and premises, and employ and maintain on the said lands or premises efficient and proper assistance to assist in the said conduct and management. And will every year or account in writing setting forth the number, ages, and sexes of the stock for the time being subject to this security and the places where the same are depasturing or kept.

10. That all stock belonging to the grantor, branded, earmarked, or marked as aforesaid, or covenanted so to be, of which possession has been taken under the power in that behalf herein contained, shall be subject to the same powers, provisions, declarations, and agreements as are herein expressed or implied of and concerning the stock and increase of stock herein expressed to be assigned, and may be dealt with in the same manner in all respects as if the stock of which possession

is taken as aforesaid had formed part of the stock hereby assigned: And that the grantor will, at his own cost and charges, do and execute all such deeds, matters, and things as may be necessary, or as the grantee may think proper, for the further, better, and more perfectly assigning and assuring to the grantee the stock, and increase of stock, and all and singular other the premises hereby assigned or intended so to be, or the stock for the time being on the said lands or premises, and any stock, branded, earmarked, or marked as aforesaid, or covenanted so to be, of which possession has been taken as aforesaid, so that the same may be held by the grantee upon and for the same ends, intents, and purposes, and with, under, and subject to the same powers, provisos, agreements, and declarations as are herein expressed or implied of and concerning the stock and premises herein expressed to be assigned: And will from time to time, and at all times during the continuance of this security, pay all and singular the fees and other outgoings and payments, and perform and observe all rules and regulations, and conditions which by the owner for the time being of the said stock or premises respectively now are or shall become at any time hereafter due, payable, observable, or performable respectively: And that in case the grantor fails or neglects to pay such fees and other outgoings and payments as aforesaid, or any of them, or any part thereof, the grantee may make such payments respectively: And that the grantor will from time to time and at all times hereafter, on demand, pay or cause to be paid to the grantee all sums of money paid or advanced by the grantee in or towards such payment as aforesaid, with interest for the same after the rate of eight pounds per centum per annum from the time or respective times when the same were advanced or paid: And that in the meantime, and until such sums of money have been repaid with interest as aforesaid, the stock for the time being subject to this security shall stand charged and chargeable with the payment of the same in like manner as if the same had been principal moneys secured by this instrument. That in case the grantee exercises any power of entry or taking possession vested in him hereunder, then he, or any person or persons appointed by him for the purpose, may continue in possession of the said stock and of the lands or premises whereon the same are depasturing or kept until the sale thereof, and manage, conduct, and carry on the said lands and stock, and employ servants and assistants, and provide all necessary stores in that behalf in all respects as the grantor could do if such power had not been exercised; and the grantee for any such purpose shall be entitled without any interference by the grantor to use all branding, earmarking, marking, and other implements and plant on or used in connection with the said lands or premises; and, further, that the costs, charges, and expenses of so doing, from the time of such entry and taking possession until the sale and delivery of the said stock and premises to any purchaser thereof, shall, together with interest thereon after the rate aforesaid, until payment, be a charge upon the stock for the time being subject to this security.

Power to be Implied in Instruments over Crops.

11. If the grantor does not pay to the grantee the moneys hereby secured, with interest and commission thereon as herein mentioned, at the time herein mentioned for payment of the same, the crops hereby assigned shall be gathered, carried away, and made marketable either by the grantor or by the

grantee at the option of the grantee, but in either case at the expense of the grantor, and shall (if gathered by the grantor) be delivered by the grantor to the grantee or his order at the place of delivery herein mentioned (or, if no such place is mentioned in the instrument, at such place as the grantee directs); and the grantee may either sell the same in the Colony, in one or more lots, by public auction or private contract, or partly in the one way and partly in the other, and upon such terms and conditions as to credit and otherwise as he thinks fit, or may cause the same to be shipped or exported to any place or places out of the Colony, to be sold by his agents in the manner and on the terms aforesaid, without being responsible for any loss or deficiency occasioned either by the shipment of the said crop or by any sale or sales thereof, whether in the Colony or elsewhere or by the act, neglect, or default of any agent, broker, or other person; and may from the proceeds pay himself the moneys hereby secured, and any rent payable to any landlord, and any moneys payable to any mortgagee or other person that he may be compelled to pay in order to protect his security over the said crops, and all costs, mercantile, and other charges, and expenses incurred in and about the harvesting, sale, shipment and carrying away of such crops, and the storage and freight thereof, or on any other account connected with the transaction thereof, and shall pay over the balance, if any, to the grantor.

Wool to be Implyed in Instrument over Wool.

If the grantor does not pay to the grantee the moneys hereby secured, with interest and commission thereon as herein mentioned, at the time herein mentioned for payment of the same, the flock of sheep mentioned in this instrument, and the increase thereof, and all other sheep which if this instrument were an instrument by way of security over sheep would be included therein, shall be shorn either by the grantor, or by the grantee, at the option of the grantee, but in either case at the expense of the grantor, at the usual and proper season for shearing; and the wool of such sheep shall with all convenient speed be properly sorted and packed in good bales, marked with the proper brand of such wool, and shall be delivered by the grantor to the grantee or his order at the place of delivery herein mentioned (or, if no such place is mentioned in the instrument, at such place as the grantee directs); and the grantee may either sell the same in the Colony, in one or more lots, by public auction or private contract, or partly in the one way and partly in the other, and upon such terms and conditions as to credit and otherwise as he thinks fit, or may cause the same to be shipped or exported to any place or places out of the Colony, to be sold by his agents in the manner and on the terms aforesaid, without being responsible for any loss or deficiency occasioned either by the shipment of the said wool or by any sale or sales thereof, whether in the Colony or elsewhere or by the act, neglect or default of any agent, broker, or other person; and may from the proceeds pay himself the moneys hereby secured, and any rent payable to any landlord, and any moneys payable to any mortgagee or other person that he may be compelled to pay in order to protect his security over the said wool, and all costs, mercantile, and other charges and expenses incurred in and about the shearing of the said sheep, and the packing, carrying away, sale and shipment of the said wool, or on any other account connected with the transaction thereof, and shall pay over the balance, if any, to

FOURTH SCHEDULE.

MEANING OF ABBREVIATED EXPRESSIONS.

1. The words "upon demand" mean upon demand being made by notice in writing, signed by the person entitled to make the demand, or any agent or clerk or servant of such person, and upon the person upon whom the demand is to be made, either personally or by posting the same in a duly registered letter addressed to him at his usual or last-known place of abode in the Colony.

2. The words "further advances" mean such further sum or sums of money as may be advanced or paid by the grantee to the grantor after the execution of this instrument, and include also such sums as may become owing by the grantor to the grantee during the continuance of this security for goods supplied, for bills and notes discounted and paid, and for other loans, credits and advances that may during the continuance of this security be made by the grantee to or for the accommodation or at the request of the grantor.

3. The words "will, upon demand, pay the balance due upon the account current between them" mean that the grantor will, on demand, pay to the grantee the balance on the account current of the grantor with the grantee for the time being owing for and on account of the moneys advanced on the execution hereof, or intended to be hereby secured, and for further advances as defined by the Chattels Transfer Ordinance, 1930, and for interest, commission, and other lawful charges from the day of such demand being made till the actual payment thereof at the rate mentioned in this instrument without any deduction; and it is hereby declared and agreed that the said account-current shall be made up with half-yearly rests on the half-yearly days mentioned for that purpose in this instrument, in each year (or, if no such days are mentioned in the instrument, then on the 31st day of March and the 30th day of September in each year), until the final balance of account is fully paid; and that this instrument shall be a continuing security for all moneys for the time being owing by the grantor to the grantee, notwithstanding that the current-account between them may have at any time theretofore been in credit by payments, settlement of account, or otherwise; and also that upon every such half-yearly day interest shall be considered as converted into principal, and the balance shall be chargeable with interest as aforesaid as upon further advances, and also that in making up such account interest at the rate specified in this instrument shall be calculated on the daily debtor balances; and also that, upon any such demand as aforesaid, all bills of exchange or promissory notes given by the grantor to the grantee and then current may, at the option of the grantee, and shall in case of entry into possession or sale by the grantee, be considered as matured or become due, subject to a rebate of interest upon the amount thereof for the time during which the same have to run, to be calculated at the rate at which interest is payable under this instrument, and that the amount of such bills or promissory notes, subject to such rebate, may be charged to the grantor in such account at the time of making such demand.

4. The words "will insure" mean that the party liable to insure will insure and at all times while this instrument remains in force will keep insured against loss or damage by fire all chattels comprised herein of a nature or kind capable of being insured against loss or damage by fire, such insurance to be effected in the name of the other party to this instrument and in some public insurance office to be approved of by him, and to be for the full amount herein specified (or, if no amount is specified then for the full insurable value of the said chattels); and will, at the request of the other party, hand over to and deposit with him the policy of every such insurance, and produce and deliver to him the receipt or receipts for the annual or other premiums payable on account thereof; and also that all moneys received under any such insurance shall, in the event of loss or damage by fire, be laid out and expended, so far as the same extend, in making good such loss or damage (or, if the instrument is given by way of security, in discharging the moneys hereby secured, if such other party so elects):

Provided that, if default be made in the observance or performance of this covenant, such other party may, without prejudice to and concurrently with the powers granted him by this instrument or otherwise by law, insure such chattels, and may forthwith recover the costs and charges of such insurance from the party liable to insure in like manner as if the same had been advanced by way of loan on the security of this instrument.

5. The words "will brand, earmark, and mark" mean that the party liable to brand, earmark, and mark, will keep all the stock subject to this security at all times while this instrument remains in force distinctly branded, earmarked and marked with the brands, earmarks and marks specified in this instrument failing which it shall be lawful for, but not imperative on, the other party hereto to enter upon any lands or premises where any stock subject to this security are and to take possession of the same, and brand, earmark and mark the same with the brands, earmarks, and marks specified in this instrument, with the right to use all branding, earmarking, marking and other implements and plant requisite therefor, and all costs, charges, and expenses occasioned to him by so doing shall be recoverable from the party liable to brand, earmark and mark as if the same had been advanced by way of loan as a further advance on the security of this instrument.

FIFTH SCHEDULE.

TRANSFER OF INSTRUMENT.

I, *C.D.* of [state residence and occupation of transferor], the grantee of the instrument registered in the office of the Registrar-General as No., under the Chattels Transfer Ordinance, 1930, do in consideration of [state consideration] hereby transfer to *X.Y.* of [state residence and occupation of transferee] all my rights, title, estate and interest in and to the chattels comprised in the said instrument.

As witness my hand this day of 19...
..... C.D.

Signed by the said *C.D.* in the presence of
..... *E.F.*
(Residence and occupation).

23
Passed in the Legislative Council the thirty-first day of May in the year of Our Lord one thousand nine hundred and thirty

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.

G. R. SANDFORD,

Clerk of the Legislative Council.

LEGAL OPINION

THE CHATELAIN TRANSFER (AMENDMENT) BILL, 1930.

This Bill imposes on all instruments under the Principal Ordinance other than receipts a stamp duty of one shilling, which may be denoted by an adhesive stamp duly cancelled.

2. The Bill is antedated to 13th June, 1930, the date of commencement of the Principal Ordinance.

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

Nairobi,

3rd September, 1930.

[Signature]
ATTORNEY GENERAL.







Colony and Protectorate of Kenya.
 IN THE TWENTY-FIRST YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
EDWARD WILLIAM MACLEAY GRIGG,
 K.C.M.G., K.C.V.O., D.S.O., M.C.,

Governor.

Assented to in His Majesty's
 name this 12th day of September
 1930

EDWARD GRIGG.

Governor.

An Ordinance to Amend the Chattels Transfer Ordinance, 1930.

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

1. This Ordinance may be cited as "the Chattels Transfer (Amendment) Ordinance, 1930," and shall be read as one with the Chattels Transfer Ordinance, 1930, hereinafter No. 24 of 1930 referred to as "the Principal Ordinance."

2. The stamp duty payable on an instrument under the Principal Ordinance, other than a receipt for the purchase money of chattels, shall be one shilling, which shall be denoted by means of an adhesive stamp duty cancelled by the person executing the instrument.

Stamp duty payable.

3. This Ordinance shall be deemed to have come into force on the thirteenth day of June, 1930.

Date of operation.

Passed in the Legislative Council the twenty-eighth day of August, in the year of Our Lord one thousand nine hundred and thirty

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.

G. R. SANDFORD.

Clerk of the Legislative Council.

KENYA.

No. 428



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
21 JUL 1930
COL. OFFICE

26th June, 1930.

Ans. 748-503-239/16

16/6/30

My Lord,

I have the honour to transmit two authenticated copies of the Chattels Transfer Ordinance, 1930, which passed its third reading on the 31st May, and was assented to in His Majesty's name on the 13th June, together with the Legal Report thereon in duplicate furnished by the Attorney General. Ten printed copies of the Ordinance are being transmitted separately.

2. As stated in the Legal Report, this Ordinance is based upon the New Zealand Chattels Transfer Act, 1924. It is an integral part of the scheme adopted for the provision of agricultural credits as expressed in the Agricultural Advances Ordinance, 1930, which forms the subject of a separate despatch. I enclose for Your Lordship's information a record of the Debate in the Legislative Council on second reading of the Bill.

3. I trust that His Majesty will be advised not to exercise his power of disallowance in respect of this measure.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant,

Edward Gigg

G O V E R N O R .

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

LEGAL REPORT
THE CHATTELS TRANSFER BILL, 1930.

This Bill is based upon the New Zealand Chattels Transfer Act, 1924, and was drafted in 1926 by a Committee appointed to consider and advise upon the desirability of altering the existing law applicable to bills of sale and securities on movable property, either by the introduction of legislation on the lines of the New Zealand Chattels Transfer Act, or otherwise. Opinion generally was divided as to the desirability of introducing the Bill into Legislative Council and, in consequence, no steps were taken to ensure that the Bill became law. During the sittings of the recent Agricultural Commission, however, it became evident that there was a widespread desire on the part of the farming community for legislation to allow farmers to raise money upon their crops or stock by creating a charge thereon, and the Bill, which achieves the desired object, was accordingly introduced into Legislative Council.

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

Nairobi,
31st May, 1930.

Samuel J.
ATTORNEY GENERAL.

LEGAL REPORT
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Nairobi,
31st May, 1930.

Dames
ATTORNEY GENERAL.

it will be some time before definite information can be obtained from them. But as and when it is obtained, I can assure the House that the applications will all be carefully scrutinised and not sanctioned unless we are satisfied that a case has been made out. Furthermore, in order to ensure that the expenditure in this vote is separated from the normal expenditure on roads, it is proposed to open a separate sub-head in the schedule, Public Works Extraordinary—Miscellaneous, with this figure attached to it. In that way, it will be possible to keep distinct the ordinary recurrent expenditure on roads, normal additional money voted by the Council, and this emergency money, which is definitely intended to repair abnormal damage due to floods.

LT.-COL. THE HON. J. G. KIRKWOOD: Might I point out, Your Excellency, that I have had no answer to my request for information as to whether any portion of this money will be available for the Limuru-Escarpment road.

HIS EXCELLENCY: Perhaps the hon. Member will put down a question on that subject, which will be answered to-morrow.

LT.-COL. THE HON. J. G. KIRKWOOD: I will do so willingly, but I would point out, Your Excellency, that I asked for information during this debate, and I expected a reply.

HIS EXCELLENCY: I would remind hon. Members that it is not always possible to answer questions about the expenditure of money without having to consult the papers involved.

The hon. Member for Plateau South has given me notice of an amendment to the following effect:—

That a schedule showing the expenditure entailed be laid on the Table at the next session of Council.

I hope the hon. Member will not think it necessary to press that, but I can assure him that full information will be given at the next session, though I cannot undertake that the information will show the whole expenditure—that will depend upon when the next meeting of Council takes place—but full information will be given.

THE HON. T. J. O'SHEA: Thank you, Sir.

HIS EXCELLENCY: The question is—

That this Council approves the expenditure of a sum of £40,000 upon the purpose specified in the schedule hereto as a charge against the Surplus Balances of the Colony.

Schedule.

Repairing flood damage to roads and bridges	£40,000."
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The question was put and carried.

BILLS.

SECOND READING.

THE CHATTELS TRANSFER BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to make provision relating to Chattel Securities and the Transfer of Chattels be read a second time.

A great deal of time has already been taken up this morning, Sir, with the consideration of the general question of providing facilities for short-term credits. Of that question, Sir, this is an integral part. It is complementary to the Bill which has already been accorded a second reading this morning, in so much that, while that Bill provides for credits from a State source, the confident hope of Government is that the provisions of this Bill will enable credits to flow more rapidly and in greater quantities than it does at present from the ordinary banking and commercial channels.

The Bill is a portentous-looking document, and I am afraid it is a dreadfully dull subject, but fortunately I do not need to say a great deal about it. The Bill can be divided quite easily into three quite separate parts. The first is that part represented by the first twenty-two clauses and clauses 35 to 39. These are necessitated, Sir, by the fact that we have no legislation in the Colony relating to bills of sale—no real legislation—and it is about time that we had. The English Acts of 1878 and 1882 are applied to the Colony, but this is manifestly unsatisfactory, Sir, because these Acts are not available to most of the people in the Colony. Furthermore, they have been amended from time to time, they are a little out-of-date now. I have them in the original form, without any subsequent amendment, and so it was thought that the time had come when, in place of these inaccessible and inadequate Acts, we should have legislation of our own in this Colony. These Acts are replaced by the clauses of this Bill to which I have drawn attention.

Then, Sir, we come to the second category, which is represented by clause 50 and the 6th Schedule. That relates to hire-purchase agreements, and for the life of me I do not see why it is there. The Schedule, furthermore, is completely out of date. The Schedule sets out a list of things which can be the subject of a hire-purchase agreement. You can get a

hire-purchase agreement for a gramophone, but not for a wireless set; you can get a hire-purchase agreement for a motor car, but not for an aeroplane. You cannot get—what would give effect to a very recent English decision, which held that you could get a hire-purchase agreement for a race-horse—a hire-purchase agreement for a horse. That part of the Bill might conveniently and perfectly well be deleted.

Then, Sir, we come to the third, and, in the circumstances under which we have met here to-day, evidently the most important section of the Bill. Those are clauses 23 to 32, and particularly, Sir, would I draw attention to clauses 23 and 24, 29 and 30. These deal respectively with live stock and with crops. The present position here, Sir, is that you can get a bill of sale over your live stock or over your growing crops, but the law is so restricted, and has in the past been so strictly interpreted against the grantor, that it is almost impossible to get a valid instrument in either of the categories. In the case of stock, you have to identify the actual animals over which you have a charge, by age, by sex, by colour, and, I am told, sometimes even by name. You can do nothing with the natural increase, and it is an entirely and utterly unsatisfactory way of trying to raise money.

When you come to crops, the position is the same. They are almost impossible of identification, and so these provisions are of extreme importance in that they provide for the giving of a valid instrument over live stock by a mere reference to the brand or earmark or other mark, and the land on which they are customarily depastured or kept, and that charge includes the natural increase of the stock. Similarly with crops, you can pledge the crops by reference to the type of crop and the land on which it is growing; and, Sir, you can go further and pledge a future crop—a crop which is not yet sown.

Those changes in the law, Sir, Government is confident will frequently ease the present situation. They give the farmer of this Colony a security, a pledgeable security, which he had not got and had not got at this moment.

A great deal has been said in very recent years about the provisions of clause 30, and I should like to make my views on that as clear as I can. It will take me about a couple of minutes. Clause 30 does not establish any priority whatever. It merely provides—I am sure hon. Members will see it on careful reading—that this new security ranks with other securities, as every security ought to do, according to the date of its registration. It takes no priority over any security which in time precedes it. It does take priority over all securities which, in order of time, follow it. That seems to me not to be any revolutionary principle—it is a principle as old as the

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Schedule.

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Then, Sir, we come to the second category, which is represented by clause 30 and the 6th Schedule. That relates to hire-purchase agreements, and for the life of me I do not see why it is there. The Schedule, furthermore, is completely out of date. The Schedule sets out a list of things which can be the subject of a hire-purchase agreement. You can get a

30th May, 1930

hire-purchase agreement for a gramophone, but not for a wireless set; you can get a hire-purchase agreement for a motor car, but not for an aeroplane. You cannot get—what would give effect to a very recent English decision, which held that you could get a hire-purchase agreement for a race-horse—a hire-purchase agreement for a horse. That part of the Bill might conveniently and perfectly well be deleted.

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law—and the statement of it in a simple form here is only in the interests of farmers and to avoid protracted and costly litigation. It seemed very much better to put it in simple language than to leave it for the courts to consider in each case, and why it has raised or should raise opposition, Sir, I am quite at a loss to say.

I am authorised to state that Your Excellency's intention is to refer this Bill for an examination in detail to a Select Committee consisting of—

The Hon. the Treasurer.

The Hon. the Commissioner for Local Government, Lands and Settlement.

The Hon. the Director of Agriculture.

The Hon. Member for the Rift Valley.

The Hon. Member for Elgeyo South.

The Hon. Member for Nairobi South.

Myself as Chairman.

I do hope that, particularly in view of the time, but without desisting in any way to Burke discussion, a considerable part of the details might be left until that Committee has an opportunity of meeting.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second.

YOUR EXCELLENCY: The question is that the Chattels Bill be read a second time.

THE HON. CONWAY HURLEY: Your Excellency, I feel that a large number of people will approve of a measure the objects of which are to stimulate the flow of credit. It is undoubtedly somewhat premature to state that it has not been found possible to give the Members more opportunity of digesting this somewhat complex Bill, but there is no doubt whatever, Sir, that when this measure is passed and completed it will automatically have the effect of reducing to a very great extent the demand which will be made on the Agricultural Advances Fund, to that extent I regard it as of very great importance.

We are very grateful, Sir, to my hon. and learned friend for his very clear explanation of clause 30, which was very clearly understood before. What we do require, though, Sir, if we can get it, is an assurance from Government that the passage of this clause in this Bill will not prejudice perfectly definite proposals that have been made under the Land Bank

Bill that Government loans for specific purposes should be given priority over existing mortgages. That was the difficult point, Sir, with regard to which we wanted an assurance, and we shall be very grateful if we can have it.

Farmers and commercial men, Sir, have for several years frequently urged the introduction of legislation on these lines, and it is very unfortunate indeed, Sir, that the progress of the Colony should have been so seriously impeded by the attitude of the Law Society in connexion with this matter.

THE HON. T. J. O'SHEA: Your Excellency, I think it is greatly to be regretted that this very important Bill should have had to be brought in as an emergency measure and that, in consequence, an opportunity has been denied to the public at large, and more particularly to those interests which are so particularly interested in this Bill, to criticise and examine it.

It is rather interesting to find that it is being introduced as an emergency measure because many of us who have been advocating the application of it for some years past have realised that sooner or later a state of affairs would arise in this country when the necessity for it would be very acutely recognised. It has always seemed to me a strange thing, Sir, that, while the law is very comprehensive indeed in regard to what you might call the hard cash side of our financial system, there should be practically no legislation existing in the Colony in regard to the credit side of our financial system, which to-day plays a greater part in the trade and commerce of the country than the actual hard cash side.

I think Government is to-day taking an action that will not only of necessity stimulate the flow of credit, because there are many of us who think that the flow of credit in this country is already at too rapid a rate, but it will perform a much more important function, a much more necessary one—at the present stage of our affairs it will control and safeguard the flow of that all important credit. It is from that point of view that I think this measure is going to be of immense benefit to the country. There are some who doubt the wisdom of its introduction because they think that it will unduly stimulate the flow of credit and so bring about more unstable conditions even than those at present existing. I do not anticipate that danger, in the least, Sir; on the contrary, I think it is going to have a very good effect indeed on so regulating the flow of credit as to improve and to strengthen the stability of the country. There can be no doubt about it that, owing to the absence of such legislation as this, uncontrolled credit has done an immense amount of harm to the country.

law—and the statement of it in a simple form here is only in the interests of farmers and to avoid protracted and costly litigation. It seemed very much better to put it in simple language than to leave it for the courts to consider in each case, and why it has raised or should raise opposition, Sir, I am quite at a loss to say.

I am authorised to state that Your Excellency's intention is to refer this Bill for an examination in detail to a Select Committee consisting of—

The Hon. the Treasurer

The Hon. the Commissioner for Local Government Lands and Settlement

The Hon. the Director of Agriculture,

The Hon. Member for the Rift Valley

The Hon. Member for Plateau South

The Hon. Member for Nairobi South,

with myself as Chairman

I do hope that, particularly in view of the time, but without desiring in any way to Burke discussion, a considerable number of details might be left until that Committee has an opportunity of meeting.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second

THE HON. THE TREAASURER: The question is that the Chateaux Bill be read a second time.

THE HON. MEMBER FOR HOKUYA: Your Excellency, I feel that the Government will approve of a measure the objects of which are to regulate the flow of credit. It is undoubtedly something that is quite that it has not been found possible to give the members more opportunity of digesting this somewhat complicated Bill, but there is no doubt whatever, Sir, that when the Bill is passed and completed it will automatically result in a reduction to a very great extent the demand for credit which has been made on the Agricultural Advances Fund, and to that extent I regard it as of very great importance.

We are very grateful, Sir, to my hon. and learned friend for his very clear explanation of clause 30, which was very clearly understood before. What we do require, though, Sir, if we can get it, is an assurance from Government that the passage of this clause in this Bill will not prejudice perfectly definite proposals that have been made under the Land Bank

30th May, 1930.

Bill that Government loans for specific purposes should be given priority over existing mortgages. That was the difficult point, Sir, with regard to which we wanted an assurance, and we shall be very grateful if we can have it.

Farmers and commercial men, Sir, have for several years frequently urged the introduction of legislation on these lines, and it is very unfortunate indeed, Sir, that the progress of the Colony should have been so seriously impeded by the attitude of the Law Society in connexion with this matter.

THE HON. T. J. O'SHEA: Your Excellency, I think it is greatly to be regretted that this very important Bill should have had to be brought in as an emergency measure and that, in consequence, an opportunity has been denied to the public at large, and more particularly to those interests which are so particularly interested in this Bill, to criticise and examine it.

It is rather interesting to find that it is being introduced as an emergency measure because many of us who have been advocating the application of it for some years past have realised that sooner or later a state of affairs would arise in this country when the necessity for it would be very acutely recognised. It has always seemed to me a strange thing, Sir, that while the law is very comprehensive indeed in regard to what you might call the hard cash side of our financial system, there should be practically no legislation existing in the Colony in regard to the credit side of our financial system, which to-day plays a greater part in the trade and commerce of the country than the actual hard cash side.

I think Government is to-day taking an action that will not only of necessity stultinate the flow of credit, because there are many of us who think that the flow of credit in this country is already at too rapid a rate, but it will perform a much more important function, a much more necessary one—at the present stage of our affairs it will control and safeguard the flow of that all-important credit. It is from that point of view that I think this measure is going to be of immense benefit to the country. There are some who doubt the wisdom of its introduction because they think that it will unduly stimulate the flow of credit and so bring about more unstable conditions even than those at present existing. I do not anticipate that danger, in the least, Sir; on the contrary, I think it is going to have a very good effect indeed on so regulating the flow of credit as to improve and to strengthen the stability of the country. There can be no doubt about that, owing to the absence of such legislation as this, uncontrolled credit has done an immense amount of harm to the country.

and the situation that we have been dealing with to-day is very largely due, in my opinion, to the uncontrolled credit that has been rampant in the country over a period of years.

In common with probably every other Member of the House, I regret that more time has not been given us in which to study the details of this very important measure, and in giving my adherence to its passing without critical examination I do so in the belief that as it has been drafted on the lines of existing legislation in other countries, whose conditions are somewhat analogous to ours, it cannot be very unsound and that the necessity for its immediate introduction justifies our passing it without the critical examination it should have had, also in the belief that if we do find in its use during the next few months that the necessity for immediate amendment is there, I feel certain that Your Excellency will approve of its being dealt with immediately.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in your criticism I have to urge against this is the method of its presentation. I consider that it is entirely wrong that a measure of this kind should be introduced under the suspension of Standing Orders. Entirely because I have a game leg, I was not able to get up in time to vote against the suspension of Standing Rules and Orders, and again later on, I was prevented from getting up in time to speak against the measure.

HIS EXCELLENCY: The hon. and gallant Member is really making a statement which cannot be substantiated. I looked towards that side of the House before putting the question to the vote. He showed no sign of rising whatever he intended to say. In rising he can do that from his position, he is not obliged to rise or say "No."

CAPT. THE HON. E. M. V. KENEALY: I am sure I should have been able to do that.

HIS EXCELLENCY: That is another matter.

CAPT. THE HON. E. M. V. KENEALY: I am not suggesting that you deliberately prevented my speaking, on those motions I am merely saying that owing to the fact I referred to, through my slowness, we will say, in rising I was unable to record my disapproval of the methods adopted.

HIS EXCELLENCY: The hon. and gallant Member does not usually show much difficulty in rising. (Laughter).

CAPT. THE HON. E. M. V. KENEALY: I have not the degree of resilience which is based on the desires of my constituency. (Laughter).

Well, Sir, the greatest danger I see in this measure and in its method of presentation is this, that the Government thinks it essential to tie up the consideration of this problem with the problem of agricultural advances, and by so doing demonstrates its intention, and its intention obviously is this: that where sums of money are required by farmers to finance themselves, Government will say, "Why, you have alternative methods of raising money, you can raise money from private sources, and there is no need for you to rely on State resources to finance you; you have the ordinary mortgage, you have this chattels mortgage facility which is now forged, and therefore there will be no need to make advances under the Bill that we have taken to-day." I consider that that source of money, for the alleviation of the present situation, is the source which it is most proper to tap rather than to rely on extraneous and private sources at this stage.

Whether clause 30 appears to be innocuous, I consider it either should not be there or that it is a noxious clause, in as much as it does indicate that there may be some precedent created by its acceptance. After all, Sir, we cannot agree to the creation of a precedent which establishes the priority of a mortgage over finance which is necessary to ensure the control of disease, such as vaccination, inoculation, dipping and fencing. We cannot justify ourselves in any way in acquiescing in any such establishment of a precedent in that manner, and so I cannot help feeling that clause 30 is unnecessary. If we rely on the ordinary course of events and the established custom in regard to the application of priority in the monetary commitments, then I feel that clause 30 is unnecessary. We have not had time enough to deal with this matter. I deprecate its introduction in this manner, although probably the principles are the same, with the exception of this one principle embodied in clause 30.

THE HON. E. POWYS COBB: Your Excellency, I should like to make my position clear with regard to this Bill. I am entirely in favour of a Bill on these general lines. It is a thing the country has been asking for for a long time. It is a thing which the Agricultural Commission asked for some six months ago, and I am wholly in favour of the main idea of such a Bill, but I do regret that such a delay has taken place in its introduction that now it has to be rushed through this House. My chief fear of evil which may happen through speed is simply this, that whereas the Agricultural Advances Bill which we dealt with this morning can be regarded, and

should be I think properly regarded, as an interim measure, the present Bill is part of the permanent system, and it does involve the controversy which rages round that debatable clause 30. The hon. Member for the Lake has asked Government if it can give a certain assurance; I should be very glad if that assurance could be given in a slightly different way, namely that clause 30 will not be taken as necessarily establishing a precedent which must be followed in further legislation which is part of the permanent structure that I hope to see built up on the system of agricultural finance.

THE COL. THE HON. J. G. KIRKWOOD: Your Excellency, I would just like to express my appreciation of this Bill being brought before the House, and I think it is an occasion upon which I might say that when Bills are brought in under the suspension of Standing Rules and Orders the case should be taken on its merits. I propose to take this Bill with that ideal in my mind. I have read the Bill but as I understand it will be subjected to consideration by the Select Committee, there is no occasion to go into detail at the moment. But I would point out that the passing of this Bill would greatly facilitate financial assistance being given to the agricultural industry. At the moment a limited amount of money is lent on crops, and the security is very limited, if any case arises, it is really a civil action. Under this Bill there is security for the money advanced, and I submit that the rate of interest, once this Bill is passed, will drop to about 6 per cent. With that in mind, that it will assist agriculture and everybody else concerned, that it will assist the introduction of private capital in addition to the monetary assistance which Government proposes to give to the agricultural industry, I think it is a very wise measure to pass this Bill at the present time.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I very gladly give the assurance for which the hon. Members for the Lake, the Rift Valley North and for the Rift Valley have asked. I shall give it in as wide and as clear phraseology as I can. The provisions of clause 30 of this Bill, Sir, which relate to the priority of advances from private sources, as against advances made to the same person from other sources, will not possibly in any way affect the right which the Government has in other legislation of dealing with advances from State funds for purposes of a public utility nature such as those specified, the right which the Government in those circumstances has to take a statutory priority. No provision in clause 30 as drafted, or in any similar clause or any other bill of this nature, can possibly have that effect, or in any way hamper the discretion that Government has in these matters in dealing with public moneys for public purposes.

30th May, 1930.

HIS EXCELLENCY: The question is that a Bill to make provision relating to Chattel Securities and the Transfer of Chattels be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Chattels Transfer Bill be referred to a Select Committee consisting of—

The Hon. the Treasurer,

The Hon. the Commissioner for Local Government, Lands and Settlement,

The Hon. the Director of Agriculture,

The Hon. Member for the Rift Valley,

The Hon. Member for Plateau South,

The Hon. Member for Nairobi North,

and myself as Chairman.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

The question was put and carried.

Council adjourned till 12 noon on Saturday,
31st May, 1930.

should be I think properly regarded, as an interim measure, the present Bill is part of the permanent system, and it does involve the controversy which rages round that debatable clause 30. The hon. Member for the Lake has asked Government if it can give a certain assurance; I should be very glad if that assurance could be given in a slightly different way, namely, that clause 30 will not be taken as necessarily establishing a precedent which must be followed in further legislation which is part of the permanent structure that I hope to see built up on the system of agricultural finance.

MR. COL. THE HON. J. G. KIRKWOOD: Your Excellency, I would just like to express my appreciation of this Bill being brought before the House, and I think it is an occasion upon which I might say that when Bills are brought in under the suspension of Standing Rules and Orders the case should be taken on its merits. I propose to take this Bill with that ideal in my mind. I have read the Bill but as I understand it will be subjected to consideration by the Select Committee, there is no reason to go into detail at the moment. But I would point out that the passing of this Bill would greatly facilitate financial assistance being given to the agricultural industry. At the moment a limited amount of money is lent on crops, and the security is very limited, if any case arises, it is really a civil action. Under this Bill there is security for the money advanced, and I submit that the rate of interest, once this Bill is passed, will drop to about 6 per cent. With that I am sure that it will assist agriculture and everybody else concerned, that it will assist the introduction of private capital in addition to the monetary assistance which Government proposes to give to the agricultural industry. I think it is a very wise measure to pass this Bill at the present time.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I very gladly give the assurance for which the hon. Members for the Lake, the Rift Valley North and for the Rift Valley have asked. I should like to say that it is as wide and as clear phraseology as I can give. The provision in clause 30 of this Bill, Sir, which states the priority of advances from private sources, as to advances made to the same person from other sources, will not in any way affect the right which the Government has in other legislation of dealing with advances from State funds for purposes of a public utility nature such as those specified, the right which the Government in those circumstances has to take a statutory priority. No provision in this Bill as drafted or in any similar clause or any other clause of this nature can possibly have that effect, or in any way hamper the discretion that Government has in these matters in dealing with public moneys for public purposes.

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The Hon. Member for Plateau South,

The Hon. Member for Nairobi North,

and myself as Chairman.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

The question was put and carried.

Council adjourned till 12 noon on Saturday,
31st May, 1930.

DUPLICATE

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COLONY AND PROTECTORATE OF KENYA.

LEGISLATIVE COUNCIL
DEBATES

MAY 30th and 31st, 1930.

UNCORRECTED PROOFS

Hon. Members are asked to notify the Clerk within seven days of any corrections they may desire to have inserted in their own speeches.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI.



COLONY AND PROTECTORATE OF KENYA.

LEGISLATIVE COUNCIL DEBATES,
1930

FIRST SESSION.

FRIDAY, 30th MAY, 1930

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, 30th May, 1930. His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer

The Proclamation summoning the Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to—

Ex Officio Members :

Harold Edwin Goodship, Acting General Manager, Kenya and Uganda Railways and Harbours.

Edgar George Bale, Acting Commissioner of Customs.

MINUTES.

The minutes of the meeting of 17th April, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

BY THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR) :

Report of Select Committee on the Native Liquor (Amendment) Bill.

Report of Select Committee on the King's African Rifles Bill.

Rules of Court (Advocates' Remuneration and Taxation of Costs Amendment) No. 4 of 1930.

Department Annual Report, 1929.

By THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. A. MURPHY).

Report of the Native Commission on Land Tenure in the Native Reserves.

By THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN).

Return of Land Grants, under the Land Grants Ordinance, from 1st January to 31st March, 1930.

By THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GILKS).

Report of Mr. S. F. James, M.D., on a visit to Kenya and Uganda to advise on anti-malarial measures.

By THE HON. THE GENERAL MANAGER, KENYA AND UGANDA PORTLAND CEMENT, RAILWAYS AND HARBOURS (MR. H. E. WILSON).

Report of the General Manager on the Administration of the Kenya and Uganda Harbours.

By THE HON. THE COMMISSIONER OF CUSTOMS (MR. J. H. WILSON).

Annual Trade Report of Kenya and Uganda for the year ended 31st December, 1929.

SUSPENSION OF STANDING ORDERS

THE HON. THE ATTORNEY GENERAL: Your Excellency, with your leave, Sir, I beg to move that Standing Rules and Orders be suspended to enable the Agricultural Advances Bill and the Chattels Transfer Bill to be introduced and carried through all their stages without due notice, and further to enable a motion regarding agricultural advances and a motion regarding flood damage to roads and bridges to be taken without due notice.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended to enable the Agricultural Advances Bill and the Chattels Transfer Bill to be introduced and carried through all their stages without due notice, and further to enable a motion regarding agricultural advances and a motion regarding flood damage to roads and bridges to be taken without due notice.

The question was put and carried.

BILLS.

FIRST READINGS.

THE AGRICULTURAL ADVANCES BILL.

On motion of the hon. the Attorney General, the Agricultural Advances Bill was read a first time.

THE CHATTELS TRANSFER BILL.

On motion of the hon. the Attorney General, the Chattels Transfer Bill was read a first time.

SECOND READING.

THE AGRICULTURAL ADVANCES BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to authorise the Governor to make Advances to Farmers be read a second time.

Your Excellency, in your communication from the Chair on the 16th April last, in announcing the appointment of the Board of Agriculture, recommended that the Board should deal immediately with the material collected by Government on the subject of short-term credits for agriculture with a view to devising some scheme for the provision of additional credit facilities for agriculture on a safe and economic basis, along the lines of a project which had been outlined and submitted to Your Excellency by Elected Members. The Board met immediately, and issued a report recommending the appointment of a Board of Management with control of a fund for short-term credits, but they added that such scheme should not compete with existing credit facilities but rather should supplement and strengthen them. Immediately on receipt of that report, Sir, Your Excellency appointed a Committee to go into the details of the scheme recommended. That Committee, Sir, has been, and still is, in almost continuous session. It has taken evidence from a number of witnesses representative of all interests and it has prepared a detailed scheme which has now met with Your Excellency's approval. The results of its deliberations, Sir, are embodied in the Bill which is now in the hands of hon. Members. I think that consideration of the

detailed scheme can be most advantageously undertaken by a reference to the relevant clauses of the Bill, but before I invite hon. Members to consider those provisions with me, I should like to take this opportunity of saying a few words on the general question on the causes that have led to the summoning of this emergency meeting of Council, I need say nothing. They are only too well known to every Member of this House. Of the urgency of the need with which we are faced there is no need to say anything.

I would like to stress one point, Sir, one very important point, the conditions which unfortunately obtain in Kenya to-day are not confined to Kenya, they are of world-wide application. They obtain equally in every agricultural community, and there is no Government to-day, Sir, which is not faced with the necessity of considering means of dealing with a similar problem, which is not considering them with the same care and anxious thought that Your Excellency and your advisers have given to the local Kenya problem during the last weeks. I would say, Sir, that there is nothing wrong with agriculture in Kenya. In the legislation which is now before hon. Members there is nothing, and in the principles which underlie it there is nothing, to make an attempt to bolster up an ailing and dying industry. Not only would any such attempt be futile, Sir, but in the interest of every section of the community it would be quite unjustifiable. On the contrary, Sir, the agricultural industry upon which the Colony primarily depends and upon which, as far as we can see, it always must primarily depend for its stability and progress is essentially sound. There is no one present here to-day, Sir, who does not look to the future of that industry with every confidence.

It is, Sir, an emergency, and possibly a temporary emergency, that is designed to meet the present needs of farmers arising from the drop in world prices and to the undue pressure between the production and the release of their products, to have exhausted existing sources of credit and are in difficulties which we all hope are of a temporary nature only, and it is in the real interest of the Colony that we should keep open the land.

Now, Sir, I would ask hon. Members to follow me through a very brief exposition of the principles of the Bill. That, as I have already said, is the simplest way of putting the details of the scheme which we propose succinctly and briefly before this House.

There is set up, Sir, by clause 3 of the Bill, a Central Agricultural Advances Board, with an office here in Nairobi. The constitution of that Board, Sir, is three official and two

unofficial members. The funds at the disposal of the Board are public moneys of the Colony, and therefore, Sir, it is only right, as all hon. Members will agree, that there should on that Board be an official majority. I have Your Excellency's authority for stating that Mr. W. C. Mitchell has accepted nomination as an unofficial member of the Board, and that Mr. Woolryche Whitmore has also been invited to join the Board.

Subordinate to the Central Board are local boards, which Your Excellency may establish in any province or district where their services are required. Hon. Members will find the provisions relating to such local boards in clause 4 of the Bill. The constitution of such boards, as hon. Members will observe, has a degree of elasticity which, I think, is essential in the varying conditions of the different provinces and districts. Provisional arrangements have been made—those arrangements are, of course, contingent on the adoption of this legislation by Council—for the establishment of local boards in the Provinces of Kikuyu, Nzoia, Nyanza, Rift Valley, Naivasha, Ukamba and the Coast. In the Kikuyu and Nzoia Provinces there will be two Boards, at Nyeri and Nairobi, and at Kitale and Eldoret respectively, the boards at Nairobi and Kitale being presided over, in the absence of the Provincial Commissioner, by the District Commissioner. For the purposes of each board there will be established two unofficial panels. One panel will consist of three suitable men with farming and business experience, and the other of the local bank managers with whom the applicants bank. The local board will normally thus be constituted by one member selected from each panel, but the applicant's bank manager will invariably be a member. The Provincial Commissioner or another senior Administrative Officer will be in the chair. If, however, in any district circumstances warrant either an enlarged or a differently constituted local board, the necessary arrangements will be made and can be made under the legislative provision. Such modifications have already, Sir, been approved in the case of Eldoret and Kitale, where a change from the normal procedure was necessitated chiefly by the presence of a large number of Dutch and German settlers in those districts. In most, if not all, of the provinces the local boards have already been constituted, and if this Bill becomes law, Sir, the boards will be able to get into harness at once and proceed forthwith to deal with applications.

Clause 5, Sir, deals with the necessary evil of staff. Unfortunately, additional staff will have to be employed, both at headquarters and in some of the districts, but it is a strict instruction to the Central Board that no expenditure is to be undertaken on staff unless it is absolutely unavoidable, and the

detailed scheme can be most advantageously undertaken by a reference to the relevant clauses of the Bill, but before I invite hon. Members to consider those provisions with me, I should like to take this opportunity of saying a few words on the general question on the causes that have led to the summoning of this emergency meeting of Council, I need say nothing. They are only too well known to every Member of this House. Of the urgency of the need with which we are faced there is no need to say anything.

I would like to stress one point, Sir, one very important point, the conditions which unfortunately obtain in Kenya today are not confined to Kenya, they are of world wide application. They obtain equally in every agricultural community, and there is no Government to-day, Sir, which is not faced with the necessity of considering means of dealing with a similar problem, what is not considering them with the same care and anxious thought that Your Excellency and your advisers have given to the local Kenya problem during the last weeks of the year. Sir, that there is nothing wrong with agriculture in Kenya. In the legislation which is now before hon. Members there is nothing, and in the principles which underlie it there is nothing, like an attempt to bolster up an ailing and dying industry. Not only would any such attempt be futile, Sir, but in the interest of every section of the community it would be quite unjustifiable. On the contrary, the agricultural industries upon which the Colony primarily depends and upon which, so far as we can see, it always has primarily depended for its stability and progress, is seriously wounded. There is no one present here to-day, Sir, who does not look to the future of that industry with every anxiety.

It is, Sir, an industry which, and possibly a temporary one, has been so debilitated by the present needs of farmers that it is unable to produce enough to meet the present needs of the Colony. The drop in world prices and to the unduly high cost of foreign exchange, the production and the release of their products have exhausted existing sources of credit and are in consequence what we all hope are of a temporary nature only. It is in the real interest of the Colony that we should reorganise the land.

Now, Sir, I would ask hon. Members to follow me through a very brief exposition of the principles of the Bill. That, as I have already said, is the simplest way of putting the details of the scheme which we propose succinctly and lucidly before the Council.

The Bill sets up, Sir, by clause 3 of the Bill a Central Agricultural Advances Board, with an office here in Nairobi. The constitution of that Board, Sir, is three official and two

unofficial members. The funds at the disposal of the Board are public moneys of the Colony, and therefore, Sir, it is only right, as all hon. Members will agree, that there should on that Board be an official majority. I have Your Excellency's authority for stating that Mr. W. C. Mitchell has accepted nomination as an unofficial member of the Board, and that Mr. Woolryche Whitmore has also been invited to join the Board.

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Clause 5, Sir, deals with the necessary evil of staff. Unfortunately, additional staff will have to be employed, both at headquarters and in some of the districts, but it is a strict instruction to the Central Board that no expenditure is to be undertaken on staff unless it is absolutely unavoidable, and the

staff employed will be engaged on a month-to-month basis only. I am happy to say that for the very important post of Secretary to the Central Board the Board has secured the services of a suitable candidate who will be prepared to begin work at once.

Clause 6 deals with the very important question of funds. Hon. Members will see, by a reference to the Order of the Day, that the next item after this Bill has been disposed of is a resolution standing in the name of my hon. friend the Treasurer to place at the disposal of the Central Board a sum not exceeding £100,000. So far as this measure, Sir, will necessarily connote the provision of funds for it, I am confident that no hon. Member will in any way oppose the resolution when in due course it is moved.

Clause 7, Sir, brings us to questions of the method of application for funds and the relative functions of the local boards and the Central Board in relation to such applications. Comprehensive forms of application have been prepared; they will be ready for distribution very shortly. I hope either this afternoon or to-morrow morning. Applicants will be required to complete the forms in triplicate, one copy being retained by the applicant and the other two—one of them verified by statutory declaration—being sent to the chairman of the local board. The forms are lengthy and, at first sight, I am afraid they must appear rather intricate. I can only express the hope, Sir, that applicants, not only in their own interest but in those of the time of the Board, will read the forms carefully and be at pains to fill them up completely and accurately. When the application reaches the local board, it will be the duty of the local board, so far as they can, to verify the statements which are made in that application. They will, of course, have the assistance of the applicant's bank manager, who will, by the applicant as is provided in the form, be authorised to disclose all matters affecting the applicant's affairs which are within his knowledge.

They will also be able to hear the applicant, if he desires to appear before them, or to call upon the applicant to appear before them if they desire to question him. When that has been done, the local board will forward the application, with the board's comments, to the Central Board. No application will be dealt with by a local board; all of them will come, with such comments as the local boards see fit to make, to the Central Board.

The powers and duties of the Central Board are set out in sub-clause (2) of clause 7. They, and they alone, will decide whether an advance is to be made or not; whether it should take the form of a lump sum payment or of instalments; when

and in what manner an advance is to be repaid. But hon. Members will observe that advances are not limited for the purpose of keeping the land in cultivation; they may go further, and be made for the express purpose of the personal expenses of the applicant and his family.

There is one thing, Sir, which is not left to the discretion of the Central Board. It will not be within their power to fix the rate of interest on any advance; that is fixed by sub-clause (3) of clause 7 at eight per cent. Perhaps, at first sight, Sir, that rate may appear to be a little on the high side, but I am sure that hon. Members will agree that it is essential to fix the rate at a figure that will not interfere with the normal flow of credit facilities from banks or finance companies.

I would remind hon. Members that, as I have already said, the Board of Agriculture stressed the necessity of making this scheme to strengthen existing credit facilities and not to compete with them. I would draw the attention of hon. Members to the second Bill which appears on the Order of the Day—the Chattels Transfer Bill. I do so, Sir, not to discuss it here and interpret it, but merely to remind hon. Members that it is the hope, the confident hope, of Government, that that Bill will stimulate the flow of credit through normal credit channels in the Colony, and will be in aid of the facilities which will be made available by the enactment of the measure which we are now discussing.

So much, Sir, for the machinery for making applications, examining applications, and making the advances. We come, now, Sir, in clauses 8 to 11, to an equally important matter—the question of security. No hon. Member will question the statement that it is essential in a Colony such as this that Government should be in a position to get every available shred of security against the advances they make. We are using public moneys; we owe a duty to the taxpayer, and we must, so far as is humanly possible, be covered in making advances such as these.

Clause 8, as hon. Members will see, creates an automatic statutory charge, from the moment at which the advance is made, on the land, on the crops—including future crops—and on the live stock on that land, including the natural increase thereof. The machinery is quite simple, Sir. When an advance is sanctioned, the Secretary of the Board sends a notification in on a simple form—which hon. Members will find in the schedule to the Bill—to the Registrar of Titles, who registers that notification against the title affected. By that simple act the charge is automatically created. Similarly, Sir, when repayment of the advance, with all interest and charges incidental thereto, is made, notification is again sent to the

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Registrar of Titles, and again recorded against the title affected, and by that simple act the charge is extinguished. No priority of any sort over prior existing encumbrances is given to the advances under this Bill. They will take priority in the ordinary course, Sir, from the moment at which they are made. No charges or fees are payable in respect of either of the notifications to the Registrar of Titles. Hon. Members will appreciate, I think, Sir, that, unless we initiate some such scheme of automatic statutory charge as is embodied in these clauses, the consequences will be disastrous. We must get the best available security, and the Central Board, in the interests of the taxpayer—and in the absence of any such provision as this—would be forced to take either a mortgage deed on the land and the crops thereon or a bill of sale on the live stock and other chattels—and in very many cases, Sir, they would probably be forced to take both. The consequences would be prolonged searches, the preparation of mortgage deeds, the preparation of elaborate schedules to bills of sale, registration fees would mount up, time would pass—and delay is the one thing, Sir, which we are all most anxious to avoid at all costs in this matter. This is a matter of urgency, and delay would be fatal. The costs involved would, in many cases, be so great, Sir, as to render the advances practically useless. Furthermore, Sir, there is not much incentive to repay an advance when you know that the repayment entails the further costly formality of the preparation, either of a release and the registration thereof, with the contingent fees, or the preparation and registration of a memorandum of satisfaction. Under the provisions of this Bill, the out-of-pocket expenses of the applicant need not exceed the sum of Sh. 2 for a stamp on the declaration. At the moment he can put the advance in his pocket he can go, and it has cost him practically nothing except that Sh. 2.

When we come to clause 12, however, I can only express the hope that its assistance will never have to be invoked; but I think it is a necessary provision to make. Advances are made for specific purposes. They ought to be used for those purposes and those purposes alone, and I submit it is in the interests of the Colony which is footing the bill, that a farmer who deliberately misapplies an advance should suffer for so doing.

Clause 12, Sir—in 13 also introduces a novel and an important principle. It empowers the Board, when making an advance in respect of any crops, which are not at the time of application for an advance subject to contract, to declare that such crops are to be disposed of in a certain way. As a necessary corollary to that, Sir, the clause further provides that defiance of any such direction is a penal offence.

The subject of a wheat pool, Sir, has been exercising the minds of all of us during the last few weeks. Government, as at present advised, sees no necessity for legislation to establish such a pool before September next at the earliest, but I would point out to hon. Members that the provisions of sub-clause (1) of clause 13 will enable the Board, in its discretion, to go a long way towards establishing a pool, and, further, towards testing the advantages of a pool system. It will enable them to dispose, for instance, of wheat which is not the subject-matter of an existing contract through one sole buying and distributing agency. The experience gained from that will, I hope, be valuable, Sir. The provision, furthermore, is a reasonable one, and cannot but beneficially affect the farmer, as well as giving some additional security to the Board, which, as hon. Members will see from the provisions of the Bill, is empowered to direct that a part of the proceeds of any produce so disposed of may be paid to the Board in partial reduction of the amount of the advance outstanding. I would emphasise again, Sir, that no such direction may be given in respect of any crops which are, at the time of application for the advance, the subject-matter of any existing contract. If a farmer has already contracted to sell his crops, the produce of his crops is normally protected. Even the Board has no right to interfere with the sanctity of that contract.

Again, Sir, when we come to clause 14, I am afraid that is necessary. There are—and I am afraid there always will be—creditors who are essentially selfish. If advances are to be applied to the best possible purpose, the purpose for which they are asked, the purpose for which they are sanctioned, it is not unreasonable to provide that such advances are not to be liable for levy or judgment on any judgment deed.

Clauses 15 and 16 are stereotyped provisions, Sir, conferring the power of entry, which is extremely important if we are to verify the statements made by an applicant; and, again, as a corollary, making it a punishable offence to obstruct any legitimate entry.

And that, Sir, brings me to the end of the Bill. I am afraid I have rather unduly taxed both the patience and the indulgence of the House, but for that the importance of the subject must be my justification. But I would like to say in conclusion, Sir, just a few words more. In this measure, Sir, Government has put before hon. Members a conscientious attempt to deal with a particularly difficult and complex subject—to bring relief to all farmers, without discrimination of race or colour, who, from circumstances which we all know are beyond their control, find themselves in temporary straits and in need of temporary assistance. The provisions of that

scheme, Sir, have been embodied in this Bill. The measure has necessarily been very hastily drafted, because I would repeat, time has been an essential factor in the situation. For the imperfections of the measure, Sir, I take full responsibility, but I would implore hon. Members not to allow my linguistic and verbal shortcomings to impede the passage of a measure which every one of us in his heart of hearts believes is essential to the well-being of the Colony—a measure which I very confidently commend to every Member of this House.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that a Bill to authorise the Governor to make Advances to Farmers be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, I have been quite unable to discover any linguistic or verbal imperfections in this measure.

In supporting the second reading, Sir, first of all I have been asked to comment on the somewhat unusual procedure that has been adopted in connexion with the Bill. All reasonable folk, nevertheless, will agree that the Bill is a wise one, taken generally, and will undoubtedly be supported. I refer, Sir, to the fact that for the first time in the history of this Colony evidence has been taken *in camera*, in connexion with impending legislation, by a sub-committee of Executive Council, instead of the more usual form of appointing an *ad hoc* committee, the members of which were not bound by an oath of secrecy. Although I consider the procedure followed in this case to be as inadvisable as it is unusual, it may have been justified by the circumstances, and I do not cavil at the result which, in my opinion, is eminently satisfactory. I should like to take this opportunity to congratulate all of those who have been concerned in any way in the production of this Bill in the form in which it appears. This Bill, Sir, will undoubtedly exert an important and beneficial influence on agricultural production. I think, Sir, it is very important indeed to emphasise that the Bill is merely a contribution towards remedying a definite difficulty in the economic life of Kenya, which is first and foremost an agricultural country. The question of credit for farmers has occupied the attention of most governments and the majority of countries. Other countries, Sir, have other forms of agricultural credit; they have their land banks and many other forms of credit facilities which we are totally lacking at the moment in Kenya. I believe that the farmers of Kenya, now that the long and

expensive experimental process has passed, can hold their own with all other countries in the production of coffee, maize, sisal, timber, wheat, copra, dairy produce, tea and many other commodities; but, as Your Excellency announced a few days ago, the country is suffering—temporarily we believe—in common with the rest of the agricultural world, as the learned Mover mentioned—and I think it should be emphasised—from the heavy fall in world prices of primary products. The position has been seriously accentuated in Kenya by the abnormal weather conditions, which have delayed the delivery of local produce to overseas markets, with a consequent delay in credit facilities. The Agricultural Commission, which sat last year, recommended that the provision of further credit facilities on a safe and economic basis should be investigated. This Bill, Sir, appears to be very largely the result of such an investigation by Elected Members and the Board of Agricultural Development.

Now, Sir, I wish to make a few brief comments on the Bill itself, which I hope will be referred to a Select Committee.

My first reference, Sir, is to clause 3, the personnel of the Central Board, which comprises three official members and two unofficial members. I suggest, Sir, that alternatives should at the same time be appointed for the two unofficial members. We do regard unofficial representation on this Committee as of very great importance, and we consider that all possible steps should be taken to obviate the possibility, through sickness or absence from other causes, that the unofficial community will not be represented in this very important executive work.

As the learned Mover mentioned, Sir, clause 7 (3), providing 8 per cent rate of interest, does require some explanation, because there is no doubt about it a very large number of farmers who are very much up against it were hoping that some cheaper form of money would be provided; but I quite agree, Sir, with those bodies who have recommended that 8 per cent shall be the figure. Other reasons, additional to those mentioned by the hon. and learned Mover, are the importance of providing a reserve for loss from bad debts, for there will be some bad debts, and it is idle to pretend there will not be, and also to cover administration charges, because all the costs of administering this fund must be charged to the fund itself, and every cent of administrative cost will naturally represent so much less money in the relief of those whom the measure is intended to serve.

Now, Sir, clause 8 appears to me to be too grasping and comprehensive, inasmuch as however small the temporary loan may be, the borrower is asked to pledge the whole sum total

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of his available assets, both land and crops. I do suggest, Sir, for consideration by the Select Committee, which I trust will be appointed, that consideration will be given to the more reasonable, to my mind, suggestion that the security demanded should be more closely related to the amount of credit required, so that there will still be a margin if still additional arrangements are necessary at a later date.

Now, Sir, clause 12. I quite agree, Sir, that the farmer, like other people, should be taught that the way of the transgressor is hard, but it does seem unduly hard, Your Excellency, that the unfortunate offender under this Bill shall be sentenced to imprisonment without the option. I know it will be stated that he has no money to pay a fine, but, although his friends may not be prepared to finance his farming, they would probably send the hat round to keep him out of jail. We shall welcome an assurance from my learned *vis-à-vis* that that will be considered by the Select Committee, Sir, and it is just possible that imprisonment can be done away with if a fine is imposed.

In conclusion, Sir, we should welcome a statement from the hon. Treasurer or someone else as to the exact position of the Surplus Balances which are to be raided to the extent of £100,000. We do think, Sir, that there is a grave danger that our reserves may be

HIS EXCELLENCY: Order, order. The hon. Member must raise that point on the money resolution.

THE HON. CONWAY HARVEY: Very well, Sir; that was my concluding remark.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I support this Bill, but, Sir, the suggestion that this Bill provides only for a temporary disability cannot be sustained. This Bill inaugurates, I hope, a policy of furnishing intermediate credit on a permanent basis, and not merely to meet a temporary situation, because the need of intermediate credits in this country is a permanent one. The greatest disability that we have recognised is the limited approval of Government for this measure, because Government's approval of this measure must be gauged by the monetary provision, and, Sir, we are told that the monetary provision is to be £100,000. I feel, Sir, that we should ask for, at this stage, half a million pounds; the source of that half-million could be discussed at a later stage no doubt, Sir, and we could decide where the money should come from, but the sum should be half a million.

HIS EXCELLENCY: I hope the hon. and gallant Member will observe my ruling and reserve a discussion of the financial side of the scheme to the money resolution.

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir; I suggested it should be done at a later date.

HIS EXCELLENCY: The hon. and gallant Member is, nevertheless, continuing his discussion.

CAPT. THE HON. E. M. V. KENEALY: In regard to the activities of the Central Board, Sir, I feel that we should have a statement from Government in regard to the instructions to that body, because presumably that body is going to have instructions. I am concerned with the home-maker and resident farmer in this country; I trust that he will be the individual who will receive first consideration, and that companies, possibly with alien shareholders, will receive later and possibly less sympathetic consideration.

I feel, also, that it is essential that we should know that instructions to this Central Board will be to give small amounts to many people to see them through, rather than large amounts to a few people. That, Sir, is an essential element in the construction of this measure, and I trust that Government will agree that its intentions are to give such instructions to the Central Board.

In regard to the security for these advances, I agree with the hon. Member for the Lake when he said that in most cases the sum could be adequately secured on the crop or on the stock, and it is entirely unnecessary, and therefore entirely improper, to provide for its security against the land.

Since, in the resolution dealing with the suspension of Standing Rules and Orders, we were told that Government intended to pass or introduce a Chattels Mortgage Bill, I feel, Sir, that I am in order—I trust I am, Sir—in commenting on the Chattels Mortgage Bill at this stage in relationship to these agricultural advances.

HIS EXCELLENCY: I hope the hon. and gallant Member will reserve his comments on that Bill until the second reading of the Bill which will come on at a later stage this morning.

CAPT. THE HON. E. M. V. KENEALY: As I cannot express it in that way, I will say this: that it is essential that we should retain the Agricultural Advances Bill entirely separate and on an entirely different basis from any other alternative form of finance for the farmer, because if we confuse this

of his available assets, both land and crops. I do suggest, Sir, for consideration by the Select Committee, which I trust will be appointed, that consideration will be given to the more reasonable, to my mind, suggestion that the security demanded should be more closely related to the amount of credit required, so that there will still be a margin if still additional arrangements are necessary at a later date.

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emergency legislation with the necessity for an established and a permanent intermediate credit scheme, then it will mean we shall not have enough money to provide for this. The Government will say that money can be found from other sources, from other funds, and this particular credit, this particular advance, will be starved. That is my fear. It is a real one.

I support the measure on the whole, Sir, but in Committee there are several minor points that I think are deserving of consideration. There is no definite statement.

HIS EXCELLENCY: I hope the hon. and gallant Member will reserve Committee points for the Committee stage.

CAPT. THE HON. E. M. V. KENRALY: I am dealing now with general principles. One is that the purposes for which this money is to be advanced to the individual have not been stated. I feel that there should be some statement of these purposes.

HIS EXCELLENCY: Those are not principles; they are Committee points. I hope the hon. and gallant Member will confine himself to principles.

CAPT. THE HON. E. M. V. KENRALY: One principle, Sir, dealing with the utilisation of public money, is the period of time to be occupied during which that money can be so utilised. I think there should be a limit stated, or a limit implied, during which advances under this scheme are applicable.

I support the measure.

THE HON. J. O'SHEA: Your Excellency, I share in the general approval of the introduction of this measure, the necessity for which has been so admirably outlined by the hon. the mover, but I must say also that I support the view of the hon. Member on my left (the hon. Member for Kenya) when he says that although it has been introduced to meet an emergency, it should not be regarded as a temporary measure. Whether we like it or not, Sir, I think we must recognise that in the present state of the agricultural industry throughout the world it has become necessary for the State to more actively participate in the working of that industry.

CAPT. THE HON. E. M. V. KENRALY: Hear, hear.

THE HON. T. J. O'SHEA: Not so many years ago it would have been regarded as a great extension of governmental principles to take the action we are taking to-day,

but I think people looking to the future now recognise that in a pre-eminently agricultural country it has become necessary for the State to take a more active part in the promotion of that industry's welfare, and I take a deep interest in the introduction of this measure because I regard it as the first of many steps in the participation of the State in the agricultural industry of the future. So, Sir, from that point of view, I regard it rather seriously.

I am immensely pleased to see that the Government has recognised the necessity of elasticity in the constitution of the local advisory bodies, because I believe that on the functioning of those local bodies will depend very largely indeed the success of the scheme, and it behoves Government therefore to consult them with the greatest possible care and give them every possible assistance in the performance of their arduous work.

In clause 7 the rate of interest is maintained as placed at the present high rate in this country of 8 per cent. Now, Sir, there are many who think that this opportunity might have been availed of to make some effort to bring down the rate of interest in this country, but I think it will be recognised on reflection that the circumstances under which this Bill is being introduced make it practically impossible to do anything in that way, and this is certainly not the kind of measure that should be employed towards that end. Credit is a very sensitive thing indeed and it would be a grave error I believe on the part of Government to make any effort in this measure to interfere with the prevailing rate of interest. That does not mean, however, Sir, that it is not possible for Government to do something in the near future towards that end, and when it comes to the passing of a Bill which I regard as a corollary to this one, I do hope that some effort will be made.

Clause 13, Sir, dealing with the machinery for securing these advances, is admirable in its simplicity. Might I congratulate the framers of the Bill on the very simple and very inexpensive provisions they have made; but I would support the view already expressed on this side of the House that it is very far-reaching and is unnecessarily embracive of practically all that the average farmer in this country possesses; and it will have to be modified to permit of some less extensive security being given for comparatively small advances. Otherwise, instead of this measure being a real help to a large number of farmers, it will be a burden upon them, because I believe a good many will have to avail themselves of its provisions during the course of the next few months, and, if they are to tie up their property in the way contemplated in the Bill, they will have difficulty in securing further credit later on in the year.

emergency legislation with the necessity for an established and a permanent intermediate credit scheme, then it will mean we shall not have enough money to provide for this. The Government will say that money can be found from other sources, from other funds, and this particular credit, this particular advance, will be starved. That is my fear. It is a real one.

I support the measure on the whole, Sir, but in Committee there are several minor points that I think are deserving of consideration. There is no definite statement.

HIS EXCELLENCY: I hope the hon. and gallant Member will reserve Committee points for the Committee stage.

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Clause 14 makes a very necessary provision in protecting the advances made against court attachments in satisfaction of other debts. That, I agree, Sir, is very necessary indeed, but I do hope that the Central Board will be at all times acutely aware of the necessity of not sanctioning advances to people who have not got their affairs in such order as will protect them against court attachments. To put it more concretely, Sir, I have heard it said that Government, under this scheme, merely contemplates the advancing of small sums of money to people to enable them to cover their living expenses and the costs of running their farms until the next harvest. Now, Sir, if that is Government's idea, it shows a lamentable misunderstanding of the position and a complete lack of knowledge of the position of the average farmer in this country. It will, I think, be absolutely necessary in the giving of these advantages to take into consideration a man's present unsecured debts, and unless that is done, and unless that is contemplated, then the scheme will have a very limited scope of usefulness indeed. I am not suggesting that the scheme should contemplate the covering of the average farmer's outstanding debts but I would emphasize that, unless advances are limited to those people who are successful in making arrangements with their unsecured creditors, there will be great danger to the advances which will otherwise be made. I have great pleasure indeed, Your Excellency, in supporting this motion.

THE HON. W. K. TUCKER: Your Excellency, my general view of this Bill can best be expressed by seizing on to a phrase of the hon. the Attorney General when he claimed that this Bill was a conscientious attempt. I venture to suggest, Sir, that in the view of the people I represent it is a conscientious achievement.

The first point I want to make, Sir, has reference to the vagueness of the principal parts of the Bill, and I desire to say, Sir, that I regard it as commendable vagueness, because I believe that the Central Board will be able to operate all the better if they are not tied down in the directions in which they can act. That vagueness, however, Sir, does seem to require that at least one or two general views of the community should be expressed at this stage; and the first one—and I am speaking now from the point of view of a great organisation with which I am associated—the great feeling they have is that the spirit should be recognised, the spirit which has actuated the country in supporting this legislation, a determination to keep the men on the land who are on that land, in the belief that the land thoroughly justifies its cultivation and that we shall never get better men if once we lose the present ones.

30th May, 1930

CAPT. THE HON. E. M. V. KENNELLY: Hear, hear.

COL. THE HON. W. K. TUCKER: Then, arising out of that vagueness again, Sir, the people whom I represent, the commercial people in Nairobi, do desire it stated that in the course of their operations they take it for granted that this Central Board will give equal consideration to trade debts that exist equally with the money for other debts of other characters and natures in this country. They merely desire it stated in the firm belief, Sir, that they will get fairness.

That is all I wish to say about the Bill, as such, Sir, because I know other friends have other points to raise. But I want to say one word in regard to the hon. the Attorney General's reference to the wheat pool, because the construction he placed upon such of the evidence as I have heard is not precisely the view taken in the country. That is to say, he says that there is no object in dealing with this until September; or rather, that is what I gathered, Sir, although I quite agree that he followed it up by saying that in this very Bill certain factors will necessarily come under review. The feeling of the people mainly concerned with this wheat pool, Sir—as I understand it—is that it is impossible to apply any legislation, or rules or orders or anything else, until September, having regard to the age of the crop, and the position and the period of the seasonal trade. But my friends do take the view, Sir, that if an immediate—if an early statement is not made by Government as to its intentions next September it will very greatly affect the situation between now and September. In other words, the people most affected, Sir, will have an opportunity of educating themselves and others as to what is going to happen in September, which will, to a very considerable extent, remedy our difficulties to-day and the difficulties we are going to experience between now and that time.

One final word, Sir. During these few days, when the wheat pool has been under so much discussion, we have been led to hope that the unlimited importation of foreign flour at this stage might have had some consideration during this emergency session of Council. I am not going to say anything more about it, Sir, other than make the observation, because I am quite certain that throughout the country there is a very strong desire that that issue should have place and a strong belief that we are going to say something about it at this present session.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I welcome this Bill, and, Sir, I welcome it particularly as showing the sympathetic attitude of the Government of

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LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I welcome this Bill, and, Sir, I welcome it particularly as showing the sympathetic attitude of the Government of

this country towards our basic industry—agriculture—and as showing that the Government appreciates that it is all-important for the welfare of this country to keep the people on the land and to keep the production going steadily ahead. If I may do so, Sir, I should like to pay a tribute to Your Excellency in that you set the ball rolling in the statement you made in your speech early in April.

The chief cause of some measure of this sort is the great fall in the prices of all produce. This measure is to use the country's money, public money, for this purpose; it is therefore, Sir, very necessary that we should do everything which is possible to ensure that the money so expended shall be profitably expended and that the country shall not lose through bad debts. To do this, Sir, it is very necessary that all industries should get down to their working costs and should reduce their costs in any way they can, so that the articles they are producing may be sold at a profit. At the present moment, Sir, two of our biggest industries—sisal and coffee—have been very hardly hit by the great reduction in prices. In the past, up till now, there has been a big margin of profit and quite rightly, they have had to pay very high freights on the Railway. Now, Sir, take sisal at £29 a ton—I am informed by a representative of practical sisal growers that at the moment they cannot sell their sisal at all, and that when they do sell it if it is at that price, it will not be a paying price. To get their sisal home it costs them about a quarter of the price they are likely to get now, and it would be a great help to both those industries if the Railway Council could see its way temporarily anyhow, to reducing the freights on the Railway. I do not know that there is any question that the Railway make big freights out of the transport of these articles because up to date they have been over-valued; the same applies to both these things. That I hold out in the hope that it may be gone into.

The other question is the question of labour costs. In the cost of production of these two things the labour costs about a third. Both the coffee planters and the sisal growers have found that they have had to get down to it and they have had to reduce their labour costs, and that has necessitated a slight reduction in the wages paid to labour, and they hope that the two big labour employing Departments—the Public Works Department and the Railway—will, in any way they can, co-operate with them and try and not let the wage bill keep soaring up, because those two Departments do really set the standard of what the wages should be.

Those are practical things which all help to the actual success of any such scheme.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I am very pleased to be able to approve of the principle of the measure now before the House, and I should also like to take this opportunity of congratulating Government on the sympathetic manner in which they have for many weeks past dealt with this matter which has been brought to a head to-day. I remember some three months ago I produced a microbe, but I did not pay sufficient attention to its nurture and it did not pass the Government experts; but it has grown and been nurtured, both by the assistance of Elected Members and by Your Excellency, and it will be put into a practical form in the next twenty-four hours.

There are two items of what I consider principle that I should like to draw attention to.

Clause 3 (c): I do not think it is fair on the Director of Agriculture to put him on to this Board, in other words, add more extraneous duties to those he is already performing. Of his ability to perform this duty nobody has any doubt, but I do suggest, in view of the recommendations that have been passed in other directions and of the general opinion that is held that fifty per cent of time should be put in by the Director of Agriculture on the primary industry of this Colony, it is not fair either to the industry or to the Director.

In Clause 8, Sir, it is laid down, as I read it, that when a loan is advanced by Government it not only covers the land but it covers the growing crops and future crops. I maintain that is a matter of principle and I hope it will be altered in Committee, and that advances will be restricted to land and not spread to the heading of crops. I would point out that it is going to stultify to an extent the Chattels Transfer Bill, inasmuch as it is a handicap on the farmer, because under this Bill he will pay 8 per cent for money advanced by Government, and I maintain, with all sincerity and experience, that the farmer will get his money on crops at less than 8 per cent. That could be altered, as I suggest, at a later stage in Committee.

There are several other points, Sir, but I am perfectly certain they can be adequately dealt with on the next stage of this Bill.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I wish to support this Bill wholeheartedly and to congratulate Government on having introduced it. I understand from this that this is a purely relief measure to enable a number of farmers to obtain funds to carry on with for a comparatively short period of time. The problem of agriculture in this country, however, depends largely not upon emergency measures of this nature but on the availability of money

at a reasonably low rate of interest, and spread over a long period. The loan of such money by Government would naturally be on first class security, and Government must be prepared to give the lowest rate of interest which would cover its liabilities in respect of protection and repayment. In this connection, I think the experience of France and Italy is extraordinarily instructive—the way they have helped their agricultural people. Had agriculture been treated in a similar way to the industries of commerce, trade, banking, etc.—all these things are able to raise loans—I do not think it would have been in the ~~present~~ ^{past} condition it is to-day. Agriculture finds itself to-day at grips with conditions entirely different from those of earlier days, and in such a struggle it can have no prospect of success except by arming itself accordingly in the fashion of the day. We want machinery and many other things our fathers never dreamt of; we want fertilisers and more potent ones. It is a recognised fact that the poorest land if properly cultivated will turn into one of the most productive ones. This, of course, depends almost wholly on agriculture, and I believe that the only Colony in the British Empire that does so. We have no industries, we have no industrial towns—our population therefore must stay on the land. Every help therefore must be given to agriculture, and I sincerely hope that the present measure is only a preliminary one to giving facilities on a large scale to enable farmers to purchase machinery, fertilisers, etc., by which means a far greater return would be received from the land and far greater security obtained for the repayment of loans.

I therefore wish to support the motion.

THE HON. A. H. MALIK: Your Excellency, I appreciate the general principles of the Bill. My only grouse is Clause 3—the constitution of the Board. A considerable Indian farming community exists in the country, and I think it is unfair not to provide for an Indian member of a board of this nature. Looking through the statement that was laid this morning in the Table, giving out the return of land grants for the last quarter, you will find, Your Excellency, if you turn to Table 4, the farms sold up till March, 1930, that Indians bought 2,100 acres at a total price of £26,000, and that European farmers bought 28,268 acres at a price of £33,000. That means, Sir, that the Indian has paid 8s. 250 average per acre and the European 8s. 11. If those are the sort of prices paid, Sir, by the two communities, I think, Sir, although the Indian community may have considerably smaller holdings in the Colony, the value of such holdings is, according to these figures, about twenty times that of European holders. I do consider, Sir, and request the Government to consider this clause and to alter it in such a way as to retain the official majority, and make it compulsory that there shall be

an Indian member also besides the two European members. It may be feared that no Indian member may be forthcoming to sit on this Board, but in the recent appointment of the Agricultural Board, as a result of whose deliberations is this Bill, Your Excellency appointed an Indian to that Board; I understand that he has attended all the meetings, giving full attendance, and I know personally, Sir, he is very enthusiastic about it and he has no intention whatever not to co-operate or not to sit on that Board. I can assure the Government that if an Indian member is appointed also to such a Board, the Indian member thus appointed will be giving his full time and take a proper interest.

I trust, Your Excellency, that the Government and the official Members will see the importance of the point and its reasonableness and, when I move an amendment to clause 3 (d), that they will support me.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I had not intended to speak. I support the Bill, but I should like to point out to the last speaker that as the Indians, as a community, have got such an enormous amount of money that they can afford to pay a lot more than the Europeans, therefore they will not want a seat on the Board because they do not require assistance.

THE HON. A. H. MALIK: On a point of order, Your Excellency, it is not that; it is because the amount of land available for the Indian community is so limited that the demand is very great, and they have got to pay much higher prices.

THE HON. THE ATTORNEY GENERAL: Your Excellency, there are a few points on which I welcome this opportunity of replying.

Firstly, Your Excellency, I would say that the opening gambit of my hon. *vis-à-vis* took me completely by surprise. I hope that the hon. Member now realises that he is rather hoist with his own petard, because I would remind him, Sir, that he himself was a member of this star-chamber Committee which dealt in its early stages with this matter.

THE HON. CONWAY HARVEY: On a point of explanation, Your Excellency, I prefaced my remarks by saying, "I have been asked to state."

THE HON. THE ATTORNEY GENERAL: I accept the explanation, Sir, but I want to stress this point; it is just the element of secrecy that has made the deliberations of that Committee of any practical use whatever. A great deal of information

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has to be garnered on matters of this sort from people who will not speak openly and without reserve unless they are assured that what they are going to say will be treated in confidence. It is the fact of the knowledge of very witness who appeared before that Committee, every member of which was bound by an oath of secrecy, that enabled the Committee with certitude and assurance to rely on the evidence which was given before them. Had Your Excellency appointed an open Committee, then I am afraid that, however able the personnel of that Committee they would, perforce, in the very nature of things, not have been able to get as useful and valuable information in as short a time as the sub-committee of Executive Council did manage to procure.

Now, Sir, I turn to the vexed question of clause 8, the question of security.

On that clause, as on every other one—the details of that clause—naturally the Government has an open mind, but I would remind hon. Members of two factors in the case. There is firstly, the prime necessity of getting security, and there is, secondly, the equally important factor that advances must be made at as small a cost to the applicant as possible. Now, Sir, we are dealing with all classes of people. There may be an applicant who has a valuable farm, good crops, with a considerable amount of stock on it, and who is not mortgaged. In such a case it does, I willingly concede, seem rather ridiculous to take a charge on the whole of that; but, on the other hand, Sir, there is the man who has a first, and possibly a second mortgage on his farm, who has sold his crops forward, or got advances on them, and who has little or nothing left to offer in the way of security. In that case, even if the security on the land takes the form of a third mortgage, it is better that Government should take that rather than take nothing at all. If we attempt to differentiate, Sir, sooner or later we shall find a case which does not fall within either of the categories we have provided for. It does not really matter, Sir, whether a first mortgage is given as security for an advance such as this, and that that first mortgage goes completely over crops and future crops, and chattel security over the stock. After all, the great criterion is the extent to which the farmer is encumbered, and it will not, I submit, interfere very severely with him when he is getting further advances from other sources if he says, "I have got something in the nature of a first mortgage of only a couple of hundred pounds." It is for the reason that we want to get things done as speedily as possible, as cheaply as possible, and at the same time get all possible security, that this embracing and sweeping security has been made; but after hearing this explanation, if hon. Members do wish to alter it, then an opportunity will be given at a later stage.

30th May, 1930

We do not propose to put farmers necessarily into prison. The Penal Code contains a provision that wherever, in any section of any law, the punishment of imprisonment is imposed, there may be imposed in lieu of imprisonment a fine, and I have no doubt this provision will be taken advantage of by every court, if a case is brought into court, and the offence will be punished by means of a fine.

The hon. Member for West Kenya, Sir, may rest assured that the points he has raised have been fully considered and fully dealt with. Instructions exactly on the lines he has indicated have been communicated to the Central Board. The same remark applies, Sir, to the hon. Member for Nairobi North. All forms of debt will be treated alike—preference will not be given to any other class of debtor at the expense of the commercial creditor.

The hon. Member for Plateau South, Sir, expressed the hope that the Central Board, in dealing with applications, will give preference to those who have put their house in order against their unsecured creditors. That they most assuredly will do, Sir; that we have contemplated from the very moment that the idea of such a Board was first mooted, and that is provided for in clause 14. Whatever may be the state of an applicant at the time he gets his first advance—assuming he gets it in the form of a monthly sum—we must be in a position to make his fifth, sixth, seventh and nth instalment as secure as we did his first. The provision can do no harm, Sir, so far as the Board is concerned, and there is no likelihood we hope, of its having to be used.

The hon. the Indian Member has made a suggestion that an Indian member should be added to the Board. I would suggest to him, Sir, in all seriousness, that if there is any necessity for Indian advice in this matter, that necessity can only arise in the event of Indians making applications. The proper place for such a member is the local board, where, in the event of such a member being required he can be added to it—someone who knows the personal affairs and the financial condition of the applicant. Such a member on the Central Board would be able to do no good at all. The provisions of the Bill are sufficiently elastic to enable such an appointment to be made in any province.

In conclusion, I am authorised by Your Excellency, to state, in reply to the point raised by the hon. Member for Nairobi North, that a full statement of the Government's intentions with regard to the wheat pool will be made at an early date.

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In conclusion, I am authorised by Your Excellency to state, in reply to the point raised by the hon. Member for Nairobi North, that a full statement of the Government's intentions with regard to the wheat pool will be made at an early date.

HIS EXCELLENCY The question is that the Agricultural Advances Bill be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to authorise the Governor to make Advances to Farmers be referred to a Select Committee of this Council, consisting of—

The Hon. The Treasurer,

The Hon. The Commissioner for Local Government, Lands and Settlement,

The Hon. the Director of Agriculture,

The Hon. Member for the Rift Valley,

The Hon. Member for West Kenya,

The Hon. Member for Nairobi North,

The Hon. Member for Kikuyu,

The Hon. Member for Plateau North,

The Hon. Member for the Lake

and myself as Chairman.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

The question was put and carried.

HIS EXCELLENCY I think, as all the legislation on the Order Paper is urgent hon. Members will all of them consent to go on with the business this morning without the usual interval. If that is so, I call upon the hon. the Treasurer to move the motion standing in his name.

MOTIONS

ALLOCATION OF FUNDS FOR AGRICULTURAL ADVANCES

THE HON. THE TREASURER MR. H. H. RUSHTON: Your Excellency, I beg to move

That this Council approves of the appropriation of a sum of £100,000 for the purpose of making advances and meeting expenses under the Agricultural Advances Ordinance, 1930, such sum to be a charge against the Surplus Balances of the Colony.

The figure of £100,000, Sir, I ought to say, is more or less a token figure, and we have been able to form no very definite idea of what amount will be required, but on the

information before the sub-committee of Executive Council it was thought that £100,000 would be sufficient to carry on with until the end of the year.

The proposal is to take the money from Surplus Balances, as we have no other funds, and it is, I think, fortunate that the Colony has such balances with which to meet an emergency such as this. I think, Sir, that it is perfectly legitimate that the funds to meet this emergency should be taken from Surplus Balances.

A question was asked whether I would make a statement as to the position of the Colony's Surplus Balances. I have just got out an estimate of the probable position at the end of the year, and I estimate that at the end of the year the Surplus Balances will amount to about £598,000, but the whole of that sum will not be available. Working capital is required for cash and unallocated stores. The cash requirements in financing district offices and the Treasury amount to £100,000, and for unallocated stores, £110,000. Then it has been agreed that the Government Servants' Housing Scheme should be financed from Surplus Balances. The sum provided at present for that purpose is about £44,000, but I estimate that by the end of next year probably £100,000 will be needed there. Those funds are, of course, recoverable. Then again, the sum of £25,000 has been set apart for short-term advances to local authorities. That also is recoverable. Now we want £100,000 for these agricultural credits, and that will leave an unapplied amount of £219,000.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is—

That this Council approves of the appropriation of a sum of £100,000 for the purpose of making advances and meeting expenses under the Agricultural Advances Ordinance, 1930, such sum to be a charge against the Surplus Balances of the Colony.

The question was put and carried.

FLOOD DAMAGE TO ROADS AND BRIDGES.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move—

That this Council approves the expenditure of a sum of £40,000 upon the purpose specified in the Schedule hereto as a charge against Surplus Balances of the Colony.

HIS EXCELLENCY. The question is that the Agricultural Advances Bill be read a second time.

The question was put and carried.

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and himself as Chairman.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

The question was put and carried.

HIS EXCELLENCY. I think, as all the legislation on the Order Paper is urgent, hon. Members will all of them consent to proceed with the business this morning without the usual interval. If that is so, I call upon the hon. the Treasurer to move the motion standing in his name.

MOTION

APPROPRIATION OF FUNDS FOR AGRICULTURAL ADVANCES.

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THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

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The question was put and carried.

FLOOD DAMAGE TO ROADS AND BRIDGES.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move:—

That this Council approves the expenditure of a sum of £40,000 upon the purpose specified in the Schedule hereto as a charge against Surplus Balances of the Colony.

Schedule.

Repairing flood damage to roads and bridges £40,000."

I feel, Sir, that I need not detain the Council long in asking their support to this motion. Hon. Members are more well-aware than I am, from personal experience, the extent of the damage which has been done by the recent abnormal rains. As soon as the position could at all be ascertained a memorandum was forwarded to the Central Roads Board by the Road Engineer and considered, and as a result of that, Sir, we have asked that this sum of £40,000 should be set aside for very definite and emergency purposes. Time has been too short for an accurate estimate to be obtained of the actual requirement to be met from this vote. In order to be sure that no delay was caused through lack of funds, the Director of Public Works authorised his officers immediately to carry out all necessary and urgent work from his recurrent votes, and that has been done. This money, when voted, will be available therefore, to supplement ordinary recurrent expenditure which has been utilised in this emergency manner. Up to date—the Director who is seconding this motion, Sir, will be able to give more detailed information than I can if the House desires it—but, up to date, it is estimated that for immediate allocation the sum of some £15,580 is required to meet the cost of work which has actually been done to repair flood damage. As the position is more fully known, the expenditure will be carefully watched, and I can assure hon. Members that no money will be spent on work which is not really urgently required.

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to second the motion.

THE HON. CONWAY HARVEY: Your Excellency, I do consider that we should be furnished with some more details than we have been given by the hon. the mover. I think Government is wise, Sir, in anticipating still further demands for repairing flood damage than have so far come in, but I do think, Sir, that this is an opportune moment for the hon. the Director of Public Works to give the country some indication of the general road policy of the Colony. It is a long time, Sir, since

HIS EXCELLENCY: I am afraid I cannot allow the Director of Public Works to make a statement of that kind on this resolution.

THE HON. CONWAY HARVEY: Well, Sir, I consider myself—and a great many taxpayers are associated with me in the view—that, although the road system of the Colony has very

greatly improved during recent years as a result of the enormous sums of money which have been voted by this House, that money is not invariably spent to the best advantage. If it was so spent, these constant applications for repairs such as this would not come in so frequently. I do think, Sir, it is very important indeed that the whole method of expenditure on roads and the whole system should be entirely overhauled.

It is high time, Sir, that we had a definite policy which embraces certain bad sections of road being put into all-weather condition, and that would obviate a constant drain on the finances of the Colony for annual repairs. Once a permanent job is made of a road, the cost of maintenance is almost trifling. I suggest, Sir, that the work on which this money is spent should be properly maintained; that is a very definite defect in the road system of this Colony—the complete absence of permanent maintenance gangs on the roads. Enormous sums of capital are expended periodically in the construction of really good earth roads, but no arrangements whatever are made, in the majority of cases, for the maintenance of those roads.

HIS EXCELLENCY: Order, order. The hon. Member is really travelling very far outside the boundaries of this resolution. There are plenty of opportunities of discussing road policy questions. Legislative Council will be meeting again soon, and he can move a motion at any time. The debate on this resolution is confined to the terms of the resolution, and that is the special emergency vote for repairing flood damage to roads and bridges.

THE HON. CONWAY HARVEY: In all the circumstances, Your Excellency, I do support the motion.

THE HON. T. J. O'SHEA: Your Excellency, in view of the circumstances, I feel compelled to oppose the motion. The circumstances to which I particularly refer, Your Excellency, are that we are asked to give Government a comparatively large sum of money without being told in any detail whatsoever how it is going to be expended. I quite appreciate that the abnormal rains we have had necessitate Government's making some further demand upon the finances of the Colony to meet the damage done, but I think, Sir, it is only due to this House, and to the public who eventually have to pay for the repair of this damage, that some statement should be put forward by the Government as to how the money is going to be spent.

In the first place, I should like to ask whether in this sum of £40,000 there is any proportion for expenditure by the district councils, and, if so, how much. I think it rather

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In the first place, I should like to ask whether in this sum of £40,000 there is any proportion for expenditure by the district councils, and, if so, how much. I think it rather

surprising, Sir, that that very important matter was entirely overlooked by the hon. Mover, and I think it is very regrettable indeed that no statement was laid before the House to give them an opportunity of considering the matter.

I appreciate that the occasion is not one on which we should raise the question of the road policy of the country, but, in extenuation of my attitude upon this vote, may I say that there is at the present time an enormous amount of criticism of the cost of our road construction and our road maintenance, and, that being the case, it is all the more necessary that Members on this side of the House should be given sufficient information to satisfy them that such money as they do vote will be spent in a reasonably economic and efficient manner.

I reserve the right to vote for or against the motion according to such information as may be laid before the House.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I hope Government will reconsider its decision in regard to the amount of information that it intends to give to the House. After all, Sir, this monetary provision which is suggested is based upon the recommendations of the Central Roads Board, and that Board had laid before it certain information, and acted on that information it made certain recommendations. Well, Sir, I feel that this House is entitled to have the information on which that Central Roads Board gave its advice. Your Excellency in this matter, of which this particular sum is the outcome, I feel that we on this side, although we may in the past have been members of that Board, and may have agreed to that allocation in the beginning, yet Government, in introducing this measure in this particular manner, has prevented our knowing whether our advice is being accepted. We do not know what proportions, as my hon. friend on the right (the hon. Member for Plateau South) said, are to be devoted towards ameliorating the conditions under the control of local authorities, and what proportions are to be devoted towards the maintenance or repairing of roads directly under departmental control. I feel that this House is entitled to that information, and I trust, Your Excellency, you will agree to let us have that information.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I welcome this motion, but when the hon. the Colonial Secretary states that the demand for the money is due to flood conditions, I beg to differ. I suggest, Sir, that if our original vote had not been cut, a large amount of the work we are

now called upon to repair would not have been necessary. It follows that if work half complete is suspended you are asking for trouble when the rain comes.

Your Excellency, I would ask Government to consider the possibility of providing out of this money free, or at a very low rate, road material at given points, such as stations, depots and quarries, to be handed over to the district councils, who would make every effort to cart that material free of charge, or very nearly so, by enticing settlers to come forward with their lorries and so on, and take this material to bad places on the roads; ultimately you might get all-weather roads with very little expense to Government.

Your Excellency, I trust the necessity for providing this money will be appreciated by those who cut our original vote. It merely emphasises the necessity for trusting the man on the spot. If they had been compelled to use our roads, I am convinced, Sir, that they would have felt exactly as I have felt many times. I would have strangled them with their own red tape, and put them into the holes that I fell into.

THE HON. E. POWYS COBB: Your Excellency, I recognise that damage has been done to roads by the recent floods, and I recognise that roads are so important that naturally I am inclined to vote in favour of this motion, but I am sorry to see the cavalier manner in which the hon. the Colonial Secretary has moved this motion, and the entire lack of any information as to the manner in which this money is going to be spent. The only piece of information he has given is that £15,000 has already been spent. I am very sorry, but I do not think it is a fair way to treat Members of this House to expect them to accept a vote in favour of a motion to spend £40,000 of public money without a detailed and proper explanation and an opportunity to consider that explanation. In this particular case, I think there is the fact which does uphold the main argument I am using, and that is that, in my humble opinion, if the roads had been constructed according to ordinary engineering standards that roads are generally made to in other countries, 90 per cent of the damage would not have taken place. So, Sir, unless more information can be forthcoming, I intend to vote against this motion.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, with the previous speakers, I regret that a schedule has not been supplied with this motion.

I would like to take the opportunity of congratulating the Public Works Department or the Road Engineer on the splendid improvement in roads in general. I do something like 1,500 miles a month more or less consistently, and I know

something about roads. I can say, Sir, that from Kitale to the top of the Escarpment, notwithstanding the excessive rains we have had, the roads have stood up wonderfully well. But I should like to ask for information as to whether any of this £40,000 is to be spent between the top of the Escarpment and Lignua, which, to my mind, is one of the most wretched stretches of road in the whole Colony. It is one of the biggest spring-breakers and sources of income to the garages in Nairobi of anything I can think of.

I am, in principle, in favour of money and more money being spent on roads, but I should like some details with regard to how this money that is asked for is to be spent.

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS: Your Excellency, I must apologise to the House for absence of details. I knew on Monday that this meeting of Council was to be called, but provisional details had been previously submitted to the Central Roads Board. As soon as I knew that the meeting of this Council was to be held, I telegraphed to all the executive engineers to send me at once full information so far as possible. I did not receive the whole of this information until yesterday afternoon, and so it has been rather short notice to provide a detailed statement. I can, however, Your Excellency, give the House certain information regarding the extent of the general damage throughout the country.

Taking in the first case, the Mombasa Division I refer to the Public Works Department Division—the damage to roads in the actual Coast area has been negligible. They have not had the same amount of rain in that neighbourhood.

When we get up to Samburu and the district west of Samburu up to Voi, the rains have been very considerable and considerable damage has taken place. The Mombasa-Voi Road was severely damaged in the neighbourhood of Mackinnon Road, but the most serious damage in this neighbourhood occurred in the neighbourhood of Voi. As is well known, the Railway also suffered serious damage at Voi. On the Voi-Taveta Road, the suspension bridge over the Voi River was completely washed away. Floods occurred there on two occasions, but it has now been possible to erect a temporary wooden bridge of 40 ft. span over the Voi River on the Voi-Taveta Road, and to repair other sections of the road, and other bridges, and the road is now open.

With regard to the Nairobi Division, there is a fairly regular report of flood and impassable roads. I think perhaps the worst road in this division is that from Ngong to Kajjado; the country there appears to have been very much waterlogged and it has been very difficult to do anything very much.

THE HON. T. J. O'SHEA: On a point of order, Your Excellency, the hon. Member's statement is entirely unintelligible to me unless he makes it clear when, in speaking about divisions, he includes the district roads in the division outside the control of the Public Works Department.

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS: Your Excellency, in speaking about a division I include only roads under the control of the Public Works Department; naturally, I have not information about other roads.

LT.-COL. THE HON. C. G. DURHAM: Does that mean we are not entitled to ask whether any money has been allocated to district councils?

HIS EXCELLENCY: I think it will be better to let the hon. the Acting Director of Public Works make a short statement on the state of the roads, and the hon. the Colonial Secretary will then deal with the allocation of the fund which is now being voted.

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS: In the Nakuru Division, the roads have all been very badly washed out. The road from Naiyasha to Gilgil had six miles completely washed away. That has been made good. On the Gilgil-Nakuru Road the Escarpment was badly damaged. Probably the worst washout in this district occurred on the Molo River-Ravine Road, which was flooded for many miles.

In the Eldoret Division the damage has not been so extensive.

In the Kisumu Division, I think the damage is the worst in the whole country. For some time the Kericho neighbourhood was completely cut off owing to bridges being washed away, and a large portion of the road was for a long time, and still is, under water.

In the Nyeri Division, the Naro Moru-Nanyuki-Meru Road was affected worst; many washouts occurred, but the bridges stood fairly well.

With regard, Your Excellency, to the money which has been spent, I authorised all executive engineers immediately to take such emergency steps as might be necessary to keep communications open, and this has been done; to-day, I think, with one or two possible small exceptions, all the main trunk roads are open. To do that it was necessary to dip very largely into the ordinary maintenance funds, with the result that these funds will not be sufficient to last until the end of the year unless the money is paid back into them from another source.

I think probably the hon. the Colonial Secretary will finish this reply.

THE HON. THE COLONIAL SECRETARY: I must apologise to the House if, in moving the motion standing in my name, it was considered that I did not give as much information as the circumstances warranted. My main excuse for doing so is that, perhaps foolishly, I obtained my impression of public opinion from the local Press, and I gathered that whatever other vote might be debated in this House, a vote for extra money on roads would go through unchallenged; and as our deliberations have been long drawn out this morning, and we have other most important work to do, I desired to make my remarks as brief as possible. As, however, there is apparently some feeling that the Government are wishing to conceal something from hon. Members, I would like to dispel that bogey at once. As hon. Members who are members of the Central Roads Board—and who were able to attend that meeting—are aware, this figure of £40,000 now suggested is not a firm figure, and does not pretend to be a firm figure, of actual estimated cost, but at the same time it is not entirely a shot in the dark. It was based on figures given to the Central Roads Board by the Road Engineer, which he described himself, I think, as an intelligent anticipation of what he thought would be required in the different districts to make good bona fide flood damage on the information then at his disposal. The sum of £40,000 was arrived at as follows:—He estimated that perhaps a sum of £4,000 would be required in the Kisumu Division, £3,000 in the Eldoret Division, £4,000 in the Nakuru Division, £5,000 in the Nyeri Division, £5,000 in the Mombasa Division, £5,000 in Nairobi, £2,000 for Reserves, and £2,900 for temporary works staff. That gives a total of £29,000, and as, at the time the Board was considering this matter, possible applications from district councils and for native reserve roads had not come in, it was considered desirable to add a round figure of £11,000, making a total of £40,000 as the sum which we should ask for. I should like, however, to make it perfectly clear that what we are asking now is the sanction of this Council to the expenditure of a sum not exceeding £40,000 at the moment to make good bona fide flood damage. But it is not the intention of the Director, or the Government, or the Roads Board, that the whole of that £40,000 should be spent unless we are satisfied that a real case has been made out for it; but we do not want to be held up for want of money later in the year by putting in a lesser sum at this stage. The Director, as he has explained, is really not able to give a close estimate, as he cannot give definite figures of allocation at this stage, as in some cases his engineers have been literally "cut off," and

it will be some time before definite information can be obtained from them. But as and when it is obtained, I can assure the House that the applications will all be carefully scrutinised and not sanctioned unless we are satisfied that a case has been made out. Furthermore, in order to ensure that the expenditure in this vote is separated from the normal expenditure on roads, it is proposed to open a separate sub-head in the schedule, Public Works Extraordinary—Miscellaneous, with this figure attached to it. In that way, it will be possible to keep distinct the ordinary recurrent expenditure on roads, normal additional money voted by this Council, and this emergency money, which is definitely intended to repair abnormal damage due to floods.

LT.-COL. THE HON. J. G. KIRKWOOD: Might I point out, Your Excellency, that I have had no answer to my request for information as to whether any portion of this money will be available for the Lamuru-Escarpment road.

HIS EXCELLENCY: Perhaps the hon. Member will put down a question on that subject, which will be answered to-morrow.

LT.-COL. THE HON. J. G. KIRKWOOD: I will do so willingly, but I would point out, Your Excellency, that I asked for information during this debate, and I expected a reply.

HIS EXCELLENCY: I would remind hon. Members that it is not always possible to answer questions about the expenditure of money without having to consult the papers involved.

The hon. Member for Plateau South has given me notice of an amendment to the following effect:—

That a schedule showing the expenditure entailed be laid on the Table at the next session of Council.

I hope the hon. Member will not think it necessary to press that, but I can assure him that full information will be given at the next session, though I cannot undertake that the information will show the whole expenditure—that will depend upon when the next meeting of Council takes place; but full information will be given.

THE HON. T. J. O'SHEA: Thank you, Sir.

HIS EXCELLENCY: The question is:—

That this Council approves the expenditure of a sum of £40,000 upon the purpose specified in the schedule hereto as a charge against the Surplus Balances of the Colony.

I think probably the hon. the Colonial Secretary will finish this reply.

THE HON. THE COLONIAL SECRETARY: I must apologise to the House if, in moving the motion standing in my name, it was considered that I did not give as much information as the circumstances warranted. My main excuse for doing so is that, perhaps foolishly, I obtained my impression of public opinion from the local Press, and I gathered that whatever other vote might be debated in this House, a vote for extra money on roads would go through unchallenged; and as our deliberations have been long drawn out this morning, and we have other most important work to do, I desired to make my remarks as brief as possible. As, however, there is apparently some feeling that the Government are wishing to conceal something from hon. Members, I would like to dispel that bogey at once. Hon. Members who are members of the Central Roads Board—and who were able to attend that meeting—are aware, that figure of £40,000 now suggested is not a firm figure, and does not pretend to be a firm figure of actual estimated cost, but at the same time it is not entirely a shot in the dark. It was based on figures given to the Central Roads Board by the Road Engineer, which he described himself, I think, as an intelligent anticipation of what he thought would be required in the different districts to make good bona fide flood damage on the information then at his disposal. The sum of £40,000 was arrived at as follows: He estimated that perhaps a sum of £4,000 would be required in the Kisumu Division; £3,000 in the Eldoret Division; £4,000 in the Nakuru Division; £5,000 in the Nyeri Division; £5,000 in the Mombasa Division; £5,000 in Nairobi; £2,000 for Reserves, and £2,000 for temporary works staff. This gives a total of £29,000, and as, at the time the Board was considering this matter, possible applications from district councils and for native reserve roads had not come in, it was considered desirable to add a round figure of £11,000, making a total of £40,000 as the sum which we should ask for. I should like, however, to make it perfectly clear that what we are asking now is the sanction of this Council to the expenditure of a sum not exceeding £40,000 at the moment to make good bona fide flood damage. But it is not the intention of the Director, or the Government, or the Roads Board, that the whole of that £40,000 should be spent unless we are satisfied that a real case has been made out for it; and we do not want to be held up for want of money later in the year by putting in a lesser sum at this stage. The Director, as he has explained, is really not able to give a close estimate, as he cannot give definite figures of allocation at this stage, as in some cases his engineers have been literally "cut off," and

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LT.-COL. THE HON. J. G. KIRKWOOD: Might I point out, Your Excellency, that I have had no answer to my request for information as to whether any portion of this money will be available for the Limuru-Escarpment road.

HIS EXCELLENCY: Perhaps the hon. Member will put down a question on that subject, which will be answered to-morrow.

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THE HON. T. J. O'SHEA: Thank you, Sir.

HIS EXCELLENCY: The question is:—

"That this Council approves the expenditure of a sum of £40,000 upon the purpose specified in the schedule hereto as a charge against the Surplus Balances of the Colony."

Schedule.

Repairing flood damage to roads and bridges	£40,000.
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The question was put and carried.

BILLS.

SECOND READING.

THE CHATTELS TRANSFER BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to make provision relating to Chattel Securities and the Transfer of Chattels be read a second time.

A great deal of time has already been taken up this morning, Sir, with the consideration of the general question of providing facilities for short-term credits. Of that question, Sir, this is an integral part. It is complementary to the Bill which has already been accorded a second reading this morning; in so much that, while that Bill provides for credits from a State source, the confident hope of Government is that the provisions of this Bill will enable credit to flow more rapidly and in greater quantities than it does at present from the ordinary banking and commercial channels.

The Bill is a portentous-looking document, and I am afraid it is a dreadfully dull subject, but fortunately I do not need to say a great deal about it. The Bill can be divided quite easily into three quite separate parts. The first is that part represented by the first twenty-two clauses and clauses 35 to 49. These are necessitated, Sir, by the fact that we have no legislation in the Colony relating to bills of sale—no real legislation—and it is about time that we had. The English Acts of 1878 and 1882 are applied to the Colony, but this is manifestly unsatisfactory, Sir, because these Acts are not available to most of the people in the Colony. Furthermore, they have been amended from time to time, they are a little out-of-date now—I have them in the original form, without any subsequent amendment—and so it was thought that the time had come when, in place of these inaccessible and inadequate Acts, we should have legislation of our own in this Colony. These Acts are replaced by the clauses of this Bill to which I have drawn attention.

Then, Sir, we come to the second category, which is represented by clause 50 and the 6th Schedule. That relates to hire-purchase agreements, and for the life of the I do not see why it is there. The Schedule, furthermore, is completely out of date. The Schedule sets out a list of things which can be the subject of a hire-purchase agreement. You can get a

hire-purchase agreement for a gramophone, but not for a wireless set; you can get a hire-purchase agreement for a motor car, but not for an aeroplane. You cannot get—what would give effect to a very recent English decision, which held that you could get a hire-purchase agreement for a race-horse—a hire-purchase agreement for a horse. That part of the Bill might conveniently and perfectly well be deleted.

Then, Sir, we come to the third, and, in the circumstances under which we have met here to-day, evidently the most important section of the Bill. Those are clauses 23 to 32, and particularly, Sir, would I draw attention to clauses 23 and 24, 29 and 30. These deal respectively with live stock and with crops. The present position here, Sir, is that you can get a bill of sale over your live stock or over your growing crops, but the law is so restricted, and has in the past been so strictly interpreted against the grantor, that it is almost impossible to get a valid instrument in either of the categories. In the case of stock, you have to identify the actual animals over which you have a charge, by age, by sex, by colour, and, I am told, sometimes even by name. You can do nothing with the natural increase, and it is an entirely and utterly unsatisfactory way of trying to raise money.

When you come to crops, the position is the same. They are almost impossible of identification, and so these provisions are of extreme importance in that they provide for the giving of a valid instrument over live stock by a mere reference to the brand or earmark of other mark, and the land on which they are customarily depastured or kept, and that charge includes the natural increase of the stock. Similarly with crops, you can pledge the crops by reference to the type of crop and the land on which it is growing, and, Sir, you can go further and pledge a future crop, a crop which is not yet sown.

Those changes in the law, Sir, Government is confident will frequently ease the present situation. They give the farmer of this Colony a security, a pledgeable security, which he had not got and has not got at this moment.

A great deal has been said in very recent years about the provisions of clause 30, and I should like to make my views on that as clear as I can. It will take me about a couple of minutes. Clause 30 does not establish any priority whatever. It merely provides—I am sure hon. Members will see it on careful reading—that this new security ranks with other securities, as every security ought to do, according to the date of its registration. It takes no priority over any security which in time precedes it. It does take priority over all securities which, in order of time, following it. That seems to me not to be any revolutionary principle—it is a principle as old as the

law—and the statement of it in a simple form here is only in the interests of farmers and to avoid protracted and costly litigation. It seemed very much better to put it in simple language than to leave it for the courts to consider in each case, and why it has raised or should raise opposition. Sir, I am quite at a loss to say.

I am authorised to state that Your Excellency's intention is to refer this Bill for an examination in detail to a Select Committee consisting of—

The Hon. the Treasurer.

The Hon. the Commissioner for Local Government, Lands and Settlement.

The Hon. the Director of Agriculture.

The Hon. Member for the Rift Valley.

The Hon. Member for Plateau South.

The Hon. Member for Nairobi South.

with myself as Chairman.

I do hope that, particularly in view of the time, but without desiring in any way to bring discussion, a consideration of the details might be left until that Committee has an opportunity of meeting.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Chattel Transfer Bill be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, I feel that all normal people will approve of a measure the objects of which are to stimulate the flow of credit. It is undoubtedly somewhat unfortunate that it has not been found possible to give Elected Members more opportunity of digesting this somewhat lengthy Bill, but there is no doubt whatever, Sir, that when this measure is passed and completed it will automatically have the effect of reducing to a very great extent the demands which will be made on the Agricultural Advances Fund. To that extent I regard it as of very great importance.

We are very grateful, Sir, to my hon. and learned friend for his very clear explanation of clause 80, which was very clearly understood before. What we do require, though, Sir, if we can get it, is an assurance from Government that the passage of this clause in this Bill will not prejudice perfectly definite proposals that have been made under the Land Bank

Bill that Government loans for specific purposes should be given priority over existing mortgages. That was the difficult point, Sir, with regard to which we wanted an assurance, and we shall be very grateful if we can have it.

Farmers and commercial men, Sir, have for several years frequently urged the introduction of legislation on these lines, and it is very unfortunate indeed, Sir, that the progress of the Colony should have been so seriously impeded by the attitude of the Law Society in connexion with this matter.

THE HON. T. J. O'SHEA: Your Excellency, I think it is greatly to be regretted that this very important Bill should have had to be brought in as an emergency measure and that, in consequence, an opportunity has been denied to the public at large, and more particularly to those interests which are so particularly interested in this Bill, to criticise and examine it.

It is rather interesting to find that it is being introduced as an emergency measure because many of us who have been advocating the application of it for some years past have realised that sooner or later a state of affairs would arise in this country when the necessity for it would be very acutely recognised. It has always seemed to me a strange thing, Sir, that, while the law is very comprehensive indeed in regard to what you might call the hard cash side of our financial system, there should be practically no legislation existing in the Colony in regard to the credit side of our financial system, which to-day plays a greater part in the trade and commerce of the country than the actual hard cash side.

I think Government is to-day taking an action that will not only of necessity stimulate the flow of credit, because there are many of us who think that the flow of credit in this country is already at too rapid a rate, but it will perform a much more important function, a much more necessary one—at the present stage of our affairs it will control and safeguard the flow of that all-important credit. It is from that point of view that I think this measure is going to be of immense benefit to the country. There are some who doubt the wisdom of its introduction because they think that it will unduly stimulate the flow of credit and so bring about more unstable conditions even than those at present existing. I do not anticipate that danger, in the least, Sir; on the contrary, I think it is going to have a very good effect indeed on so regulating the flow of credit as to improve and to strengthen the stability of the country. There can be no doubt about it that, owing to the absence of such legislation as this, uncontrolled credit has done an immense amount of harm to the country,

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and the situation that we have been dealing with to-day is very largely due, in my opinion, to the uncontrolled credit that has been rampant in the country over a period of years.

In common with probably every other Member of the House, I regret that more time has not been given us in which to study the details of this very important measure, and in giving my adherence to its passing without critical examination I do so in the belief that as it has been drafted on the lines of existing legislation in other countries, whose conditions are somewhat analogous to ours, it cannot be very unsound, and that the necessity for its immediate introduction justifies our passing it without the critical examination it should have had; also in the belief that if we do find in its use during the next few months, that the necessity for immediate amendment is there, I feel certain that Your Excellency will approve of its being dealt with immediately.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, the major criticism I have to urge against this is the method of its presentation. I consider that it is entirely wrong that a measure of this kind should be introduced under the suspension of Standing Orders. Entirely because I have a game leg I was not able to get up in time to vote against the suspension of Standing Rules and Orders, and again, later on, I was prevented from getting up in time to speak against the £100,000.

HIS EXCELLENCY: The hon. and gallant Member is really making a statement which cannot be substantiated. I looked for some time towards that side of the House before putting the matter to the vote. He showed no sign of rising whatever. With regard to voting, he can do that from his position, he can call for a division or say "No."

CAPT. THE HON. E. M. V. KENEALY: I thought I should not rise in time.

HIS EXCELLENCY: That is another matter.

CAPT. THE HON. E. M. V. KENEALY: I am not suggesting that you deliberately prevented my speaking on those motions. I am merely saying that owing to the fact I referred to, through my slowness, we will say, in rising I was unable to record my disapproval of the methods adopted.

HIS EXCELLENCY: The hon. and gallant Member does not usually show much difficulty in rising. (Laughter).

CAPT. THE HON. E. M. V. KENEALY: I have not the degree of residence which is based on the desires of my constituency. (Laughter).

Well, Sir, the greatest danger I see in this measure and in its method of presentation is this, that the Government thinks it essential to tie up the consideration of this problem with the problem of agricultural advances, and by so doing demonstrates its intention, and its intention obviously is this: that where sums of money are required by farmers to finance themselves, Government will say, "Why, you have alternative methods of raising money, you can raise money from private sources, and there is no need for you to rely on State resources to finance you; you have the ordinary mortgage, you have this chattels mortgage facility which is now forged, and therefore there will be no need to make advances under the Bill that we have taken to-day." I consider that that source of money, for the alleviation of the present situation, is the source which it is most proper to tap rather than to rely on extraneous and private sources at this stage.

Whether clause 30 appears to be innocuous, I consider it either should not be there or that it is a noxious clause, in as much as it does indicate that there may be some precedent created by its acceptance. After all, Sir, we cannot agree to the creation of a precedent which establishes the priority of a mortgage over finance which is necessary to ensure the control of disease, such as vaccination, inoculation, dipping and fencing. We cannot justify ourselves in any way in acquiescing in any such establishment of a precedent in that manner, and so I cannot help feeling that clause 30 is unnecessary. If we rely on the ordinary course of events and the established custom in regard to the application of priority in the monetary commitments, then I feel that clause 30 is unnecessary. We have not had time enough to deal with this matter. I deprecate its introduction in this manner, although probably the principles are the same, with the exception of this one principle embodied in clause 30.

THE HON. E. POWYS COBB: Your Excellency, I should like to make my position clear with regard to this Bill. I am entirely in favour of a Bill on these general lines. It is a thing the country has been asking for a long time. It is a thing which the Agricultural Commission asked for some six months ago, and I am wholly in favour of the main idea of such a Bill, but I do regret that such a delay has taken place in its introduction that now it has to be rushed through this House. My chief fear of evil which may happen from speed is simply this, that whereas the Agricultural Advances Bill which we dealt with this morning can be regarded, and

and the situation that we have been dealing with to-day is very largely due, in my opinion, to the uncontrolled credit that has been rampant in the country over a period of years.

In common with probably every other Member of the House, I regret that more time has not been given us in which to study the details of this very important measure, and in giving my adherence to its passing without critical examination I do so in the belief that as it has been drafted on the lines of existing legislation in other countries, whose conditions are somewhat analogous to ours, it cannot be very unsound, and that the necessity for its immediate introduction justifies our passing it without the critical examination it should have had; also in the belief that if we do find in its use during the next few months, that the necessity for immediate amendment is there, I feel certain that Your Excellency will approve of its being dealt with immediately.

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HIS EXCELLENCY: That is another matter.

CAPT. THE HON. E. M. V. KENEALY: I am not suggesting that you deliberately prevented my speaking on those motions. I am merely saying that owing to the fact I referred to, through my slowness, we will say, in rising I was unable to record my disapproval of the methods adopted.

HIS EXCELLENCY: The hon. and gallant Member does not usually show much difficulty in rising. (Laughter).

CAPT. THE HON. E. M. V. KENEALY: I have not the degree of resilience which is based on the desires of my constituency. (Laughter).

Well, Sir, the greatest danger I see in this measure and in its method of presentation is this, that the Government thinks it essential to tie up the consideration of this problem with the problem of agricultural advances, and by so doing demonstrates its intention, and its intention obviously is this: that where sums of money are required by farmers to finance themselves, Government will say, "Why, you have alternative methods of raising money, you can raise money from private sources, and there is no need for you to rely on State resources to finance you; you have the ordinary mortgage, you have this chattels mortgage facility which is now forged, and therefore there will be no need to make advances under the Bill that we have taken to-day." I consider that that source of money, for the alleviation of the present situation, is the source which it is most proper to tap rather than to rely on extraneous and private sources at this stage.

Whether clause 30 appears to be innocuous, I consider it either should not be there or that it is a noxious clause, in as much as it does indicate that there may be some precedent created by its acceptance. After all, Sir, we cannot agree to the creation of a precedent which establishes the priority of a mortgage over finance which is necessary to ensure the control of disease, such as vaccination, inoculation, dipping and fencing. We cannot justify ourselves in any way in acquiescing in any such establishment of a precedent in that manner; and so I cannot help feeling that clause 30 is unnecessary. If we rely on the ordinary course of events and the established custom in regard to the application of priority in the monetary commitments, then I feel that clause 30 is unnecessary. We have not had time enough to deal with this matter. I deprecate its introduction in this manner, although probably the principles are the same, with the exception of this one principle embodied in clause 30.

THE HON. E. POWYS COBB: Your Excellency, I should like to make my position clear with regard to this Bill. I am entirely in favour of a Bill on these general lines. It is a thing the country has been asking for a long time. It is a thing which the Agricultural Commission asked for some six months ago, and I am wholly in favour of the main idea of such a Bill, but I do regret that such a delay has taken place in its introduction that now it has to be rushed through this House. My chief fear of evil which may happen from speed is simply this, that whereas the Agricultural Advances Bill which we dealt with this morning can be regarded, and

should be I think properly regarded, as an interim measure, the present Bill is part of the permanent system, and it does involve the controversy which rages round that debatable clause 30. The hon. Member for the Lake has asked Government if it can give a certain assurance; I should be very glad if that assurance could be given in a slightly different way, namely, that clause 30 will not be taken as necessarily establishing a precedent which must be followed in further legislation which is part of the permanent structure that I hope to see built up on the system of agricultural finance.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I would just like to express my appreciation of this Bill being brought before the House and I think it is an occasion upon which I might say that when Bills are brought in under the suspension of Standing Rules and Orders the case should be taken on its merits. I propose to take this Bill with that ideal in my mind. I have read the Bill but, as I understand it will be subjected to consideration by the Select Committee there is no occasion to go into detail at the moment. But I would point out that the passing of this Bill would greatly facilitate financial assistance being given to the agricultural industry. At the moment a limited amount of money is lent on crops, and the security is very limited; if any case arises it is really a civil action. Under this Bill there is security for the money advanced and I submit that the rate of interest, once this Bill is passed, will drop to about 6 per cent. With that in mind—that it will assist agriculture and everybody else concerned—that it will assist the introduction of private capital in addition to the monetary assistance which Government proposes to give to the agricultural industry, I think it is a very wise measure to pass this Bill at the present time.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I very gladly give the assurance for which the hon. Members for the Lake, for Plateau North and for the Rift Valley have asked. I shall give it. Sir, in as wide and as clear phraseology as I can. The provisions of clause 30 of this Bill, Sir, which relate to the priority of advances from private sources as against advances made to the same person from other sources, cannot possibly in any way affect the right which the Government has in other legislation of dealing with advances from State funds for purposes of a public utility nature such as those specified—the right which the Government in those circumstances has to take a statutory priority. No provision in clause 30, as drafted, or in any similar clause or any other bill of this nature, can possibly have that effect or in any way hamper the discretion that Government has in these matters in dealing with public moneys for public purposes.

HIS EXCELLENCY: The question is that a Bill to make provision relating to Chattel Securities and the Transfer of Chattels be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Chattels Transfer Bill be referred to a Select Committee consisting of—

The Hon. the Treasurer,
The Hon. the Commissioner for Local Government,
Lands and Settlement,
The Hon. the Director of Agriculture,
The Hon. Member for the Rift Valley,
The Hon. Member for Plateau South,
The Hon. Member for Nairobi North,

and myself as Chairman.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENTS, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

The question was put and carried.

Council adjourned till 12 noon on Saturday,
31st May, 1930.

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SATURDAY, 31st MAY, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Saturday, 31st May, 1930, HIS EXCELLENCY THE GOVERNOR (LIEUT.-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 30th May, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

BY THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR) :—

Report of Select Committee on the Agricultural Advances Bill.

Report of Select Committee on the Chattels Transfer Bill.

ORAL ANSWER TO QUESTION.

EMPIRE DAY DISTURBANCE AT INDIAN SECONDARY SCHOOL.

THE HON. CONWAY HARVEY asked :—

What action does Government propose to take in connexion with a disturbance which occurred at the Indian Secondary School, Nairobi, on Empire Day?

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT) : Government has already taken disciplinary action in regard to this matter and has also decided that the school should be closed for a week. Instructions to that effect have been given.

THE HON. CONWAY HARVEY : Arising out of that, Your Excellency, will Government take steps to protect law-abiding citizens of all races from intimidation and interference by political agitators?

THE HON. THE ATTORNEY GENERAL : Your Excellency, I can assure the hon. Member for the Lake that should necessity arise the Government will certainly do so.

CAPT. THE HON. E. M. V. KENEALY : Arising out of the answer to the first part of the question also has Government made any arrangements by which those loyal elements of the school will not be penalised by the shutting of the school on the basis of a communal punishment.

THE HON. THE DIRECTOR OF EDUCATION: No.

THE HON. A. H. MALIK: Arising out of that answer, Sir, was it not reasonable to expect that the school should take some steps to prevent the outside element entering into the school grounds?

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, under the particular circumstances of the school, I am afraid it was impossible for the authorities to foresee this intervention from outside.

SUSPENSION OF STANDING RULES AND ORDERS

THE HON. THE ATTORNEY GENERAL: Your Excellency, with your leave, Sir, I beg to move that Standing Rules and Orders be suspended to enable two motions to be taken without due notice. These motions, Sir, are—

That the Report of the Select Committee of this Council appointed to consider and report on the provisions of the Agricultural Advances Bill be adopted
and secondly,

That the Report of the Select Committee of this Council on the provisions of a Bill relating to Chattel Securities and Transfer of Chattels be adopted.

THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE): Your Excellency, I beg to second the motion.

The question was put and carried.

MOTIONS.

REPORT OF SELECT COMMITTEE ON THE AGRICULTURAL ADVANCES BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee of this Council on the provisions of the Agricultural Advances Bill be adopted.

I am happy to say, Sir, that the Bill survived the ordeal of Select Committee amazingly well, and the amendments which have been made are not only few in number, but are entirely non-contentious and relatively unimportant in nature. The only one to which I think attention need be drawn, Sir, is that the proviso to clause 8 has been amended on the recommendation of the Committee to make it quite clear just what the provision as to priority means. It will now provide that

any prior encumbrance or charge shall have priority over the charge thereby created. The Bill, as drafted, read: "That the charge hereby created shall not have priority."

In clause 12, Sir, to meet the expressed wish of the hon. Member for the Lake, the alternative of a fine—or the double punishment of fine and imprisonment—has been specifically inserted. Similarly, Sir, clause 13 has been made a little more explicit. Certain hon. Members expressed doubt as to just what the provisions of the Central Board's power to dispose of property—to direct how property is to be disposed of exactly—meant; and so the Committee recommend that there should be added certain words to that clause after the words "crops and produce": "in respect of which a direction for disposal has been made by the Central Board," and that "in the absence of any such direction for disposal as aforesaid, all crops, produce and live stock as aforesaid may be dealt with and disposed of by the farmer as he may see fit." That is merely giving perhaps more obvious expression to what the intention of the draftsman was, and what the intention of everybody in this House was.

Sub-clause (3) of that clause, Sir, has been amended in the same way that clause 12 has been amended, by putting in a fine of £100 and provision for both fine and imprisonment.

Those, Sir, are the recommendations of the Select Committee as a whole. On the provisions of clause 3 there was a divergence of opinion. The three Elected Members who attended the meeting of the Committee pressed for further provision in that clause, Sir, empowering Your Excellency to appoint deputies or "alternatives" for the two unofficial members, the idea being, Sir, that these alternatives should be entitled to be present at all meetings of the Board though they could take no part in any discussion, nor could they vote on any question unless the appointed unofficial member for whom such alternative acted was absent.

The feeling of the majority of the Committee, Sir, was that continuity in this matter was essential; that all applications must be treated on their merits and exactly the same tests and criteria applied to all; that it was extremely important that the public should realise that that was the position; that it was sincerely to be hoped that the unofficial members appointed would make a point of attending every meeting; and that if deputies or alternatives were present at all these meetings it would automatically put up the cost very considerably—and hon. Members must bear in mind that these costs are a charge on the fund. In the opinion of the majority, Sir, it was infinitely preferable that we should appeal to the good

THE HON. THE DIRECTOR OF EDUCATION: No.

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THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE): Your Excellency, I beg to second the motion.

The question was put and carried.

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The feeling of the majority of the Committee, Sir, was that continuity in this matter was essential; that all applications must be treated on their merits and exactly the same tests and criteria applied to all; that it was extremely important that the public should realise that that was the position; that it was sincerely to be hoped that the unofficial members appointed would make a point of attending every meeting; and that if deputies or alternatives were present at all these meetings it would automatically put up the cost very considerably—and hon. Members must bear in mind that these costs are a charge on the fund. In the opinion of the majority, Sir, it was infinitely preferable that we should appeal to the good

feelings of the unofficial members and get them to realise that their presence at every meeting was essential, rather than give them an opportunity of saying, "If I don't go to-day my deputy will carry on for me." Also it is very essential indeed that every penny that can possibly be set aside for the purpose of advances should be made available for that purpose, and that the costs of the administration of the fund should be kept down to the very lowest point. That, Sir, was the reason for the expressed opinion of the majority that there should be no alteration in the clause as drafted. I beg, Sir, to move that the Report be adopted.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: Before I put the question, as I have not had an opportunity of considering the Report of the Select Committee until I entered this room, I should like to ask the hon. Attorney General what the position is as to a quorum.

THE HON. THE ATTORNEY GENERAL: There is no provision, Sir, the Board will be master of its own procedure.

HIS EXCELLENCY: The absence of any Member will not prevent the Board from functioning.

THE HON. THE ATTORNEY GENERAL: I sincerely hope that it will make procedure rules at its first meeting, Sir.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Agricultural Advances Bill be adopted.

THE HON. E. POWYS COBB: I beg leave to move the amendment which stands as the Minority Report in the Report of the Committee. In doing so I should like to emphasize that there is no difference of principle between the views of the majority and the minority. Both the majority and the minority are seeking to arrive at the preservation of the same principle, namely, the continuity of the work of the Central Board, and I think that for the reason that the composition of the Board, as set out in the Bill, meets with the complete approval of this House—I think for that very reason it must also meet with the acceptance of this House that if that principle is in any way impaired then the satisfactory nature of the Board ever being short of any of its component parts that prompts myself and my colleagues to move this amendment. The position is thus to my mind. It is obvious that

the Board will have a very stringent time in front of it—~~that its sessions will be of long duration.~~ In order to provide for ordinary absences it is necessary I think that deputies should be able to take the place of the principal members of the Board. In the case of the official members, I have no doubt, should either or any of them have to be absent, that they will be represented by deputies chosen from their departments, who, no doubt, will have taken care to keep themselves fully aware of the views and policy of their members, and I am asking that the same provision should take place in regard to absences of the two unofficial members. One of these members is a very busy man living in Nairobi. The other, I understand, is a member living at a distance. Now, while I fully agree with the hon. the Attorney General that those members should be appealed to—and I am perfectly certain they will answer to the appeal to attend on every possible occasion, yet there must—I think it must be admitted that there will be occasions when it will be impossible for them to attend. One of them, for example, may be ill. Now I think, if it is desirable that the official members should be represented by deputies, it is equally desirable, I think, that the unofficial members should be represented by alternatives.

THE HON. THE ATTORNEY GENERAL: On a point of explanation, Sir, there is no suggestion that deputies should be allowed to act for the official members. The three officers mentioned must either attend themselves or there must be a vacant seat.

THE HON. E. POWYS COBB: In that case, Sir—it is a point which is rather new to me—I rather gathered from the proceedings of the Committee yesterday that the contrary was the case—but in that case I feel that the amendment should be extended to cover the official members as well as the unofficial members, and I think, Sir, that this principle has been applied with success to other statutory boards; and if that is so I think it is an additional argument in favour of this amendment. I think the argument used by the hon. the Attorney General—that of expense—when weighed in the balance with the importance of continuity, is of lesser weight. After all, should the Board sit for 150 days in the year, it only means an increase of expense of about £900. It is perfectly true, as the hon. the Attorney General said, that every penny spent on the costs of administration will be a charge against the farming community, but I submit that continuity will be cheaply bought at such a figure, because I attach immense importance to continuity. On those grounds, Sir, I beg to move the amendment standing in my name and the names of those other Elected Members who sat on the Committee.

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the Board will have a very stringent time in front of it—that its sessions will be of long duration. In order to provide for ordinary absences it is necessary I think that deputies should be able to take the place of the principal members of the Board. In the case of the official members, I have no doubt, should either or any of them have to be absent, that they will be represented by deputies chosen from their departments, who, no doubt, will have taken care to keep themselves fully aware of the views and policy of their members, and I am asking that the same provision should take place in regard to absences of the two unofficial members. One of these members is a very busy man living in Nairobi. The other, I understand, is a member living at a distance. Now, while I fully agree with the hon. the Attorney General that those members should be appealed to—and I am perfectly certain they will answer to the appeal to attend on every possible occasion, yet there must—I think it must be admitted that there will be occasions when it will be impossible for them to attend. One of them, for example, may be ill. Now I think, if it is desirable that the official members should be represented by deputies, it is equally desirable, I think, that the unofficial members should be represented by alternatives.

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HIS EXCELLENCY: I think the hon. Member should move that the words "and the Minority Report" be added after the words "Majority Report." That is the only way of bringing it into this motion.

THE HON. E. POWYS COBB: I beg to move it in those terms, Sir.

COL. THE HON. W. K. TUCKER: I beg to second, Your Excellency.

HIS EXCELLENCY: The question is that the words "and the Minority Report" be added after the words "Majority Report."

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I only rise because I do not think it right to oppose an amendment moved by one of my colleagues without giving my reasons. I did not see this either until a few minutes before Your Excellency entered the room, and the reason I oppose the amendment is that it appears to me to create an entirely new principle whereby deputies sit round the table while their principals are also sitting there. If this amendment had been one which would have permitted alternatives to be appointed by Your Excellency, those alternatives only to attend in the unavoidable absence of their principals, I would have supported it, and I do not believe it would have hurt the very important need for continuity because the principal would presumably keep his alternative acquainted with the whole of the minutes of the meetings of the Board; and I would possibly hazard the guess that if the amendment had been put up in that way, simply appointing an alternative who would only attend in the unavoidable absence of his principal, Government might possibly have been prepared to consider and accept it, but to create a principle by which both member and deputy sit at meetings of boards and committees seems to me to be one which should not receive the support of this House.

THE HON. E. POWYS COBB: On a point of explanation, Your Excellency, may I be allowed to say that in the case of other statutory boards the alternatives for principal members do attend meetings, and therefore it is no new principle I am suggesting—for instance, the Land Board.

THE HON. T. J. O'SHEA: Your Excellency, I have much pleasure in supporting the amendment. I do so, Sir, because I think that this Board has been entrusted with very onerous work, and it seems to me hardly fair that the official members

should be left to carry on the burden of it in the event of illness arising among the two unofficial members, and I believe that they would be assisted in their work if they had the advantage of deputies to replace those gentlemen in the event of unavoidable absence. I presume, Sir, that the suggestion that those deputies should be allowed to attend all meetings at which their principals are present is solely for the purpose of ensuring continuity of policy. I see nothing wrong about that. I think the hon. mover is in order in saying that the principle is already recognised, and I see nothing vicious about it, at any rate. I believe, Sir, that the Board will be helped in its labours if deputies are appointed for the unofficial members. I have pleasure in supporting the amendment.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I have nothing to add to what I have already said in moving the adoption of the Majority Report, except to remind hon. Members that though the sum of £900 appears to be a very small one it is, for all practical purposes, 1 per cent. on the sum made available. The rate of interest was deliberately fixed at 8 per cent. largely because of the insecurity of any security the Board might get. If the rate is to be reduced to 7 per cent. in this way, Sir, by imposing on the overhead administration charges what practically amounts to another 1 per cent., then, Sir, we might just as well be honest and say the rate of interest shall be 9 per cent.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, cannot Government be persuaded, Sir, to accept the suggestion of my hon. friend the Member for Nairobi South, inasmuch as it will enable Government to appoint a substitute? That is all it amounts to, not that it will be essential for an individual substitute to attend all meetings, because I do not think that desirable, but Government might, I think, seriously recognise the necessity for having a substitute member and agree to an amendment embodying that principle.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, may I ask if I am in order in moving an amendment to the amendment?

HIS EXCELLENCY: Yes.

LT.-COL. THE HON. J. G. KIRKWOOD: Then I move, Sir, that the amendment should read:—

"For each unofficial member the Governor may appoint a deputy."

I will leave it at that.

HIS EXCELLENCY: I think the hon. Member should move that the words "and the Minority Report" be added after the words "Majority Report." That is the only way of bringing it into this motion.

THE HON. E. POWYS COBB: I beg to move it in those terms, Sir.

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should be left to carry on the burden of it in the event of illness arising among the two unofficial members, and I believe that they would be assisted in their work if they had the advantage of deputies to replace those gentlemen in the event of unavoidable absence. I presume, Sir, that the suggestion that those deputies should be allowed to attend all meetings at which their principals are present is solely for the purpose of ensuring continuity of policy. I see nothing wrong about that. I think the hon. mover is in order in saying that the principle is already recognised, and I see nothing vicious about it, at any rate. I believe, Sir, that the Board will be helped in its labours if deputies are appointed for the unofficial members. I have pleasure in supporting the amendment.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I have nothing to add to what I have already said in moving the adoption of the Majority Report, except to remind hon. Members that though the sum of £900 appears to be a very small one it is, for all practical purposes, 1 per cent. on the sum made available. The rate of interest was deliberately fixed at 8 per cent. largely because of the insecurity of any security the Board might get. If the rate is to be reduced to 7 per cent. in this way, Sir, by imposing on the overhead administration charges what practically amounts to another 1 per cent., then, Sir, we might just as well be honest and say the rate of interest shall be 9 per cent.

CAPT. THE HON. E. M. V. KENNELLY: Your Excellency cannot Government be persuaded, Sir, to accept the suggestion of my hon. friend the Member for Nairobi South, inasmuch as it will enable Government to appoint a substitute? That is all it amounts to, not that it will be essential for an individual substitute to attend all meetings, because I do not think that desirable, but Government might, I think, seriously recognise the necessity for having a substitute member and agree to an amendment embodying that principle.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, may I ask if I am in order in moving an amendment to the amendment?

HIS EXCELLENCY: Yes.

LT.-COL. THE HON. J. G. KIRKWOOD: Then I move, Sir, that the amendment should read:—

"For each unofficial member the Governor may appoint a deputy."

I will leave it at that.

HIS EXCELLENCY: That is not an amendment to the amendment as it stands.

LT.-COL. THE HON. J. G. KIRKWOOD: I am simply taking it from the Minority Report, Sir—the first line.

HIS EXCELLENCY: I think if the hon. and gallant Member wishes to move that amendment he must allow the present amendment to be disposed of, and then move that as an amendment to the Minority Report, the Minority Report being adopted afterward in that form. He cannot bring it in as an amendment to the amendment.

LT.-COL. THE HON. C. G. DURHAM: On a point of information, Your Excellency, may I ask the hon. the Attorney General a question? Yesterday it was stated that the total cost of running this, including the salary of the secretary, would be 1 per cent, but now he tells us that by adding two members to the Committee it will still be 1 per cent.

THE HON. THE ATTORNEY GENERAL: May I say two things, Sir: I have no recollection that any of us made any such statement in the Committee yesterday. Hon. Members must appreciate that the provision of a secretary, with stenographer and typist, for the Central Board will alone amount to about 1 per cent, without taking into consideration the local boards at all.

On the second point, Sir, the figure which I took was the figure which was given to me by the hon. Member for the Rift Valley, who stated that the cost would be £900. I merely pointed out that that figure would amount to a further 1 per cent.

HIS EXCELLENCY: The question is that the words "and Minority Report" be entered after the words "Majority Report" in the motion.

The question was put and lost.

LT.-COL. THE HON. J. G. KIRKWOOD: I wish to move, Sir, that the motion should read:—

"For each unofficial member the Governor may appoint a deputy who shall hold office for so long as the unofficial member for whom he is appointed holds office."

HIS EXCELLENCY: What the hon. and gallant Member wishes to do is to delete the words after "deputy" at the bottom of page 2 down to "shall hold office for so long as"—that is what he wishes to do?

He wishes to delete all the words after "deputy" at the bottom of page 2 up to the word "deputy" in line 6 on the following page—is that the intention?

LT.-COL. THE HON. J. G. KIRKWOOD: That is my intention, Your Excellency.

HIS EXCELLENCY: The question is that in the Minority Report all the words after the word "deputy" in the second line of paragraph 2 of sub-clause 2 up to the word "deputy" in the first line of sub-clause (c) shall be deleted.

THE HON. THE ATTORNEY GENERAL: After the word "who" if I may intervene.

HIS EXCELLENCY: After the word "who," yes.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I beg to second that amendment. It will involve an increase in efficiency—or no decrease in efficiency; it will involve no new expenditure. I think the Government will readily accept it.

HIS EXCELLENCY: This is a matter on which, perhaps, I had better say a word, because it leaves the appointment of a deputy entirely to my discretion. That will be the situation. I am prepared to accept the amendment on the understanding that I will not exercise that discretion unless it is shown that the existing unofficial members are unable to do the work. I say that because hon. Members must remember that very confidential information is going to be given to this Board, and it is not desirable to increase the numbers of the Board until it is absolutely necessary. The larger the number of members the more difficult in some ways will the work of the Board be, and for that reason I wish to keep it as small as possible. I think, moreover, that if either of the unofficial members found himself unable to serve owing to illness, it would be his duty to resign so as to allow me to appoint another substantive member in his place.

On the understanding therefore that I shall only appoint a deputy in the case of serious necessity, proved by the proceedings of the Board, I am prepared to accept that amendment.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to move an alteration.

HIS EXCELLENCY: Order, order. The hon. Member has moved an amendment; he cannot speak again on his own amendment.

HIS EXCELLENCY: That is not an amendment to the amendment as it stands.

LT.-COL. THE HON. J. G. KIRKWOOD: I am simply taking it from the Minority Report, Sir—the first line.

HIS EXCELLENCY: I think if the hon. and gallant Member wishes to move that amendment he must allow the present amendment to be disposed of, and then move that as an amendment to the Minority Report, the Minority Report being adopted afterward in that form. He cannot bring it in as an amendment to the amendment.

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HIS EXCELLENCY: The question is that the words "and Minority Report" be entered after the words "Majority Report" in the motion.

The question was put and lost.

LT.-COL. THE HON. J. G. KIRKWOOD: I wish to move, Sir, that the motion should read:—

For each unofficial member the Governor may appoint a deputy who shall hold office for so long as the unofficial member for whom he is appointed holds office."

HIS EXCELLENCY: What the hon. and gallant Member wishes to do is to delete the words after "deputy" at the bottom of page 2 down to "shall hold office for so long"—that is what he wishes to do?

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LT.-COL. THE HON. J. G. KIRKWOOD: That is my intention, Your Excellency.

HIS EXCELLENCY: The question is that in the Minority Report all the words after the word "deputy" in the second line of paragraph 2 up to the word "deputy" in the first line of sub-clause (c) shall be deleted.

THE HON. THE ATTORNEY GENERAL: After the word "who" if I may intervene.

HIS EXCELLENCY: After the word "who," yes.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I beg to second that amendment. It will involve an increase in efficiency—or no decrease in efficiency; it will involve no new expenditure. I think the Government will readily accept it.

HIS EXCELLENCY: This is a matter on which, perhaps, I had better say a word, because it leaves the appointment of a deputy entirely to my discretion. That will be the situation. I am prepared to accept the amendment on the understanding that I will not exercise that discretion unless it is shown that the existing unofficial members are unable to do the work. I say that because hon. Members must remember that very confidential information is going to be given to this Board, and it is not desirable to increase the numbers of the Board until it is absolutely necessary. The larger the number of members the more difficult in some ways will the work of the Board be, and for that reason I wish to keep it as small as possible. I think, moreover, that if either of the unofficial members found himself unable to serve owing to illness, it would be his duty to resign so as to allow me to appoint another substantive member in his place.

On the understanding therefore that I shall only appoint a deputy in the case of serious necessity, proved by the proceedings of the Board, I am prepared to accept that amendment.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to move an alteration.

HIS EXCELLENCY: Order, order. The hon. Member has moved an amendment; he cannot speak again on his own amendment.

LT.-COL. THE HON. J. G. KIRKWOOD: I was going to move a different amendment to a different clause.

HIS EXCELLENCY: We must dispose of this amendment first.

The question is that the words after "a deputy who" in paragraph 2 (2) of the Minority Report up to the words "A deputy" in sub-clause (c) be deleted.

The question was put and carried.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I move that in clause 8, after the words "form of application" you delete the word "and" and substitute the words "and/or." In the first line on page 3.

HIS EXCELLENCY: Where is that?

CAPT. THE HON. H. E. SCHWARTZ: In the Bill, I think, Sir.

THE HON. CONWAY HARBVEY: The reference is to the Bill, Sir—the top line on page 3.

HIS EXCELLENCY: Would the hon. and gallant Member give me the reference again?

LT.-COL. THE HON. J. G. KIRKWOOD: It is in the Bill, on page 3, clause 8. I propose that after the words "form of application" you delete the word "and" and substitute the words "and/or." The top line in page 3, Sir.

THE HON. THE ATTORNEY GENERAL: Permit me to point out, Your Excellency, that that will entail, I think, the same thing being done in two other places just below that: "and on the product or article to be cured" and "and upon all farm livestock." I take it that is the real wish of the hon. Member, Sir.

HIS EXCELLENCY: Is that necessary?

THE HON. THE ATTORNEY GENERAL: I personally should oppose it very strongly, Sir.

HIS EXCELLENCY: The question is that the following be added to the Majority Report of the Select Committee: In the Bill, clause 8, page 3, after the word "and" at the top of the page add the word "or"; after the word "and" page 3, line 2, add the word "or"; after the word "and" line 4, add the word "or."

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: Your Excellency, I beg to second that.

THE HON. THE ATTORNEY GENERAL: This point, Sir, was very carefully thrashed out at considerable length at the meeting of the Select Committee yesterday. That Committee, Sir, made no recommendation for any such amendment. The reasons, Sir, can be put quite simply. One of the primary objects of this legislation is to save expense, and the provisions of the Bill enable that to be done by providing for an automatic charge by a mere registration in the office of the Registrar of Titles against the title. That could not be done, Sir, in the case of live stock or any chattel. It has nothing whatever to do with the title, and, Sir, if the Board chose, in any particular case, to say, "We don't want to make this charge applicable to your land at all, we will take it on your severed crops or on your live stock," it would be necessary to prepare an instrument with an elaborate schedule, and at once there would be not only expense but delay. Those are the two things that we are all out to avoid in this measure. The whole of the Select Committee yesterday were at one on that, that it would be better to leave things as they are in the draft, being certain, as we are, that so long as the provisions remain as they are now there will be no expense beyond the irreducible minimum and no delay. I can hold out no hope that if this amendment is accepted, there will not be considerable delay and inevitable expense.

HIS EXCELLENCY: Does the hon. and gallant Member wish to press the amendment?

LT.-COL. THE HON. J. G. KIRKWOOD: I should like to point out, Sir, that in my opinion clause 8 requires alteration. It lays down now that where an advance is made on the land it automatically covers a growing crop and a future crop. That, if it stands, will be a great disadvantage to the farming community whom you propose to assist inasmuch as it is going to considerably curtail commercial credits.

HIS EXCELLENCY: The hon. Member will understand that he is speaking by leave of Council. He has already spoken to his amendment. He should have said this before.

LT.-COL. THE HON. J. G. KIRKWOOD: In the report before us, in clause 13, that has been altered. A proviso has been put in there which reads:—

"In the absence of any such direction for disposal as aforesaid, all crops, produce and livestock as aforesaid may be dealt with and disposed of by the farmer as he may see fit."

HIS EXCELLENCY: Order, order. I think it will be desirable that the hon. and gallant Member should withdraw his amendment. If he wishes to speak on the demerits of clause 8 he can do that. He has not yet spoken on the main motion. He may do that; but he is not entitled to make two speeches on this amendment. Is the amendment withdrawn?

LT.-COL. THE HON. J. G. KIRKWOOD: Yes, Sir.

LT.-COL. THE HON. C. G. DURHAM: On a point of explanation, Your Excellency, he did not attend the meeting of the Select Committee although he was a member of it.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of explanation, Sir, I was told yesterday that the meeting of the Select Committee was to be held this morning. I inquired this morning on the telephone, and was told that it had already sat.

HIS EXCELLENCY: If the hon. Member wishes to deal with clause 8 he can do so now it is before Council.

LT.-COL. THE HON. J. G. KIRKWOOD: I would like to point out, Your Excellency, if I may, that clause 8 is in contradiction to the amendment proposed in clause 13. Clause 8 lays down that automatically there is a lien on the crops; private money is lent on the land itself. In clause 13 it is laid down that that is only applicable if provided for by instruction of the Board.

THE HON. A. H. MALIK: Your Excellency, I want to move an amendment to clause 3 of the Bill, sub-clause (d). Is this the proper time to do that, Sir?

HIS EXCELLENCY: What is the amendment?

THE HON. THE ATTORNEY GENERAL: I have not yet got it, but the hon. Member asked whether he might put it at this moment.

HIS EXCELLENCY: He can move an amendment to the report. He cannot move an amendment actually to the Bill. He must move the amendment he desires in the Bill as an amendment to the report.

THE HON. A. H. MALIK: Yes, Sir. I beg to move that the Majority Report be amended by the insertion of the words: That in clause 3, sub-clause (d) the word "two" be deleted, and "three" inserted; and that after the word "members" the words "one of whom shall be an Indian delegate" be inserted.

In moving this amendment, Sir, as I explained yesterday, there is a considerable amount of Indian agricultural interest in the country, and, as I said yesterday also, Sir, the Indian farmer in the majority of cases, when he wants to purchase his farm, has to pay considerably more than the European farmer; and it seems to me, Sir, very unfair that a farmer who is compelled to pay nearly twenty-five times the price shall not be represented on a board which is appointed for the relief of the farmers. The hon. the Attorney General stated that representation could be accorded to the farmers on the district boards—local boards—and if a case was made out for the local boards, it would be considered by the Central Board; and he also added that no useful purpose would be served by the addition of an Indian member. I submit, Sir, that the same argument must hold good in the case of European members, because they could also be represented on local boards, and when the case is made out for the local board and an approved application submitted to the Central Board, it will be dealt with naturally by the European members. He has stated further this morning that only the two European unofficial members should be allowed to sit, and that it was not advisable that deputies should also be appointed to attend all these meetings. Well, Sir, I think, in view of all that, that the same argument can be adduced for the case for the appointment of an Indian member to this Board. I do not think that it needs any more argument or explanation. I sincerely trust, Sir, that the Government will accept this amendment, and that some sporty Member will second it, Sir.

HIS EXCELLENCY: Does any hon. Member rise to second the amendment? The motion is therefore lost.

I think, if the hon. the Attorney General will now move that the words "and the Minority Report, as amended by this Council" be added after the words "Majority Report" in the motion.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Majority of the Select Committee of the Legislative Council, and the Report of the Minority, as amended in this Council this morning, be now adopted.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Majority Report of the Select Committee on this Bill, and the Minority Report, as amended by this Council, be adopted.

The question was put and carried.

HIS EXCELLENCY: Order, order. I think it will be desirable that the hon. and gallant Member should withdraw his amendment. If he wishes to speak on the demerits of clause 8 he can do that. He has not yet spoken on the main motion. He may do that, but he is not entitled to make two speeches on this amendment. Is the amendment withdrawn?

LT.-COL. THE HON. J. G. KIRKWOOD: Yes, Sir.

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THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Majority of the Select Committee of the Legislative Council, and the Report of the Minority, as amended in this Council this morning, be now adopted.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Majority Report of the Select Committee on this Bill, and the Minority Report, as amended by this Council, be adopted.

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE CHATTELS TRANSFER BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move the adoption of the Report of the Select Committee of this Council on the provisions of a Bill relating to Chattel Securities and the Transfer of Chattels.

Here, again, Sir, I am happy to say that, although the Report is a somewhat longer one than that which we have just discussed and considered, the contents of the Report call for very little comment indeed; so little, Sir, that I think I can quite fairly say there are only four points to which attention need be drawn. The first relates to the question of fees. The Bill, as introduced, provided for a fee of Sh. 10 for each entry which was taken in connexion with the registration of an instrument or memorandum of satisfaction when the instrument had been discharged. The recommendation of the Committee, Sir, is that the fee should be halved—that the fee should be Sh. 5 only.

The other two points are important, Sir. The execution of a deed, when there is more than one grantor, is deemed to be executed when it is signed by the first of the grantors. As the period for registration is twenty-one days, and as one grantor may be here and another in England, it is manifestly impossible for such an instrument ever to be signed, executed and registered without having to go to the court. So we suggest that the execution should be effective as from the date on which the last of the grantors signs the instrument.

Then there is the point of the date from which the instrument shall be effective. The Bill, as printed, provides that the period shall be from the date of execution. The Committee felt very strongly, Sir, that that was a very unwise and unsafe provision. It would, for instance, enable a tradesman who feared the bankruptcy court and expected its intervention at practically any moment to execute an instrument over his chattels and to not then register it until the doors of the Divorce Court had closed behind him.

THE HON. H. E. SCHWARTZ: Divorce?

THE HON. THE ATTORNEY GENERAL: No, not quite such a dangerous place—the Bankruptcy Court. After full consideration, Sir, your Committee came to the conclusion that in the interests of commerce and trade in the Colony generally it was very much safer to say that an instrument should be effective from the date of registration and not from the date of execution.

There is one other point only, Sir, to which I need draw attention, and that is to amendments in the Third Schedule. The curious provision had slipped in there, Sir—both in section 5 and section 7—that the grantee could exercise his rights if a judgment against the grantor remained unsatisfied for ten days. On that I can only say that the person against whom judgment is given has got thirty days in which to appeal from it, and it seems rather ridiculous that he should be penalised in the *locus penitentia*, and the Committee suggests that the provision should be, not that judgment has been delivered against him but that execution has been levied or has not been settled or satisfied within ten days.

These are the only changes which have been made: the others are largely clerical and consequential. I beg to move that the Report be adopted.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Chattels Transfer Bill be adopted.

The question was put and carried.

BILLS.

THIRD READINGS.

AGRICULTURAL ADVANCES BILL.

CHATTELS TRANSFER BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Agricultural Advances Bill and the Chattels Transfer Bill be now read a third time and passed.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

COLONEL THE HON. W. K. TUCKER: Your Excellency, in the course of Select Committee last night, it was agreed that one or two words might appropriately be said, either on the report stage or third reading, in explanation of the obvious reluctance on this side of the House yesterday to treat this measure as an emergency one. Have I your permission, Sir, in two or three words, to explain that reluctance?

HIS EXCELLENCY: It is perhaps just within the rules of order.

REPORT OF SELECT COMMITTEE ON THE CHATELS TRANSFER BILL.

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THE HON. THE ATTORNEY GENERAL: Divorce?

THE HON. THE ATTORNEY GENERAL: No, not quite such a consideration as the Bankruptcy Court. After full consideration the Select Committee came to the conclusion that in the interests of commerce and trade in the Colony generally it would be much safer to say that an instrument should be effective from the date of registration and not from the date of execution.

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These are the only changes which have been made: the others are largely clerical and consequential. I beg to move that the Report be adopted.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Chateils Transfer Bill be adopted.

The question was put and carried.

BILLS.

THIRD READINGS.

AGRICULTURAL ADVANCES BILL.

CHATELS TRANSFER BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Agricultural Advances Bill and the Chateils Transfer Bill be now read a third time and passed.

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COLONEL THE HON. W. K. TUCKER: Your Excellency, in the course of Select Committee last night, it was agreed that one or two words might appropriately be said, either on the report stage or third reading, in explanation of the obvious reluctance on this side of the House yesterday to treat this measure as an emergency one. Have I your permission, Sir, in two or three words, to explain that reluctance?

HIS EXCELLENCY: It is perhaps just within the rules of order.

COL. THE HON. W. K. TUCKER: Well Sir, I am not going to take more than a minute or two, but we feel that to the people outside two or three words are necessary. Your Excellency, it is obvious that we did not regard the two Bills as being directly associated one with the other, and that is rather supported by the way in which the summons to this Council was worded, because we were asked to pass the Farmers Advances Bill and we were asked to consider the other one. Then, Sir, the moment you represented to us, Sir, that they stood or fell together, I think our subsequent action showed that the best thing we desired to do was to delay one or the other. But our instructions very briefly were as follows: The point was put by the hon. Member for the Lake yesterday—we feared that the Land Bank Bill might be prejudicially affected. That, Sir, was quickly dispelled by the unqualified assurance of the hon. the Attorney General. A second practical point was this, Sir, that believing that the two were not associated, we had spent the whole of the day and most of the night of Thursday examining the other Bill, and faced with 52 clauses of new Bill, which we did not regard as urgent, we took up that attitude. The third point, Sir, was—and an important one—that two very important bodies were involved, particularly the Association of Chambers of Commerce. The President of that body made special representations that if possible the passing of the measures should be delayed until the next session of Council. The fourth consideration was the fact that Members on this side of the House had just been supplied with copies of legislation in New South Wales and South Africa bearing on this very important subject of priority. All I want to say now is that we do on this side of the House—and after all, we have supported this Bill once you made the explanation—think it is a thousand pities that this should be due to the determination and clear thinking and persuasion of the hon. the Attorney General. We believe at least that the need is felt badly to get into force a piece of legislation whose absence in the past has undoubtedly lost the country a considerable amount of advantage and money.

HIS EXCELLENCY: The question is that the Agricultural Advances Bill and the Chattels Transfer Bill be read a third time and passed.

The question was put and carried.

The Bills were read a third time and passed.

HIS EXCELLENCY: I may say that the Agricultural Advances Bill has now been signed and it therefore comes into effect from to-day.

It will be, I think, for the convenience of Members to know that it is proposed to hold the next session of this Council at Mombasa on July 10th. At that meeting it is proposed to deal with various bills that are still on the Order Paper, or about to be introduced, so as to make the Order Paper clear for the Estimates at the subsequent session of Council. I only make one reservation in regard to that meeting. It is just possible that it may be necessary for Government to summon another emergency meeting of Council before July 10th to deal with the question of the wheat pool, and if that does prove to be a necessity, I hope hon. Members will set aside their convenience and come. It is a very important matter.

Council adjourned sine die.

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Council adjourned sine die.

20
27th June, 1930.

SEPARATE

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies and has the honour to transmit twelve copies of the undermentioned documents for information:

- Report of Select Committee on the Agricultural Advances Bill.
- Report of Select Committee on the Chattels Transfer Bill.
- Report of Select Committee on the Native Liquor (Amendment) Bill.
- Report of Select Committee on the King's African Rifles Bill.
- Rules of Court (Advocates' Remuneration and Taxation of Costs Amendment) No. 4 of 1930.
- Judicial Department Annual Report, 1929.
- Crown Lands Ordinance - Return of Land Grants, etc., 1st Jan. to 31st March, 1930.
- Report by Lt. Col. S. P. James, M.D., on a visit to Kenya and Uganda to advise on anti-malarial measures.
- Annual Trade Report of Kenya and Uganda for the year ended 31st December, 1929.
- Registrar General's Annual Report, 1929.

R E P O R T
O F
THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT ON THE PRO-
VISIONS OF A BILL TO MAKE PROVISION RELATING
TO CHATTEL SECURITIES AND THE TRANSFER OF
CHATTELS.

Your Excellency

We, the undersigned members of the Committee appointed to consider and report on the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects:-

Clause 1:

1. That Clause 1 be amended by the substitution of a full stop for the comma appearing after "1930", and by the deletion of the words "and shall come into force on such date as the Governor by notice in the Gazette shall determine".

Clause 2:

2. That the definition of "Crops" be amended by deleting the words "European flax" which appear in line 22, and by the substitution of the word "oat" for the word "oats" which appears in line 20.

3. That the definition of "Instrument" be amended by substituting the word "possession" for the word "possession" which appears in line 14.

4. That the words "as defined in this Ordinance" which appear after the word "agreements" in the first line on page 3 of the Bill be deleted, and a full stop be inserted after the word "agreements".

5. That the definition of "Stock" be amended by the insertion of the word "poultry" between the words "pigs" and "and" which appear in line 7.

Clause 3:

6. That sub-clause (2) of Clause 3 be amended by deleting the words "in milking, and machinery and plants used for shearing," and substituting therefor the words "in connection with the production, preparation or

manufacture of agricultural products,".

Clause 6:

7. That sub-clause (2) of Clause 6 be amended by substituting the word "last" for the word "first" in line 16.

Clause 7:

8. That sub-clause (4) of Clause 7 be amended by deleting the words "or of the person against whom the process is issued" in lines 38 and 39; by substituting the word "provincial" for the word "senior" where it occurs in lines 46, 48, and 49; and by deleting the words "or if any such place is situate in a district which is not included in any province then to the resident commissioner of such district in the prescribed manner" which occur in lines 50, 51 and 52.

Clause 8:

9. That Clause 8 be amended by substituting the word "five" for the word "ten" in line 58.

Clause 10:

10. That sub-clause (.) of Clause 10 be amended by substituting the word "five" for the word "ten" in line 30.

11. That a new sub-clause to be numbered "(6)" be added after sub-clause (5) -

"(6) The provisions of sub-section (4) of section 7 of this Ordinance shall apply mutatis mutandis to the renewal of the registration of any instrument".

Clause 11:

12. That sub-clause (.) of Clause 11 be amended by deleting the words "Until the expiration of the time of prescribed time for registration of any instrument under this Ordinance" in lines 30 and 31 and by substituting the word "so" for the word "so" in line 31.

Clause 12:

13. That Clause 12 be amended by deleting the words

"Upon the expiration of the time or extended time for registration" in the first and second lines of the Clause and by the substitution of the word "No" for the word "no" in the second line of the Clause.

Clause 14:

14. That Clause 16 be amended by substituting the word "registration" for the word "execution" in the last line of the Clause.

Clause 17:

15. That Clause 17 be deleted and the following Clauses renumbered accordingly.

Clause 18:

16. That Clause 18 be amended by the deletion of the words "to the extent and" which occur in line 15.

Clause 19:

17. That Clause 19 be amended by the deletion of the words "to the extent and" which occur in the second line of the Clause.

Clause 20:

18. That sub-clause (1) of Clause 20 be amended by deleting the words "to the extent and" which occur in the seventh line of the sub-clause; and by the insertion of the word and number "and 14" after the number "13" which occurs in the eighth line of the sub-clause.

Clause 23:

19. That Clause 23 be amended by the deleting of the words "to the extent and" in the seventh line of the Clause; and by the insertion of the word and number "and 14" after the number "13" in the eighth line of the Clause.

Clause 25:

20. That sub-clause (2) of Clause 25 be amended by deleting the words "to the extent and" in lines 43 and 44 and by inserting the word and number "and 1" after the number "13" in line 44.

Clause 26:

21. That sub-clause (1) of Clause 26 be amended by deleting the words "dried milk" in the penultimate line of the sub-clause and substituting therefor the word "other"; by deleting the full stop at the end of the sub-clause and adding thereafter the words "for the manufacture of dairy products", and by deleting the words "by dairy company" in the marginal note to the sub-clause:

Clauses 27 and 28:

22. That Clause 28 be amended by the deletion of the words "to the extent and" which occur in line 16.

23. That Clauses 27 and 28 be transferred to follow Clause 22 and be renumbered accordingly and that Clauses 23 to 26 be renumbered accordingly.

Clause 34:

24. That sub-clause (1) of Clause 34 be amended by substituting the number "50" for "31" in line 17, and by substituting the number "31" for "32" in the last line of the sub-clause.

Clause 35:

25. That sub-clause (1) of Clause 35 be amended by substituting the word "five" for the word "ten" in line 36.

Clause 38:

26. That Clause 38 be amended by substituting the number "34" for "35" in the penultimate line of the Clause.

Clause 50:

27. That Clause 50 be deleted and the following Clauses be renumbered accordingly.

Clause 51:

28. That Clause 51 be amended by the insertion of the words "or attempts so to do" between the words "same," and "and" in line 25; by substituting the words "six months' imprisonment or" for the words "two years'

imprisonment" in the penultimate line of the Clause, and by the deletion of the full stop at the end of the Clause and the insertion thereafter of the words "or to both such fine and imprisonment".

First Schedule:

29. The First Schedule be amended by substituting "1930" for "1927" in the heading of the Schedule.

30. That the word "Affidavit" be substituted for the word "Affadavit" in the heading Affidavit on Renewal of Registration of Instrument" on page 15, and by the substitution of "1930" for "1927".

31. That the Instrument on page 16 be amended by deleting the words "this day" appearing in the third and fourth lines thereof, and by the substitution of "C.D" for "E.P." which appears in the seventh line of the Instrument.

32. That the Memorandum of Satisfaction be amended by substituting "1930" for "1927" in the seventh line thereof.

Third Schedule:

33. That section 5 of the Third Schedule be amended by deleting the words "or until a judgment of any court against the grantor has remained unsatisfied for ten days" and substituting therefor the words "or until execution is levied against the goods of the grantor and such execution is not stayed or satisfied within ten days".

34. That section 7 of the Third Schedule be amended by deleting the words "or if at any time a judgment of any Court against the grantor remains unsatisfied for ten days" which occur in the eighth and ninth lines of the section, and by substituting therefor the words "or if at any time execution is levied against the goods of the grantor such execution is not stayed or satisfied within ten days".

35. That section 10 of the Third Schedule be amended **END**
 by deleting the words "shall and" in lines 16, 26 and 27
 on page 20; by the substitution of the word "fees" for
 the words "licence fees, head-moneys" which occur in
 lines 18, 23 and 24 of the section.

Fourth Schedule:

36. That section 3 of the Fourth Schedule be amended
 by substituting "1930" for "1927" in the eighth line of
 the section.

Fifth Schedule:

37. That the Transfer of Instrument in the Fifth
 Schedule be amended by substituting "1930" for "1927" in
 the fourth line of the Transfer.

38. Sixth Schedule:

That Sixth Schedule be deleted.

We have the honour to be,
 Your Excellency's
 most obedient servants.

- | | |
|------------------|---|
| A.D.A. MacGREGOR | (CHAIRMAN) |
| H.H. RUSHTON | (TREASURER) |
| H.T. MARTIN | (COMMISSIONER OF
LOCAL GOVERNMENT
LAND AND
SETTLEMENT) |
| ALEX HOLM | (DIRECTOR OF
AGRICULTURE) |
| T.J.O'SHEA | (MEMBER) |
| E.P.O'YS COBB | (MEMBER) |
| V.K. TUCKER | (MEMBER) |

35. That section 10 of the Third Schedule be amended by deleting the words "shall and" in lines 16, 26 and 27 on page 20; by the substitution of the word "fees" for the words "licence fees, head-moneys" which occur in lines 18, 23 and 24 of the section.

Fourth Schedule:

36. That section 3 of the Fourth Schedule be amended by substituting "1930" for "1927" in the eighth line of the section.

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37. That the Transfer of Instrument in the Fifth Schedule be amended by substituting "1930" for "1927" in the fourth line of the Transfer.

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That Sixth Schedule be deleted.

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