

1930

Kenya.

No. 16054.

SUBJECT

C0533/396

attle blessing Ordinance

N^o 32 of 1929.

Previous

159/4/29

See 16000/30K. (Hindi
Hindi text)

Subsequent

38474/40.

The 2 authenticated copies of the Cattle
Cleansing Ordinance, 1929, with copies of the Legal
Report - with absens.

RESTRICTED UNDER STATUTE

One authenticated
and 10 printed
copies to Library.

Secretariat. 3.p.m. 23rd. Jan. 30.

The 10 printed copies of the Ordinance.

This Ordinance should be considered
in conjunction with the Fencing
Ordinance - 16085/30 k.

This Order appears to
be much less controversial &
much better in form than the
Fencing Ord. It reproduces
the existing chapter 18 (copy
attached).

Subject to legal opinion
Sanction. L7.

G. Eastwood

26.3.30

to Secretariat

(1) I think that, on their reports, amending
legislation, we would have a
note to show briefly what are
the main points of difference
between the new & old laws.

the Kenya Govt. has done this - & when we can make the point & ask for a fuller explanatory statement in future cases.

(ii) How about finance? on p. 127 of the report 15.7.29 in X. 15934/22. What can we discover from Sect 9 or anywhere else as to the provision to be made in connection of the passing of this Ord?

(iii) It will be desirable to have a short note on the ~~new~~ obligations this will impose upon natives & what the 'Somalis' are who affect natives.

all
20 3 20

a useful table with the Col. Govt. and itself have prepared

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if it is a "guard" area or "infected" area wholly within a clean area - Sec. 5 - in which case, apparently, the consent of the native authorities is not required, it becomes obligatory on all cattle owners in that area to dip their cattle at certain specified times and places. An Inspector may require the Local Native Council or other native authority to construct and maintain dipping tanks at suitable places at their own expense.

Advances to defray the cost of constructing or repairing dipping tanks may be obtained from the Land Bank or other public funds.

The "sanctions" are those provided by the penalty clauses 21 and 22, and do not appear excessive.

X This depends on whether the provisions are to be applied to the ...

G. Eastwood

For convenience of record I note that the earlier bill referred to in No. 1 on 15934 was published in May 1928 page 631 of the Gazette of the 22nd May 1928. Section 14 of that bill provided for advances to be made, but not lay down any provisions as to repayment. The Ordinance at 15934 provides in Section 13 for advances for (1) the Land Agricultural Bank of Kenya, or (2) such other public funds as the Legislative Council may decide for that purpose. The Ordinance does not make any provision as to the repayment of such advances. But as regards advances made by the Bank if established, the terms would be covered by the provisions of the Land Bank Bill when passed, and this matter was discussed in the Notes on the Bill

sent to the Governor in the Secretary of State's despatch of the 10th December 1929, No. 37 on 15680/29. See notes under Clauses 33, 36 and 41 of the Notes attached to the draft despatch which are flagged in 15680/29.

(a) It may be the intention to deal with the question of the terms of any advances made from other public funds by rules under Section 23 of the Ordinance, or in some other manner, but it would seem desirable to make enquiry on this point.

No. 2 of
15934/29

As regards cost, the original estimate was £6,000 a year, but in the debate to which Mr. Parkinson refers it was stated (15th July 1929) that the staff of the Veterinary Department had since been strengthened in several directions, and it was ~~not~~ considered that so much additional expenditure will now be found necessary. Although, ~~it~~ appears from page 16 of the report of the Select Committee on the 1929 Estimates, no special staff is required, it would seem probable that expenditure in other directions will ~~be~~ necessary, although I have not been able to find any specific reference. It might therefore be just as well to make enquiry on the point if any for the record.

The ~~Commission~~ Commission made recommendation with regard to Fencing, but I am unable to discover anything in their report dealing with this question of cattle cleansing, and subject to any legal observations by Mr. Duncan, or technical remarks by Mr. Stockdale, there would seem no reason to take any exception to the drainage, which may be sanctioned, subject to the enquiries at at (a) and (b) above.

1/11/30 2914/30

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1/11/30 29/4/30

I think it would be better if the word "reasonable" were inserted between the words "a" and "period" in line 5 of section 11 (2), and if the words "not being less than days" were inserted between the words "period" and "to" in the same line.

The minimum reasonable time would have to be ascertained, of course, from someone qualified to say, and the number of days would accordingly

I have no other legal observations.

30/4

H. Duncan.

MR. PARKINSON.

I would ask you to compare Section 31 of this Ordinance with the similar section in the Fencing Ordinance on File 16085/30 Kenya. You will note that in this Ordinance the Senior Commissioner, on representation of the majority of landowners and cattle owners, may declare an area to be a cleansing one, whereas, in the Fencing Ordinance, it is provided that the Director of Agriculture shall make the declaration, without the specification of "on

~~Handwritten notes~~
~~Handwritten notes~~
~~Handwritten notes~~
~~Handwritten notes~~
~~Handwritten notes~~

A.

representation of the majority of landowners". My comments on Kenya's definition of local action apply equally to the proviso in section 3 (e) of this Ordinance.

B.

My comments under the Fencing Ordinance on the consultation of the Senior Commissioner with the Local Native Councils apply equally to section 4 of this Ordinance.

It should be considered whether the powers given under 11 to an Inspector are not excessive. The original South African Act - copy attached - gives powers to the Minister of Agriculture to make orders on owners to construct dipping tanks, and it has to be considered whether similar powers in Kenya should be entrusted not to Inspectors but to the Chief Veterinary Officer. In Ceylon there was considerable discussion in the Legislative Council about the entrusting of wide powers to junior officials, and the tendency after the Council was reformed was to curtail, wherever possible, these powers, making the junior officials reporting officers to their executive chiefs. There were undoubtedly some cases where junior officials had shown errors of judgment, and the power of revision of their opinions by more senior officers is sometimes desirable. Should not orders in Kenya be issued by senior officers and not by those of the rank of Inspector?

The

The South African Act details the interest payable and the instalments for refund of advances. These were given in South Africa, in the first instance, through the Department of Agriculture, but were transferred by a subsequent amending Act to the Land and Agricultural Bank of South Africa. Should not the reference in this Ordinance to the Land and Agricultural Bank of Kenya be deleted and the practice of South Africa followed? The South African Act No. 17 of 1915 provides for a rate to be levied on native residents in any native reserves for construction of tanks, and for the recovery of such rate in a manner similar to the collection of poll tax or hut tax. The provisions of Section 4, ex the Kenya Ordinance are more lenient.

But I think
 this wd. all be
 sufficient
 covered by
 no other (a)
 need

J. D. Stokdale

2. .30.

I accept this for the Deereing Ordⁿ.
 which has now been initiated & is
 with all Dept for a ...
 the way in which this Ordⁿ. is
 submitted is unsatisfactory, &
 I think that we shd. lay it down
 that in future [I have already
 said too much about ...]
 that we need have explanation
 with Ordⁿ I 198 wd. with to
 receive (a) explanation of

W.S.S.

Differences between new legislation
& that wh. is repealed by it -
& (4) whenever natives are
affected a separate statement
showing exactly how the
legislation will affect the
rights & the obligations
etc. wh. the Ord^o will
impose upon them - & if
it is proposed to make the
natives responsible for
finding money as, e.g., in
§ 11 of the Ord^o, the argument
for so doing instead of
meeting the cost from general
revenue sh^d be set out -
& that such a statement
shall be prepared in respect
of the Ord^o - The points
at A - B - C of the Ord^o which
natives might be put
to pay up with the Ord^o &
the financing Ord^o as necessary,
& also (a) & (b) in the Ord^o's
insertion & how the same
suggestion can be included - then
say that pending receipt of Govt
reply no advice will be given
as to the Ord^o & that it must
not be assumed that Govt. will
feel able to agree to provisions
imposing new financial burden
on the natives.

7 If correct
accordingly

Yes - left for commission. Note that
letter cards owned will be given
handled - it will be a long time before
they realize that they can get 5 up
their wills.

Costs 31.5.30

3 So-Cov 1175 (1/2. Enthal para. 11.5
No 3 on 1685/30) - Cons. 24/11/30
(No 1. Answer)

noted
note 2.9.
the spangs
of oil with
the para: 2
ho 3

~~SW~~

the Eastwood

ho reply to ho 3 yet.

ho reply to ho 3
1685/30

shown
26/11/30

Give them till 1st Jan & then
remit

Eastwood
28.11.30

~~SW~~

look 4#

Please see in Eastwood's minutes
of 28/11/30 above and also minute of 29/11/30
on 1685/30, below

shown
31/12/30

Wait was late 10.7.30

28.11.30

9
sample 4/2
will hand
to the

H. Westbrook

Please see how your minute of 7/1/31,
 outline

shown
7/2/31

See way on 7030/31 (Lands Bank)
Lands Bank 1st May

Edward
23.2.31
at

H. Westbrook

Please see your minute of 21/2/31.

shown
1/7/31

See last page of no 5 on
17030/1/31 King's Lane funds
& do. Role is in being about
the or the Henry 1850 (exit
the 1st July Edward ^{dictated}

25/12/31
at

H. Westbrook

Please see your minute of 3/3/31

shown
3/4/31

Pl. see also on 16085/30 below.
They might at least tell us
if note is being done which
I believe to be the case.

The above will have been
announced for four years in
Dec next.

? meaning of despatch when
referred to no 3
on this file & a

Edward
7/31

noted
7/31 a fund

Despatch stopped in view of to H.

shown
8/7/31

4 How Payne 322 _____ 10 June
includes statement showing how natives are
affected by ordinances and comments on various
sections. Trusts for may now be advised
not to exercise power of disallowance

P.T.O.

Natives in Reserve.

No funds will be provided except Local Native Council funds; The Gov. has to be satisfied before that such funds are available before a district can become a "proclaimed native district"; the funds cannot be made available without the Local Native Council. In effect therefore the consent of the L.N.C. is necessary before anything can be done affecting natives. It is not anticipated that natives will "take advantage" to any considerable extent of the "opportunities" afforded by this Ord.

(b) Squatters. Fees may be charged (landowners for digging devices which squatters may be required to have performed. Great care will be taken that the charges are reasonable.

As far as natives are concerned, therefore, no special need be taken to the Ord.

(Section 3)
Local Option / I hope that in

Natives for Revenue

No funds will be provided except Local Native Council funds; The Gov. has to be satisfied before that such funds are available before a district can become a "proclaimed native district"; the funds cannot be made available without the Local Native Council. In effect therefore the consent of the L.N.C. is necessary before anything can be done affecting natives. It is not anticipated that natives will "take advantage" to any considerable extent of the "opportunities" afforded by this Order.

(4) squatters. Fees may be charged of landowners for dipping devices which squatters may be required to have performed. But care will be taken that the charges are reasonable.

As far as natives are concerned, therefore, no objection need be taken to the Order.

Local Option (Section 3) I hope that is

The ~~same~~ explanation is the next to the last: (in para 10) the existing arrangements may be allowed to stand. We do not want to be too cantankerous.

Powers of inspectors. Their powers will be limited to ensuring that dipping facilities are to an approved design & that they are maintained properly. Only reliable & experienced officers are to be entrusted with the work.

I think that the Gov. feels satisfactorily with all the points raised in no. 3 & unless Mr Montgomery has any further points to raise I sanction of the Order may now be signified. With thanks for the explanation given. Mr Duncan has already seen me so there is no need to refer to the Legal Advisor again. The Order has I think not yet been brought into force.
G. J. [Signature]
15.7.31

I have no comments to make
on the Ordinance, which
conforms in general with
similar ordinances
elsewhere, and the
Governor's application
appears to cover all the
points.

E. J. [Signature]

21. VII. 31

Gov. let 285 (copy) ————— 10th September
Inquiry of notice of non-disallowance
may now be issued.

See on 16085/30

of "S"

10/10/31
11/11/31

See. to Gov. (311) ————— 9 Oct. 31
(Encl. to Gov. (311) (Draft on 16085/31)

16085/30.

TELEGRAM from the Secretary of State for the Colonies
to the Governor of Kenya.

(Sent 8.45 p.m. 9th October 1931).

No.311.

Your telegram No.317 His Majesty will
not be advised to exercise his power of disallowance
in respect of Ordinance Nos.31 and 32 of 1929.
Despatch follows as to amendment of Fencing Ordinance.

10

1688/38

Telegram from the Governor of Kenya
to the Secretary of State for the Colonies.
Dated 10th September 1931. Received 1.2 p.m. 10th September.

in Acc. 1688/30
D. H. H.

No. 285 My despatches Nos 321 and 322 10th June
Fencing and Cattle Cleansing Ordinances. should be glad
of
to be informed whether notices of non-disallowance may
now be issued. Application of these ordinances is
being discussed in Select Committee on estimates.

KENYA

No. 322



GOVERNMENT HOUSE

NAIROBI

KENYA

RECEIVED
6 JUL 1931
COL. OFF

10 June, 1931.

My Lord,

I have the honour to refer to Your Lordship's despatch No. 475 of the 24th June last on the subject of the Cattle Cleansing Ordinance, 1929.

2. In accordance with Your Lordship's request, I enclose a statement showing how far natives are affected by this Ordinance and what obligations the Ordinance imposes upon them.

I note that, in future, when an Ordinance which replaces existing legislation is submitted for the signification of His Majesty's pleasure, a statement is required showing the variations from the existing law and the reasons for the changes. In the present case, it will be sufficient to explain that the existing law contained in the Cattle Cleansing Ordinance (No. 158 of the Revised Edition) has never been in operation, since it has not been possible for the Government to implement the provisions of section 3 of the Ordinance. In recent years the whole question has come under review. In the light of experience and with greater knowledge of the variable conditions of the Colony and the degree to which compulsory dipping could be effectively enforced, it became evident that it was desirable at this stage of development of the cattle industry to provide for a considerable measure

of

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

of local option. Consequently the Ordinance contemplates the declaration of (a) cleansing districts; (b) proclaimed districts, and (c) proclaimed native districts.

✓
1608/12

3. In regard to Your Lordship's comments on section 3 of the Ordinance, I enclose for your reference a copy of paragraph 3 of my despatch of even date, dealing with this point where it occurs in the Fencing Ordinance. The provisions of section 4 are fully commented upon in the statement now enclosed.

The question of the powers conferred upon inspectors by section 11 was discussed very fully when the Bill was in Select Committee and it was agreed that the Chief Veterinary Officer could not reasonably be expected to carry out the detailed executive work of a technical nature provided for in the Ordinance. Apart from the operation of this section, landowners in a proclaimed district or proclaimed native district would be already compelled by sections 8 and 9 to dip and provide dipping facilities to the satisfaction of an inspector. The powers of the inspector under section 11 may therefore be regarded as limited to requiring an "approved design" and proper maintenance. The "approved design" would in fact be laid down by the Chief Veterinary Officer.

✓

In so far as proclaimed native districts are concerned, section 12 provides that orders given by an inspector shall be communicated through the District Commissioner. The ordinary Departmental machinery, administrative and technical, is such that proper supervision can and will be exercised over these inspectors and it is proposed that only reliable and experienced officers should be entrusted with these powers.

11025/10

5. On the question of advances from public funds, I would refer to paragraph 9 of my despatch on the subject of the Fencing Ordinance. A copy of that paragraph is enclosed for convenience of reference.

6. With reference to paragraph 6 of Your Lordship's despatch, regarding the necessity for special staff or expenditure in other directions, it is expected that the present establishment for Veterinary Services will be sufficient to administer the Ordinance, and, so far as can be seen at present, it is not anticipated that the operation of the Ordinance will involve expenditure in other directions to any appreciable extent.

7. Consideration will be given to the advisability of amending section 11(2) as suggested, in connection with similar amendments to the Fencing Ordinance.

It may well prove that practical difficulties in the operation of an Ordinance of this nature may necessitate further amendments, which would provide occasion for the suggested expansion of the wording of this section.

8. I trust that His Majesty may now 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,

BRIGADIER-GENERAL.
GOVERNOR.

14

STATEMENT SHOWING THE EXTENT TO WHICH NATIVES
ARE AFFECTED AND OBLIGATIONS IMPOSED UPON THEM
BY THE CATTLE CLEANSING ORDINANCE, 1929.

Under section 4 the Governor may on the advice of a Provincial Commissioner declare that the Ordinance shall apply to any area within the jurisdiction of any local Native Council or other native authority. Such area then becomes a "proclaimed native district".

The Provincial Commissioner is required to consult the Local Native Council or other native authority concerned, and the Governor must be satisfied that funds are available for the purpose from sources approved by him. Local Native Funds could not be used without the consent of the Local Native Council concerned, vide section 30(1) of the Native Authority Ordinance. Local Native funds would be used only when the natives have expressed their willingness to devote them to this purpose before the proclaiming of the District. The consent of the Local Native Council to the proclaiming of the District would be given in this way.

2. Section 6 provides that in a "proclaimed native district" every cattle owner shall clean all cattle kept by him in accordance with conditions to be specified by an inspector. An inspector may call upon an owner to produce all his cattle for inspection or enumeration.

Under section 9, every landowner in a "proclaimed native district" on whose land cattle are kept shall provide dipping tanks and tick destroying agents to the satisfaction of an inspector and keep a cattle register.

The Local Native Council or other native authority of a "proclaimed native district" may further be required by an inspector to construct and maintain dipping tanks at suitable places at their expense. The Secretary of State desires to be informed of the reasons why the cost of such construction and maintenance should not be met from general revenue.

No grounds appear to exist for granting natives preferential treatment in this respect. In giving its consent under section 4, a Local Native Council would, ipso facto . . .

facto, make funds available (by Resolution under section 7 of Ordinance No. XVI of 1928) to meet the requirements of section 11. If Local Native funds were not made available, not only would no order be made under section 11 but the area in question would not become a "proclaimed native district" under section 4.

3. Under the Cattle Dipping Ordinance of 1920, the necessary fees are charged provision for the progress of natives, dipping without imposing any hardship upon them. Although concentrations of the value of dipping are given to natives, it is not to be expected that, at this stage of their own development and of their methods of animal husbandry, they will take advantage to any considerable extent of the opportunities offered by the Ordinance, but, as and when they are prepared to do so, the Ordinance provides the necessary ways and means.

If dipping in native reserves is undertaken spasmodically and in restricted areas, native cattle owners would be likely to lose stock through failure to acquire natural immunity to tick-borne diseases, and to lose markets which are open to them and them only for certain immune stock.

4. In a "proclaimed district" (as distinct from a "proclaimed native district") "squatters" cattle will be liable to dipping in common with those of the landowners. This provision is essential to the main object of the Ordinance in destroying tick life and freeing farms and the cattle on them from disease. Landowners are obliged to provide the necessary facilities for the dipping of "squatters" cattle. These natives have a far better appreciation of the value of dipping than natives in the reserves. Fees may be charged by landowners for the dipping services rendered, but the charges are such as may be prescribed under the Diseases of Animals Ordinance and care will be taken to ensure that they are reasonable.

EXTRACT FROM A DESPATCH FROM THE ACTING GOVERNOR,
KENYA COLONY, TO THE SECRETARY OF STATE FOR
THE COLONIES, dated DECEMBER, 1950.

Para. 9. The assumption in paragraph 10 of Your Lordship's despatch is correct. The Land and Agricultural Bank Ordinance contains special provisions in regard to the making of advances for fencing from the funds of the Bank. It is, in present circumstances, doubtful how far recourse would be had to advances from other public funds under section 44 (2)(b). Such advances would normally be subject to the same conditions as those required by the Land Bank in respect of advances from its own funds, and those conditions would no doubt be embodied in Rules made under section 45. No steps to draft such Rules are at present being undertaken.

18
3

NY - 10/6/30

NY - 11/6/30

NY - 12/6/30

NY - 1/6/30

NY - 2/6/30

NY - 3/6/30

NY - 4/6/30

NY - 5/6/30

NY - 6/6/30

10/6/30
86

Downing Street,

20th June, 1930.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 47 of the 23rd January in which you forwarded, for signification of His Majesty's pleasure, two authenticated copies of the Cattle Cleansing Ordinance, 1929.

2. I have been put to some difficulty in the consideration of this Ordinance owing to the fact that your despatch did not indicate the scope of the alterations ^{made in it in} existing law. _{It will be convenient to have to request}

that in future, when an Ordinance which replaces existing legislation ^{submitted} is ^{submitted} for the signification of His Majesty's pleasure, I may be furnished with a statement showing the variations from the existing law.

DRAFT, for conson

(No. 1)

KENYA

No. 475

General

Extract

paras. 4 & 5 (16055/30)

(off records)

5 copies of paras. 4 & 5
to go to Gov. - re. original
& 4 carbon.

[to be sent to Gov. (16055/30)]

C.O.

16054/30 K.

18

Mr. Eastwood 6/6

Mr. Allen 7/6

Mr. Parkinson 14.6.30.

Mr. Bottomley 14.6.30

Sir J. Shackburgh.

Sir G. Grindle.

† Parly. U.S. of S.

† Parly. U.S. of S.

X Secretary of State.

17/6

17/6

Downing Street,

24 June, 1930.

Sir,

DRAFT. for consen.

(No.1)

KENYA

No. 475.

Governer

Extract
to Govt
paras. 4 & 5 (16055/30)

(off. Present)

5 copies of desp. & encl.
to go to Govt. - i.e. one original
& 4 carbon.

[See also 17/6 in 16055/30]

I have the honour to acknowledge the receipt of your despatch No.47 of the 23rd January in which you forwarded, for signification of His Majesty's pleasure, two authenticated copies of the Cattle Cleansing Ordinance, 1929.

2. I have been put to some difficulty in the consideration of this Ordinance owing to the fact that your despatch did not indicate the scope of the alterations of the existing law. ^{made by it in} ~~it will be convenient~~ ~~to have to request~~

that in future, when an Ordinance which replaces existing legislation is ^{submitted} sent ~~home~~ for the signification of His Majesty's pleasure, I may be furnished with a statement showing the variations from the existing law.

and the reasons for the changes.

law, also when natives are particularly affected by any order, I should be glad in all cases to receive a separate statement showing exactly what the effects will be upon natives and what obligations etc. will be imposed upon them. If it is proposed to make natives

responsible for providing funds (as for example

in the case of this ordinance, I should wish to

be furnished the ^{reasons for adopting} ~~argument in favour of~~ this course ~~instead of~~ ~~making~~ the out from a general revenue.

and when such a statement could be prepared

in connection with this ordinance. On receipt of the statement, I will give it careful consideration; but I do not wish it to be assumed

that I shall be able to agree to ~~new~~ provisions ~~improving~~ new financial ~~business~~ ~~upon~~ ~~natives~~.

sections 3 and 4 of the order. ~~What I shall be able to agree to~~ ~~new provisions~~ ~~improving~~ ~~new financial~~ ~~business~~ ~~upon~~ ~~natives~~. ~~(will be)~~ ~~(L.C.S.D/30)~~

sections 3 and 4 of the order. Copies of these

sections is being prepared. I should be glad to have your views on the subject of

sections 3 and 4 of the order. I do not wish it to be assumed

that I shall be able to agree to ~~new~~ provisions ~~improving~~ new financial ~~business~~ ~~upon~~ ~~natives~~.

sections 3 and 4 of the order. I do not wish it to be assumed that I shall be able to agree to ~~new~~ provisions ~~improving~~ new financial ~~business~~ ~~upon~~ ~~natives~~.

sections 3 and 4 of the order. I do not wish it to be assumed

that I shall be able to agree to ~~new~~ provisions ~~improving~~ new financial ~~business~~ ~~upon~~ ~~natives~~.

sections 3 and 4 of the order. I do not wish it to be assumed that I shall be able to agree to ~~new~~ provisions ~~improving~~ new financial ~~business~~ ~~upon~~ ~~natives~~.

Is it necessary to take this point. (see similar note on pending Order dft) I understand that it is only desired that the S.O.F. should only intervene where essential principles are involved C.G.E. x

I think so - it is an important point of administration H.M.A.

Further as it may be altered

and the reasons for the changes.

law, Also when natives are particularly affected by any order, I should be glad in all cases to receive a separate statement showing exactly what the effects will be upon natives and what obligations etc. will be imposed upon them.

If it is proposed to make natives responsible for providing funds (as for example in section 11 of this Ordinance), I should wish to be informed of the reasons for adopting ~~the argument in favour of~~ this course ~~instead of~~ ~~the proposal~~ of meeting the cost from general revenue.

I should be glad if such a statement could be prepared

in the case of this Ordinance. On receipt of the statement, I will give it careful consideration; but I doubt with it to be assumed that I shall feel able to agree to ~~the provisions~~ ~~imposing new financial burdens upon natives.~~

3. As regards sections 3 and 4 of the Ordce.

I would refer to the comments in paras. 4 & 5 of my of even date on the subject of ~~despatch~~ ~~of the~~ ~~on the similar~~

that I shall feel able to agree to ~~the provisions~~ ~~imposing new financial burdens upon natives.~~

(Fill in 10095/30)

~~sections~~ is the pending Ordinance. Copies of those

paras. are enclosed for convenience of reference.

4. I doubt the advisability of leaving ~~the~~

the exercise of the powers conferred by section 11 of the Ordinance ~~to~~ ~~the~~ ~~rank of~~ Inspector, even though the term is to include Veterinary Officers; Inspector and it is a matter for consideration

Is it necessary to take this point (see similar note on pending Ordce. dit) I understand that it is only desired that the S. of S. should only interfere where essential principles are involved. C.G.B. x

I think so - it is an important point of administration. H.T.A.

Further let it stay as it is. as it is

whether the issue of demand under that section should not be laid under the authority of ~~some~~ the Chief Veterinary Officer or senior officers. I should be glad to receive your observations on this point.

5. The terms of any advances by the Land and Agricultural Bank under section 13 of the Ordinance will presumably be governed by the Ordinance setting up the Bank, if established; but I shall be glad to learn whether it is the intention to deal with advances from other public funds by rules under

section 23 of the Ordinance, ^{and if so} or in some ~~other manner~~ ^{to receive a copy of the rules as soon as they are available.}

6. It appears from the debate of the 15th July 1929 that, although the additional expenditure involved by the operation of the Ordinance was originally estimated at £6,000, a lesser sum would be found adequate in view of additions made to the staff of the Veterinary Department since the introduction of the Bill. It is also observed from page 16 of the Report of the Select Committee on the 1930 Estimates that no special staff would be

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(page 157)

be necessary. I assume however that

the operation of the Ordinance will involve expenditure in other directions,

and I should be glad to be furnished with some estimate of the cost.

Pending the receipt of your reply to this patch, no advice will be sent to His Majesty in regard to this

reference. ~~It must not be assumed that I have not been able to provide for various important matters connected with the Ordinance, etc.~~

7. Although there is no reason to think that the Ordⁿ will be interpreted harshly, I would suggest that it would be desirable that the fifth line of section 11 (2) should be expanded to read: - "a reasonable period not being less than 5 3 days to be specified in such notice, such number being inserted before "days" as your advisers think suitable."

(Signed) PASSFIELD

70
2a

The New Ordinance.

Chapter 156.

The Governor may make any area outside a native reserve a "proclaimed district" on the application of the majority of of the land-owners, and after an elaborate procedure to ensure the consent of a two-thirds majority of land-owners. (S.3).

The Governor may apply the Ordinance to any area in the Colony, subject to certain provisos. S.37.

The Governor may make any native reserve a "proclaimed native district" (i) on the advice of the Senior Commissioner who shall first consult the Local Native Council or other native Authority concerned, (ii) if he is satisfied that funds are available from monies approved by him. (S.4).

In addition, all areas proclaimed by the Governor to be "infected" areas, and all holdings having a common boundary with an infected area, are to be regarded as "proclaimed".
(Section 5.)

Cattle cleansing is compulsory on all cattle owners in a proclaimed district at specified times. (S.6).

A similar provision (S.3).

Power of inspection (S.7).

Similar powers - (S.4 and 5).

Exemptions in certain cases (S.8).

Similar exemption (S.10).

Obligation on land-owners to provide facilities for the dipping of squatters' cattle and for keeping records of such cattle dipped. (S.9).

Similar but less detailed clause (S.13).

Provision as to absent land owners (S.10).

Similar provision (S.14).

Inspectors may require land-owners or native authorities to construct and maintain tanks to approved designs at their own expense. (S.11).

Similar provision.

All orders to native authorities to be given through the district officer (S.12).

Similar provision.

Provision for advances from the Land Bank or other public funds to defray cost of constructing or repairing tanks. (S.13).

The Ordinance not to be applied to any area until the Gov. Council has made provision for a sum of money out of which advances may be made to owners. (S.14).

The New Ordinance

Interest on cost of constructing tanks to be paid by tenants. (8.14).

Provision of dipping tanks in townships and in suitable places by Government, subject to charging fees, etc. (8.13 and 14).

As to analysis of contents of tanks. (8.17-20).

Penalty clause (8.21 and 22).

Power in Council and rules (8.23).

Chapter 158.

No similar provision.

Less detailed Section (8.15).

Less detailed provisions. (8.5 and 6.)

So general ²¹⁶ penalty clause, but fine of £100 for failure to keep cattle clean. (8.8).

Similar provision (8.16).

Exemption of owners living in native reserves. No movement of cattle from areas so exempted allowed.

(8.11 & 12)



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

KENYA.

No. 47

RECEIVED 29
1930

January, 1930.

My Lord,

I have the honour to transmit two authenticated copies of the Cattle Cleansing Ordinance, 1929, which passed its third reading in the Legislative Council on the 12th December, 1929, and received assent on the 31st December, 1929, together with two copies of the Legal Report furnished by the Attorney General. Ten printed copies of the Ordinance are being transmitted under separate cover.

The chief disease affecting cattle in Kenya to-day, and the disease perhaps most fatal and intractable to control, is East Coast Fever. The fact that a decrease has been observed in the numbers of European-owned European cattle in the Colony for some years - though the last census shows signs that this tendency has to some extent been checked - is a measure of the present risk, and the continued activities of the disease operate as a threat to what is a vital element in successful settlement in Kenya, namely, security in cattle. It has been thought necessary that some protective action should be taken to assist in giving that security, without which improvements in the stock industry could not be expected.

This/

RIGHT HONOURABLE LORD R. B. FIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, W.C.2.

MSW - Gov 16/1/30 - 1.00 280

3. This position was discussed by the Select Committee on the Estimates for 1928, which recommended the adoption of measures of compulsory fencing and dipping. The Bill to provide for the cleansing of cattle, having been first discussed with the Consulting Committee of the Stockowners' Conference, was accordingly introduced into the Legislative Council in June, 1928 and was referred to a Select Committee.

4. The Select Committee in August, 1928, submitted an amended Bill which was considered by the Select Committee on the Land and Agricultural Bank Bill in connection with the provision made in the latter measure for financing compulsory dipping. Provision was made in Clause 14 of the original Bill for advances to defray the cost of construction of dipping tanks to be made by the Land Bank. Section 13 of the Ordinance as passed provides that such advances may be made by the Land Bank or from such other public funds as the Legislative Council may set aside for the purpose.

5. I am addressing Your Lordship separately in regard to the Fencing Ordinance 1929.

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

Edward King

G O V E R N O R.

13

LEGAL REPORT
THE CATTLE CLEANSING BILL, 1929

This Bill was prepared in the hope and expectation that the application of its provisions will assist in the eradication of East Coast Fever.

2. The Bill provides for the cleansing of cattle by immersion in a dipping tank, and for the construction of dipping tanks for that purpose by owners of land.

3. Dipping is obligatory in every area in the Colony in which a two thirds majority of the land-owners in that area pass a resolution to that effect.

4. In certain conditions advances to defray the cost of the construction of dipping tanks may be made by the Land Bank.

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

Nairobi,
12th December, 1929.


ATTORNEY GENERAL.

TO
END

**LAND RIGHTS
AND OTHER MATTERS.**

This Bill has regard to the land and
concessions that the application of the provisions
will result in the application of land grant power.

2. The Bill provides for the granting of
rights of concession in a mining area, and for the
construction of mining, water for that purpose by
concessions to land.

3. Mining is obligatory in every area in the
Colony in which a two-thirds majority of the land-owners
in that area pass a resolution to that effect.

4. In certain conditions reference to mining
the cost of the construction of mining works may be
made by the land owner.

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

Witness.

(Sd.) A. D. A. MacGregor.

15th December, 1930.

ATTORNEY GENERAL.