

Vol 9

1911

EAST AFR. PROT.

C O  
7786  
MAR 11

7786

on Agents  
Date  
1911  
9 Feb.  
at previous Paper  
4569

Agreement with National Bank of India

Recd letter from bank explaining how far directors are prepared to meet proposal of Govt to amend Act re of Agreement of Apr 1910 so as to provide for local transfers at par. Refer to recent comm. reof. Remittances to England. I think that there is nothing in Agreement to preclude Govt from purchasing bills from any bank which offers them for sale.

W. B. S. <sup>Reilly</sup>

Three points arise in this letter -

(1) The C.A. have managed to get the N. B. S. to go some way to meet the local Govt's wishes in the matter of local transfers. but did consult the Govt as to this. (para's 1-3)

(2) As the C.A. considers it likely that the agreement will have to be modified in clause 10, they have not acted on our instructions to effect the small modifications already agreed to in clause 16. (para. 3)

See minute on Cap 31273. East  
As there seems good reason to suppose

Copy sent to Mr. ...

Subsequent Paper

1911

that clause is will be amended - possibly,  
see us reason to prep the CA. to  
effect at once the amendment of clause 16.

(3) Contrary to the opinion expressed  
by Mr. Ristey acted on in the resp. to  
the Govt. let in 1887/1889 / 11<sup>th</sup> Feb., the  
CA. hold that the Govt. is not  
precluded by the agreement from  
dealing with the Standard Bank of  
S.A. or other Banks so far as  
making remittances to England  
is concerned - on the ground that  
the carrying of bills is not strictly  
banking business within the meaning  
of the preamble of the agreement.

Will you please consider this point?  
I found the S.W. papers in which  
you gave the opinion referred to above.

all  
14/3

~~Mr. Todd~~  
Mr. Todd

The opinion of the CA. on banking questions is  
restricted to some respect, but in *Tremont v.*  
*The Bank of Canada* (L.R. [1894] 4 C. at  
p. 126) the Jud. Committee laid it down that  
"banking" is "an expression which is wide  
enough to embrace every transaction coming  
within the legitimate business of a banker,  
and I submit that carrying a bill from  
a Bank is such a transaction." S.D. 15/3

I Passed as proposed - (1) & (2) of Mr  
Parkinson's minute - write to the CAs  
in the sense of Mr. Peake's minute & ask  
whether they concur in his view - or in  
writing to the Gov. enclose copy of the  
CAs & mine, with copy of our reply.

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H. J. R.

15/III

~~Mr. Peake~~

It does not really matter whether the  
the CA concurs or not, they need not be asked  
the question. Mr. Peake is undoubtedly right  
as regards the spirit & (I think) also the letter of  
the agreement. It is a dangerous business  
to maintain a statement of 500,000 bills as  
a "commodity" - say to the Gov. the  
S. of A. or advise them in Mr. Peake's minute.)

Other view as proposed

at once Mr. Peake



222

ALL COMMUNICATIONS  
TO BE ADDRESSED TO THE  
LOCAL AGENTS FOR THE COLONIES,  
THE ABOVE REFERENCE AND THE  
DATE OF THIS LETTER BEING QUOTED.

TELEGRAMS "CROWN, LONDON"  
TELEPHONE 1222 VICTORIA

WHITEHALL GARDENS,  
LONDON, S.W.

9th March 1911

Sir,

I have the honour to inform you, with reference to your letter of the 19th October last, No. 31273, that we have been in communication with the National Bank of India Ltd., both verbally and by letter, with regard to the proposed amendment of the Government of the East Africa Protectorate that section 10 of the Agreement with the Bank dated the 7th April 1910 should be amended so as to provide for local transfers at par, and I now transmit to you a copy of a letter from the Bank explaining what the Directors are prepared to do to meet the wishes of the Government.

2. It will be seen that we have not been able to induce them to agree to enter into a fixed arrangement to make transfers at par in all circumstances, but that they submit certain proposals, in connection with which it is suggested that they should be permitted to send specie free of expense by rail between Nairobi and Mombasa when necessary to provide for Government drafts.

3. The Secretary of State will, no doubt, wish to consult the local Government on these proposals, and in the meantime we have refrained from acting upon the authority in your letter

Under Secretary of State,

&c &c &c

Colonial Office.

60  
312 13  
b

letter of the 19th October last to take the necessary steps to have section 16 of the Agreement modified by the insertion of the words "or Nairobi" as arranged with the Bank.

4. I take this opportunity to acknowledge the receipt of your letter of the 24th February, No. 4569, enclosing a copy of correspondence with the East Africa Protectorate, from which we learn that the Secretary of State is advised that the Protectorate Government is precluded by the Agreement of the 7th April 1910 from making remittances to England through any other bank than the National Bank of India. This is no doubt the case, if the buying of bills is a banking transaction or banking business within the meaning of the preamble to the Agreement. We would venture to submit, however, that in buying a bill from a bank the Government is not employing the services of the bank but is merely purchasing a commodity which the bank has to sell, and that there is nothing in the Agreement to preclude the Government from purchasing bills from any bank which offers them for sale.

I have the honour to be,

Sir,

Your obedient Servant,

*R. J. Hutchins*

CO 224

The National Bank of India Ltd. to Crown Agents

7786  
REC'D  
10 MAR 11

26 Bishopsgate, E.C.

1st March 1911

Gentlemen,

Referring to your letter of 8th October last and to the interview the undersigned had with you on 22nd ultimo, we now beg to place before you our proposals for making local transfers of Government funds between Nairobi and Mombasa, in lieu of the arrangement entered into by the Agreement between us.

We believe that for some time past our Nairobi manager has been making such transfers for the Protectorate at par as it has suited his finances to do so and we propose that whenever feasible this rate be continued, our desire being to effect these remittances for the Government on the best terms possible. We do not however, see our way to enter into a fixed arrangement to make transfers at par under all circumstances, as you will readily understand that at certain times it becomes necessary for our East African Branches to send rupees to each other at some expense to the Bank for freight and insurance. If an arrangement could be entered into by which our Branches might be permitted to rail-Specie free of expense when required to provide for Government drafts, we should be quite prepared to make these transfers between Nairobi and Mombasa at par throughout the year, the effect of this suggestion being that we should save ourselves from loss on the transactions.

We

We trust you may see your way to recommend the adoption of this suggestion as a means of enabling the business to be transacted at par, but if it be found impracticable to give free ralling facilities we propose that at such times as it may not be convenient to our Branches to work at par, a charge sufficient to compensate them for the cost of ralling specie be made. Under this arrangement the clause in the existing Agreement relating to transfers would become cancelled.

I am &c.,

(Sd.) J.A. Greenway ?

General Manager

CA 7788 Sal

SA

DRAFT

Sal No 156

For Mr. P. G. Leonard

1000

MINUTE.

- Mr. Parkman 18/3
- Mr. Butler 20
- Mr. Fiddes
- Mr. Just
- Mr. Cox
- Sir C. Lysons
- Col. Seely
- Mr. Harcourt

23 March 1873

Sir, with ref. to my predecessor's  
~~letter to the Hon. Secy. of the Admiralty~~  
 despatch N. 628 of the 25<sup>th</sup> of Oct. last  
~~of the 2<sup>nd</sup> of Feb. on~~  
~~the subject of the receipt~~  
~~of funds from the Sal. to~~  
~~be made known~~  
~~to the Admiralty~~  
 you, for your convenience, a copy  
 of the correspondence with the  
 G. A. of the Admiralty on this  
 subject & a local transfer of funds  
 by the National Bank of India, Ltd.  
 on behalf of the Govt. of India E. A. P.  
 I should be glad  
 to receive your views on  
 the proposal submitted

18 March (1873)

20 March (1873)

20 March

W. Leitch

2 d/s



by the National Bank  
of India. ~~the~~ for  
making local transfers  
of Govt. funds between  
Nairobi & Mombasa.

3. With regard to  
para 3. of the letter from  
the C.A. <sup>of the 9<sup>th</sup> of March,</sup> I do not  
propose to instruct  
them to effect <sup>at once</sup> the  
amendment <sup>already agreed to</sup> in clause  
16 ~~of the agreement~~ <sup>already agreed</sup>  
with the Bank, ~~it is~~ <sup>it is</sup> order that, if  
~~to~~ <sup>as there is good</sup>  
any amendment  
proposed of clause  
16 ~~is being considered,~~  
the two amendments  
~~will be~~ <sup>will be</sup> ~~made~~ <sup>made</sup> may be  
made at all time.  
With ref. to my despatch N<sup>o</sup> 103 of the 24<sup>th</sup> of Feb.  
I am with above  
that the C.A. <sup>submit</sup>  
in the fourth part of <sup>their</sup> ~~the~~ <sup>of the 9<sup>th</sup> of March</sup>  
that, in buying a bill  
from

a Bank, the Govt. is not  
employing the services  
of the Bank but is merely  
purchasing a commodity  
which the Bank has to  
sell, & that there is nothing  
in the agreement to preclude  
the Govt. from purchasing  
bills from any Bank  
which offers them for sale.  
I am unable to concur  
in this view, <sup>for the</sup>  
reasons <sup>stated</sup> ~~being given~~  
in the letter to the C.A.  
A copy of wh. is enclosed.

*M* 227

cap 7700 East

~~St. L.~~  
~~for~~

DRAFT.

C.A.

22 March 1873

MINUTE.

Cent.

- Mr. ~~Peckham~~ 18/3
- x Mr. ~~Risks~~ 20
- x Mr. ~~Burton~~ (Read)
- Mr. Fiddes. 22/20
- Mr. Just.
- Mr. Cox.
- Sir C. Lucas.

I am etc. to act: the  
 receipt of your letter of the  
 9<sup>th</sup> ~~of~~ <sup>MARCH</sup> March on the subject  
 of the agreement between  
 the Govt of the Lab and the  
 National Bank of India &  
 to say: you that the Govt  
 is being consulted as  
 to the proposals submitted  
 by the Bank for local  
 transfers at ~~the~~ <sup>the</sup> Govt funds.

- Col. Seely.
- Mr. Harcourt.

Copy taken for 156 laws 23 March

2. With regard to the  
last para. of your  
letter, <sup>of Harcourt</sup> ~~has advised~~ a ~~panel~~  
that, in the case of  
Tenant v. the Union  
Bank of Canada (L.R.  
[1904] Q.C. at p. 46)

the Judicial Committee  
of the Privy Council  
said it was that

"banking" is "an  
occupation which is wide  
enough to embrace every  
transaction coming within  
the legitimate business  
of a banker", and <sup>he is</sup> ~~has~~ advised  
that the ~~case~~ buying  
of a bill from a Bank  
is such a transaction.

3. Latham to take this  
opportunity of

of which the receipt  
of your letter A/1102  
of the 10th of March, in  
you reports the receipt of  
a remittance of £1000  
through the Standard  
Bank of S. Africa, Ltd  
for the order of receipt  
of the J.E.A.P.

JA