

TRINIDAD AND TOBAGO.

No. 36 —1930.

I ASSENT,

[L.S.]

A. C. HOLLIS,  
*Governor.*

20th December, 1930.

AN ORDINANCE to authorise the Governor to make  
advances to owners of Cocoa Properties.

[20th December, 1930.]

**B**E it enacted by the Governor of Trinidad and Tobago  
with the advice and consent of the Legislative Council  
thereof as follows:—**1.** This Ordinance may be cited as the Cocoa Industry Short title.  
Relief Ordinance, 1930.**2.** In this Ordinance“ Chairman ” means the Chairman of the Committee Interpre-  
appointed by the Governor to administer relief tation.  
under this Ordinance.“ Committee ” means the Committee appointed by  
the Governor to administer relief under this  
Ordinance.

“ Fanega ” means 110 lb. of cured cocoa.

“ Land ” includes all land specified in the application of an owner for an advance under this Ordinance and all buildings, factories and machinery erected and standing thereon and all live, dead and rolling stock belonging to the owner and used and worked in connection with such land.

“ Owner ” means the owner of land planted in cocoa or his duly authorised attorney.

Power to Governor to appoint committee and to authorise advances.

**3.** It shall be lawful for the Governor

(a) To appoint a Committee to administer relief under and to carry out the provisions of this Ordinance ; and

(b) By warrant under his hand to authorise the Treasurer to pay out of the public moneys of the Colony such sums as shall have been certified to have been allowed by the Chairman as provided in Section 4 of this Ordinance and such sums as may be necessary to meet any expenses incurred in the carrying out of the provisions of this Ordinance.

Application for advances

**4.—**(1) Any owner may from time to time make application for advances under this Ordinance. Every such application shall be in a form approved by the Committee and shall be accompanied by a Statutory Declaration verifying the particulars stated in the application and shall be addressed to the Chairman.

(2) The Committee shall consider each application on its merits and shall certify thereon the maximum amounts to be allowed, the conditions on which and the times at which such total amount or portion thereof shall be advanced. Provided that no advances shall be made to any owner whose crops and produce are encumbered unless the owner shall first obtain the consent of the encumbrancer to the advance being made and to the postponement of his security in respect thereof in favour of the charge to be created under this Ordinance in respect of crops and produce only. Such consent by the encumbrancer shall be signed by him and endorsed on such application and shall have full effect in law.

5. Subject to the provisions of any regulations made under this Ordinance advances may be made to any owner at the discretion of the Committee for the following purposes :—

Purpose of advances.

- (a) To pay salaries and wages of employees engaged in the cultivation of the land ;
- (b) To meet interest on encumbrances subsisting and outstanding at the time advances are made under this Ordinance ;
- (c) To purchase and maintain live and dead stock ;
- (d) To pay rates and taxes on lands and buildings and insurance on buildings ;
- (e) To repay moneys which have been applied to the maintenance and cultivation of the land during the period of one year immediately preceding the commencement of this Ordinance ;
- (f) For such other purposes (excluding personal expenses of an owner) as the Committee may deem necessary.

6. The Chairman shall forward to the Treasurer the vouchers certifying the amounts allowed, and, upon the receipt thereof, the Treasurer shall, under the authority of the warrant aforesaid, pay out of the public moneys of the Colony such sums as have been allowed by the Committee.

Vouchers for advances.

7. As soon as possible after the fixing of the maximum advances to be allowed to any owner under Section 4 (2) of this Ordinance, the Chairman shall forward to the Registrar-General a notification in the form prescribed by the Schedule to this Ordinance containing the necessary particulars and upon receipt thereof the Registrar-General shall thereupon file the same in a register to be kept for the purpose, and such book shall be open to inspection by the public free of cost. Provided that where the advance to be allowed is in respect of land held under the provisions of the Real Property Ordinance, Cap. 160, the Registrar-General shall also endorse a memorandum of the advance upon the Crown Grant or Certificate of Title of such land.

Notification to Registrar-General of advances allowed.

8. All moneys advanced to an owner under the authority of this Ordinance together with interest thereon (if any) shall be a charge on the land of such owner

Advances to be a charge on land of owner.

specified in the notification filed by the Registrar-General and upon the crops and produce growing and to be grown thereon when reaped or gathered therefrom and on the product or article to be cured, made or manufactured from such crops and produce ; and such crops and produce upon severance from the land and the product or article to be cured, made or manufactured therefrom shall not be deemed to be personal chattels within the meaning of the Bills of Sale Ordinance, Cap. 185.

Priority of charge according to time of registration.

9. In the case of land not held under the provisions of the Real Property Ordinance every notification duly filed by the Registrar-General pursuant to the provisions of Section 7 of this Ordinance shall as from the time of such filing take effect as if the same were a deed duly registered under the provisions of the Registration of Deeds Ordinance, Cap. 174 and shall be good and effectual both at law and in equity according to the priority of time of filing such notification according to the right, title, and interest of the person conveying such land against every other deed, conveyance, or disposition of the same land or any part thereof, and against all judgment creditors of the person so conveying such land. In the case of land held under the provisions of the Real Property Ordinance every notification duly filed by the Registrar-General shall as from the date of endorsement on the Crown Grant or Certificate of Title of such land take effect as an instrument under the provisions of the Real Property Ordinance and shall be entitled to priority in the manner prescribed by Section 40 of the Real Property Ordinance.

Misapplication of advances.

10. Any owner who shall apply any advances made to him under the provisions of this Ordinance to any purpose other than those specified in or allowed under this Ordinance shall be liable on summary conviction before a Magistrate to a penalty not exceeding £50 or to imprisonment with or without hard labour for any term not exceeding six months.

Disposal of crops.

11.—(1) It shall be lawful for the Committee to enter into agreement with any person dealing in produce for the disposal of produce belonging to any owner to whom advances shall have been made under this Ordinance. The agreement shall provide for the immediate sale of such produce in the local market or in any other manner as the

Committee may direct and the deposit of the proceeds of such sale without delay into the Treasury to the credit of the account of the owner of such produce. Any such person so entrusted with the disposal of the produce of any owner shall furnish adequate security to the satisfaction of the Treasurer.

(2) Any such person so entrusted with the disposal of the produce of any owner who shall fail to deposit the proceeds of sale into the Treasury as provided in subsection (1) hereof shall be liable on summary conviction before a Magistrate to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for any term not exceeding six months.

12. All produce to be reaped from any land in respect of which the owner shall have obtained an advance under the provisions of this Ordinance shall be dealt with and disposed of as the Committee may direct, and until so disposed of, shall be held by the owner of such land in trust for the Committee. Any owner disposing of any produce except in the manner directed by the Committee shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding £100 or to imprisonment with or without hard labour for any term not exceeding six months.

Wrongful disposal of crops.

13. If at any time advances under this Ordinance are wholly discontinued all accounts with owners shall be closed and any moneys due shall become immediately payable and accounts made up and rendered in the manner prescribed by Section 18 of this Ordinance. Provided that the Committee may at its discretion enter into an agreement with the owner to repay any moneys due under this Ordinance in such manner as may be prescribed by regulations. Notwithstanding any such agreement the charge created under this Ordinance shall remain in full force and effect.

Discontinuation of advances.

14. Every owner to whom any advance shall have been made under this Ordinance shall pay to the Treasurer simple interest at the rate of five per centum per annum calculated day by day on the amount of every such advance or on so much thereof as shall for the time

Interest.

being remain unpaid. Provided, however, that no interest shall be payable whenever the value of cocoa is less than ten dollars a fanega.

Method of  
ascertaining  
the value of  
cocoa.

**15.** For the purpose of ascertaining the interest to be charged on advances in any one month the Treasurer shall take the price of cocoa to be the average price of one fanega of estates cocoa based on average sales returns for the preceding quarter supplied to the Committee by the Cocoa Planters' Association of Trinidad or any other person approved by the Committee.

Repayment of  
advances.

**16.** It shall be lawful for any owner to repay the Treasurer at any time the full amount for the time being remaining unpaid of the moneys advanced to him under this Ordinance together with any interest which may have accrued thereon.

Release of  
charge on  
repayment of  
advances.

**17.** On the repayment by an owner of all advances made to him under this Ordinance and of all interest payable thereon, the Treasurer shall give a certificate to that effect, and thereupon the charge created by this Ordinance in respect of such advances and interest shall be released, and the Registrar-General shall, upon the production to him of such certificate, endorse on the notification filed by him and across the memorandum (if any) endorsed on the Crown Grant or Certificate of Title of the land charged a memorandum to the effect that such charge has been released, and the Registrar-General shall sign such memorandum.

Rendering of  
accounts.

**18.** If for any reason the Committee is of opinion that any account should be closed the Governor may on the recommendation of the Committee direct the Treasurer to make up an account showing the amounts advanced to the owner together with interest thereon and deliver to such owner a copy of such account. The account shall be rendered to an owner either personally or by sending it by post to him to his registered address or to the address supplied by him to the Committee for the giving of notices to him. When a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting a letter containing the notice, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of the post.

19. Upon the delivery of such account, the amount therein stated to be due shall be immediately payable to the Treasurer, and in default of payment it shall be lawful for the Governor to order a sale of the land, or any part thereof, at such reserve price as the Governor shall in each case fix and subject to such encumbrances, estates, interests, rights or easements affecting the same which have priority over the charge created by this Ordinance and still subsisting freed and discharged from any encumbrances, estates, interests or easements affecting the same and created since such charge and still subsisting.

Enforcement  
of security.

20. Where the Governor shall have made any order for sale under the provisions of Section 19 of this Ordinance, the Governor may, at any time before the sale, vary, amend, or rescind such order, and may make such further order as he may think fit.

Power to  
vary, &c.,  
order of sale.

21. Every sale made in pursuance of the power of sale conferred by this Ordinance shall be by public auction and shall be conducted by the Crown Solicitor. Notice of such sale shall be given by advertisement appearing in one or more daily local newspapers and published once at least in each of three consecutive weeks, before the day of such sale: Provided always that the Governor may, at any time before the sale of any land so advertised, postpone the sale thereof, either generally or to some specified day.

Sales to be by  
public auction.

22. Whenever any land or any part thereof shall have been sold by public auction under the provisions of this Ordinance, the Governor shall convey the same by deed, or transfer the same by memorandum of transfer under the provisions of the Real Property Ordinance, as the case may require, to the purchaser, and the land, or the part thereof, as the case may be, therein described shall become the property of the purchaser absolutely freed and discharged from all encumbrances—save and except any charge thereon in respect of any debts due to His Majesty, but subject to any encumbrances, estates, interests, rights or easements affecting the same which have priority over the charge created by this Ordinance, and the purchase money shall in each case be applied in or towards payment of the amount of the

Conveyance by  
Governor and  
application of  
purchase  
money.

charge created by this Ordinance, including all costs, charges, and expenses properly incurred and incident to the sale or any postponed or attempted sale under the provisions of this Ordinance, and all moneys advanced under the authority of this Ordinance with interest as hereinbefore provided to the date of such sale; and the residue of the purchase money shall be deposited with the Treasurer, and shall be paid by him to the person legally entitled to give a discharge for the same.

Power of  
Governor to  
declare unsold  
land  
forfeited.

23. Whenever any land which is free from encumbrances other than charges created under this Ordinance advertised for sale is not sold on the date appointed for the sale thereof it shall be lawful for the Governor, by proclamation, to declare such land to be forfeited to His Majesty, and immediately upon the publication of such proclamation, such land shall vest in His Majesty in absolute dominion, free from all rights, estates, interests, equities and claims of any other person; Provided however that the Governor may, before exercising his powers under this section, order that the land be again put up for sale, and in such case notice of the postponed sale shall be given by public advertisement in the manner provided by section 21 hereof.

Release of  
part of land  
charged under  
this  
Ordinance.

24.—(1) Any owner who shall be desirous of selling any portion of the land charged under this Ordinance freed and discharged from the charge created by this Ordinance, may apply to the Governor for permission so to do, and the Governor in the case of land intended to be sold may, if satisfied that the remaining part of the land so charged is a sufficient security for the amount advanced to the owner under the authority of this Ordinance, and for any interest payable thereon, or for the unpaid parts thereof respectively, by deed or memorandum under the Real Property Ordinance (as the case may require) release the part of the land intended to be sold from the charge created by this Ordinance, and the Registrar-General shall, upon production of such deed or memorandum to him for such purpose, endorse on the Notification filed with him under section 7 hereof and relating to the land intended to

be sold a memorandum to the effect that the land comprised in such deed or memorandum under the Real Property Ordinance has been released from the charge created under this Ordinance. In the case of land intended to be leased or otherwise dealt with the Governor may grant permission to lease or otherwise deal with such land or any portion thereof upon such conditions as he may think fit. Provided always that the Governor shall not release any land so intended to be sold or impose conditions relating to land intended to be leased or otherwise dealt with as aforesaid unless with the consent in writing of any encumbrancer to which such owner may be indebted in respect of any encumbrance held by him at the time of the creation of any charge under this Ordinance.

(2) Every such application as is referred to in the last preceding sub-section shall be in writing and shall set forth:—

- (a) Full particulars of the land intended to be sold, leased or otherwise dealt with ;
- (b) The purchase price, rent, or other consideration to be paid or reserved on such sale, lease or other dealing ;
- (c) The name and address of the intended purchaser or lessee or the person with whom any other dealing is intended to be effected ;
- (d) The amount (if any) which may be owing by the applicant to any encumbrancer ;
- (e) The name and address of such encumbrancer,

and every such application shall be accompanied by a Statutory Declaration verifying the matters set forth in such application.

25. No concurrence or acquiescence, whether past or future, on the part of any trustee in the granting of any advance under the provisions of this Ordinance shall of itself be deemed improper or a breach of trust so as to render such trustee liable in respect of any loss or consequences resulting from such advance having been granted, any rule of law or equity to the contrary notwithstanding.

Protection of  
Trustees.

Protection of  
Agricultural  
Contracts.

**26.** Nothing in this Ordinance contained shall affect the priority of contracts or the rights of contractors as defined by the Agricultural Contracts Ordinance, Cap. 134.

Registration  
of conveyance  
on sale.

**27.** A memorandum of transfer or deed, executed by the Governor in exercise of the power of sale conferred by this Ordinance shall be entered, on the delivery thereof to the Registrar-General, in the case of land subject to the provisions of the Real Property Ordinance, on the Real Property Register, and, in the case of land not so subject, in the protocol of deeds.

Provision  
relating to  
Statutory  
declarations.

**28.** Every Statutory Declaration required under the provisions of this Ordinance to accompany an application under this Ordinance shall be made by the applicant or his duly authorised attorney. No fee shall be chargeable in respect of any such Statutory Declaration.

Fees.

**29.** Notwithstanding anything contained in the Registrar-General's Ordinance, Cap. 173, for all matters and things done by an owner or the Committee in connection with an advance under the provisions of this Ordinance or the repayment thereof, the Registrar-General shall be entitled to charge such fees only as may be prescribed.

Limit of time  
for  
prosecution.

**30.** Proceedings in respect of offences against this Ordinance may be commenced at any time within two years from the date on which the offence was committed.

Regulations.

**31.**—(1) The Governor in Executive Council may make regulations for all or any of the following purposes, that is to say :—

- (a) For regulating the administration of relief under this Ordinance and for the purpose of carrying out the provisions of this Ordinance ;
- (b) Prescribing the limits within which advances may be made under the provisions of this Ordinance ;
- (c) Prescribing the period of years within which advances shall be repayable.
- (d) Prescribing the method of valuation to be employed for the purposes of this Ordinance ;
- (e) Prescribing the fees to be paid and the manner in which they may be paid in respect of any matter or thing to be done in connection with an advance under the provisions of this Ordinance

(f) Prescribing a scale of legal charges for investigation of a title to property ;

(g) Generally providing for any matters which are authorised by this Ordinance to be prescribed.

(2) All regulations made under this section shall be laid before the Legislative Council for approval, and when so approved shall have the same force and effect as if they were contained in this Ordinance.

(3) All regulations made under this section shall be published in the *Royal Gazette*.

32. The Agricultural Relief Ordinance, Cap. 133, is hereby repealed.

SCHEDULE.

The Cocoa Industry Relief Ordinance, 1930.

Notification by Chairman under Section 7.

TO THE REGISTRAR-GENERAL.

1. No. of application.....

2. Name and address of Owner as stated in the application for the advance .....

3. Particulars of land charged with the repayment of advances made to the owner.

4. Amount advanced to Owner.....

Dated.....

Chairman, Relief Committee.

Passed in Council this twelfth day of December, in the year of Our Lord one thousand nine hundred and thirty.

J. W. DAY,  
Acting Clerk of the Council.