

TRINIDAD AND TOBAGO.

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No. 16—1933.

I ASSENT,

[L.S.]

A. C. HOLLIS,
Governor.

27th October, 1933.

AN ORDINANCE to authorise the Governor to make advances to owners of Agricultural Properties damaged or destroyed by Hurricanes.

[On Proclamation.]

BE 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 Agricultural Short title. Industry Hurricane Relief Ordinance, 1933, and shall commence on such day as may be fixed by the Governor by Proclamation.

2. In this Ordinance—

“Chairman” means the Chairman of the Committee appointed by the Governor to administer relief under this Ordinance ;

“Committee” means the Committee appointed by the Governor to administer relief under this Ordinance ;

Interpretation.

[Price 6d.]

“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 damaged or destroyed by Hurricane.

“Owner” means the owner of land or the duly authorised attorney of such owner, and includes an executor or administrator of a deceased owner, a trustee appointed by deed or will, a receiver appointed by an order of the Supreme Court or by a mortgagee, and also a company or corporation.

Power of 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 6 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.

Appointment of officers and inspectors.

4. The Committee may appoint and employ, at such remuneration and on such terms and conditions as the Governor may determine, such officers and inspectors as may be deemed necessary for the proper carrying out of the provisions of this Ordinance and may require any such officer or inspector so appointed to give such security as may be considered proper for the due execution of his duties.

Expenses to be a charge upon general revenue.

5. The expenses incurred including the remuneration of officers and inspectors, in the carrying out of the provisions of this Ordinance shall be a charge upon the general revenues and assets of the Colony.

6.—(1) Any owner may within such time as may be prescribed by Regulations 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.

Application
for advances.

(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 land is encumbered (encumbrances created under the Agricultural Bank Ordinance, excepted) 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. Such consent by the encumbrancer shall be signed by him and endorsed on such application and shall have full effect in law.

Cap. 32.

7. Advances made under this Ordinance shall bear interest at such rate per annum as may be prescribed.

Interest.

8. Advances together with any interest thereon at the prescribed rate shall be repayable in such manner and over such period of years as may be prescribed.

Repayment.

9. Any owner to whom advances are made under this Ordinance shall not be allowed to obtain advances under the Cocoa Industry Relief Ordinance, 1930.

Owners
receiving
advances in-
eligible to
receive
advances under
Ordinance,
36 of 1930.

10.—(1) 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 only :—

Purpose of
advances.

- (a) The re-establishment of agricultural cultivations damaged or destroyed by the hurricane of the 27th June, 1933, by replanting them with similar crops to those destroyed or by interplanting them with secondary crops or by replanting them or a portion thereof with other crops

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Cap. 204.

- (b) The maintenance and improvement of the owner's land, including the payment of labour and the purchase of supplies required to plant, cultivate and manure such land and to reap and make merchantable the crop or produce thereof ;
- (c) The payment of rates and taxes on lands and buildings under the provisions of the Lands and Buildings Taxes Ordinance ;
- (d) The payment of premiums on insurance in so far as such insurance relates to the production of the crop and to the buildings, factories and machinery erected and standing on the land and used in connection with such land ;
- (e) Subsistence allowance to the owner when the Committee is satisfied that he has no other means of subsistence ;
- (f) The repayment of any outstanding advance under the Cocoa Industry Relief Ordinance, 1930.

No. 36 of 1930.

(2) Advances shall not be made to the owner of any land which in the opinion of the Committee was previous to the hurricane of the 27th June, 1933, in a state of abandonment or gross neglect.

Vouchers for advances.

11. 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 : Provided that no such vouchers shall be certified until the expiration of three clear days from the time of filing by the Registrar-General of the notification referred to in section 12 of this Ordinance.

Notification to Registrar-General of advances allowed.

12. As soon as possible after the fixing of the maximum advances to be allowed to any owner under section 6 (2) of this Ordinance, the Chairman shall forward to the Registrar-General a notification in the form prescribed by the First 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 register 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, the Registrar shall also endorse a memorandum of the advance upon the Crown Grant or Certificate of title of such land. Cap. 160.

13. 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 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. Advance to be a charge on land of owner. Cap. 155.

14. Notwithstanding anything in the Real Property Ordinance, or in any other Ordinance contained, or any provision of law or equity to the contrary, immediately upon the making of the advances authorized by this Ordinance with the previous consent of the encumbrancer (if any) first had and obtained, all persons dealing with the land or any interest thereon shall be deemed to have notice of such advances, and all such dealing shall be and be construed to be subject to the charge and priority created by this Ordinance save and except encumbrances created under the Agricultural Bank Ordinance. Priority of advances Cap. 160. Cap. 132.

15. If any owner, and in the case of a company or corporation the person in charge or control of the land, shall apply any advances made under the provisions of this Ordinance to any purpose other than those specified in or allowed under this Ordinance he 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. Misapplication of advances.

16.—(1) All crops and produce reaped or gathered from any lands in respect of which the owner shall have obtained an advance under the provisions of section 6 (2) of this Ordinance shall, until such advance has been repaid be dealt with and disposed of as the Committee may direct, and, until so disposed of, shall be held by the owner in trust Disposal of crops.

for the Committee : Provided that the proceeds of all crops and produce dealt with and disposed of as directed by the Committee or such part thereof as the Committee may think fit shall be deposited into the Treasury to the credit of the owner in reduction of the advance obtained by such owner. Any owner, and in the case of a company or corporation any person in charge or control of the land, disposing of any crops or produce or the proceeds of sale thereof except in the manner directed by the Committee or by this Ordinance shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for any term not exceeding six months.

(2) 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 without delay of the proceeds of such sale or such part thereof as the Committee shall think fit into the Treasury to the credit of the owner of such produce. Any such person so entrusted with the disposal of the produce of any owner shall furnish security to the satisfaction of the Treasurer.

(3) 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 Sub-section (2) 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.

Inspection!

17. Any inspector appointed by the Committee may at all reasonable times enter upon any land in respect of which an advance has been made under the provisions of this Ordinance and inspect the same; and any person obstructing or causing to be obstructed any inspector in making such inspection, whether by force or by threats or in any other manner, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding fifty pounds, or to imprisonment with or without hard labour, for any term not exceeding three months.

18. 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.

Release of
charge on
repayment of
advances.

19. If for any reason the Committee is dissatisfied with the management of the land and is of the opinion that the land is neglected or not kept in a husbandlike manner or is otherwise of the 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.

Rendering of
Accounts.

20. 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, free from encumbrances (save and except any encumbrances created under the Agricultural Bank Ordinance) but subject to all other estates, interests, rights and easements affecting the same at the date of the creation of the charge under this Ordinance

Enforcement
of Security.

Cap. 132.

and still subsisting, and, at the discretion of the Governor either subject to or free and discharged from any estates, interests, rights or easements affecting the same and created since such charge and still subsisting.

Right of
encumbrancer.

21. Where any account has been delivered, and a sale has been ordered by the Governor under the provisions of the last preceding section, it shall be lawful for any encumbrancer of the land or part thereof ordered to be sold to pay to the Treasurer the amount shown in such account or such other amount, as on the day of payment, shall be a charge on the said land, and, upon such payment being made, the Treasurer shall give a receipt for the same and issue a certificate to the effect that repayment of advances made under this Ordinance have been repaid, 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 payment has been duly made by such encumbrancer, and thereupon the charge created by this Ordinance shall be deemed to be transferred to and shall vest in such encumbrancer subject to all estates, interests, rights, and easements affecting the same to which, had the land or part thereof been sold by order of the Governor under the provisions of the last preceding section, it would have been subject, and such encumbrancer shall have, in respect of the amount paid, all the powers of a mortgagee where the mortgage is by deed and where the mortgage money has become due, and in any such case the provisions of Section 27 of the Conveyancing Ordinance shall not apply: Provided that the right hereby conferred upon encumbrancers shall accrue to each encumbrancer, but such right shall, as between encumbrancers accrue to a prior encumbrancer before any subsequent encumbrancer.

Cap. 162.

Power to vary
order of sale.

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

23. 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.

24. 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 charges thereon in respect of any debts due to His Majesty and any encumbrance created under the Agricultural Bank Ordinance—but subject to any estates, interests, rights or easements affecting the same to which the sale has been made subject, and the purchase money shall in each case be applied in or towards payment of the amount of the 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: Provided always, that where any land or any part thereof subject to any encumbrance is sold to the encumbrancer thereof, it shall be lawful for the Governor to convey or transfer the same to such encumbrancer in the manner hereinbefore provided, upon payment of so much only of the purchase money as exceeds the amount due under the charge created by

Conveyance by Governor and application of purchase money.

Sale to encumbrancer.

this Ordinance, and thereupon the land or the part thereof so sold shall become the property of such encumbrancer freed and discharged from all encumbrances, save and except any charge thereon in respect of any debts due to His Majesty, and save and except the charge created by this Ordinance and the amount due thereunder, but subject to any estate, interests, rights or easements affecting the same to which the sale has been made subject. In every such case the part of the purchase money paid by the encumbrancer as aforesaid shall be deposited with the Treasurer and shall be paid by him to the person legally entitled to give a discharge for the same; and the balance of such purchase money, representing the amount due under the charge created by this Ordinance, shall be deemed to have been advanced to such encumbrancer under the provisions of this Ordinance, and shall be recoverable in the manner provided by this Ordinance.

Power of
Governor to
declare unsold
lands
forfeited.

25. Whenever any land 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 and discharged 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 lands 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 23 of this Ordinance.

Release of part
of land
charged under
this Ordinance.

26.—(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 to do so, 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 12 of this Ordinance and relating to the portion of the land intended to be sold a memorandum to the effect that the portion of 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 condition 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.

Protection of Trustees.

27. 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 consequence resulting from such advance having been granted, any rule of law or equity to the contrary notwithstanding.

Protection of Agricultural Contracts.
Cap. 134.

28. Nothing in this Ordinance contained shall affect the priority of contracts or the rights of contractors as defined by the Agricultural Contracts Ordinance.

Registration of conveyance on sale.

29. 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.

30. 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.
Cap. 173.

31. Notwithstanding anything contained in the Registrar-General's Ordinance, 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 such fees only as may be prescribed.

Exemption from Stamp Duty.

32. Any instrument creating a charge under this Ordinance shall be exempt from stamp duty.

Limit of time for prosecution.

33. 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.

34.—(1) The Governor in Executive Council may with the ^{Regulations.} sanction of the Secretary of State 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 this Ordinance ;
- (c) Prescribing the period within which applications for advances under this Ordinance may be made ;
- (d) Prescribing the conditions upon which advances may be made under this Ordinance ;
- (e) Prescribing the rate of interest to be charged on advances made under this Ordinance ;
- (f) Prescribing the period of years within which advances made under this Ordinance shall be repayable and the manner of repayment ;
- (g) 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 advances made under this Ordinance ;
- (h) Prescribing a scale of legal charges for investigation of title to property ;
- (i) 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. Provided that until varied or revoked by any such regulations, the regulations contained in the Second Schedule to this Ordinance shall be in force.

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

FIRST SCHEDULE.*(Vide s. 12).***The Agricultural Industry Hurricane Relief Ordinance, 1933.***Notification by Chairman under Section 12.*

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.***SECOND SCHEDULE.****Regulations.**

1. These Regulations may be cited as the Agricultural Industry Hurricane Relief Regulations, 1933.
2. Advances under the Ordinance shall be limited to a total sum of £150,000 and sums repaid shall not be re-issued.
3. (a)—Applications for advances shall be made not later than the 20th day of April, 1934, after which date no further applications shall be considered.
(b) The Committee shall commence to make advances on the 20th day of November, 1933.
4. Applications for advances must be accompanied by :
 - (a) a definite replanting programme and an undertaking by the owner to adhere to it ;
 - (b) a statement of the owner's income from all sources. The Committee shall regard and deal with such statement as secret and confidential.
5. No advance shall be made unless the Director of Agriculture or an officer of his Department deputed by him agrees as to the suitability to the agricultural conditions of the holding of the crops which it is proposed to plant.
6. The Committee may make it a condition of advances to peasant proprietors or other persons cultivating less than 30 acres in main crops that they shall grow at least half an acre of food crops.
7. Every owner receiving advances under the Ordinance shall be required to afford all facilities for inspection that the Committee may deem necessary.

8. Advances shall be made on presentation of paylists which must be accompanied by a certificate from the owner or his manager to the effect that the expenses shown thereon had actually been incurred on the services specified.

9. Interest during the five years immediately following the granting of any advance shall be at the rate of $2\frac{1}{2}$ per centum per annum and thereafter until the advance shall have been repaid at the rate of $3\frac{1}{2}$ per centum per annum provided that where the Committee is satisfied:

- (a) after examination of the income account of any owner that he is unable to meet from his resources the interest charges, the Committee shall have power to make advances free of interest during the first five years;
- (b) that an owner can afford to pay the annual interest charges during the first five years but through some unforeseen contingency is unable to meet such interest charges as they become due, the Committee shall have power to debit such interest charges to the owner's account.

10. The proceeds of sale of crops shall during the first five years be applied towards the reduction of advances made to owners but at the end of that period the amount outstanding shall be capitalised and each owner shall be required to pay annually an instalment at the rate of $\text{£}7$ per centum per annum of such capitalised amount until the advance with interest at the rate of $3\frac{1}{2}$ per centum per annum has been repaid provided that the owner shall also be required to pay in addition to the annual instalment herein referred to, one-fourth of any profits made by him in any year from the proceeds of sale of produce reaped from the land. For the purpose of ascertaining profits the portion of the annual instalment on account of principal shall be allowed as an item of expense.

Notwithstanding anything herein contained it shall be lawful for any owner to repay the Treasurer at any time the whole or any portion of the amount for the time being remaining unpaid of the moneys advanced to him under the Ordinance together with any interest which may have accrued thereon.

11. No fee shall be paid to the Registrar-General for a search made on behalf of the Committee in respect of any application for advances or in respect of any documents filed by him on behalf of the Committee.

12. No fee shall be charged by the Crown Solicitor for the investigation of any title to property.

Passed in Council this twentieth day of October, in the year of Our Lord one thousand nine hundred and thirty-three.

J. O'CONNOR,
Clerk of the Council.