

**BANKING DEVELOPMENTS IN PRE-INDEPENDENCE NIGERIA:  
A STUDY IN REGULATION, CONTROL AND POLITICS**

**A thesis submitted for the degree of**

**Doctor of Philosophy**

**by**

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**May 1997**

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## **ABSTRACT**

This research is exploratory and is intended to help us understand the diverse interests and forces that helped shape various developments in the Nigerian banking industry, during the pre-independence era. The study investigates the activities of colonial banks in British Nigeria. Emphasis is placed on the dealings between these colonial banks and the Africans and the claim, by the Africans, that these foreign institutions were unhelpful to them. The motives and activities of the indigenous banks, subsequently established by the Africans, are also examined.

Furthermore, the study investigates the different modes of bank regulation while Nigeria was a British Colony, studying the extent to which bank regulation in Nigeria has been influenced by that in other countries, and examining the complex role of banking sector regulation in a developing economy where banks have often been used overtly as instruments of political policy. Special emphasis is placed on the forces that helped shape the law and enforcement of banking regulation and the structure of the emergent regulatory institution.

This research makes a contribution in a number of areas: (1) to our understanding of how banking regulation operates in a highly politicised environment (2) to our knowledge of the diffusion of banking practices and ideas and the significance of political control and social contact to the diffusion process and (3) to our appreciation of the forces shaping banking regulation over a long period.

## ACKNOWLEDGEMENTS

I am immensely grateful to Professor Christopher Napier who, apart from agreeing to supervise this thesis, was an untiring source of support. Even after leaving the LSE, in April 1996, he still agreed to remain as an adviser on this thesis, in order to ensure continuity. I am also indebted to Professor Richard Macve, who officially completed the supervision of this thesis, for his very useful suggestions and encouragement. Throughout my stay at the LSE, I benefited from the enormous kindness of Professor Michael Bromwich.

I am also grateful to the officials at the Bank of England (London), World Bank (Washington DC), Central Bank of Nigeria (Lagos), Barclays Bank (Manchester), Standard Chartered Bank (London), Public Records Office (London) and the Bank for International Settlements (Basle) for allowing me access to their archives and/or libraries. Variants of chapters six, seven and eight have been published/accepted for publication in the *Financial History Review*, *Explorations in Economic History* and the *African Review of Money, Finance and Banking* respectively. I am grateful to the anonymous reviewers of these Journals for their comments.

For financial support, I am grateful to the Commonwealth Scholarship Commission in the United Kingdom for granting me a full scholarship for the last two years of this programme. The financial assistance received from the LSE, Out Consortium Finance Limited, Family Welfare Association and the Christopher Cox Memorial Fund are all gratefully acknowledged.

The support of my friends: Obi Enweze, Sunday Anene, Lucie Chaumeton, Hung Neng Lai, Amobi Ike and Kenneth Okoye are also acknowledged. On the family front, I am immensely grateful for the support I received from Daddy, Ogb, Chichi, Nwanu, Onyebuchi, Lorretta, Nne and Ngozi. Unfortunately, my mother, who was an invaluable source of encouragement, did not live to see the completion of this dream. It is in her memory that this thesis is dedicated.

**DEDICATION**

IN THE MEMORY OF MY MOTHER  
DOROTHY ADA UCHE (1934-1994)

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## CHAPTER ONE

### *INTRODUCTION*

#### **1.1 Preamble**

This thesis investigates the diverse interests that helped shape banking developments in pre-independence Nigeria. The study is historical and relies extensively on archive materials. To help us understand these developments, this study appeals primarily to the two main theories of regulation (public interest theory and capture theory).<sup>1</sup> Such theories, it is hoped, will help provide insights and perhaps answers to some of the questions that arise in the study of banking in Colonial Nigeria. These questions include, among others: Why did foreign banks come to Nigeria; Why were these banks unhelpful to the Africans; Why did these colonial banks remain unregulated for a long time; Why did the Africans establish indigenous banks; What factors precipitated the indigenous banking boom and (doom) of the 1940s and 1950s; Why were some ailing indigenous banks helped and others allowed to wind up; What factors impacted on the provisions of the 1952 banking legislation; What precipitated the African Continental Bank Crisis and why did the Colonial Government take so much interest in probing it; Why was the Nigerian Central Bank set up and what factors impacted on its legislation; Why did Barclays Bank (Dominion, Colonial and Overseas) reverse its credit discrimination policy, against the Africans, in the

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<sup>1</sup> See chapter 2.

1950s and why did this meet with disastrous results?

Answers to the above questions will make a contribution in a number of areas: (1) to our understanding of how banking regulation operates in a highly politicised environment (2) to our knowledge of the diffusion of banking practices and ideas and the significance of political control and social contact to the diffusion process and (3) to our appreciation of the forces shaping banking regulation over a long period. There have been few, if any, studies focusing on the regulation of a particular industry over such a long period in a developing country. Subsequent chapters of this thesis will, therefore, attempt to answer the above questions.

Evidence from this thesis shows that neither the capture theory nor the public good theory can fully explain the rationale for banking regulation in pre-independence Nigeria. A combination of both theories leads to a better understanding of the various banking developments in the colony. The regulatory process, encompassing regulation formulation and regulation implementation, is often politicised. In pre-independence Nigeria, the Colonial Government, which officially defended regulation on grounds of public interest, saw regulation as a tool for protecting British banking interests, where such interests were compatible with those of the Colonial Government. Very little attempt was made to take the needs and desires of the Africans into consideration. While the Colonial Government relied on 'experts' to achieve its aim of influencing the regulatory process, African Nationalists relied on nationalist sentiments to counter what

they considered as unfair regulation.

Throughout the pre-independence era, for instance, the Colonial Government always encouraged British banks to merge their interests in order to create monopolies. There was besides no attempt to regulate the excessive service charge of colonial banks in the colony.<sup>2</sup> When poorly capitalised, poorly staffed and sometimes fraud infested indigenous banks emerged with the aim of aiding Africans, the Colonial Government reacted with regulation. Regulation was defended by the Colonial Government and Bank of England 'experts' on grounds of public interest. Yet schemes like deposit insurance and training facilities for indigenous bankers, which may have served the public interest even more, were never put in place. The fact that the United Nations and some other banking experts recommended such schemes did not change this fact.<sup>3</sup> Regulation that was thought to constitute an unnecessary hindrance to the activities of foreign banks was conveniently avoided, an example being the issue of banking inspection.<sup>4</sup>

Where external regulation is absent or weak, control becomes mainly an internal matter. An example is in the area of bank credit policy. The limitations of internal controls in an era of change are developed in the chapter dealing with the accounting and control consequences of a politically motivated experiment by Barclays Bank (DCO) to liberalise its credit policies towards Africans. The evidence in that chapter

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<sup>2</sup> See chapter 3.

<sup>3</sup> See chapter 4.

<sup>4</sup> See chapter 5.

suggests that internal control is not always a substitute for external regulation and that individual enterprises may not be the best judges of their economic and political self.<sup>5</sup>

The Colonial Government also used regulation as a tool to settle political scores. For instance, although the circumstances surrounding the investment of public money in the African Continental Bank (ACB) rightly provoked worry in colonial circles, the main reason why the Colonial Government expended enormous resources investigating the African Continental Bank was to discredit the bank's owner, Dr Azikiwe, an "anglophobe" nationalist leader.<sup>6</sup> This thesis further provides evidence that Colonial Office stopped at nothing to ensure that its views reigned paramount. On the issue of a central bank, for instance, the Bank of England 'expert' who investigated it was instructed to stamp on the idea. The Bank of England also employed questionable tactics in order to get the International Bank for Reconstruction and Development (IBRD), which took a contrary position on the issue, to change its mind.<sup>7</sup> The next section will review the existing studies on Nigerian banking history.

## 1.2 Literature Review

Banking developments in pre-independence Nigeria<sup>8</sup> have

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<sup>5</sup> See chapter 8.

<sup>6</sup> See chapter 6.

<sup>7</sup> See chapter 7.

<sup>8</sup> The country that is now Nigeria first came into being in 1914 with the amalgamation of Northern and Southern Nigeria. For the purposes of this thesis, however, it is



been a subject of research since the colonial era. Perhaps the first comprehensive, but unpublished, study in this arena was undertaken by Mars.<sup>9</sup> Some subsequent researchers in this area however benefitted from the Mars's study. For instance, Newlyn and Rowan (1954), which is widely cited as the foundation treatise on banking in colonial Nigeria, acknowledged Mars's unpublished study.<sup>10</sup> Newlyn and Rowan's study, which covered the period up to 1951, attempted to describe the monetary and financial institutions then in existence and analyze the operations of the existing institutions in the context of the economic and social policies at the time. The text was therefore contemporary and comparative, with little emphasis on the archive. As Newlyn and Rowan explained:

The method we have adopted is comparative rather than historical. Our concern has been with the monetary and financial institutions as they are now, and not in the way in which they have evolved over the past.... This approach to the subject would have been less justified if our primary purpose had been to give an historical account of the development of the territories' monetary and financial systems.<sup>11</sup>

Brown (1966), following in the footsteps of Newlyn and Rowan, described and analyzed the developments in the Nigerian banking system from 1950 to 1963. Again, there was little

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convenient to use "pre-independence Nigeria" even when we are discussing events and territories prior to the amalgamation.

<sup>9</sup> The date of this pioneer study is unknown. However, a "very brief extract" of the study was subsequently published in 1948.

<sup>10</sup> p.25. Also note that the sections of the book dealing with Colonial Nigeria relied heavily on Rowan (1951, 1952).

<sup>11</sup> 1954, pp.v-vi.

archival support for his thesis. Despite the above approach, Newlyn and Rowan (1954) and Brown (1966) remain, till date, the most important studies on banking in pre-independence Nigeria.

Some of the colonial banks active in the region at the time have also commissioned their own histories. An example is the history of the Bank of British West Africa (Fry, 1976) and the history of Barclays Bank (DCO) written by Crossley and Blandford in 1975. Besides being narrowly focused on the activities of each bank, such official histories sometimes tend to cover the bank's operations across a wide geographical area with cultural, social and political differences. In-depth analysis of specific regional problems is therefore not always possible. This is mostly true for the official histories of multinational banks. For instance, it is not surprising that the official history of Barclays Bank (DCO)-with branches in over forty countries-contains very little detail on the Bank's West African activities. Moreover such official histories almost always present a partisan view of the bank's activities.<sup>12</sup>

This thesis adopts a different approach from that adopted by Newlyn and Rowan (1954) and Brown (1966). My approach is historical and I am mainly concerned with the underlying processes and forces at work that influenced the various

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<sup>12</sup> Some evidence of this, with respect to the official history of the BBWA, will be shown in chapter 3(7).

developments in pre-independence banking in colonial Nigeria.<sup>13</sup> Considerable amount of resources have been spent searching the archives. This is so since archives usually provide a much richer base for historical research than published materials.<sup>14</sup>

This thesis is unique in two ways: it introduces new evidence, mainly from the Bank of England Archive,<sup>15</sup> into the discourse of banking in colonial Nigeria.<sup>16</sup> Secondly, by relying substantially on regulatory theories and principles, it attempts a re-interpretation of the various banking developments in pre-independence Nigeria.

To help put the entire study in the context of the political, social and economic changes that Nigeria underwent prior to Independence, the next section will summarise some of these developments. We shall in the main focus on political changes. Indeed in Nigeria at the time, the speed for political change determined "almost everything except the

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<sup>13</sup> With banking regulation being seen as ever more problematic, it has become necessary to inquire into the processes through which it has come to be and through which it continues to change (adapted from Hopwood, 1981, p.294).

<sup>14</sup> We have chosen the cut off date of 1960, the year of Nigeria's Independence, for this study. This politically strategic date is convenient because access to archive materials on post independence Nigerian banking is not always possible. This is mainly due to the widespread archival practice of allowing considerable time to lapse before company materials are made available. For instance, the Bank of England has a minimum thirty year rule in this regard.

<sup>15</sup> Other archives used include those of the IBRD (Washington DC), Barclays Bank (Manchester) and the Standard Chartered Bank (London).

<sup>16</sup> Materials from this very rich Bank of England Archive, to the best of my knowledge, have never been used in the discourse of banking in pre-independence Nigeria.

weather and crops."<sup>17</sup>

### 1.3 Pre-Independence Developments in Nigeria

Prior to 1861 Africa, which was dubbed the 'dark continent' by European adventurers and traders, was a 'no man's land' and an 'every man's land'.<sup>18</sup> In those days there was no uniform method of trading or uniform accepted means of exchange even within territories.<sup>19</sup> In 1861, the territory of Lagos was formally ceded to the British Government and it became known as the Lagos Colony. It thus became the first part of the present day Nigeria to come under British rule. In 1885, the British Government proclaimed the Oil Rivers Protectorate<sup>20</sup> over some parts of present day Southern

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<sup>17</sup> Report by J B Loynes, 30/6/60, Bank of England Archive File Number OV138/1, p.23.

<sup>18</sup> Onoh, 1982, p.25.

<sup>19</sup> This statement remained largely true up until the early 20th century. For instance, in 1912, it was asserted that "In the Colony and Protectorate of Southern Nigeria, local differences are well marked. The Western (or Lagos) Province has arrived at a state of development permitting the use of silver practically throughout its area. In the Eastern and Central Provinces, on the other hand, trading by barter is still carried on in a large extent, and although the use of silver is spreading rapidly, we are informed that it is at present received freely in only about half of the markets. Native forms of currency known as "manillas", and brass and copper rods and wires were formerly legal tender. They have recently been demonetised but we understand that they are still used to a considerable extent.... In Northern Nigeria, the use of British silver is rapidly expanding, but there is probably still only a comparatively small amount in circulation. Cowries are used extensively among the natives, and furthermore trade is carried on largely by means of barter" (Emmott report, 1912, p.3).

<sup>20</sup> A British Protectorate is an area administered by Britain and defended by her. Britain is responsible for doing all the things Governments do in a country and no other country can interfere in any way within its boundaries.

Nigeria.<sup>21</sup>

In 1896, a number of British companies then operating around the Niger, amalgamated into the Royal Niger Company. The charter of the new company gave it powers to "administer, make treaties, levy customs duties and trade in all territories in the basin of the Niger and its affluents."<sup>22</sup> This brought the Northern territories of Nigeria under the influence of British traders. In 1900 the British Government took over the administration of the Northern territories from the Royal Niger Company proclaiming the area as the Protectorate of Northern Nigeria. Also in the same year, the administration of all parts of Southern Nigeria, with the exception of Lagos, was unified under the Protectorate of Southern Nigeria.<sup>23</sup> In 1906, Lagos was made part of the Protectorate of Southern Nigeria.<sup>24</sup> Finally, in 1914, the

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Legally a protectorate is a very much looser and vaguer form of ownership than a colony but in practice, there is very little difference. The same Government services extends to both, the same staff look after both and the same laws apply to both. Note however that while the inhabitants of a British colony are British subjects in practically every way like the English themselves, those of a protectorate are not British subjects. They are called British Protected Persons (Niven, 1946, p.161).

<sup>21</sup> It was not until 1891 that steps were taken by the British Government to create an administration for this area. In 1893, its name was changed to the Niger Coast Protectorate with the new protectorate incorporating a larger area (ibid, pp.166-167).

<sup>22</sup> Ekundare, 1973, p.12.

<sup>23</sup> This also incorporated a part of the territory previously administered by the Royal Niger Company.

<sup>24</sup> Lagos however retained its position as a colony having a separate administrator and a legislative council which passed laws as far as it was concerned (Niven, 1946, p.173).

Protectorates of Southern and Northern Nigeria were amalgamated to become the Colony and Protectorate of Nigeria.<sup>25</sup> The new Government constituted a Government-nominated Nigerian Council of thirty Europeans and six Nigerians. This council was however without legislative or executive powers and its function was to advise the Colonial Governor.<sup>26</sup>

From the time of amalgamation, the whole concept of colonisation was under threat. Opposition came mainly from the then emerging class of educated Africans. By 1917, for instance, they formed the National Congress of British West Africa under the leadership of Caseley Heyford- a Gold Coast (Ghana) Lawyer. The body, which had its headquarters in Cape Coast (Ghana), was interested in uniting the four British West African colonies of Nigeria, Ghana, Sierra Leone and Gambia with the goal of self determination. Accordingly, it maintained offices in each colony including Lagos. R A Savage was the branch leader for Nigeria.

In its early years, the National Congress of British West Africa focused mainly on constitutional issues. By 1920, however, it had formulated its first clear economic policy asserting that:

...the time has come for... the formation of a

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<sup>25</sup> In 1922, the area of Nigeria was increased by the "Cameroons under British Mandate." At the end of the war, the allied powers gave the German colonies to the neighbouring states who held them under "mandate" being responsible to the League of Nations for their administration (ibid, p.244).

<sup>26</sup> Blitz, 1965, p.3.

Corporation, to be known as the British West African Co-operative Association... to found Banks, promote shipping facilities, establish Co-operative Stores, and produce buying centres in such wise as to inspire and maintain a British West African National Economical Development.<sup>27</sup>

In 1920, the Congress sent a delegation to London to petition the Secretary of State for the Colonies. Their demands included: the establishment of a legislative council in each territory of West Africa, one half of whose members would be elected Africans and the other half nominated; the establishment of a house of assembly composed of members of the legislative council, together with six other 'financial' representatives elected by the people to control taxation, revenue and expenditure; the appointment of Africans to judicial offices and; the establishment of a West African University.

The British authorities treated the congress with little respect. Governor Hugh Clifford of Nigeria, for instance, dismissed the members of the congress as unrepresentative of Africans. Their British education, he asserted, made them virtually foreigners and their idea of a West African nation was dismissed as an absurdity.<sup>28</sup>

By 1922 the growing demand by these educated Africans for direct representation in the legislative council had forced Sir Hugh Clifford, the Governor of the Nigerian Colony, to

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<sup>27</sup> Quoted in Kimble (1963, p.384).

<sup>28</sup> Flint, 1966, p.159.

change his mind.<sup>29</sup> The 1922 Constitution subsequently, for the first time, enshrined the elective principle into Nigeria's political process.<sup>30</sup> This, according to Sir Hugh Clifford, was a step towards eventual self Government.<sup>31</sup> The concession of the elective principle by the British colonial administration led to the constitution of the Nigerian National Democratic party led by Herbert Macaulay. This became the dominant political party in Nigeria for the greater part of the interwar period. Although its programme included a statement calling for "equal treatment for native traders and producers", its main focus was on constitutional issues.<sup>32</sup>

Events during and after the Second World War further accelerated political change in Colonial Nigeria. In August 1941, for instance, Prime Minister Churchill and President Roosevelt met in Placentia Bay, in Newfoundland to make common declarations of purpose with respect to the war. Their meeting resulted in the Atlantic Charter, which declared among other things, that the signatories to the Charter "respect the right of all peoples to choose the form of Government under which they will live."<sup>33</sup> Apart from raising the fighting morale of

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<sup>29</sup> Ezera, 1964, p.26.

<sup>30</sup> The Constitution of 1922 increased the size of the Legislative Council to forty-six. Four of the ten Nigerians on the council were elected. The council also had legislative powers for the Lagos Colony and Southern Provinces. The Governor continued to legislate for the Northern Provinces (Blitz, 1965, p.3).

<sup>31</sup> Ezera, 1964, p.27.

<sup>32</sup> Coleman, 1958, p.198.

<sup>33</sup> Quoted in Ezera (1964, p.39).



the resistance elements in the Nazi occupied countries of Europe, this declaration also acted as an added catalyst to pro-independence nationalists in most occupied territories including Nigeria. Though Churchill later declared that "they had only European States in mind" when drafting the charter, opposing powerful views at the time ensured the redundancy of his declaration.<sup>34</sup>

By 1946, a new Constitution (Richards Constitution) was introduced. It provided for a central legislature for the whole country and three regional Houses of Assembly for each of the three provinces. The most important achievement of the Richards Constitution was the integration of the north and the south for legislative purposes. The Constitution was however criticised by Nigerian nationalists on the grounds that it allowed Africans only discussions and no genuine participation in the running of the country's affairs.<sup>35</sup> This led to the review of the constitution only two years after its introduction. It was subsequently replaced by the Macpherson Constitution which came into effect in 1951. The Macpherson Constitution granted increased regional autonomy and extended

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<sup>34</sup> For instance, President Roosevelt declared that the "Atlantic Charter applied to all humanity." Similarly, the Labour Party was at the time sympathetic to the cause of colonised people. The colonial policy of the party was then stated as follows "Labour repudiates imperialism. We believe that all peoples of whatever race have an equal right to freedom and to an equitable share in the good things of the world." Other forces at work that helped accelerate the change process include the rise of African journalists, the pressure and lobbying activities of West African students abroad among others. See (Ezera, 1964, chapter 3) for a detailed analysis of these influences.

<sup>35</sup> Ezera, 1964, p.77.

to the Nigerians a fuller share in shaping policy and in the direction of executive Government action. The desire for greater regional autonomy and the need for a more precise definition and clarification of functions between central and regional governments led to a constitutional crisis in March 1953.<sup>36</sup> Two constitutional conferences were subsequently held in London and Lagos to resolve the crisis. This resulted in a new constitution in October 1954, which introduced a federal system of government. Under the new system, Colonial Nigeria was divided into five parts: the Northern Region, Eastern Region, Western regions, the federal territory of Lagos and the quasi federal territory of Southern Cameroons.<sup>37</sup> In 1957, the Eastern and Western regions were granted regional self government. In 1959 the Northern Region gained regional self government. Finally, in October 1960 Nigeria became an independent nation.

The next chapter will examine the various theoretical issues in the politics of regulation with the view of developing a conceptual framework for this study of banking in pre-independence Nigeria.

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<sup>36</sup> Ekundare, 1973, p.13.

<sup>37</sup> In 1961, this territory decided, through a plebiscite, to leave the Nigerian Federation and join the Republic of Cameroon.

## CHAPTER TWO

### **REGULATION, CONTROL AND POLITICS**

#### **2.1 Introduction**

Regulation generally suggests some form of intervention in any activity, and ranges from explicit legal control to informal peer group control by Government or some such authoritative body.<sup>1</sup> Regulation sometimes stems from market failure which usually occurs when market transactions give rise to spill-over effects (or externalities) on third parties, or when there is information inefficiency in the market.<sup>2</sup> Some forms of regulation, however, tend to be paternalistic in nature, often overriding the individual's right to choose, even when such an individual has all the relevant information available to him.<sup>3</sup> For instance, it is common practice for people to be prevented by law from driving a motor vehicle without putting on their safety belts or working under a contract of employment without contributing to a pension scheme. But paternalistic regulation is sometimes entwined with regulation on grounds of public interest. For instance, the failure to wear a safety belt, when driving a car, may give rise to medical costs which are borne by the

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<sup>1</sup> Ogus, 1994, p.1.

<sup>2</sup> See Bromwich (1985, 1992) for an extensive discussion of market failure.

<sup>3</sup> Dworkin (1971) defined paternalism as "the interference with a persons liberty of action justified by reasons referring exclusively to welfare, good, happiness, needs, interests or values of the person being coerced" (Quoted in Ogus, 1994, p.51).

taxpayers via the National Health Service Scheme.

The taxpayer thus has an interest in reducing such costs and paternalistic regulation is one way of achieving this. Taxpayers may also have to come to the rescue when the individual is left indigent as a result of unwise financial decisions such as a reluctance to save for years when paid employment is no longer feasible. The end point of all regulatory processes is to enshrine some code of conduct for the regulated activity. Whatever rules that are finally agreed upon usually have diverse consequences on various interest groups. This has made the regulatory process-ranging over how such regulation is proposed, formally considered and approved, administered, interpreted, evaluated and altered-a political activity.<sup>4</sup>

The aim of this chapter is to examine the various theoretical issues in the politics of regulation with a view to developing a conceptual framework for this study of banking in pre-independence Nigeria. To achieve its aim, the chapter is divided into six parts including this introductory section. Part two discusses the two main theories of regulation while part three examines alternative styles of regulation. Part four discusses the special nature of the banking trade which further impacts on its regulation while part five investigates the banking regulation environment in the United Kingdom. Finally, part six concludes the chapter.

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<sup>4</sup> Lasswell (1950) defined politics as who gets what, when and how. For the purposes of this study, we shall, in the main, adopt the Chambers English Dictionary definition of politics as the "manoeuvring and intriguing" involved in the formulation and implementation of regulation.

## 2.2 Theories of Regulation

Two main conflicting theories have evolved over time in the attempt to explain both the origins and practice of regulation: public interest and capture theories. The public interest theory holds that regulation is supplied in response to the demand of the public for the correction of inefficient or inequitable market practices.<sup>5</sup> It is therefore not surprising that up till the late 1960s, most economists regarded the growth of regulation as an attempt by Government to improve upon the allocation of resources which would otherwise occur in unregulated markets.<sup>6</sup> This belief was based on the implicit assumption that some forms of activities, business or otherwise, do not always function in the public interest without supervision or control. This view has a historical antecedent: regulation in the past (and even presently) had almost always followed some form of crisis or public dissent. For instance, it was the protest of the populist farmers against the exploitative rates levied by railroads that led to the creation of the Interstate Commerce Commission in the USA.<sup>7</sup> The establishment of the Securities and Exchange Commission is yet another example of a crisis driven regulation.<sup>8</sup> The Food and Drug Act of 1938 in the USA

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<sup>5</sup> Peltzman (1989, p.4) and Ogus (1994, p.15).

<sup>6</sup> Peacock, 1984, p.8.

<sup>7</sup> See for instance, Huntington (1952).

<sup>8</sup> Investigations subsequent to the great crash of 1929 revealed that the speculative fever of the 1920's had been worsened for thousands of small investors and speculators by fraud in the touting of equity securities. For instance, stocks were issued for worthless corporations without true

was passed following a drug accident.<sup>9</sup> The 1962 Drugs Amendments Act, also in the USA, was passed shortly after the Thalidomide incident, even though the bill had languished in committee hearings for years.<sup>10</sup> Examples of crisis inspired legislation in the United Kingdom include the Royal Exchange and London Assurance Corporations Act (Bubble Act) of 1719. This Act, which outlawed the joint stock companies of the time, was a direct consequence of the widespread abuse of the system, mainly in the form of fraudulent promotion of such companies, culminating in the famous South Sea Company Scandal.<sup>11</sup> Likewise, the 1956 Clean Air Act, was a direct consequence of the London 'killer smog' of 1952.<sup>12</sup>

An implicit assumption of the public interest theory is that regulation is, in the main, aimed at protecting the

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information being made available to purchasers. Investment companies affiliated with commercial banks also manipulated market prices to the advantage of insiders and the distress of outsiders. The consequence was legislation in 1933 (information disclosure regarding new securities) and 1934 (regulation of securities market) culminating in the establishment of the SEC (Reagan, 1987, p.22).

<sup>9</sup> The drug involved was Elixir Sulphanilamide which contained a poison that killed more than 100 people in September 1937 (Temin, 1979, pp.94-95)

<sup>10</sup> The bill gave the Food and Drug Administration (FDA) authority to require that new prescription drugs be proven effective for the announced purposes. This followed the public disclosure, in the Washington Post, that there was a widespread birth defect problem of truncated or missing limbs in babies born to European women who had used the sedative, Thalidomide, while pregnant (Reagan, 1987, p.20).

<sup>11</sup> Edwards (1980, p.vi). This Act was repealed in 1825.

<sup>12</sup> The incident which caused the death of 4,000 people, in the area of Greater London, led to the Government appointment of the Beaver Committee and the consequent legislation (Gunningham, 1974, p.59).

public. To achieve its aim, regulation based on the above principle should aim at equipping the public with all relevant information necessary for decision making. Regulation in the public interest should also strive to protect the public from monopolies and industries that generate substantial external costs or benefits. This does not always happen in practice.<sup>13</sup> Furthermore, were this theory right, one should also expect no support for regulation from regulatees.<sup>14</sup> This has not always been the case. In the United States, for instance, the railroads supported the enactment of the first interstate commerce act which was designed to prevent railroads from practising price discrimination. This was because discrimination was undermining the railroad's cartels.<sup>15</sup> Also, American Telephone and Telegraph pressed for state regulation of telephone services because it wanted to end competition among telephone companies.<sup>16</sup>

Also, the image of Government as a costless and reliable instrument for altering market behaviour has been extensively questioned.<sup>17</sup> Costs are incurred in the provision of data and information to regulators. It is also possible for regulation to reduce the reactive and flexibility capabilities of

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<sup>13</sup> Posner, 1974, p.336.

<sup>14</sup> An implicit assumption of the public interest theory of regulation is that public interest and the interest of regulatees are dissimilar.

<sup>15</sup> Posner, 1974, p.337.

<sup>16</sup> Ibid.

<sup>17</sup> See, for instance, Posner (1970), Gerwig (1962) and Stigler (1971).

companies to adapt to changing environments.<sup>18</sup> Regulation could also affect management style. Management, for instance, may become more oriented towards satisfying the regulators than towards meeting its proper business demands and objectives.<sup>19</sup> Based on the above, it has been widely claimed that the costs of regulation are greater than any welfare losses arising from inefficiencies in market based allocation of wealth.

Empirical studies consequent to these contradictions in the public good theory show little evidence that Government regulation, especially in the form of state intervention, is beneficial to the public.<sup>20</sup> If regulation could no longer be assumed to be implemented in the pursuit of efficiency objectives, then it becomes legitimate to inquire into its effective objective.

Stigler (1971) in a pathbreaking article<sup>21</sup> attempted an answer asserting that "as a rule, regulation is acquired by

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<sup>18</sup> Regulated companies are sometimes required to seek approval before adopting new technologies or venturing into new areas.

<sup>19</sup> Gardener, 1986, p.29.

<sup>20</sup> Stigler (1964), for instance, compared the performance of a typical portfolio of new issues before and after the setting up of the Securities and Exchange Commission which attempted to impose regulations to ensure the accuracy of the information accompanying the floatation of new shares. Stigler similarly concluded that "grave doubts exist whether, if account is taken of the cost of regulation, the SEC has saved the purchasers of new issues one dollar". See also Gerwig (1962) and Stigler and Friedland (1962).

<sup>21</sup> The title of Stigler's 1971 paper (The Theory of Economic Regulation) is somewhat misleading. As Becker (1976) emphasised, it is best to think of an economic theory of regulation rather than a theory of economic regulation.



the industry and is designed and operated primarily for its benefit".<sup>22</sup> This proposition has come to be known as the capture theory of regulation.<sup>23</sup> Bluntly put, the regulatory agencies are captured by the industry they are supposed to be regulating. In other words, regulation, far from supporting the general public interest by achieving efficiency gains, is enacted and implemented in the interest of specialist producer groups.<sup>24</sup>

Proponents of this theory argue that people in their political behaviour could not be assumed to be motivated by fundamentally different forces than in their private choice making behaviour. Self interest is usually put above all other interests.<sup>25</sup> The industry which seeks regulation must be prepared to pay with two things a political party needs: votes and resources. In non democratic societies, sometimes, the price may be remarkably less: personal friendships with the

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<sup>22</sup> p.3.

<sup>23</sup> The capture theory was not new in 1971. Well known versions had appeared earlier (see for instance, Bernstein, 1955). What was new was its broad appeal to economists based on the accumulating evidence of empirical research (Peltzman, 1989, p.5).

<sup>24</sup> Some scholars have since attempted a modification of the basic capture model. For instance, Peltzman (1976) argues that the complete capture of any agency by any group would imply that the activities of the agency were run exclusively in the interest of that group. Such a policy must inevitably arouse opposition from other groups who are adversely affected, and a more likely outcome of the regulatory process would be a balancing of opposing interests. The point of political equilibrium in the Peltzman model will depend upon the organisational costs faced by the two opposing groups.

<sup>25</sup> For instance, it is a well known fact that the allocation of television channels among communities does not maximise industry revenue but reflects pressures to serve many smaller communities (Stigler, 1971, p.7).

junta members or family relationships could be very useful.<sup>26</sup> In general, people simply pursue their objectives, whatever they are, using the resources available to them. Persuading a customer to utilise one's services will no doubt produce a payoff, but so also can getting the Government to impose some form of tariff on your competitors or to grant you subsidies. In the pre-colonial and colonial setting, similar examples abound. For instance, it has been argued that one of the reasons for the establishment of British colonial rule in the Southern Nigerian Coast was in response to the pressures of British commercial enterprises operating in the area who wanted to break down the middlemen system of which Ja Ja<sup>27</sup> was the master.<sup>28</sup>

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<sup>26</sup> This is perhaps because such governments are usually less accountable. The absence of checks and balances discourages reason and dialogue in decision making. Any attempt, therefore to understand the mechanisms of decision making under such systems becomes onerous.

<sup>27</sup> In December 1863, the British Consul to the territory described him as a "son of an unknown bushman, a common Negro" who had been elected to head the Annie Pepple House. "He is young, healthy, and powerful, and not less ambitious, energetic and decided. He is the most influential man and the greatest trader in the river". Quoted in Dike (1956, p.184).

<sup>28</sup> In February 1882, for instance, John Holt appealed to the Foreign Office to protect one Mr Watts, a British trader in the Qua Eboe River whom he claimed was a victim of Ja Ja's persecution. He further suggested the annexation of the coast from Lagos to Cameroon as the only safeguard for the British merchants. "These requests for annexation" commented a Foreign Office Official "are becoming frequent" and they came almost entirely from merchants and the Consul who needed direct Government intervention "to break down the middlemen system of which Ja Ja is the Champion". In June 1883, an internal memo of the Foreign Office urged the annexation of Cameroon in order to enable Britain "to obtain the great influence in the interior now exercised by the Kings and Chiefs of Cameroon". The memo further suggested that annexation would enable "the white traders... [to] push into the interior and [so] get rid of the services of the [Africans]... as middlemen". Quoted in

But the interest divide was not always along colonial lines: even among the Africans, variant interests existed. For instance, the abolition of the slave trade was opposed not just by the European slave traders but also by the African middlemen. The King of Bonny, Africa's greatest slave market, once declared that:

We [i.e. the King and Council] think that the trade must go on. That also is the verdict of our Oracle and the priests. They say that your country however great can never stop a trade ordained by God himself.<sup>29</sup>

While it may have been easier for a colonial business to influence legislation in Whitehall in order to protect its interests, the African businessmen might have found appeals to nationalist sentiments a better and more effective way of protecting their interests. The choice therefore between market and political action is essentially an economic one and will depend upon the relative costs involved and the chances of success in each case.<sup>30</sup> It was this trend towards analysing the use of political processes from an economic perspective, rather than implicitly assuming that they are infallible mechanisms for the production of the 'public good'<sup>31</sup> that led

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Dike (1956, p.216).

<sup>29</sup> Quoted in Dike (1956, p.13).

<sup>30</sup> Ricketts and Shaw (1984, p.14).

<sup>31</sup> Society's perception of 'public good' changes over time. This is because such perceptions are determined by a shifting interplay of a variety of forces: bureaucrats, careerists, professionals, political appointees, legislators, courts, interest groups, the media etc, with differing objectives, views and stakes that are subject to change

to the reappraisal of Government regulation.

Sometimes, regulation imposed on the grounds of public interest may end up serving the interest of the regulated group. An example of this can be found in the regulation of the tobacco industry in the USA (The Prohibition of Advertising Act of 1971). Here, it has been argued that it was the industry, not the consumers, that benefitted from this act which banned cigarette advertising in the broadcasting media.<sup>32</sup> Such benefits arose mainly because of the following factors: (1) the ban on such advertising made the fairness doctrine inapplicable;<sup>33</sup> (2) the industry saved money after the ban because it reduced its advertising expenditures; (3) industry sales increased significantly after the ban and; (4)

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depending on the issues and the circumstances (Katzmann, 1990, p.200).

<sup>32</sup> Before the industry was mandated to stop advertising in the broadcasting media, it was low in the ranking of profitable American industries. In the 1970's, subsequent to the ban, they catapulted to the top (Doron, 1979, p.86). By 1972, the failure of the prohibition of cigarette commercials had been realised in some quarters. For instance, Bruce W. Wilson, then the Deputy Assistant Attorney General told the Senate Consumer Sub Committee hearing that "the public interest might be better served through the assumption of both cigarette commercials and the anti-smoking messages that were so prevalent before the broadcasting ban" (quoted in Doron, 1979, p.89).

<sup>33</sup> According to the American Cancer Society, "While this law [The Prohibition of Advertising Act] was hailed as a victory for the anti-smoking forces, it could not be foreseen that it would also produce a serious drawback. Since the broadcasters could no longer advertise cigarettes, they no longer were required to carry anti cigarettes messages. How powerful these messages had really been was demonstrated by what happened when they were no longer there. By the end of 1971, the per capita consumption curve for cigarettes had begun to point upward again; then it continued to move up gradually through 1972, 1973 and 1974" (quoted in Doron, 1979, p.91).

it helped the then existing local firms perpetuate their control of the national market. This was so because the ban on advertising made it difficult for new firms to enter the market.<sup>34</sup>

Public and private interests, it has also been argued, are entwined. For instance, it has been suggested that the best way to act in the interest of the public is by putting your private interest first.<sup>35</sup> In 1903, for example, Sir Harry Johnston, one of the principal figures in the overthrow of indigenous sovereignties in Southern Nigeria, advised that:

Between the White Nile and the Zambesi, the black man's interests must come first of all since the lands he occupies are not in the main suited to the white man's occupation. We must educate the black man to make the best use of his limbs, his land, his intelligence, and our experience, advice and wealth. Our return for these services should be the commercial development of all Africa on a gigantic scale with most profitable results to Europe and Africa.<sup>36</sup>

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<sup>34</sup> Doron, 1979, p.84. The Tobacco Industry in America has undergone extensive changes since Doron's work. This is perhaps due to the ever increasing activities of the anti-smoking campaigners. Doron's findings, therefore, are unlikely to be legitimate now. See for instance, *Financial Times* (18 March 1996, 9 April 1996).

<sup>35</sup> According to Adam Smith "As every individual... endeavours as much as he can both to employ his capital in the support of domestic[k] industry, and so to direct that industry that its produce may be of the greatest value; every individual necessarily labours to render the annual revenue of the society as great as he can. He generally, indeed, neither intends to promote the public[k] interest, nor knows how much he is promoting it... he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention" (quoted in Raphael, 1985, p.70). The invisible hand theory is not without its critics. See for instance (Hahn, 1982).

<sup>36</sup> Quoted in Ofonagoro (1979, pp.158-159).

It is also the shifting concept and varied interpretations of 'public good' that has enabled the use of regulation to shield major players in some industries from public scrutiny and indeed to prevent competition in some.<sup>37</sup> Regulation, therefore serves different purposes for different interest groups on different occasions.<sup>38</sup>

Because of the ever shifting perception of 'public good', shifting individual and group interests and perhaps the entwinement of public and individual good, neither the capture theory nor the public good theory has yet fully explained the rationale for regulation.<sup>39</sup> Interest groups and accidents also impact on the method of regulation employed.

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<sup>37</sup> For instance, the 1905 Companies Act in the Gold Coast (Ghana) prevented Gold Coast registered Companies from engaging in banking activities. This legislation effectively eliminated Africans from engaging in such practices. At the time, the Africans, though an interest group in the Gold Coast Economic arena, were not a political force to be reckoned with. The political equation was altered in the 1940s. With the imminence of independence, the retention of the native exempt clause became politically inexpedient for the colonial Government. Thus a shift from direct discrimination regulation to those that appealed to economic reasoning and the protection of the 'public interest'. -See Paton (1948a) and Trevor (1951) for a general discussion of the pre-independence regulatory changes in the Gold Coast banking industry.

<sup>38</sup> There is little doubt that the national policy objective of any nation is non static. For a society transiting from colonisation to independence, the change in its perception of public good may be drastic. The rejection of the colonial system presupposes that the system acted more against the interest of the Africans. Implicit in the rejection of the colonial system, therefore, is a call for a change of *status quo*. All components of the old system, including its banking structures, must therefore come under scrutiny with a view to restructuring them to satisfy the new national interest.

<sup>39</sup> There have been calls for a synthesis of the two regulatory theories. See for instance, Reagan (1987, chap 2) and Levine and Forrence (1990).

### 2.3 Types of Regulation

There are in the main, two types of regulation: Government regulation and self regulation. Government regulations are sometimes administered through Government parastatals or agencies. Such regulations are usually backed by Statute laws established by acts of parliaments or military decrees. They are therefore rules which are intended, in all stages of their application, to be interpreted and enforced by the courts. Such laws usually prescribe punishments for non compliance. The power of statutes therefore lies in the general willingness of society to obey the law and in the willingness of the state to enforce the punishment for non compliance.<sup>40</sup> Government regulation in some activities may however be advisable. This is especially so in the arena of social regulation<sup>41</sup> where externalities are widespread. An example is the case of pollution. In such an activity, a statute backed regulatory regime may reduce both the information and enforcement costs.<sup>42</sup> Regulation by a third party, unlike self regulation, also has the advantage of ensuring the maintenance of the separation of powers doctrine.<sup>43</sup> This is so since it ensures the separation of the

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<sup>40</sup> BOE, September 1978, P.380.

<sup>41</sup> This is the term generally used to refer to regulation which typically affects a number of industries and is intended to promote a general societal good such as clean air or water (Wilson, 1984, p.203).

<sup>42</sup> Ogus, 1995, pp.107-108.

<sup>43</sup> This may not hold when the regulatory authority is 'captured' by the industry as it then becomes a front for the industry.

function of adjudication and enforcement of rules from the regulated industry.<sup>44</sup>

Government regulation is however not without its problems. State laws, for instance, are usually content with the provision of minimum standards.<sup>45</sup> This may be an incentive to companies just to adhere to the minimum standards. Another problem with statute laws is the fact that the very nature and power of the law make its change a serious matter, not to be undertaken frequently. Such laws therefore tend to be slow in adapting to new developments and changing circumstances. Finally, an inherent feature of statute law is that it tends to be its letter not its spirit that the courts interpret and enforce. For the above reasons, statute law, particularly where it relates to the administration of regulation, is sometimes framed in a manner which gives some degree of discretionary authority to the regulator.<sup>46</sup> It is the above difficulties that make self regulation attractive to some parties.

According to the National Consumer Council (United Kingdom), self regulation, means that:

rules which govern behaviour in the market are developed, administered and enforced by the people (or their direct representatives) whose behaviour is to be governed.<sup>47</sup>

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<sup>44</sup> Ogus, 1995, p.99.

<sup>45</sup> BOE, September 1978, p.379. This is perhaps because laws and rules often reflect compromise rather than the interests of any one group (Gunningham, 1974, p.61).

<sup>46</sup> BOE, September 1978, p.380.

<sup>47</sup> National Consumer Council (NCC), 1986, p.1.



The extent to which these people control these rules can in fact vary considerably<sup>48</sup> mainly because of lack of a homogeneity in the interests of the forces that drive self regulation. Typically, the debate over the setting up of self regulatory schemes does not address constitutional issues.<sup>49</sup> Self regulation, instead, usually arises out of two main circumstances: to repel the threat of Government imposed regulation<sup>50</sup> or to curtail the activities of fringe operators and protect industry reputation.<sup>51</sup>

The benefits of a self regulatory scheme could be immense. For instance, by reducing reliance on statutes, self regulatory schemes generally offer a speedier and more flexible means of solving problems.<sup>52</sup> Also by utilising the skills of those involved in the business, self regulation schemes may be able to overcome the information problems sometimes faced by Government regulatory bodies, and standards can conceivably be set higher than in a statutory scheme.<sup>53</sup> Finally, the costs of self regulatory regimes are normally

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<sup>48</sup> Ibid.

<sup>49</sup> Graham, 1994, p.195.

<sup>50</sup> This extensively explains the advent of codes of practice for the banking, press, advertising and building society industries in Britain (Graham,1994, p.195).

<sup>51</sup> An example of this is the British Board of Film Classification. Its origins could, to some extent, be traced to the uneasiness in the early cinema industry about the loss of reputation due to the activities of fringe operators (ibid).

<sup>52</sup> Ibid, p.194.

<sup>53</sup> Ibid.

internalised in the trade or activity which is exposed to regulation.<sup>54</sup>

Perhaps because of the variety of interests that impact on self regulation, in practice it has not been without blemish and some schemes have found it difficult to meet some of the guidelines aimed at enhancing the credibility of self regulation.<sup>55</sup> Criticisms of such schemes include the fact that such schemes do not necessarily cover all the firms in the industry.<sup>56</sup> The negotiation and bargaining necessary to introduce a self regulation scheme, in some cases, also take place without an input from third parties.<sup>57</sup> Finally, it has been claimed that self regulation schemes have a poor record

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<sup>54</sup> In the case of independent public agencies, such costs are usually borne by taxpayers (Ogus, 1995, p.98).

<sup>55</sup> The NCC, for instance, recommended that self regulatory schemes should adhere to the following guidelines: (1) the scheme must be able to command public confidence; (2) there must be a strong external involvement in the design and operation of the scheme; (3) as far as practicable, the control and operation of the scheme should be separate from the institutions of the industry; (4) consumers and other outsiders should be fully represented on the governing bodies of such schemes; (5) the scheme must be based on clear statements of principles and standards; (6) there must be a clear, accessible and well publicised complaints procedure where breach of the code is alleged; (7) there must be adequate and meaningful sanctions for non observance; (8) the scheme must be monitored and updated in the light of changing circumstances and expectations and; (9) there must be a degree of public accountability such as an annual report (NCC, 1986, p.15).

<sup>56</sup> Those who have not agreed to follow self regulatory schemes are usually the source of consumer problems (NCC, 1986, p.6). Reynolds (1981) also asserted that as "a social group grows and becomes more complex, the efficiency of non market implicit controls declines. The group becomes more heterogeneous, and general agreements on ethical values and other institutional arrangements decreases" (quoted in Reagan, 1987, p.34).

<sup>57</sup> Ramsay, (1987, p.191) and Breyer (1982, p.179).

of enforcing their standards against disobedient members.<sup>58</sup>

Apart from all the above disadvantages, self regulation is not always possible. For instance, the industry concerned may be too diverse making it impossible for the level of agreement necessary for such regulation to be obtained. An example is the Estate Agency Industry in Great Britain, where the Office of Fair Trading had for a long time encouraged the industry to take voluntary regulatory measures but with little success until the formation of the Ombudsman for Corporate Estate Agents, which still covered only half of the industry. This led to the enactment of the Estate Agents (Provision of Information) Regulations, 1991, by the Government.<sup>59</sup> In general, the more the external consequences of an industrial practice, the less acceptable self regulation becomes. An example can be found in the banking industry.

#### **2.4 The Special Nature of the Banking Industry**

The banking industry is special in terms of regulation as experience has shown that failure (bankruptcy) in this industry has external consequences.<sup>60</sup> The concern to safeguard the viability of the depository industry arose from the fact that financial failure had significant external effects that

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<sup>58</sup> Graham, 1994, p.195.

<sup>59</sup> Ibid, pp.195-196.

<sup>60</sup> The supervision of banks, unlike the other non-financial industries arises from the unique fiduciary responsibility which bankers assume when they accept other people's money for safe keeping. It is therefore not surprising that the defining activity for statutory control is usually the act of deposit (Cooke, 1982, p.547).

reached beyond the depositors and stockholders of the financial firm.<sup>61</sup> The depository institution played an important role as the chief conduit in both the payment process and the savings-investment process. Failure of individual firms in the depository industry may lead to widespread deposit runs that could overflow to other depository firms.<sup>62</sup> This has come to be known as the contagion effect.<sup>63</sup>

Institutional developments like the rise in inter bank lending and various money market operations, propelled mainly

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<sup>61</sup> In an attempt to safeguard such depository firms, it is usual for regulating bodies to set up entry barriers into such activities. For instance, a licence is widely required before any company can engage in banking functions. Licensing conditions usually include: a minimum paid up capital, security clearance of the directors, availability of competent manpower amongst others. Licensing is also sometimes influenced by the overall macro-economic goal of the territory. Established financial institutions also come under regulatory scrutiny. They are usually subjected to various capital adequacy, liquidity, reserve, risk management and lending regulations.

<sup>62</sup> The losses of depository failure are however not constrained to the depositors and deposits. The external effects are usually large. For instance the cumulative failure of the depository industry has been identified by some scholars as the reason behind the great depression of the 1930s (Spellman, 1982, p.9).

<sup>63</sup> Justifying its support operations during the fringe banking crisis of 1973, the Bank of England argued that it found itself "confronted with the imminent collapse of several deposit-taking institutions, and with the clear danger of a rapidly escalating crisis of confidence. This threatened other deposit-taking institutions and, if left unchecked, would have quickly passed into parts of the banking system proper. While the UK clearing banks still appeared secure from the domestic effects of any run-indeed the money-market deposits withdrawn from the fringe were largely redeposited with them-their international exposure was such that the risk to external confidence was a matter of concern for themselves as well as for the Bank. The problem was to avoid a widening circle of collapse through the contagion of fear" (BOE, 1978, p.233).

by the spirit of competition with the aid of advancements in information technology, have also added to the contagion problem. There has therefore been a steady rise in the entwinement of banks not just with their customers, but also with other banks. Therefore no matter how small a financial institution may be, the impact of its failure may be far reaching on the entire financial system.<sup>64</sup>

The danger of contagion is particularly acute for the banking system. If a cement manufacturer, for instance, fails, the ill effects are likely to be felt most by those who have had dealings with the institution. The repercussions for the industry and the general economy as a whole will tend to be much less serious. In fact, the competitors may inherit some of their late rival's market share. The above scenario can of course occur in an isolated bank failure especially when the reason for the failure can be clearly seen to be specific to the bank or a group of banks. In certain circumstances, however, the collapse of a bank could, in the absence of any official action, lead to loss of confidence in the entire banking system and a subsequent mass withdrawal of depositors' funds from the system. In such a scenario, therefore, formal disclosure requirements are likely to be of little practical assistance. Irrespective of the bank's balance sheet strength,

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<sup>64</sup> In line with this, the 1985 Annual Report of the Federal Reserve Bank of New York, commented as follows "The interconnections among institutions and markets in the new environment get more and more complex. A shock that starts in one market may spread quickly along this network until it finds a weakness in some seemingly unrelated place. In fact there is a growing tendency to build financial links along regulatory fault lines where the responsibility for supervisory oversight is weak, divided or clouded" (p.26).

it may still be rendered insolvent by the actions of other depositors.<sup>65</sup>

Also the increased integration of the financial system, which has resulted in the rise in inter bank dealings, has also increased the prospects of contagion should one bank fail. Therefore when the banking system co-operates to save a distressed member, it is more of a self preservation act than an act of charity. It is mainly on the above basis that it has been possible to secure the co-operation of the banking community in times of stress. For instance, during the 1973 secondary banking crisis in Britain, large sums of money flowed out from the secondary banks to the clearing banks. These funds were recycled back to the secondary banks through the famous 'lifeboat operation'.<sup>66</sup>

It is thus clear that it is the problem of contagion that is the reason for preventing those who do not meet the minimum requirement necessary to achieve the status of a bank or licensed deposit taker from taking deposits. If the problem of contagion did not exist, there might be a case for confining regulatory action to only 'club members' without going on to formally bar non 'club members'<sup>67</sup> from carrying on depository businesses.<sup>68</sup>

But not all ailing banks have been saved in the past.

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<sup>65</sup> BOE, March 1984, p.49.

<sup>66</sup> Reid (1986, p.100).

<sup>67</sup> BOE, March 1984, p.50.

<sup>68</sup> There is however a case for protecting the unsophisticated depositor from the unreliable operators. This will be discussed later.

Between 1933 and 1982, 620 banks failed in the USA alone.<sup>69</sup> The size of a distressed bank, no doubt, plays a major role in determining whether it gets helped.<sup>70</sup> In an economy approaching political independence, this may create problems. For instance, new indigenous banking businesses are likely to be small with perhaps insignificant effect on the financial system should such banks collapse. Such banks therefore will be unlikely candidates for assistance under the above regime. It is perhaps because of this that the protection of infant industries has become a reason for Government intervention in banking (and other businesses) especially in developing countries.<sup>71</sup> Size alone, however, is not the only explanatory factor in the theory of which distressed bank gets assistance.<sup>72</sup> Other factors, no doubt, are usually part of the

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<sup>69</sup> Dale, 1992, p.8.

<sup>70</sup> For instance, the bailing out, in 1984, of Continental Illinois, was justified by the then FDIC Chairman, Mr William Isaac on the grounds that "closing the bank and paying off insured depositors could have had catastrophic consequences for other banks and the entire economy. Insured accounts totalled only slightly more than \$3bn. This meant that depositors and other private creditors with over \$30bn. in claims would have had their funds tied up for years in a bankruptcy proceeding awaiting the liquidation of assets and the settlement of litigation. Hundreds of small banks would have been particularly hard hit. Almost 2,300 small banks had nearly \$6bn. at risk in Continental; 66 of them had more than their capital on the line and another 113 had between 50 and 100 per cent. More generally, closure of a bank whose solvency was apparently not impaired, in response to its liquidity and confidence problems would have raised concerns about other soundly managed banks" (Quoted in Dale, 1992, pp.9-10).

<sup>71</sup> This will be discussed later on in this section.

<sup>72</sup> In the 1973 banking crisis, the 'lifeboat' committee, required the following conditions to be satisfied before support was provided: (1) that the company seeking support was currently trading solvently and was likely to remain solvent provided it received liquidity support by way of recycled

explanatory variables.

The desire by some countries to limit or preclude foreign participation in a sector which is regarded as vital to the proper functioning of the national economy and the attainment of National policy objectives is yet another reason for Government intervention in banking.<sup>73</sup> This is usually entwined with the typical infant industry argument.<sup>74</sup> It was in this respect that the Reserve Bank of Australia cautioned that:

Banking is a key sector of the economy providing the community with money balances and payments arrangements. Control of ownership of banks should therefore be maintained in Australian hands to ensure concern for the National interest. Foreign banks may be inclined to give prior place to commercial advantage or to another country's national interest.<sup>75</sup>

The protection of depositors is yet another objective of bank regulation. Subsequent to the financial crisis of 1929-1933, banking regulators around the world emphasised this objective. Such an emphasis drew its strength from the political and

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deposits; (2) that the company exhibited sufficient banking characteristics to justify inclusion in the scheme (the possession of a section 123 certificate, for instance) and had attracted a significant level of deposits from the public; and (3) that the company did not possess any institutional shareholders whose interest in the company was such that they might properly be expected to provide the necessary support (BOE, June 1978, p.233).

<sup>73</sup> Reserve Bank of Australia (1979, chap 12).

<sup>74</sup> It is usually argued that it is necessary to offer some form of protection to indigenous companies. Such protection is required in order to protect them from the usually better equipped foreign companies. This is necessary for the survival and constrained development of indigenous companies (UNCTC, 1981).

<sup>75</sup> Reserve Bank of Australia (1979, chapter 12.6).



social trends evident in many countries towards the protection of customers and away from the principles of *caveat emptor*.<sup>76</sup> There is usually a case for deviating from the *caveat emptor* principle in certain industries. This is especially so where it is inherently difficult for the individual or consumer to assess the goods or services he is buying or where the learning process for society may be judged too costly or difficult.

The fact that an institution is supervised may be taken perhaps inappropriately, to mean that they have been given an official seal of approval. It is as a consequence of this that it may be argued that the supervisory authorities carry some responsibility towards the members of the public. The belief may also grow up that either the authorities will not allow the institutions to fail or, where they fail, depositors will be compensated.<sup>77</sup>

Many countries have deposit protection schemes in operation. In the UK, the deposit protection Board provides protection for only 75% of deposits for total deposits of up to £20,000. In the USA, where the bank failures of the 1930s proved a more traumatic experience, depositors definitely have a better deal: deposits of up to \$100,000 are protected in full.<sup>78</sup> The limitation in the protection of depositors in the UK implicitly assumed that even the small man should not be fully compensated for losses due to mismanagement. If a

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<sup>76</sup> Blunden, 1977, p. 325.

<sup>77</sup> BOE, March 1984, p.49.

<sup>78</sup> Ibid.

depositor can earn a higher return by placing funds with somewhat higher risks, full compensation may be an undue incentive to continue in his ways as he will be earning all the interest while the risks are borne by another party.<sup>79</sup>

Banking regulation does not however only aim at preventing banking failures. Banks may also be regulated to ensure that they carry out their activities in accordance with the wider economic and social objectives of the country. For instance, it is not unusual for banks, especially in developing countries to be given credit policy guidelines especially on the sectoral allocation of loans, either by Government or the Central Bank. Banks have also been instructed by the Government to avoid investments in certain sectors of the economy, either by direct ban or by making it unprofitable for them to do so.

Another reason for regulating the financial system stems from the need to foster the efficiency and integrity of the market by minimising the problems that may arise from conflicts of interest on the part of market participants. Here, there are various ways of ensuring that conflicts of interests do not arise and, where they do, that they do not

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<sup>79</sup> A possible solution to the problem is to allow privately run insurance schemes to cater for the protection of the depositors. But this has its own problems: The possibility of a claim does not only depend on systematic risks but also on unsystematic risks. The incentive, on the part of management, to behave with due care may be reduced if deposit insurance can be purchased. Private insurers may tackle this problem by varying the premium rates depending on the riskiness of the deposit taker (BOE, March 1984, p.49).

impact on the integrity of the market.<sup>80</sup> In Britain, at least before the Big Bang (1986), the broking function was separated from the Jobbing function.<sup>81</sup> In other words, stockbrokers could only act as agents to their clients and jobbers could not deal directly with the investing public.<sup>82</sup> The early bank charters in the USA also enshrined the separation principle. By 1930, however, such a separation system had been abandoned in the USA and commercial banks had become the dominant force in the distribution and underwriting of securities.<sup>83</sup> Whether the banking crisis of the early 1930s was a consequence of the abandonment of the separation principle has remained a contentious issue among scholars and banking practitioners

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<sup>80</sup> Fund management and bond issuing, for instance, involve potential conflicts of interest, yet UK banks perform both activities and are able to maintain the confidence of their clients by ensuring that a Chinese wall of silence exists between the different activities. An alternative way of maintaining market integrity is to ensure full disclosure of the activities of the market. This will enable customers check that they are getting the going prices. The best approach to adopt is open to argument. For instance, it could be argued that the abolition of a single capacity could lead, through agglomeration, to substantial economies of scale. On the other hand, the information required to make the disclosure system work could be very expensive both to produce and consume (BOE, March 1984, p.47).

<sup>81</sup> As a result of the Big Bang, jobbers were replaced by market makers.

<sup>82</sup> The above regulations changed in 1986. Both stockbrokers and market makers are now able to act in dual capacity. They can, for instance, deal directly with investors (buying and selling securities from their own books), or act as agents, putting deals together for clients on commission basis. There are however rules in place to ensure that investors are not disadvantaged under this dual capacity system- See Bank of England (1985b, 1987).

<sup>83</sup> See Dale (1992, chapter 2) for an analysis of events leading to this abandonment.

alike,<sup>84</sup> although the advent of the Glass Steagall Act implicitly endorsed such a view. At this point, a detailed analysis of the development of the bank accounting requirements and the entire banking regulatory system in the United Kingdom is necessary. This is especially so since Nigeria was a British colony and was bound to be heavily influenced by developments in Britain.

## **2.5 Earlier Laws Relating to Bank Accounting Systems**

In the United Kingdom, the Bubble Act of 1719 limited any form of partnership to six members.<sup>85</sup> The development of the company in Great Britain was therefore restricted until the act was repealed in 1825. By this time, the pressures of industrialisation and the ever increasing demand for investible funds encouraged a more diffuse ownership of business.<sup>86</sup> The major problem then, however, was how to encourage external investments in private enterprise while, at the same time, providing adequate means of protection for the investors. It was the above factors that led to the initial production of financial reports for shareholders by

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<sup>84</sup> See also Dale (1992, chapter 2) for a review of the debate.

<sup>85</sup> The first two decades of the 18th Century witnessed considerable speculation with firms beginning to operate on a basis of a joint stock raised from the public and often carrying on businesses in the Company's name. This development, which created enormous opportunities for the unscrupulous, led to a series of fraudulent promotions. Government responded by outlawing this type of business enterprise (Edwards, 1980, p.vi).

<sup>86</sup> Lee (1979, p.16).

companies.<sup>87</sup>

The legislation on financial statements however did not follow until 1844 when the Joint Stock Companies Act was promulgated.<sup>88</sup> The provisions of this Act did not relate to banks which were covered by separate legislation: the Joint Stock Banks Act of 1844. This Act provided for the publication of the assets and liabilities of joint stock banks, at least once in every month. It also provided for the yearly audits of the accounts of such banks by two or more auditors chosen at a general meeting of shareholders. Only non directors could act as auditors. The report of the auditors plus the balance sheet and profit and loss accounts were to be communicated to the shareholders yearly.<sup>89</sup>

Though the Joint Stock Banks Act of 1844 contained a compulsory audit requirement, bank audits, at the time, remained uncommon. This was mainly because only a few banks were formed under this act which was repealed in 1857. Banks were subsequently regulated under the general company legislation at the time.<sup>90</sup> Therefore, for most banks, audit

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<sup>87</sup> Ibid, p.17.

<sup>88</sup> The provisions of this Act required a balanced, full and fair balance sheet to be prepared, by the directors, and presented to each ordinary meeting of shareholders. The Act did not specify the form or content of the balance sheet and also there was no mention of a profit and loss account. The Act further provided for the appointment of one or more auditors, one of whom at least was to be appointed by shareholders at a General Meeting.

<sup>89</sup> Section iv of the Joint Stock Banks Act as reproduced in Edwards (1980, p.18).

<sup>90</sup> At the time, the Joint Stock Companies Act of 1844 had been repealed and replaced by the Joint Stock Companies Act of 1856. Though, the 1856 Act extended the accounting and

remained optional until 1879 following the collapse of the City of Glasgow Bank. Founded in 1839, the City of Glasgow Bank failed in 1878. This had disastrous consequences for both its creditors and shareholders (who did not have limited liability). The failure of the City of Glasgow Bank led to the prosecution of its directors, and it was discovered that balance sheets had been falsified as a result of misdescription, and by overvaluing assets and undervaluing liabilities.<sup>91</sup> These events promoted an immediate demand for legislation that would prevent such abuses.<sup>92</sup> Several bills were introduced in Parliament at the time. Those that provided for the compulsory audit of the accounts of Joint Stock Banks and their publication in a prescribed form were generally welcome at the time.<sup>93</sup> Though none of the bills was passed, they no doubt influenced the provisions of the Banking and Joint Stock Companies bill which resulted in the Companies Act of 1879. The bill contained provisions for a compulsory and independent audit and a uniform balance sheet. The provision for a uniform balance sheet was however dropped at the

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auditing provisions of the 1844 Act, it relegated it to an optional appendix.

<sup>91</sup> Tyson (1974) and French (1985, p.10).

<sup>92</sup> Walker (1996, pp.313-4).

<sup>93</sup> "Many of the points are what a well managed bank might not feel any great reluctance to make public; and the power proposed to be given to auditors is not more than some banks already concede. Publicly, it is the best check against fraud, and this would be attained by the measure proposed" (Economist, April 19 1879, p.446).

committee stage.<sup>94</sup> The accounting provisions of the 1879 Act, which to some extent resembled those of the Joint Stock Banks Act of 1844, made audits compulsory for banks with limited liability,<sup>95</sup> but not for other companies.

The ability of shareholders to inspect company records has also been a subject of regulation from the beginnings of formal accounting legislation of companies in the United Kingdom. For instance, the Joint Stock Companies Act of 1844 required that the books of joint stock companies be kept at the principal place of business of the company. At all reasonable times such books were to be open for inspection by any shareholder of the company. The Companies Clauses Consolidation Act of 1845 contained a similar provision, so did the 1862 Companies Act.<sup>96</sup> By 1908, the inspection of company books by shareholders was no longer automatic.<sup>97</sup> This 1908 provision was retained in the subsequent Companies Acts of 1929 and 1948. Because of the confidential nature of the banking business, the availability of its records to all

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<sup>94</sup> See Parker (1980) for a review of the debate at the time.

<sup>95</sup> In 1855, the privilege of limited liability was added to the other benefits which are commonly associated with the attainment of separate corporate personality. This was not however extended to banks until 1858.

<sup>96</sup> Parker, 1990, p.61.

<sup>97</sup> "The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting" (Section 105).

shareholders is not always desirable. The deeds of settlements of such banks, often for the above reason, did not normally allow the inspection of the company books by all shareholders.<sup>98</sup>

Apart from the above regulation of bank accounts (and regulation through bank accounts), formal legislation regarding the registration, regulation and activities of the banking system in the United Kingdom is a recent day phenomenon.<sup>99</sup> Although the Bank of England Act of 1946<sup>100</sup> conferred on the Bank of England, the powers to define a 'banker' and authorised the Treasury to issue directions to such parties, no such definition or directions were ever issued. A bank remained legally undefined with no prescribed legal requirement for the setting up of depository

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<sup>98</sup> Parker, 1990, p.62.

<sup>99</sup> Before the 1979 Banking Act in the United Kingdom, there were no specific legal requirements governing the setting up of banks in the United Kingdom. There was also no legal definition of a bank in the United Kingdom.

<sup>100</sup> The nationalisation of the BOE under the BOE Act of 1946 brought a formal change in the stature of the Bank. The Bank had however, for a long time, regarded its responsibility and duty as directed to the national interest and always subject to the ultimate authority of Government. Also, although the Act provided a statutory basis for the exercise of authority over banks, the Bank in practice has continued to exercise its authority in this field without any radical change in its *modus operandi* which rests on the long established custom and use in acting as central bank and controlling money markets. For a long time, the Bank has accepted responsibility for the soundness of the financial system in Britain. This responsibility developed out of the 19th century banking crisis. The successful handling of the crisis by the Bank demonstrated that it was not necessary to have statutory powers in order to make regulation effective (BOE, Sept 1978. p.380).



institutions.<sup>101</sup> Other legislation of the time however gave some guidance as to which institutions were generally perceived as banks by the authorities. For instance, the Exchange Control Act of 1947 provided a list of authorised banks permitted to deal in foreign exchange. Also, the Companies Act of 1948 authorised the Board of Trade to exempt banking companies from the obligation to publish accounts in full (schedule 8 banks). In other words, they were allowed to maintain secret reserves. The criteria for being a schedule 8 bank were largely subjective. The status was usually offered where the Bank of England believed that the bank in question would be an acceptable member of the recognised banking community.<sup>102</sup> It was therefore only banks in these two categories, sometimes partly overlapping, that the Bank of England maintained regular contact with.<sup>103</sup> Such supervision was based on custom and acceptance rather than legal authority under the Bank of England Act.<sup>104</sup> Depository institutions not recognised under the Exchange Control Act and the 1948 Companies Act (fringe banks), were thus outside the scope of banking regulation.

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<sup>101</sup> Norton, 1991, p.11.

<sup>102</sup> Grady and Weale, 1986, P.36.

<sup>103</sup> At the time, the British banking system was dominated by a cartelized oligopoly consisting of the London Clearing Banks and their associates in Scotland and Northern Ireland. Together they held 85% of all commercial banking businesses in sterling- domestic and foreign. The absence of effective supervision over the fringe banks was partly because it was wrongly supposed, in Bank of England circles at the time, that these institutions would be absorbed by the primary banks (BOE, Sept 1983, pp.363-365).

<sup>104</sup> Norton, 1991, p.11.

In most British Colonies, where British laws were almost always transcribed, there was no legal check to the establishment of indigenous banks. Unlike in the United Kingdom, where the Bank of England at least had the choice, if they so wished, to establish contact with the fringe banks, there was no such central bank in place in most of the colonies. The belief, among the Africans, that the colonial banks and indeed the entire colonial structures discriminated against them led to widespread mistrust of colonial initiatives, thus further reducing the chances of success for any informal kind of regulation either from London or from any kind of colonial structure within the colonies. It was therefore difficult for the United Kingdom to transcribe its informal model of regulation to the colonies. Furthermore, the Bank of England apparently transcribed its philosophy of maintaining contact with only 'club members' to the colonies. With most of the indigenous banks too small, in all respects, to achieve 'club membership', the Bank of England did little to encourage informal regulatory contact with such banks.

Because of the relatively late development of formal banking regulation in the United Kingdom, the Colonial Government had no ready 'technology' to transfer in the 1940s, when they considered regulation for the banking system of colonial Nigeria to have become necessary.<sup>105</sup> The Colonial

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<sup>105</sup> It would be foolish to impose the same system of banking supervision on countries with diverse banking structures. Compare for instance, the UK and the USA: the former is a small integrated country with fewer than ten large domestic banks all with large branch networks and a large number of relatively small merchant banks. The USA, on the other hand, has a federal structure and contains 14000 deposit

Government therefore had to take a cue from the banking regulation developments at the time in other British Colonies especially, India and Pakistan.<sup>106</sup>

## 2.6 Conclusion

In subsequent chapters of this thesis an attempt will be made to explain the various banking developments in pre-independence Nigeria, in the context of the above theoretical exposition.

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banks all of them confined to particular states or smaller areas (Blunden, 1977, p.326).

<sup>106</sup> The diffusion of banking regulations and practices from these colonies into the Nigerian banking arena will become clearer later.

## CHAPTER THREE

### **FOREIGN BANKING OPERATIONS IN COLONIAL NIGERIA**

#### **3.1 Introduction**

With the emergence of colonial rule in Nigeria, the British soon put in place an economic and political system for the smooth functioning of this territory. The Colonial Government then went on to demonetise certain coins then in circulation in an attempt to make British coins more prominent. By 1880, for instance, formal legislation had been put in place in the Lagos colony which provided for the demonetisation of certain coins. The new regulation recognised only British gold and silver coins and a few foreign gold coins as legal tender.<sup>1</sup>

The resultant rise in the use of British coins was however not without its problems: such coins had to be transported from London to the West African Coast and then carried manually inland. The cost of this transfer was not only the transport costs. There were also interest charges building up in London even while the coins were in transit and also during slack trading periods when the coins were stored locally in safes. The predilection of the Africans for silver coins did not help matters either as this necessitated the regular reordering of the coin stock for the colony.<sup>2</sup> The

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<sup>1</sup> Ekundare, 1973, p.84.

<sup>2</sup> It was not unusual, at the time, for such coins to be melted for use as jewellery (See Newlyn and Rowan, 1954, p.27).

above situation created the opportunity for the establishment of some institution like a bank which would reduce the cost of importing and distributing the silver coins as well as taking them off the hands of the traders during slack trading periods.<sup>3</sup>

This opportunity was first identified in 1871 when the Bank of West Africa was incorporated<sup>4</sup> in London under the Joint Stock Companies Act of 1862 and 1867.<sup>5</sup> The bank whose head office was located in London was to have its first two branches located in Sierra Leone and Lagos. The banks prospectus specifically dealt with the need for and prospects of such an institution. According to the prospectus:

The establishment of a Bank on the West Coast of Africa has long been felt as the only means of increasing European commerce and encouraging commercial intercourse with the Continent of Africa, as well as the only method of introducing additional Capital, the want of which is one of the greatest obstacles to the progress of the West African Trade, and to the development of its immense agricultural wealth, while the rapid increase in the commercial relations between Great Britain and West Africa, and the considerable investment of English capital there, as well as the vastly augmented means of communication by steam, demand the establishment of corresponding financial facilities, more especially the introduction of an efficient system of Banking.<sup>6</sup>

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<sup>3</sup> Fry, 1976, p.10.

<sup>4</sup> There appears to be no connection between this bank and the Bank of British West Africa which was established later on. To the best of my knowledge, this attempt, in 1871, to establish a bank in the West African colony has remained undocumented in Nigerian banking history.

<sup>5</sup> London Guildhall Library, Archive Division (MS 28528).

<sup>6</sup> MS 28528.

On the profitability of such an institution, the prospectus went on to contend that:

NO country at the present day offers a better opportunity for establishing a highly profitable Banking business than the British West African Colonies, where the benefits of a Bank are wholly wanting, and the facilities of trade are restricted to a few large merchants whose interests are naturally adverse to each other but who will gladly avail themselves to its advantages when established. It is moreover certain that many English Merchants have only been deterred from trading with the West Coast of Africa by the difficulty which exists of obtaining reliable information as to the commercial standing of the native and other traders. This difficulty once removed, the trader of West Africa would be brought into direct communication with our home merchants through the medium of the Bank, and an immense increase of trade must result by which the Bank will necessarily profit largely.<sup>7</sup>

Despite the above detailed analysis of the opportunities existing for a banker in the West African Coast, there is no evidence that the bank ever opened for business.<sup>8</sup> It was not until 1891 that another party capitalized on this opportunity thus marking the advent of both commercial banking and foreign banks into the Nigerian colony.

This chapter attempts an analysis of the rise of colonial banks in pre-independence Nigeria. Emphasis is placed on the various forces that impacted on their development and

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<sup>7</sup> Ibid.

<sup>8</sup> Several letters from the Registrar of Joint Stock Companies inquiring whether the company was carrying on business or in operation were never replied to. The company was subsequently dissolved by notice in a London Gazette dated 5th June 1888- Public Records Office-Board of Trade (PRO/BT 31/2736).

policies. There were, sometimes, conflicts of interests amongst colonial banks and even with the Colonial Government. It is, for instance, argued that although the Bank of Nigeria was set up to prevent the advancement of credits to Africans, the Bank of British West Africa (BBWA)<sup>9</sup> strove to do so. It was however discouraged from doing so by the Colonial Government, which perceived the Africans as un-credit worthy. Had the BBWA been encouraged to carry out its proposal, a credit system adapted to the African environment might have been established. This would have expanded the trade done by the Africans. It would also have given more Africans the opportunity to learn about the rules of bank credit. To achieve its aim, this chapter is divided into eight parts, including this introductory section. Part two traces the origins of the African Banking Corporation which later metamorphosed into the BBWA while part three analyses the impact of seigniorage, arising from the use of British coins in the West African Colony, on the pre-independence banking system. Part four traces the origins of the Bank of Nigeria, its policies and the events that led to its absorption by the BBWA while part five deals with the foreign banks that were subsequently established in pre-independence Nigeria. Part six analyses the underlying interests that influenced the behaviour of the various parties in the pre-independence Nigerian banking arena while part seven examines how the Africans acquired the image of being un-credit worthy. Part eight concludes the chapter.

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<sup>9</sup> The name was changed to Bank of West Africa in 1957.

### 3.2 The African Banking Corporation

The moving force behind the establishment of the African Banking Corporation was Mr George William Naville. He was the Lagos Manager of the Elder Dempster Company, which was then in control of the shipping business in the West African Coast and therefore heavily involved in the importation of British coins into the colony. With the support of the chairman of his company, Sir Alfred Lewis Jones, he convinced the African Banking Corporation<sup>10</sup> to open an office in Lagos in 1891. Mr Naville was appointed its first agent.<sup>11</sup> This marked the beginning of both commercial banking and foreign banks in Nigeria. The bank immediately took advantage of the disorderly system of currency supply to the West African territory. By January 28th 1892, it signed an agreement with the Crown Agents by which the bank was given the right to import new silver coins from the mint into Lagos colony free of charges for packing, freight and insurance.<sup>12</sup> By May 1892, the bank further consolidated its position by becoming banker to the Colonial Government in Lagos.<sup>13</sup> The gains of the bank did not go down well with other European traders in the West African territory. Protests from these European traders soon flooded

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<sup>10</sup> Established in 1890 as a British Limited Company based in London, primarily to carry out banking business in South Africa. The bank was taken over by the Standard Bank of South Africa in 1921 (MS 28816).

<sup>11</sup> Agreement dated 5th October 1891 (MS 28538).

<sup>12</sup> Under this agreement, other interested parties were still free to order new coins from the mint with the Crown Agents approval but they had to pay a premium of 1%.

<sup>13</sup> Fry, 1976, p.20.



the Colonial Office claiming that its Lagos Manager had an undue advantage by virtue of the fact that he was a banker, shipper and trader.<sup>14</sup> Also within the bank's first year of operation, Lagos was hit by a trade recession caused by a local conflict between two rival tribes- the Ijebus and the Egbas. This hampered trade by making the movements of persons and goods very risky.<sup>15</sup> It was the combination of the above factors that led the African Banking Corporation to develop second thoughts about their Nigerian investment. They subsequently invited Elder Dempster Company to take over the Lagos operations of the bank. Elder Dempster obliged and on the 31st March 1893, they took over the business of the African Banking Corporation.

The Elder Dempster Company instantly lost its preferential treatment over the importation of silver and the Governor of Lagos was soon instructed to close the official account with the bank.<sup>16</sup> The reason given was that the Colonial Government wanted such functions to be carried out by a public bank and not a trading company like Elder Dempster. Perhaps because of the initial protests received, the Colonial Government also required that such an institution should be absolutely independent and restricted from engaging in any business other than that of banking.<sup>17</sup>

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<sup>14</sup> Okigbo, 1981, p.78.

<sup>15</sup> Ibid.

<sup>16</sup> Fry, 1976, p.23.

<sup>17</sup> Evidence of Leslie Couper before the Royal Commission on Shipping Rings (1909, q.9117).

To get around this problem, a 'public' bank named Bank of British West Africa was established in May 1894.<sup>18</sup> Soon after, the 'new' bank entered into an agreement with the Crown Agents of the Colonies under which the duties and responsibilities of controlling and regulating the silver currency in Lagos were transferred from the Government to the bank. This new agreement was slightly different from that which the Government had with the African Banking Corporation in that it conferred on the bank the sole right of silver import. The bank swiftly consolidated its hold on the British West African territories by entering into similar agreements with the Governments of the Gold Coast Colony in 1896, Sierra Leone in 1898 and the Gambia in 1902.<sup>19</sup>

The bank enjoyed the privilege of being the sole agents for the importation of silver until 1912 when a special silver currency was introduced for the West African colony.<sup>20</sup> This in itself was mainly as a consequence of the disagreements over the control, sharing and nature of the seigniorage<sup>21</sup> arising from the importation of silver into the British West

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<sup>18</sup> The majority shareholder was Sir Alfred Jones. Of the 3000 shares issued and paid up at the beginning of the bank, Jones took up 1733 shares (Fry, 1976, p.26).

<sup>19</sup> Evidence of Mr Leslie Couper before the Shipping Rings Commission (1907, q.9117).

<sup>20</sup> The bank however secured the agency of the currency board in West Africa. In this capacity, it continued to deal with the movement of British money in West Africa, though relieved of control over the supply of it from the mint (Milne, 1914, p.48).

<sup>21</sup>Seigniorage is the profit Governments make from issuing coins at a face value higher than the metals intrinsic worth. It is the difference between the bullion price and the face value of the coins made from it (Rosenberg, 1985, pp.595-6).

African Colonies.

### 3.3 The Influence of Seigniorage

The advent of banking, entwined with formal colonisation of Nigeria by the British, continued to advance the monetisation of the economy and the rapid replacement of the other forms of currency by sterling. An expanding volume of trade ensured the continued absorption of British silver into the British West African colonies. These imports, coupled with the prospects of further future increases, soon enticed some Colonial Governors to suggest that their colonies be allowed to share in the profits accruing to the Imperial Treasury from the issue of such silver coins in the colonies. On August 4, 1897, for instance, Sir Harry McCallum, the then Governor of Lagos, made his views known on this subject. In a letter to the Colonial Office, he asserted that:

16. The Acting Treasurer informs me that, from enquiries made by him, the annual absorption of silver coins in this colony can be taken roughly to amount at present to £80,000. A large proportion of the coins imported find their way into the interior in the way of trade and never reappear. Some are buried, some are melted down for jewellery, bangles, etc.

17. As these coins are the same in weight and fineness as when the market price of silver was 60 pence per ounce, it does not require any close calculation to see what a large annual profit is being derived by Her Majesty's Mint by their manufacturing this silver for local absorption when the market price stands at 28 pence.

18. I respectfully claim on behalf of this colony that we should at least be allowed to participate in this profit.<sup>22</sup>

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<sup>22</sup> Quoted in Newlyn and Rowan (1954, p.27).

The Treasury however did not approve of the above proposal. In reply to enquiries about the possibility of sharing seigniorage with the colonies, it was asserted that:

My Lords do not view with favour the proposal to take advantage of the predilection of African natives for silver coins as a means of passing on unlimited quantities of imperial tokens into that continent. Experience has shown that the possibility of ultimate return of such coins to this country is by no means remote, as is suggested in the letter under reply. They could not view the contingency without apprehension as to the effect which might be produced upon the currency, and even, it might be, upon the finances of the United Kingdom. They are not disposed to encourage an undertaking fraught with such possibilities of danger out of regard either to the immediate profit, with its corresponding liability, which would accrue to the Imperial Government, or to the share of profit, without any corresponding share of liability, which is claimed for Colonial Governments. Small as is the claim of latter Governments to participate in the profit on coinage supplied for their own use, they would have a still smaller claim to derive any profit from coins which they merely imported for transmission to other parts.<sup>23</sup>

It was therefore concluded that:

If it is desired to obtain for the Colonies and Protectorates a revenue from coinage, that end can, in the opinion of this Board, be secured only by adopting a token coinage of their own. To that course, my Lords would have no serious objection to offer, though, in view of its being adopted primarily for the purposes of revenue, they think great care would need to be exercised to restrain the several Governments from the temptation to overissue, with its consequent dangers in their commerce and to their finances.<sup>24</sup>

It was under the above circumstances that Mr Joseph

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<sup>23</sup> Ibid, p.29.

<sup>24</sup> Ibid.

Chamberlain, then Secretary of State for the Colonies, appointed a Committee under the headship of Sir David Barbour, in 1899, "to collect information and report on the currency of the British West African possessions". The Bank of British West Africa followed the proceedings of the Barbour Commission closely. In fact, Sir Alfred Jones gave evidence in favour of maintaining the existing *status quo*. He also convinced the Liverpool Chamber of Commerce to submit to the Colonial Office that the introduction of a special colonial currency would harm trade.<sup>25</sup> Any change in the existing currency *status quo* in the colony, it was believed, would adversely affect BBWA. Any decision in favour of a special colonial silver currency would indeed have involved the appointment of a supervisory board. This, it was presumed, would have ended the bank's silver import monopoly.

Barbour subsequently contended that a special currency for the West African Colonies was indeed practicable and had several attractions. Given the preference of the merchants for the maintenance of the *status quo*, his report refused to recommend the introduction of a new coinage. Instead he advised that the Treasury should release half of the profits accruing from the issue of silver to the colonies.<sup>26</sup> As efforts were being made to reconcile the views of the Treasury with those of the Colonies, silver imports, which were

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<sup>25</sup> Fry, 1976, p.39.

<sup>26</sup> Though this report was never published, its contents and recommendations were at the time widely known. See for instance, Emmott Report (1912, p.5) and Newlyn and Rowan (1954, p.30).

£360,220 in 1900, dropped to £154,730 in 1901.<sup>27</sup> This dramatic drop questioned the colonies argument that there was no likelihood of a relapse in the demand for these currencies. This was perhaps one of the main reasons why the Government decided to shelve the Barbour Report. It neither introduced a new silver coinage nor allowed the colonies to share from the seigniorage. The BBWA therefore, continued to enjoy its monopoly of silver importation into the territories.

The matter was not however put to rest as the silver imports into the West African colonies continued to expand rapidly despite occasional fluctuations. In 1906, for instance, £506,600 worth of silver was imported into the British West African territories while £669,600 worth was imported in 1909.<sup>28</sup> Apart from the pressures from the Government in the colonies for the issue to be opened again, the Treasury was sufficiently worried about the increasing dangers of the system to monetary control in Britain.<sup>29</sup> The increase in the silver exported to the colony was not just

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<sup>27</sup> Table 1.

<sup>28</sup> Table I.

<sup>29</sup> Armitage-Smith, an official of the Imperial Treasury once asserted that "From the point of view of the Imperial Government, I can only say that in my judgement the sooner the change from sterling to local silver currency is made the better. I regard the contingent liability connected with a coinage which is not, strictly speaking, a token coinage, because it is not submitted to a limit of legal tender, and which is being absorbed at such an enormous pace by a semi-civilised community, as a distinct danger to our currency arrangements, and I think that if the interests of the Imperial Government alone were concerned, so far from forcing sterling on the Colonies I should be inclined to move for substituting a local system" (Emmott Commission minutes of evidence, 1912, q.195).

rising in absolute terms. It was also rising relative to the total amount of sterling silver in circulation in the United Kingdom. For instance, in the five years ending with 1890, the sterling silver imported into British West Africa was equal, on the average, to about 2.7% of the sterling silver placed in circulation in the United Kingdom. In the period 1906 - 1910, this proportion had risen to about 85%.<sup>30</sup> Further increase in this proportion was anticipated by the Colonial Government based at the time on the continued substitution of barter by cash transactions, the opening up of vast tracts of country still underdeveloped and its attendant increase in trade.<sup>31</sup> The above factors subsequently led to the appointment of another commission, headed by Lord Emmott, to reexamine the matter in 1912.<sup>32</sup> Despite the preference of the commercial community for the silver import system,<sup>33</sup> the Treasury had their way and the Emmott Commission recommended the establishment of a special silver currency for the West African Colony, with a caution on the use of seigniorage.<sup>34</sup>

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<sup>30</sup> Computed from Table 2.

<sup>31</sup> Emmott Report (1912, p.7).

<sup>32</sup> Their terms of reference were "To inquire and to report as to the desirability of introducing into West Africa a special silver coinage common to the five British West African administrations, and also add to the desirability of establishing a joint issue of currency notes in the same territories, and to advise upon the measures necessary for the regulation of the special coinage if introduced or for the better regulation of existing currency in the event of a special coinage not being adopted".

<sup>33</sup> Emmott Report, 1912, p.8.

<sup>34</sup> According to the Emmott Report, "after making every deduction for cost of coinage and for incidental expenses, there will, of course, be a very large "profit" representing

A west African Currency Board was subsequently set up bringing to an end the BBWA's monopoly over silver imports into the territory. Long before then, in 1899, the Bank of British West Africa lost its monopoly on operating in the Nigerian Colony with the advent of the Bank of Nigeria.<sup>35</sup>

### 3.4 The Bank of Nigeria

By the time the Niger Coast Protectorate came into existence in 1893, there was already in existence a community of powerful European traders in the territory. At the time these European traders had put in place a working agreement for the purpose of stifling competition, cutting down their costs, maximising profits and reducing to a uniform amount the prices paid for their commodities.<sup>36</sup> To forestall the BBWA

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the difference between the bullion and face value of silver currency supplied to British West Africa. That country has absorbed over 6 1/2 million pounds (face value) in silver coin during the past 26 years and the absorption may be expected to continue even if not at the same rate. For many years to come the profit on supplying additional silver and on substituting local silver for silver of the United Kingdom now in circulation should be placed to reserve in order to meet any possible demand for redemption. It would be premature to express an opinion as to the probability that it will be safe and practicable at some date hereafter to use any subsequently accruing profit for administrative purposes. But we think that at a comparatively early date the interest earned by the reserve might be so used" (p.8-9).

<sup>35</sup> Named Anglo- African Bank when it was established. The name was subsequently changed to Bank of Nigeria in 1905.

<sup>36</sup> In a letter to the Colonial Office, Sir Ralph Moor suggested that "The firms of African Association, Messrs. Miller Brothers and Co. and the Niger Company, have at present a working understanding. This arrangement, though not amounting to a division of profit, is a guarantee that these firms respect the interests of one another and do not interfere with one another's existing trade. Any enterprise in opening up would require by the agreement to be undertaken jointly and no one of these firms can move alone. Further, the



from gaining a foothold in their territory they set up the Anglo African Bank<sup>37</sup> in 1899 and made a strong bid for the job of importing silver into the colony and for the banking business of the Government.<sup>38</sup> The Colonial Office obviously knew that this bank would be of little assistance in the task of establishing the British currency in the colony. This was so since the companies behind the bank believed that the maintenance of the barter system best served their interest.<sup>39</sup> Such an attitude was against the interest of the Colonial Government which was pro- monetisation. Monetisation, it was

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African Association and Messrs Miller Bros. and Co., who have rival trading establishments in all centres of trade in these territories, have a working agreement which includes other rival firms established at such centres as to the proportion of trade to be done by the representatives of each. In consequence of this latter agreement, there is a handing over of produce when the monthly proportionate division takes place. This system is of course a deadly one to the development of any enterprise in the territories and tends to a cutting off of prices in payments made to the producers" (PRO CO/520/15, Moor to C.O., 26th Sept. 1902).

<sup>37</sup> Ofonagoro, 1979, p.376.

<sup>38</sup> The close link between the bank and the three leading European Companies in Southern Nigeria could be seen from its interlocking directorships. According to Sir Ralph Moor "it will be observed from the prospectus of the Anglo African Banking Corporation that while their head offices are in London, in Suffolk Street, Strand, near to the offices of the Niger Company, there are agencies of the bank in Liverpool and Glasgow which are the offices of the African Association and Messrs. Miller Brothers and Co., respectively. There can be little doubt that nearly the whole interest of the Anglo-African Bank is in the hands of the three firms mentioned. The directors of the bank represent in England that they are anxious to undertake all legitimate banking business and to assist in the development of the territories. The directors of the three firms in question make the same representations, the Bodies representing the bank and the trading companies being identical" (PRO CO/580/15, Moor to the Secretary of State for the Colonies, 26th September 1902).

<sup>39</sup> PRO CO/520/8, The Butler Memorandum dated 9th September 1901, Part A.

believed, would make both governance and the lives of Government employees easier.<sup>40</sup> The Bank of Nigeria was therefore ruled out and the Colonial Government then considered two other options: set up its own bank<sup>41</sup> or invite an established bank in British West Africa to establish in Southern Nigeria. The Government opted for the latter. BBWA, which was the obvious choice, was however not very keen to accept this offer. Officially Alfred Jones, who for practical purposes was the Bank of British West Africa, argued that it was not possible to open a branch of his bank in Southern Nigeria except at an initial loss which he was not prepared to face.<sup>42</sup> His main fear may however have been the possible repercussions that may befall both the bank and the other interests of Elder Dempster should they cross the path of the powerful European cartel then operating in Southern Nigeria.<sup>43</sup> These firms at the time practically had the whole of the trade of Southern Nigeria in their hands and were apparently resolved to prevent, by every means in their power, the establishment of a bank there for the fear that the banking

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<sup>40</sup> "The Niger Company does not do any cash trade, and I have had considerable difficulty in arranging for Government employees and soldiers who are paid in cash to purchase necessaries and requirements at the company's factories for cash" (PRO CO/520/1. Sir Ralph Moor to Alfred Jones, January 30 1901).

<sup>41</sup> It was at the time proposed that a Government Savings Bank be established. Such a bank was to encourage thrift among the African population. A monopoly of the import and issue of British silver currency and Government patronage for such a bank, it was argued, was sufficient to make such a bank viable -Moor to C.O., September 26 1902 (PRO CO/520/15).

<sup>42</sup> PRO CO/520/8, p.280.

<sup>43</sup> Ibid.

facilities would, in the course of time, liberate the native traders from the barter system under which the firms benefited immensely.<sup>44</sup> In fact the expected line of action dreaded most by Elder Dempster, should they set up their bank in Southern Nigeria, was the possibility that these European firms would retaliate by establishing an independent line of steamers to West Africa which would have the effect of breaking the monopoly enjoyed by Messrs Elder Dempster & Company's line of steamers.<sup>45</sup> The above view was also deduced from the meeting between Alfred Jones and Ralph Moor in England. Mr Butler in his report of the meeting concluded that:

it was quite clear that Sir A Jones is not prepared to defy the powerful combination of firms which at present practically monopolise the trade of So. Nig., and to whom the Anglo African Bank belongs, by establishing a branch of the Bank of B.W.A. in Nigeria. It was equally clear that, if he dare defy them, or were forced into open warfare with them in other directions, he would gladly open a branch of his bank in Nigeria under an agreement identical with that which he holds in the West African Colonies. Nothing therefore, can be hoped from the Bank of B.W.A. at present, unless Sir A Jones ceases to fear the combination of the Niger Co., the African Association and Messrs Alexander Miller Bros. and Co., or unless his activities in other directions or a difference of opinion as to shipping arrangements or freights lead to hostilities between him and the combination.<sup>46</sup>

The Colonial Government clearly was in a dilemma: the existing bank in the territory had no interest whatsoever in monetising

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<sup>44</sup> PRO CO 520/10.

<sup>45</sup> PRO CO 520/10, P.521.

<sup>46</sup> Quoted in Ofonagoro, 1979, p.388.

the economy while the BBWA feared reprisals from the powerful European merchants should they establish in the territory. The territorial Governor also realised that the monetisation of Southern Nigeria could not effectively take place without the co-operation of the powerful merchants.<sup>47</sup> He thus urged Alfred Jones to come to an agreement with the commercial community.<sup>48</sup> This was not to be, at least not immediately, as the two banks had different agendas. It was not until 1903 that the BBWA accepted an invitation to become bankers to the Colonial Government and to have the sole right of importing silver into Southern Nigeria.<sup>49</sup> This was done, perhaps, with some form of guarantee by the Colonial Government against possible reprisals from the powerful European merchants in the territory.

The fact that the Bank of British West Africa afforded facilities to native traders thus rendering them independent of the large European trading firms greatly offended the

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<sup>47</sup> "At present, a cash system cannot be effectively introduced unless supported by the commercial community, for the firms trading here can always refuse to do a cash trade with the natives.... I should suggest that if possible, your bank come to some arrangement with the commercial community as represented by the firms mentioned on the lines of giving them some interest in the banking business- otherwise, I fear such business will only struggle along under difficulties" (PRO CO/520/1, Sir Ralph Moor to Alfred Jones, January 30 1901).

<sup>48</sup> "...the wisest course would be for the BBWA to absorb the Anglo-African Bank by passing over to the share-holders of it such reasonable interest in the concern as would be represented by the capital which they propose to subscribe" - Moor to C.O., January 31, 1900 (PRO CO/520/1).

<sup>49</sup> Ofonagoro, 1979, p.389.

powerful European community.<sup>50</sup> This was not surprising since credit to the Africans was, at the time, a sore point for some of these powerful European merchants.<sup>51</sup> This was also one of its greatest undoing as the Colonial Office would have nothing to do with anything that stood in the way of the rapid monetisation of the territory. For instance Montagu Ommanney, then a Permanent Under Secretary in the Colonial Office, concluded that:

So long as this spirit animates the Anglo African Bank, the less the Government had to do with it the better.<sup>52</sup>

The firm's 'report card' in its early days of operation did not help matters either. Moor in 1902 noted that:

the agents of the firms referred to out here watch the transactions of the bank with great care and are prepared to oppose it should any action be taken that would amount to the encouragement of any competition in trade. I am aware that the representative of the bank has already experienced such opposition and is subsequently unable to assist the natives in becoming shippers of produce or to encourage them in any way that would bring them into competition with the Europeans.<sup>53</sup>

He went on to assert that:

The representative of the bank contends that were he given the exclusive right of shipping coins to the Protectorate and the Government banking account, he

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<sup>50</sup> PRO CO/466/30 Minute by Sir Montagu Ommanney, April 1 1903.

<sup>51</sup> This will be discussed later in section 7 of this chapter.

<sup>52</sup> PRO CO 446/30, April 1 1903.

<sup>53</sup> PRO CO/520/15, Moor to CO, 26th September, 1902.

would be in a position to disregard the opposition of the European agents and be prepared to carry out all legitimate banking business. In this view he is no doubt accurate and I have no grounds for doubting his good faith in the matter. He is however bound by the policy of his Directors, and I must candidly admit I think it likely that the bank will be used in preventing competition when I call to mind the admission of at least one of its Directors made to me personally in the presence of the Board, when the Bank was inaugurated, to the effect that its initiation was with the interest to protect the existing trade interests of the firms that started it.<sup>54</sup>

Moor also claimed that when he chided the bank's local manager for not encouraging the native traders, he (the manager) replied that:

I am ordered from home to carry on a legitimate banking business but I can not do it; it is impossible for me to do it , because if I do it, the agents out here will not come to me; if I were to make advances to the natives, very well, they will not take their cash from me and I shall lose all their business.<sup>55</sup>

He then concluded that the bank was formed by the Miller Brothers, Niger Company and African association with:

-there was no blinking the question-with the specific object of protecting their own trade and preventing any other bank coming in to the area where they carried on trade, and fostering rivals and assisting rivals in their area.<sup>56</sup>

The above criticisms of the bank were partly dismissed and partly explained by Mr Clifford Edgar, then one of the bank's directors. He claimed that Moor's assertion that the bank did

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<sup>54</sup> Ibid.

<sup>55</sup> Shipping Rings Commission p.257-8.

<sup>56</sup> Shipping Rings Commission, p.257.

not grant banking facilities to Africans was baseless since more than 400 accounts representing 75% of the total accounts of the bank were operated by coloured people. He however admitted that the bank was less forthcoming in granting of credits to Africans. This he explained was due to the provisions of the Recovery of Credits Proclamation of 1900 which contains the clause:

No court of law in the territory of Southern Nigeria shall enforce against a native any obligation incurred by him towards any person not being a native of Southern Nigeria in respect of a commercial transaction so far as it may be based on credit.<sup>57</sup>

This however was certainly not the main reason. The year before the above proclamation was made, a key figure in the group that later formed the bank, Mr A Miller, made it clear that there were other reasons why they did not support the granting of loans to Africans. Excerpts of Miller's evidence before the Barbour Commission are as follows:

Do you find the system of Barter on the river districts suit you, or would you prefer to carry on your business by means of cash transactions?- Certainly, I prefer it as it is- that is barter.

I suppose you prefer it because it is more profitable?- Well, put it this way, we fear that if it was the Silver currency it would be less profitable.

Well that is the same thing; you think if you used silver, the trade would be less profitable?- Yes I think it would. That is my reason. It has been barter for many many years, century after century,

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<sup>57</sup> Royal Commission on Shipping Rings, p.417.

and it answers very well. I quite understand that that cannot go on always. It is a very slow civilisation on the Niger territories.

Do you consider that the establishment of the Bank of British West Africa has been of general advantage to the trade of the Colonies?- I should not like to say that at all.

You do not think so?- No, I do not think it is an advantage to the trade. I think it is the other way. In Lagos, for instance, it has played a lot of mischief by giving these irresponsible natives facilities.

You would advocate that the Bank should only give facilities to certain individuals?- They come to trade, these natives; they get advances on produce; they have made a great deal of trouble in Lagos. We do not find that so much on the Gold Coast. It is an advantage so far as the real banking business is concerned.

You would not propose that your bank at Old Calabar should make advances to native traders against produce; is not that a legitimate operation?- I do not know what my other colleagues' views are. I, personally, am very much against it. We might be driven to it for self-protection.

Does the Bank of British West Africa engage in operations which, in your opinion, are not *bona fide* banking operations?- They give advances and facilities to native traders.

Just as they do to European traders?- Yes. I know that I should get no facilities from them against produce.

Is it not merely a question of the bank's capacity of forming an opinion of its relative credit of customers?- I do not think they could form an opinion so well as we could; they do not know the natives as well as we do.

You state that the Bank of British West Africa has been in the habit of making advances to irresponsible people; you think that is detrimental to you?- Yes I do.

Do you mean to your own trade or to the trade of the colony generally?- To the trade of the colony generally. It is not a wise thing.

The result of making these advances is, I presume, to enable traders to compete with other traders?- I



do not know.

Is the result to cut down prices?- I do not think it.

What are the effects?- I have been told that the bank in Lagos has been responsible for a great deal of the breakdown of business there; a great many people had to leave it. I am only speaking from hearsay.

...do you know that the bank is making advances to men who, as a matter of fact, do not repay this money?- I could not say that, but I know the result of it. These people get money, and begin in trade, and order things here, and go on for a year or two, and then it ends in the Bankruptcy Court.

In the Niger Coast Protectorate, where you would have this bank, you would not adopt this system of making advances to the natives?- Not with my approval; if they were responsible persons, we would not mind.

If you had this bank, I presume you would expect to have an agreement which would practically prevent any other bank coming in on the same terms?- I do not know, I am sure. I would not like to say that. I could not speak for my colleagues. I do not think there would be room for two banks, but if another came, we might wind up. I do not think there would be room for two.<sup>58</sup>

His views were obviously taken seriously by the Colonial Government. Several years later, it re-echoed as a justification for not granting them monopoly over Silver import: a Colonial Government Official concluded that:

it is impossible not to remember, in this connection, the evidence given by Mr Miller before the committee which reported on the question of a local currency for W. Africa. He took strong objection to the establishment of the Bank of Br. W. Africa on the Ground that it afforded facilities to the native traders and so rendered them independent

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<sup>58</sup> Evidence before the Committee on the Currency of the West African Colonies - 1899 (Barbour Commission). See PRO CO 520/4, Folio 64-66.

of the large European trading Houses.<sup>59</sup>

Not surprisingly, therefore, the Government refused to have anything to do with the Bank of Nigeria. What was rather surprising was the choice of the BBWA despite the fact that it arguably had the same monopolistic instincts as the Bank of Nigeria and that its ownership structure was extensively entwined with that of an established monopoly within the territory- the Elder Dempster Company. The bank's majority shareholder, Alfred Jones, was a monopolist for all intents and purposes. On Joining Elder Dempster as a Junior Partner in 1879, his first aim was to:

monopolise the whole shipping trade of the West African ports and with this object, he absorbed competing lines, British or foreign including the British and African Steam Navigation Company.<sup>60</sup>

In accomplishing the above goals, he was more than successful.<sup>61</sup> Despite the clarity of his business objective

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<sup>59</sup> PRO CO/446/30, Minutes by Sir Montagu Ommanney, 1st April 1903.

<sup>60</sup> Dictionary of National Biography (1912, p.379).

<sup>61</sup> Before the end of the 19th Century, he had organised the West African Shipping Lines Conference which controlled all the shipping trade in the British West African Colonies. Of the three co-operating lines in the conference, he managed two which, under the shipping agreement, monopolised the shipping trade between West Africa and the United Kingdom. The remaining service to the European Continent was shared with the third partner (Ofonagoro, 1979, p.372-373). An interesting scheme devised by the West African Shipping Line Conference to keep shippers in line was the introduction of the deferred rebate system. Under this scheme, shippers paid 10% in excess of actual freight charges. This excess was refunded only if the company shipped exclusively, for the following six months, through a member firm of the Shipping Conference (See evidence

and the closeness of the BBWA to the Elder Dempster Company, the Colonial Government still preferred his bank to the Bank of Nigeria which they accused of lacking independence by virtue of its connections with the powerful trading combines, an offence the Bank of British West Africa was guilty of. The reason for this contradiction in policy may not have been unrelated to the close relationship that blossomed between Alfred Jones and Joseph Chamberlain, then Secretary of State for the Colonies.<sup>62</sup> Also while the Colonial Government could tolerate monopoly when it was in its interest, they could not tolerate opposition to the monetisation of the Nigerian Colony mainly because it had the potential of hindering their operations in these colonies. In other words, the Colonial Government frowned at monopolies only when they contradicted their interest. This perhaps explains why there was no attempt, at the time, to enact an anti trust law to combat the 'sins' of the powerful European merchants of Southern Nigeria.

Subsequent to the signing of the contract between the Government of Southern Nigeria and the BBWA, the Bank of Nigeria launched an offensive in an attempt to reverse the policy. The Shipping Rings Commission in 1907, for instance, provided the bank an avenue to protest against the activities

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of George Miller before the Shipping Rings Commission, Q4295-4325).

<sup>62</sup> Alfred Jones "gave impressive support to Joseph Chamberlain's political campaign, even to the extent of taking time off from his business to campaign in person for Chamberlain in Cardiff" (Ofonagoro, 1979, p.381).

of the BBWA and its associated companies.<sup>63</sup> Also in May 1908, many of the West African merchants petitioned the new Secretary of State for the Colonies, the Earl of Crewe, urging him to end the monopoly of the BBWA over the importation of silver.<sup>64</sup> Concurrent with the protests were also moves to merge the two competing banks. From 1906, for instance, Alfred Jones had become very interested in a merger. He tried several times without success.<sup>65</sup> In 1907 Lord Elgin, then the Colonial Secretary, also recommended that the two banks should amalgamate.<sup>66</sup> It was not until 1912, three years after the death of Alfred Jones that the Bank of Nigeria was finally absorbed by the BBWA.<sup>67</sup> The BBWA subsequently enjoyed an uninterrupted banking monopoly in the Nigerian colony until 1916 when another foreign bank, the Colonial Bank, entered the

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<sup>63</sup> John Holt in his evidence before the Royal Commission on Shipping Rings claimed that the "The conference Liners may now therefore be regarded as a monopolistic trust embracing the business of ocean carriers, traders, bankers etc., with all other traders and even the local Governments as feeders and completely in their grip. It cannot be a healthy state of affairs for the interests of the community and the progress of West Africa"- Royal Commission on Shipping Rings, Minutes of Evidence (Q4823, April 30th 1907).

<sup>64</sup> Petition dated 26th May 1908 (PRO CO/ 520/73/3502).

<sup>65</sup> Fry, 1976, p.67.

<sup>66</sup> Ibid.

<sup>67</sup> The agreement provided for the winding up of the Bank of Nigeria and for the sale, to the BBWA, of the Goodwill and surplus assets over the liabilities of the Bank of Nigeria at a price of £63,000 payable in cash together with an option to subscribe and have allotted to the Bank of Nigeria or its approved nominees, 13,000 Shares of £10 each (£4 paid) in the BBWA at the price of £4. 16s. 11d. per share. This was subject to the guarantee that the surplus assets of the Bank of Nigeria amounted to £63,000 in value (Bank of Nigeria Limited, Directors Report, Statement of Accounts and Notice of Meeting, 28th May 1912).

Nigerian banking arena.

### 3.5 Other Foreign Banks

The Colonial Bank was established under the Charter of June 1st 1836 which authorised it to carry on the "business of a Banker in Jamaica and other West India Islands and British Guiana, and not elsewhere."<sup>68</sup> The restriction on its operational geography was removed in 1916 via an Act of Parliament.<sup>69</sup> Early in 1917, the bank opened two branches in British West Africa, including one in Lagos, thus bringing to an end the monopoly of the BBWA in the Nigerian colony.<sup>70</sup> The Colonial Bank soon discovered that West African conditions were entirely different from those it was accustomed to in the West Indies. For instance, agriculture in the West Indies at the time, was in the main conducted on plantation lines by persons and companies of European origin who also owned the land. In British West Africa, the situation was different: there was in general no European ownership of agricultural land and cultivation was in the hands of Africans who were mainly small scale farmers. Europeans in the West African economy were therefore involved mainly in the activity of

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<sup>68</sup> Barclays Bank, 1938, p.31.

<sup>69</sup> Ibid, p.59.

<sup>70</sup> At the time the bank entered the banking arena in West Africa, it was of comparable size with the BBWA. For instance, the Colonial Bank had at the time an authorised capital of £2,000,000, of which £300,000 was paid up. It also had a reserve of £150,000 while the BBWA had an authorised capital of £2,000,000 out of which £560,000 was paid up. The bank's reserve was £220,000 (Fry, 1976, p.91).

buying and selling.<sup>71</sup> Also, unlike in the West Indies, where banking had an element of prestige and people had been familiar with banks and banking for several generations, social factors impeded such habits in West Africa. The keeping of money in banks in West Africa, for instance, often had the disadvantage of making its existence known to the depositor's family. This usually left the depositor vulnerable to their demands.<sup>72</sup> It was the above factors entwined with the Colonial Government's perception of Africans as un-credit worthy<sup>73</sup> that made the Colonial Bank direct its policies mainly towards meeting the needs of the European traders.<sup>74</sup>

The Colonial Bank soon started to compete for clients with the BBWA. Apart from winning new clients, it also took away clients from the BBWA and by 1919 the Governor of Nigeria ordered the equal division of silver coin between the two banks. Despite protests by the BBWA, the Colonial Office approved the action of the Nigerian Governor.<sup>75</sup> The activities of the Colonial Bank no doubt posed a threat to the BBWA which soon moved to end the rivalry: in 1917, it proposed a merger of the activities of the two banks. This was rejected by the Colonial Bank.<sup>76</sup> By 1926, the Colonial Bank was to become an

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<sup>71</sup> Ibid.

<sup>72</sup> Greaves, 1953, p.41.

<sup>73</sup> Evidence of this view will be provided later on in this chapter.

<sup>74</sup> There is evidence that the banks credit policy for Africans was discriminatory. See Chapter 8.

<sup>75</sup> Fry, 1976, p.93.

<sup>76</sup> Okigbo, 1981, pp.79-80.

even bigger bank via a merger with Barclays Bank, Anglo-Egyptian Bank and the National Bank of South Africa. The resultant bank was named Barclays Bank (Dominion, Colonial and Overseas).

Competition between both banks remained fierce.<sup>77</sup> BBWA made two further attempts to merge the activities of the two banks in 1934 and 1938. Both failed.<sup>78</sup> It was not until 1945, when the impact of the newly established indigenous banks, mainly in propaganda terms, were beginning to be felt,<sup>79</sup> that both banks decided to mend fences and sign a co-operation agreement.<sup>80</sup> The emergence of indigenous banks was therefore one of the factors that helped encourage both banks to reconcile their differences in order to present a united front against them.

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<sup>77</sup> According to the official history of the Barclays Bank (DCO) "Both banks employed a technique which involved first spying out the land by an official who remained as unobtrusive as possible. Next it would be necessary to negotiate, with utmost secrecy, to lease premises for the bank and accommodation for the officer in charge. Eventually one of the spare branch outfits kept in constant readiness would be sent out from Lagos with the prospective manager and a clerk, perhaps to win the race by a short head, but sometimes to find that other competitors were there a few hours ahead of us. These feverish and sometimes undignified struggles came to an end in February 1956 when a long-forgotten law was found which prohibited expatriate companies from leasing properties and opening for business without prior Government sanction" (Crossley and Blandford, 1975, p.257).

<sup>78</sup> Okigbo, 1981, p.80.

<sup>79</sup> See chapter 4(2) for some evidence of the propaganda strategies of the indigenous banks at the time.

<sup>80</sup> The agreement titled "Co-operation Between Banks in West Africa" was dated 1st January 1945. It existed until 21st January 1957 but was replaced later by separate agreements for each of the newly independent countries of former British West Africa. A minimum of six months notice in writing was needed to modify whole or part of this agreement (MS 28538).

In general, the 1945 agreement ensured that competition between the two colonial banks did not lead to a price war. Amongst other things, the agreement provided that: no interest be allowed on current account credit balances;<sup>81</sup> a maximum of 1/2% per annum interest was to be paid on fixed deposits of 6 to 12 months duration and of 1% on fixed deposits of one year. Fixed deposits were to be accepted from all Companies only for a one year period except during the months of September to December.<sup>82</sup> No interest bearing fixed deposits was to be accepted for less than six months or more than twelve months;<sup>83</sup> interest on savings account deposit was pegged at 1% per annum and the maximum amount to earn deposit which could be added to the savings account of any one customer in any period of six months was also pegged at £50. In total, the maximum balance on any one savings account to be allowed interest was £500. The agreement further fixed minimum charges for overdrafts, loans and local bills discounted;<sup>84</sup> minimum service charges were also fixed for bank drafts and mail transfers, cable transfers<sup>85</sup> and the issue of travellers cheques.<sup>86</sup> This agreement no doubt helped in making the

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<sup>81</sup> Paragraph 3.

<sup>82</sup> The essence of this provision was to "prevent trading concerns putting at interest at the end of the produce buying season surplus funds which can be drawn out at the commencement of the next buying season" (Paragraph 4[i]).

<sup>83</sup> Paragraph 4.

<sup>84</sup> Paragraph 6.

<sup>85</sup> Paragraph 17.

<sup>86</sup> Paragraph 46.



interest and service charges in the colony one of the highest in the entire British Empire at the time.<sup>87</sup>

In 1948, the British and French Bank for Commerce and Industry was established in Nigeria.<sup>88</sup> It subsequently became a signatory to the West African Agreement. In 1959, another bank with French origins- the International Bank of West Africa (IBWA), a subsidiary of Banque Internationale pour L'Afrique Occidentale (BIAO) was licensed in Nigeria.<sup>89</sup> It also became a party to the West African Agreement. No indigenous bank had the privilege of joining this agreement until 1960 when the Bank of the North was admitted with great reluctance.<sup>90</sup> The reluctance to admit indigenous banks in Nigeria as signatories to the bankers agreement was perhaps because such banks were perceived, by the foreign banks as being poorly capitalised, poorly staffed and having little or no external alliances to pose any threat to these European

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<sup>87</sup> See for instance, Trevor (1951, paragraph 123), IBRD Report (1955, p.155) and Greaves (1953, p.47).

<sup>88</sup> This bank had French origins: The Banque Nationale pour le Commerce et l'Industrie (BNCI) had formed a London company which, following the nationalisation of the parent company in 1945, became in London the British and French Bank for Commerce and Industry. In 1956, it dropped the 'Commerce and Industry' from its name (Okigbo, 1981, p.83).

<sup>89</sup> Brown, 1966, p.24.

<sup>90</sup> A letter from an Assistant General Manager of Barclays Bank to an Assistant General Manager of the Bank of West Africa, dated 28th September 1960, asserted that "...although the Bank of the North signified their willingness to sign this Agreement several months ago, it appears they are aware that the draft offered to them is a reduced version of that agreed between the other parties and it seems that they are enquiring why they have not been offered the opportunity of joining the full agreement between the banks" (Barclays Bank Archives 11/853).

banks. Allowing such banks to become signatories to the West African Agreement would have resulted in the subsidising of such indigenous banks by the foreign banks. Such subsidies were imminent since the likely benefactors of the agreement provisions, such as free Commission on Turnover (COT) for inter-bank accounts would have been such indigenous banks.<sup>91</sup> Once it was felt by the foreign banks that an African bank had prospects for being a threat to the agreement, by undercutting their rates for instance, such a bank was usually invited to join. A case in point is the Ghana Commercial Bank.<sup>92</sup>

No attempts in the form of regulation were made by the Colonial Government to control the monopoly rates charged by foreign banks at the time. This was possibly because the foreign banks were the sole benefactors of the *status quo* and such policy did not contradict the interest or perceptions of the Colonial Government, which was not always similar to that of the colonial banks.

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<sup>91</sup> See 'Private and Confidential' letter dated 11th January 1960, from Assistant General Manager of Barclays Bank to Assistant General Manager of Bank of West Africa (BBA 11/853).

<sup>92</sup> In an internal memo of Barclays Bank dated 14/7/58 and titled 'West African Agreement', it was contended that "Now that Ghana is independent, has its own Central Bank together with its associated Bank, the Ghana Commercial Bank, and its own currency, it seems the time has arrived when we should consider having a separate agreement for Ghana, the subscribers to be the B.W.A., the Ghana Commercial Bank and ourselves. The British and French Bank are not at present established in Ghana. It might be desirable for us to endeavour to reach such an agreement as soon as possible before the Ghana Commercial Bank achieves wider representation than it has at present.... Otherwise, if we wait until the Ghana Commercial Bank has a competitive branch system they may decide to undercut us which could vitally affect the B.W.A. and ourselves" (BBA 11/853).

### 3.6 The Politics of Conflicting Interests

The various foreign banks and the Colonial Government, to some extent, had different perceptions of the Africans and different agendas as to how to treat them. The Bank of Nigeria, for instance, was set up to keep other banks out of the territory of Southern Nigeria in order to perpetuate the trade by barter which gave them enormous control over the Africans and their commodities. The Bank of British West Africa was a 'Free Standing Company'<sup>93</sup> set up to carry on banking business in the west African colony. With no specific banking experience to rely on, the bank kept an open mind and was only interested in exploiting the vast untapped African market. The key, it was believed, was not to shut the Africans out, but instead to devise a system that promoted safe credit lending to the Africans. In 1905, for instance, Alfred Jones wrote to the Under- Secretary of State for the Colonies with regards to the question of the:

establishment of some form of Agricultural bank in West Africa for the purpose of making advances to natives to enable them develop the agricultural resources of the territories in the most expeditious and efficient manner.<sup>94</sup>

His letter went a step further to identify the main impediment to such a scheme as the:

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<sup>93</sup> This has been defined by Mira Wilkins as a company registered in England or Scotland to conduct business overseas, most of which did not grow out of the domestic operations of existing enterprises that had headquarters in Britain (1988, p.281).

<sup>94</sup> Quoted in Cowen and Shenton (1991, p.29).

existing native system of land tenure which in most agricultural districts does not recognise any individual private property in land.<sup>95</sup>

This made it impossible for such land to be pledged in any way as security by individuals having use of them when seeking advances. Given the above circumstances, Jones concluded that:

the only lien which the native would in all probability be able to create would be on the crop which could not be regarded as sufficient security for pecuniary advances for the lender could not control the expenditure, and would have no guarantee that the moneys advanced were employed to advantage on the crop on which he might hold a lien.<sup>96</sup>

To counter the above obstacle, Jones recommended that such credit should be extended through tribal chiefs who should be empowered to stand surety for the individual cultivator who sought the credit. He further insisted that though:

tribal chiefs in council probably have not under native law and custom the right to alienate tribal land... legislation could no doubt create this power if for a good purpose.<sup>97</sup>

After all, he further argued, Chiefs had the right to collect certain tolls on behalf of the Government and were in receipt of Government subsidies which may be forfeited in the event of a default and in fact as a last resort, could impose some form of tribal tax in the event of a default by a member of the

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<sup>95</sup> *ibid.*

<sup>96</sup> *Ibid.*

<sup>97</sup> *ibid.*

tribe. The above suggestions was dismissed by Olivier of the Colonial Office who asserted that:

any prospects for lending money to cultivators in West Africa is extremely premature.<sup>98</sup>

He went on to suggest that:

Banking... depends on security and security upon local institutions and circumstance.... In West Africa... security cannot be taken on the land because there is no private right in it, and because it is worthless without the cultivator and because cultivation is not continuous but shifts from season to season.<sup>99</sup>

He further argued that even the crops could not be used as security since:

Even if the cultivator can be trusted to harvest it, he cannot be trusted not to make away with it, or to let his friends do so.... And the person is not security because we have abolished slavery, the primitive security for debt.<sup>100</sup>

The matter did not however end here. There is evidence that the Colonial Office sought the opinion of the Governors of the West African Colonies on this matter. The Governors in turn sought the views of residents and district Officers in their respective Colonies. The replies from the district Officers in Nigeria included that from one William Wallace who concluded that such a scheme was unworkable because:

very few could be trusted to utilise the loan for

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<sup>98</sup> Ibid, p.30.

<sup>99</sup> Ibid.

<sup>100</sup> Ibid.

the purpose for which they were intended.<sup>101</sup>

The residents of Ilorin were also of a similar opinion claiming that:

the Natives would never dream of employing the money so obtained to improve their farms but would without doubt use it in purchasing gorgeous cloth to deck themselves with.<sup>102</sup>

Based on the submissions of the district officers, Lord Lugard, then Governor of the Northern Province, similarly advised very strongly against the establishment of such a bank arguing that however laudable its aims were, such a bank could only encourage the inherent extravagance of the Africans, lead to ceaseless litigations and irreversibly wreck the finances of small chiefdoms.<sup>103</sup> Following these assertions, the Colonial Office again shelved the proposal.<sup>104</sup>

Ofonagoro (1979) broadly agrees with the above arguments but asserts that there was a change in policy as regards the BBWA's policy of 'aiding' Africans after the 1912 absorption of the Bank of Nigeria. This he suggested was likely to have been part of the 'unstated terms of the amalgamation agreement' arguing that:

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<sup>101</sup> Ibid, p.31.

<sup>102</sup> Ibid.

<sup>103</sup> PRO CO 583/25, Folio 42.

<sup>104</sup> The uniform opinion that the Colonial Officers held about the Africans may be explained by the existence of a homogenous bureaucracy at the time. This imposed a coherent set of values among Colonial Officers (See Ehrlich, 1973, p.650).

given the interests of directors of the Bank of Nigeria and their policies regarding the availability of credit facilities to African traders, it is not unreasonable to assume that their wishes in this matter were to be respected as a matter of policy.<sup>105</sup>

The above Ofonagoro's view may not be very correct. There is evidence to show that even after the amalgamation in 1912, the BBWA still went ahead to press for the establishment of an Agricultural bank to help native farmers. In 1914 for instance, the 1905/1906 debate on Agricultural credit to Africans was resuscitated by the management of the BBWA in a letter to the Nigerian Colonial Governor, dated 22nd December 1913.<sup>106</sup> Before replying, Lord Lugard consulted the regional Governors of the Northern and Southern provinces of Nigeria for their views on the matter. Both advised against the establishment of such a bank. According to Mr C L Temple, the Lieutenant Governor of Northern Nigeria:

...an Agricultural Bank would not serve any useful purpose in this country. I think that they would rather foster the tendency, naturally very strong in the African, to borrow money. The only security which the agriculturist would give would be his Right of Occupancy, or customary legal title. At present, in this country he does not realise that a Right of Occupancy or such title has an exchange value and it is not at all desirable that he should realise this. Farming... in this country does not require a great deal of capital as neither paid labour nor elaborate implements are employed. On the whole, the natives seem to be quite able to till the soil, and till the soil remarkably well, without the assistance of foreign capital.<sup>107</sup>

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<sup>105</sup> 1979, p.390.

<sup>106</sup> PRO CO 583/25.

<sup>107</sup> Lugard to Couper, 18th February 1914 (PRO CO 583/25).

A G Boyle, the Lieutenant Governor of the Southern Province argued along similar lines asserting that:

I consider there is no demand for an Agricultural Bank in the Southern Provinces. The natives are, generally speaking, quite well off to be able to develop their lands without assistance from a bank. I should also much deprecate them being allowed to mortgage their lands to a bank and, as far as crops go, the competition between the merchants for produce is so keen that they would have no difficulty in getting an advance against their crops, if they wished it. As a rule, however, they like to hawk their produce from one to another until they feel sure that they are getting the top price.<sup>108</sup>

Based on the above feedback Lord Lugard, who was now the Governor General of Nigeria, once again refused to sanction the plan for the establishment of an agricultural bank.<sup>109</sup> It was this frustration from the Colonial Government on the grounds, right or wrong, that Africans could not be trusted with bank credit that prevented the proliferation of credit to Africans rather than the so called unstated terms of the amalgamation agreement between Bank of Nigeria and the Bank of British West Africa. The bank was again forced to slump into inaction as regards the lending to Africans project.

It was therefore the lack of co-operation from the Colonial Government, which held a stereotypical view of the Africans, that discouraged the Bank of British West Africa from extending credit to Africans. This negative stereotype of Africans by the Colonial Government may have also influenced

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<sup>108</sup> Ibid.

<sup>109</sup> Ibid.



Barclays Bank (DCO) in their adoption of a discriminatory credit policy against Africans. With no experience in the West African banking arena, such a bank was bound to be influenced by the thinking in Colonial Government quarters. At this stage it becomes important to examine how the Africans acquired this image of being un-credit worthy.

### 3.7 Africans and Credit

Prior to the advent of banking in colonial Nigeria, credit (trusts) was highly developed in several parts of Southern Nigeria.<sup>110</sup> In transactions amongst Africans, for instance, it was not unusual for people to be used as security for debt and debt slavery was recognised in the customary law of several African tribes.<sup>111</sup> Credit was also well developed in Afro-European trade. It was, for instance, the norm for the European traders to use African middlemen in order to get their goods into the African hinterlands as well as to bring African products out to the coastal areas.

By the later part of the 19th century, some of these African middlemen had become extremely powerful, to the detriment of the interest of European traders. An example was King Ja Ja of Opobo, who had a commercial organisation which stretched over considerable areas and which employed several

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<sup>110</sup> Ofonagoro, 1979, p.97.

<sup>111</sup> Such practices have long been abolished. For instance, in 1912, Chief Ologboshi of Benin accepted two people as security for a loan of two pounds. The Colonial Administration ruled this transaction to be similar to slave trading and sentenced him to six months imprisonment (Igbafe, 1967, p.706).

thousand people in various capacities such as canoemen, traders, labourers, warriors and local buying agents.<sup>112</sup> By the 1880s, Ja Ja and some middlemen from Brass and New Calabar were attempting to break into the export trade, hitherto a preserve of the European firms. In fact, Ja Ja succeeded in arranging to ship his palm oil to a Birmingham firm.<sup>113</sup> Ja Ja's entrance into the export trade, until then a preserve of the European firms, may have precipitated his subsequent deposition by the Colonial Government in 1887.<sup>114</sup> By entering the export trade, Ja Ja obtained:

a higher price for his produce than he could have done from the firms in Opobo, and at the same time paid less for his mannillas than would have been possible, again, in Opobo itself. In the circumstances of the African trade at the time, Europeans thus faced a double loss: not only did Ja Ja take produce away from them; he also left them with stocks of trade goods unsold. Also in competing with them in the export trade, he had what appeared

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<sup>112</sup> Gertzel, 1962, p.362.

<sup>113</sup> Ibid, p.365.

<sup>114</sup> Officially it was claimed that, in the main, Ja Ja was deposed in order to help ensure the practice of free trade as contained in the Berlin Conference agreements. There is however evidence that the British Colonial Government promoted free trade only when it was in its interest to do so. For instance, Lord Lugard defended the amalgamation of interest in the circumstances of the Royal Niger Company on the grounds that it was "necessary for the purposes of mutual defence, and to overcome foreign State- aided competition" (Lugard, 1965, p.480). Similarly, in its final report, the United Kingdom committee on Industrial and Commercial Policy, under the chairmanship of Lord Balfour, similarly suggested that "every encouragement should be given by the Government to the formation of combinations of manufacturers and others concerned to secure supplies of materials, and that, where it appears expedient that the control of mineral deposits in foreign countries should be obtained, all practicable support should be given" (1918, p.37).

to them as a most unfair advantage, since he paid none of the commercial dues to which they were subject in Opobo. It was this competition in their own sector of the trade... which made them receptive to the idea that Ja Ja should be deposed.<sup>115</sup>

Despite the deposition of Ja Ja, his hierarchy of middlemen remained in place.<sup>116</sup> The continuing squabble amongst the European traders further strengthened their position.<sup>117</sup> The advancement of credit to Africans remained a tool for competition amongst the European traders. The German traders in particular saw the use of credit as a tool for colonizing the middlemen and subsequently achieving trade monopoly with the hinterland. As noted by Lord Lugard:

Liberal credit was a feature of German methods of trade, and added greatly to their popularity with the natives as traders.... These credits were regarded rather as an advance of capital for trading purposes than as a mere loan and their object was to exclude competition and create monopolies.<sup>118</sup>

Such liberal credit policies sometimes led to some arguably unjustifiable credits being granted the Africans.<sup>119</sup> Some

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<sup>115</sup> Gertzel, 1962, p.365.

<sup>116</sup> This was so because the European merchants "refused to penetrate inland, partly for fear of their lives and partly because they were not sure that moving their firms into the interior would necessarily enhance the principal aim of their coming to the coast of West Africa- profit" (Nwabughuogu, 1982, p.367).

<sup>117</sup> While there were frantic efforts to unify the British trading interests in the region (see Flint, 1960, chapter 5), the same could not be said of the German trading interests.

<sup>118</sup> Lugard, 1919, p.41.

<sup>119</sup> "A prominent West African Merchant remarked to me that the abuse of the system of giving credit to native middlemen was the curse of South Nigeria. He had been present in court

European traders also used the opportunity to introduce some "loan sharking" techniques into their transactions with the Africans. For instance, the agents on a given river sometimes combined to insist on paying a low and uniform price for the produce brought by the middlemen from the hinterland. With inadequate storage facilities and the risk of losing goods to rodents and pests, prolonged resistance was certainly not a viable option. The agents would further take advantage of the middlemen by giving them goods on credit repayable in produce at the dictated price for, in some cases, upwards of two years.<sup>120</sup> Such tactics often proved counter-productive since the middlemen often reneged on their promises, selling their produce to other European merchants instead. Such European buyers were usually tempted to break with their friends by the prospects of securing for their firms a much larger share of the trade.<sup>121</sup>

The proclamation by the British Government of the Oil Rivers Protectorate led to the establishment of consular courts for the territory. This brought most credit disputes under the jurisdiction of the consular courts. Faced with limited manpower, it became convenient for the Consular Government to discourage credit sales in order to reduce the court cases arising from such transactions. Subsequently in

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when a case was heard in which a native with a borrowed canoe and labour, who on his own showing had never possessed £5, was found to be owing four different firms a sum of about £700 for goods supplied without any guarantee whatever" (Lugard, 1965, p.480).

<sup>120</sup> Ofonagoro, 1979, p.99.

<sup>121</sup> Ibid.

1894, the protectorate Government, urged on by the British trading interests in the territory,<sup>122</sup> adopted a credit policy aimed at discouraging the granting of credit to Africans:

1. No assistance will be rendered by the Consular courts of the protectorates in recovering trusts issued by the European traders to the natives after 1st December, 1894.
2. Proceedings may be taken in the Consular Courts for the recovery of "Trusts" issued by European Traders to Natives prior to the dates above mentioned and each case shall be dealt with on its merits.
3. Such proceedings must be taken before 1st July, 1895, after which no "Trust" can be recovered through the Consular Courts of the Protectorate.<sup>123</sup>

This was followed by the Recovery of Credit Proclamation of 1900. The above regulations were supported by the British Colonial Government on the grounds that:

It was considered that "trust" was given out to such an extent, and so recklessly, that legitimate trade was being seriously damaged by it: and with the small staff at the disposal of the Administration, it was found impossible to collect these "trusts" through the consular courts and it was also deemed advisable to discourage the giving out of "trust" in every way possible.<sup>124</sup>

It is however unlikely that the pressure being put on the

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<sup>122</sup> See Ofonagoro (1979, p.101).

<sup>123</sup> The coming into force of this law as well as the statutory limitation of the prosecution of cases entered into between 1891 and December 1894 was extended to December 1 1895 (Quoted in Ofonagoro, 1979, p.101).

<sup>124</sup> Moor to Colonial Office, PRO CO 444/2, October 30, 1899.

consular court staff was the main reason for the proclamation. Prior to the declaration of the Southern Nigeria Protectorate, the European and African traders had put in place an effective and efficient way of settling such trade disputes: Courts of Equity. On the inception of such a court at Bonny, a commentator noted that:

A commercial or mercantile association was... formed, the members being the chief white and black traders in the place, and the chair is occupied by the white supercargoes in monthly rotation. All disputes are brought before the Court, the merits of the opponents are determined, and with the consent of the King, fines are levied on defaulters. If any one refuses to submit to the decisions of the Court, or ignores its jurisdiction, he is tabooed, and no one trades with him. The natives stand in awe of it and readily pay their debts when threatened with it.<sup>125</sup>

With such a system in place, the Consular Courts did not need to inherit such trade disputes in the first place. If indeed the workload of the consular courts was an issue, one would have thought that the Courts of Equity should have been encouraged to continue dealing with such cases with some occasional supervision from colonial officers. It is therefore more likely that the protection of the British trading interests was the main reason behind the recovery of credit legislation. The British trading companies in the territory, not surprisingly, quickly moved to exploit the new scenario employing the African middlemen more as commission agents than as independent brokers.<sup>126</sup> In effect these African middlemen,

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<sup>125</sup> Quoted in Dike, (1956, p.126).

<sup>126</sup> Ofonagoro, 1979, p.107.

who in the late 19th century possessed enormous powers and were even beginning to challenge the European merchants in export trade, were gradually but continuously reduced to mere commission agents totally dependent on the Europeans merchants for their survival.

It is therefore clear that the Colonial credit legislation in no small way assisted in breaking the back of the African middlemen, who were seen as all powerful, and in entrenching the supremacy of the British in Anglo-African trade. The initial discouragement to granting credit to Africans was therefore a trade motivated ploy aimed at curbing the independence of the African middlemen. It had little to do with un-credit worthiness on the part of the African. Unfortunately, the trademark stuck and became the popular line of defence for most of the colonial banks. For instance the official history of the Bank of British West Africa, defended the unhelpful attitude of British Banks to Africans on the grounds that Africans:

did not as a rule, stick closely to the terms on which bank credit was granted. It was a frequent experience that the bank lent working capital to an African for his business, but the owner would divert the cash into buying or building houses as a private investment. The bank would then find, when it came to repaying the debt, that the business had been 'milked' of capital and the loan could not be recovered.<sup>127</sup>

Had the study been non-partisan, perhaps Fry would have made a real attempt to unravel the origins of this stigma.

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<sup>127</sup> Fry, 1976, p.116.

### 3.8 Conclusion

This chapter has argued that the recovery of credit policies, adopted by the Colonial Government in 1894 and 1900, were simply a ploy aimed at entrenching the supremacy of the British in Anglo-African trade. In other words, the Colonial Government, urged on by British commercial interests in the colony, used such regulation to promote the interest of British traders. Furthermore, the 1945 agreement between Barclays Bank (DCO) and the BBWA robbed Africans of any benefits competition may have brought. In fact, the agreement helped to make interest and service charges in the colony one of the highest in the entire British Empire at the time. The Colonial Government did little to regulate such high interest charges arguably because foreign banks were the sole benefactors of the *status quo*.

Since the colonial banks either did not aim to satisfy the needs of Africans or were discouraged from doing so by the Colonial Government, Africans had no choice but to set up their own banks. The next chapter will examine the operations of these indigenous banks.



TABLE 1

## IMPORTS OF SILVER INTO BRITISH WEST AFRICA (1900-1910)

Year	Amount	Year	Amount
	£		£
1900	360,220	1901	154,730
1902	398,750	1903	253,625
1904	363,025	1905	143,300
1906	506,600	1907	700,400
1908	194,000	1909	669,600
1910	1,259,450	1911	874,850

Source: Emmott Report, 1912, Appendix III, Table 1.

TABLE 2

## Analysis of British Sterling Silver Issued for Circulation in West Africa, in the United Kingdom and in other Sterling Using Territories (1886-1911)

Average for the Period Territories	West Africa	United Kingdom	Other
1886-1890	24,426	920,088	255,939
1891-1895	116,323	761,039	124,461
1896-1900	257,090	796,425	367,233
1901-1905	262,786	234,150	231,504
1906-1910	666,190	781,073	325,347
1911	874,850	1,219,766	286,575

Source: Emmott Report, 1912, p.6.

## CHAPTER FOUR

### **INDIGENOUS BANKING IN COLONIAL NIGERIA**

#### **4.1 Introduction**

Nigeria was the only country in British Africa that developed an indigenous banking system<sup>1</sup> alongside the colonial banking system.<sup>2</sup> Other Colonies were either overwhelmed by colonial legislations which made it impossible for the indigenes to establish banks,<sup>3</sup> or their economies provided an inadequate base for such commercial banking.<sup>4</sup> The reasons for the advent of indigenous banks in Nigeria were not altogether unselfish and their nurturing process was fraught with risks. For instance the first attempt to establish an indigenous bank

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<sup>1</sup> Banks incorporated within the Country and owned and managed by Africans.

<sup>2</sup> Newlyn and Rowan (1954, p.96), Brown (1966, p.24). Such a banking system, "exhibits a paradoxical and potentially dangerous dichotomy. One group of banks possesses ample reserves, highly skilled executives, and long experience. It maintains, however, a restricted branch system, provides finance only for the most respectable and conventional borrowers, and tends to engage in capital export. The other group of banks, lacks capital, controls a small volume of deposits, specialises in the finance of relatively risky undertakings, and has no contact with a lender of last resort... the result is not only a maldistribution of finance but also a dangerous distribution of risks." (Rowan, 1952, p.174). Note that some African Governments established commercial banks in the dying days of colonialism. For example, the National Bank of Ghana which was 100% owned by the Government, was established in 1952.

<sup>3</sup> In the Gold Coast (Ghana) for instance, the Companies Act of 1906 prevented the establishment of any local Company to carry out any form of banking operation and it was not until 1950 that it was repealed via Ordinance Number 36.

<sup>4</sup> Onoh (1982, p.95).

in Nigeria failed mainly due to mismanagement, accounting incompetence, embezzlement<sup>5</sup> and the non co-operative attitude and denigration of colonial banks.<sup>6</sup> Despite this set back, further attempts were made and by 1960, at least 27 local banks had been established of which 21 had failed.

This chapter examines the socio economic conditions that led to the rise of these banks, the management of these banks, the various challenges faced by these pioneer indigenous institutions and the survival strategies adopted by them. Other extraneous forces that worked in favour of some of these indigenous banks, especially the political support from the African run regional governments, will also be examined.

#### **4.2 The Motivation for Indigenous Banking**

Until Nigeria became independent in 1960, the Colonial Government did very little to encourage neither the granting of credit to Africans nor the development of indigenous banks. Several ways of encouraging such indigenous banking and promoting banking habits amongst Africans were public knowledge at the time. A United Nations report in 1950, for instance, recommended measures such as deposit insurance schemes, rediscounting facilities and provision of guaranteed Government or other public securities. As for the existing foreign banks, the report further recommended that they should be encouraged to reinvest profits which would otherwise go

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<sup>5</sup> Newlyn and Rowan (1954, p.98).

<sup>6</sup> Azikiwe (1956, p.3). See also National Bank Advert (Daily Times 30 September 1961, p.11).

abroad.<sup>7</sup> Even the Paton report of 1948, which was specifically directed at the Nigerian banking system, recommended that the Government give grants to the staff of these Indigenous banks to enable them to acquire training abroad.<sup>8</sup> Few, if any, of the above recommendations were implemented in pre-independence Nigeria.<sup>9</sup> The inadequacies of the colonial banking structures towards the goal of attainment of economic freedom by indigenes, was not unique to Nigeria. In Ceylon (Sri Lanka), for example, the Banking Commissioners, in their report of 1934, concluded that:

It was considered essential for the attainment of this goal of economic freedom that the public should have adequate financial assistance, so as to enable indigenous capital and enterprise to participate more actively in the trade and industries of the country and, in particular, to cultivate and expand the home markets in preference to the export markets. The prevailing banking system primarily designed to foster economic development by requisitioning the aid of non-indigenous capital and enterprise proved to be ill adapted, by the very nature of its structure, to offer such facilities.<sup>10</sup>

The above inadequacy was also implicitly noted in the Gold

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<sup>7</sup> United Nations (1950, p.2-3).

<sup>8</sup> Paton (1948b, p.17).

<sup>9</sup> Interestingly, the policies of these expatriate banks received support from unexpected quarters. A prominent traditional ruler (the Emir of Kano), when told by a visiting Barclays bank delegation that the bank was to open a second branch in Kano, expressed the opinion that the bank had lent too much money not just to the to the Lebanese but also to the Nigerian people. He also doubted the ability of the bank to recover all its loans. This was understandably, "unexpected" by the delegates (BBA 11/2272).

<sup>10</sup> Report of the Ceylon Banking Commission (1934, para 4).

Coast: In recommending the establishment of a National bank, the Trevor report advised that such a bank:

should, as far as possible, be managed and staffed by Africans and be created out of African capital. Its object should be to meet the needs of residents of the Gold Coast and to operate for the benefit of African industry, agriculture, commerce and trade.<sup>11</sup>

Europeans were not seen as the only benefactors of the *status quo* (pre-independence colonial banking). Accusing fingers were also pointed at the Asiatic and Levantine communities. A prominent Nigerian Parliamentarian<sup>12</sup> once urged the Finance Minister to withdraw all government money from the BBWA on the grounds that the bank:

finances the Syrians and the Syrians use all this money to buy goods and go to the rural areas and undersell our people. And when our poor people go to this bank, they will not give them the same sympathy that is given to the Syrians.... The Syrians come here with no beds. Somebody took them to this bank for advances and they began to acquire property in Lagos here, and many of our people are losing their land to Syrians just because they have no financial backing.<sup>13</sup>

In the Gold Coast, the feeling was also prevalent that the Colonial banking system favoured the European, the Levantine and Asiatic communities to the detriment of the Africans.<sup>14</sup>

Part of the reason for the unhelpful attitude of the

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<sup>11</sup> Trevor (1951, para 155).

<sup>12</sup> Mr Jaja Wachuku.

<sup>13</sup> House of Representatives debate (10 August 1959, p.1670).

<sup>14</sup> Trevor (1951, para 46).

colonial banks to Africans may be found in the history of these banks. As noted in the previous chapter, the advent of colonial banking in the Nigerian Colony was aimed initially at providing banking services for the British commercial enterprises then in existence.<sup>15</sup> It was therefore not surprising that they seldom established operations in territories without British commercial interests.<sup>16</sup> The banks therefore did not aim at satisfying the needs of the Africans.<sup>17</sup> The widespread belief that Africans were, in general, uncredit-worthy was also a contributory factor to the lack of interest of colonial bankers in their affairs. Africans, not surprisingly, criticised the attitude of the colonial banks.

Protests by African traders against the colonial banks was first documented in 1912. Subsequent to the absorption of the Bank of Nigeria by the BBWA, a pamphlet was published in Lagos titled *"an appeal from the native traders of Lagos to the Financiers of Great Britain."* The document alleged that BBWA charged "rates which were excessively high... even... exorbitant" and displayed "intolerance in business matters." It argued that the amalgamation of the two banks had produced

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<sup>15</sup> Rowan (1952, p.161).

<sup>16</sup> Around 1950, for instance, the two British banks, which controlled 90% of the bank deposits in Nigeria, operated only 23 branches in 17 towns of the territory (ibid, p.163).

<sup>17</sup> Lack of interest in developing internal markets and in assisting indigenous enterprise is a common feature of expatriate banks in under-developed territories, particularly in those possessing racially heterogeneous societies- see Economic Commission for Asia and the Far East (1951, Chapter 3).

"consternation." It then concluded that "the crying need of Southern Nigeria in the present stage of development of the country is for banking facilities-for the establishment of two or three banks."<sup>18</sup> According to Fry:

The real grievances of the African traders were not concerned with the British bank or banks as such but with two aspects of the financial system. First, African savings, private and public, were already substantial in the inter war period, but the greater part was held or invested in London rather than converted into lending in West Africa. This was true of private deposits in the banks as much as the reserves built up by the West African Currency Board, and after the war of the surplus funds of the produce boards. Secondly, the great bulk of the lending activity in West Africa, was carried out not by the banks but by the European trading companies which naturally lent to their produce buyers and distributors rather than to independent African competitors. In any case, lending was largely done on the security of produce in store or in transit; the problem of obtaining collateral security from African traders was a real obstacle to change.<sup>19</sup>

Protests against the monopolistic nature of British banks continued unabated. In 1916 Samuel Duncan<sup>20</sup> led a delegation of African traders to London where they protested against the monopolistic position of the British Bank of West Africa. Their protest was coldly treated and they were referred back to the Colonial government in Nigeria.<sup>21</sup> On his return, Duncan published a pamphlet asserting that:

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<sup>18</sup> Cited in Newlyn and Rowan (1954, p. 119).

<sup>19</sup> Fry (1976, p.216).

<sup>20</sup> Duncan was a Gold Coast (Ghana) Politician and Business man organising anti bank protests rather than a banker (Ayida, 1960, p.29).

<sup>21</sup> Ajibola (1986, p.36).

Wealth is a potential factor governing all departments of life among the civilised nations of the earth today and the powers that be. If therefore, we wish our claims for political freedom to command attention, our educational progress and attainments may serve us to some extent, but the surest road for us to achieve success in this direction is the accumulation of wealth. And the only way in which we can best accomplish this is by combination and co-operation by unity of interests in our business relationships and transactions in the various spheres and activities of commercial enterprise.<sup>22</sup>

The roots of the monopolistic instincts of British firms in general could be traced to the granting of a Charter to the North Borneo Company in 1881 by the Gladstone Government in Britain.<sup>23</sup> Challenged in the House of Commons the following year on this surprising return to seventeenth century chartered company colonialism, Gladstone refused to rule out the possibility of granting similar charters to British entrepreneurs in other colonies.<sup>24</sup> The opportunity created by the Gladstone statement was immediately identified by George Watts- a British trader based in Calabar. In a letter to his Partner, John Holt, he stressed that Gladstone's:

speech would fit admirably, any one wishing to acquire power and territory on the West Coast- will you please read the debate over and think of the matter carefully as we could easily secure some good places - there is the Rio del Rey- go in with Yellow Duke and take sovereign rights over this place- the Ada River, branching off the Old Calabar river on the left bank going up- go in here with Henshaw Toby- and other places I could mention. With the aid of the principal man who trades there, there would

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<sup>22</sup> Cited in Azikiwe (1956, p.2).

<sup>23</sup> Ofonagoro (1979, p.307).

<sup>24</sup> Hansard's Parliamentary Debates (17 March 1882, p.1195).



be but little difficulty in securing the country: and then go to Gladstone for a Royal Charter, to limit our powers, and at the same time to confirm it.<sup>25</sup>

Though this unique opportunity to "acquire power and territory on the West Coast" had been identified, it was the results of the Berlin Conference on West Africa in December 1884 that made it an urgent necessity.<sup>26</sup> Thus what had begun as an excellent opportunistic idea for monopoly and profits-based on Gladstone's willingness to give the sovereignties of non European people in Africa and Asia-away to British commercial interests, had become, after Berlin, an urgent necessity for satisfying the "effective occupation" stipulation of that conference, as well as for British commercial survival on the Niger Coast.<sup>27</sup> It was under these circumstances that the BBWA entered the banking arena in the

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<sup>25</sup> Quoted in Ofonagoro (1979, p.307-308).

<sup>26</sup> In 1884, Germany seized Cameroons and Togoland stimulating fears of competition from German firms amongst the Delta Merchants. The decision of the subsequent Berlin Conference to emphasize effective occupation as a criterion for respecting prior claims to spheres of economic influence did not help matters.

<sup>27</sup> This was aptly summed up in a letter by Alexander Miller of Messrs Miller Brothers and Co. to John Holt, dated December 14 1884: "it is now abundantly clear that the Germans are preparing to take a share of the trade, unless we lay our plans to frustrate them; and the best way to do so is to put shoulder to shoulder and prepare to deal with them singly as they appear on the scene. In this way, we shall have the benefit of (1) Occupation and (2) of Organisation. Another advantage is that the delegates who went to Berlin have now returned, and from what I hear they are satisfied that something must be done for mutual protection and at once"-Cited in Ofonagoro (1979, p.308). It was therefore not surprising that the Niger Company was granted the Charter in 1886. This charter applied to the Lower Niger District only. See also Ofonagoro (1979, chapter 7) for a detailed discussion of the circumstances surrounding the issue of the Charter.

Nigerian Colony. It was therefore not surprising that the bank soon developed monopolistic instincts. The bank, at the time, also had considerable support from the Colonial Government.<sup>28</sup>

Although it had become clear by the late 19th Century, that monopolies stifled trade expansion, the British Government supported them when it was in their political and economic interest to do so. It was in this context that Lord Lugard argued that the amalgamation of interests of the Royal Niger Company was necessary for purposes of mutual defence and to overcome foreign State-aided competition. With such an attitude, it is therefore not surprising that the Colonial Government did not see any need in regulating banking monopolies in Nigeria. This is not to say that the Colonial Government's interest in preventing the growth of 'wild cat' banks was not genuine and of benefit to the Nigerian economy. Rather, the Colonial Government is indicted on its inability to appreciate the fact that Africans, no matter how backward they may appear by British standards and no matter how

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<sup>28</sup> See two internal letters of the BBWA dated 25th June 1954 and 5th July 1954 (reproduced in Azikiwe, 1956, pp.9-10). BBWA's closeness to the Colonial Government was hardly surprising as several prominent British Politicians and Administrators were in various ways connected with the bank. For example, In 1916, Lord Milner was the Chairman of the bank. Before this he was the Governor General of South Africa (a British Dominion Territory) and after his tenure in the bank, he became the Secretary of State of the Colonies (1920). Lord Milverton was once a Director of the BBWA Also Sir Frank Baddeley, a one time Chief Secretary of Nigeria once sat on the Board of the bank. Finally, Lord Harlech who was the Secretary of State to the Colonies between 1922 and 1924 and Post master General in 1931, ended his career as Chairman of the bank in 1956 (Ajibola, 1986, p.35).

unprepared they may have appeared for self rule,<sup>29</sup> needed a banking system to support them in their level of development. A task the British banks were unable to perform and the indigenous banks, despite all their deficiencies, were in a better position accomplish, at least in some respects.<sup>30</sup>

This belief by Africans that colonial banks discriminated against them became both the driving force behind the establishment of Indigenous banks and a propaganda tool to ensure their survival. For instance, the Nigerian Trust Bank was established to "champion the cause of Nigerian Economic freedom" by ensuring that "the African Businessman is not prevented from making a success in business by want of capital and to see that the economic security is no longer the exclusive right of the few but a common heritage of all people."<sup>31</sup> Similarly, a National bank prospectus of 1946 aimed at attracting shareholders to invest in the additional shares of the company asserted that:

With the cessation of hostilities, the post war trade requires larger resources and the African must make sure he takes his own share of the post war trade which will be immense. The bank, therefore, requires all the capital it can get to enable it to finance African business and enterprises. More and

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<sup>29</sup> J B Loynes, a one time Adviser to the governors of the Bank of England, concluded after his visit to the West African territory that "In the four British territories which in varying degrees, are all extremely backward by western standards and ill equipped for modern methods and techniques, a political transition is taking place at a rate which threatens to break the administrative, social and economic continuity so essential to progress" -Bank of England Archives (London) File Number (BEAFN OV67/2, Folio 81c, p.3).

<sup>30</sup> Rowan (1952, p.173).

<sup>31</sup> West African Pilot (2 August 1952).

more foreign firms and entrepreneurs are arriving in Nigeria to take advantage of opportunities which Government development plans will provide and the African must not allow himself to be left behind in the race. With a big financial backing, his chances are sure and certain.<sup>32</sup>

In a newspaper advert by the same bank, this time aimed at soliciting deposits from Africans, the bank claimed that:

By a concerted and well planned process of discrimination, the African merchants were gradually eliminated from the position of middlemen between the big European firms and the African consumer and in their place was substituted the alien immigrants. The Africans, according to plan, became small retail traders and civil servants. This economic strangulation could not have been possible if the African had a strong financial institution of his own. Patronise the National Bank of Nigeria and retrieve your lost birth right.<sup>33</sup>

There is unanimity of opinion among scholars that Colonial Banks were unhelpful to the Africans in the entire British West African region. What is in dispute, however, is the reason behind such an unhelpful attitude. A detailed analysis of this dispute will be undertaken in Chapter eight. For now it will suffice to state that given the difficulties the African traders had trying to raise capital, they had little choice but to turn to money lenders who, as a source of

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<sup>32</sup> Cited in Azikiwe (1961, p.210).

<sup>33</sup> Quoted in Newlyn and Rowan (1954, pp.118-119). It was perhaps against this background that the bank set for itself the following objectives: (a) see that every Nigerian who is likely to benefit from loans, advances and overdrafts is encouraged by the bank; (b) help small-time as well as big time businessmen to hold their own in the commercial fields; (c) help Nigerians to establish industries and own properties, and (d) operate and help in a way which will give Nigerians confidence to dare in both the commercial and industrial fields (Daily Times, 30 September 1961, p.11).

capital, were both uncertain and expensive,<sup>34</sup> particularly the later.<sup>35</sup> This ultimately led them to establish their own banks.

#### 4.3 The Indigenous Banks

The first indigenous bank in Nigeria commenced operation in 1929 with the acquisition by some Africans businessmen<sup>36</sup> of the Industrial and Commercial Bank, which was originally established as an Overseas bank in London with the aim of carrying out banking business overseas, but was still born because of the outburst of world war one.<sup>37</sup> The philosophy which animated the founding of this bank was summed up by one of its founding members as follows:

it is evident that there is no law to prevent the African from disposing of the efforts of his labour; therefore, provided with an international business link, he can market his own products, exchanging the proceeds there-from for the purchase of foreign merchandise he may require. These are facilities that as a race we cannot expect these corporations organised for the purpose of exploitation to supply; but it is obvious that the opportunity exists for mutual organisation. It is the foundation for that organisation that the Industrial and Commercial Bank

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<sup>34</sup> Though many African Countries had money lending legislations by the 1940s limiting interest rates chargeable (Nigerian Ordinance Number 49 of 1949; Kenya Money lenders Ordinance of 1933; Ugandan Ordinance Number 31 of 1951 and Ghana Money Lenders Ordinance of 1940), most money lenders usually found a way around it- See Trevor (1951, para 44).

<sup>35</sup> This was one of the main complaints in Ceylon. It also recurs in the Gold Coast report (para 49).

<sup>36</sup> They include W Tete Ansah (Gold Coast), Candido de Rocha, A A oshodi, P H Williams and D A Taylor (Nigerians).

<sup>37</sup> Ayida (1960, p.29).

Limited with its affiliations have brought....<sup>38</sup>

This bank was however short-lived and went into liquidation in 1930. Very little was known of the internal operations of this bank as indeed of most early indigenous banks.<sup>39</sup> Though the liquidators established that the authorised share capital was £100,000, the state of the company's record was so chaotic that they could not determine the proportion of the share capital that was paid up.<sup>40</sup> It was further claimed that:

the managing Director of the so called bank was a man with a very shady past. The prospectus originally issued by the "bank" was a highly misleading document. It gave prominence to the names of the company's solicitors, auditors and secretary, who were leading London firms. Those firms had never been informed that their names would appear on the prospectus and when their attention was drawn to it, they ceased to have any dealings with the company.... The liquidators found it impossible to produce anything approaching the accurate statement of the position. The liabilities (some of which related to trading operations) were estimated at £25,000. Of book debts estimated at £12,000, only £40 was collected. Included in the book debts were two substantial loans to the managing director and a company under his control- not a penny of which was recovered. It was also disclosed that the company was a share pushing establishment of the most blatant description; the accounts of many illiterate depositors were found to have been debited with monies due on application and allotment of shares in respect of which no formal application could be traced. A petition submitted to H.E the Governor by shareholders and creditors stated that there were 3,570 depositors with claims amounting to

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<sup>38</sup> Cited in Azikiwe (1956, p.3).

<sup>39</sup> BEAFN OV68/2 (Folio 42, p.1).

<sup>40</sup> Paton (1948b, p.7).

£13,225. None of the depositors received anything.<sup>41</sup>

The second indigenous bank that came into operation (the Nigerian Mercantile Bank) also had a short and chequered lifespan. Established in 1931, it had a share capital of £10,000 of "which £909 seems to have been paid up in cash initially." Here again, the main activity of the company appears to have been "share pushing".<sup>42</sup> According to Newlyn and Rowan, the establishment of this bank was an important pointer to the credulity of the African public in banking matters. This was so since the new bank had as one of its original subscribers and managing director, the ex-managing director of the collapsed Industrial and Commercial Bank.<sup>43</sup> Perhaps because of the above reason:

the bank found great difficulty in attracting either deposits or capital from the public, despite the very high rates it was prepared to pay upon the former. If the figures revealed by its annual reports are accurate, the gross rate of return (defined as gross profits as a percentage of loans and advances), which in one year exceeded 80 percent, makes it plain that it was engaged in highly speculative money lending transactions with what little funds it possessed. Despite this high gross rate of return, the bank recorded losses in each year of its existence.<sup>44</sup>

By 1936, the bank had failed.

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<sup>41</sup> Ibid, p.8. Newlyn and Rowan (1954, p.97) claimed that at the time of the bank's winding up, in 1930, its deposit liability was estimated at £11,735. This was later raised to £13,000.

<sup>42</sup> Paton (1948b, p.8):

<sup>43</sup> 1954, p.99.

<sup>44</sup> Ibid.

In 1933, the National Bank became the first successful indigenous bank to be established.<sup>45</sup> In its prospectus, its Directors made a nationalistic appeal for patronage by asserting that:

No people can be respected or regarded as a nation unless it has its own national institutions and the greatest of all national institutions is the financial institution in the form of a bank. This is therefore an appeal to one and all who have the interest of her country at heart and are prepared to work for her progress.<sup>46</sup>

This was followed by the Nigerian Penny Bank which was short-lived.<sup>47</sup> It had an authorised share capital of £5,000 of which £287 was paid up in cash. By 1946, the bank had failed. The Official Receiver reported that "neither... (the promoter) nor any of his associates had even a rudimentary idea of banking or company practice and the bulk of the so-called assets will prove to be unrealisable".<sup>48</sup> Also, the Director of Audit referred to the "fantastic way in which the affairs of the company were managed."<sup>49</sup>

In 1947, two other banks (African Continental Bank and the Nigerian Farmers and Commercial Bank) were established. Worried by the spate of establishment of such indigenous banks

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<sup>45</sup> Lack of support and lack of profit led to a split among the directors of the Mercantile Bank. T A Doherty, Dr A Maja and H A Subair subsequently resigned from Mercantile Bank and founded National Bank (Hopkins, 1966, p.146).

<sup>46</sup> Quoted in Azikiwe (1961, p.209).

<sup>47</sup> The exact year of its establishment is not known.

<sup>48</sup> Quoted in Paton (1948b, p.8).

<sup>49</sup> Ibid.



and not unmindful of past banking failures, the Federal Government, in 1948, appointed Mr G D Paton, a Consultant of the Bank of England who had banking experience in Pakistan, to "enquire generally into the business of banking in Nigeria and make recommendations to the Government on the form and extent of control which should be introduced."<sup>50</sup> Paton's report culminated in the 1952 Banking Ordinance.<sup>51</sup>

Preceding the enactment of the 1952 law, Africans, fearing the imminent clampdown on the establishment of commercial banks following the setting up of the Paton inquiry, had rushed to establish more banks before the advent of regulation.<sup>52</sup> The result was that by 1952, at least 24 local banks had been established.<sup>53</sup> It was evident that the

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<sup>50</sup> The divergence in the literature as to the circumstances surrounding the setting up of this Commission will be examined in chapter 5(2).

<sup>51</sup> In summary, the Ordinance required banks operating in the Nigerian colony to: (1) have a nominal share capital of at least £25,000 of which not less than £12,500 should be paid up; (2) be licensed by the Financial Secretary in order to be able to carry on banking business; (3) abstain from granting loans and advances on the security of their own shares and granting unsecured loans and advances in excess of £300 to any one or more of its directors or to a business in which it or any one or more of their directors had any interests; (4) maintain adequate cash reserves; (5) maintain a reserve fund out of net profit of each year of not less than 20% of such profits until the reserve fund equals the share capital; (6) refrain from paying dividend until all their capitalised expenditure not represented by tangible assets had been written off and (7) make periodic returns to the Financial Secretary. See chapter five for a detailed analysis of the provisions of the ordinance.

<sup>52</sup> Brown (1966, p.26).

<sup>53</sup> See table 3. Several of them were notorious for their poor capitalization (see table 4), rapid expansion and incompetent management. Little wonder most of them were usually referred to as 'wild cat' or 'mushroom' banks.

majority of these indigenous banks were bound to fail, especially with the advent of regulation.<sup>54</sup> It was against this background that a motion was moved in the Federal House of Representatives for the immediate establishment of a central bank.<sup>55</sup> one of its main aims being to strengthen the existing African banks.<sup>56</sup> This motion did not go down well with the Colonial Government appointed Financial Secretary, who argued that Nigeria at "its stage of development" was better served by a currency board than a central bank. He was however prepared, perhaps due to the immense support the motion received from the African parliamentarians, "to reconsider the matter." This culminated in the revision of the motion by the Government. The final version of the motion approved by the House read as follows:

That as practical means of marshalling the financial resources of this country for the purpose of aiding Economic Development in all its phases, the Government should examine the possibility of establishing a Central Bank and report to this House

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<sup>54</sup> It was then noted by a Nigerian Legislator, E O Eyo, that "the moment this bill is passed into law, all the African banks in this country will find themselves in a very tight corner" (Nigeria House of Representatives Debates, 1952, p.1127).

<sup>55</sup> The motion was moved by K O Mbadiwe, a private member of the house. Apart from being a "student of banking and finance", the author is unaware of any evidence that Mbadiwe had personal interests in any of the indigenous banks.

<sup>56</sup> The full motion read as follows "as a practical means of consolidating the financial resources (including regulation of Gold and Currency) of this country for the purpose of rapid economic development in all its phases, as well as strengthening the existing African Banks the Government should initiate, organise and establish a Central Bank of the Nation within two years of the passage of this motion"- See Nigeria House of Representatives Debate (March 21 1952, Col 377).

as soon as possible.<sup>57</sup>

In essence, the Colonial Government did not consider it important that such a central bank, if established, should concern itself with helping and strengthening of the existing African banks. Mass failure therefore followed with 16 of the indigenous banks failing in 1954 alone.<sup>58</sup>

#### **4.4 Reasons for the Indigenous Banking Crisis**

Contrary to the view of the Bank of England, the main reason for the mass failure of the indigenous banks was the enactment of the 1952 Banking Ordinance.<sup>59</sup> The very fact that banks were given three years to meet with the conditions of the Ordinance or face liquidation must have sent a warning signal to the depositors of these unlicensed banks. This must have subsequently led to a run on these unlicensed indigenous

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<sup>57</sup> Nigeria House of Representatives Debate (April 9 1952, Col 1181). This motion was described by the Nigerian Government in a letter to the Colonial Office dated 1st July 1952 as "cumbersome and ambiguous." Indeed the Government was forced to compromise on the motion instead of putting it to vote because the motion had considerable support from both the Government and non Government benches in the Legislature. "The mover was therefore induced to amend his original motion but naturally insisted in retaining as many of the original words as possible. Consequently, like many compromises, the resolution has succeeded in attracting to it the worst of both parties" (BEAFN OV68/12).

<sup>58</sup> See table 3.

<sup>59</sup> According to the Bank of England, most of these bank failures "cannot properly be attributed to the requirements of the banking legislation or to any positive action on the part of the Financial Secretary. Such action as has so far been taken has been limited to the collection and scrutiny of the statutory returns and to the issue of licences to five banks to which no official publicity was given" (Undated Commentary, BEAFN OV68/2, Folio 43E, p.2).

banks. In the case of the Nigerian Farmers and Commercial Bank, for instance, it was noted that:

From the moment the Licence was refused us, it meant we had to close down either immediately or gradually... the importance attached to the Banking Licence made customers to doubt the continuity of our Bank. They embarked on withdrawal and withdrawal... that no licence was being granted to the farmers bank was always being pointed to. Even no time was allowed for fixed deposits to stay for the specified period: yet it was impossible for the bank to recover the money given out as overdrafts immediately.... Were it that we had a Banking Licence, nothing could have made the customers withdraw their money in thousands as they did....<sup>60</sup>

Several other reasons have been adduced for the failure of indigenous banks. For instance, the Banking Examiner at the time identified the two chief contributory causes of bank failure to be:

(1) bad management and the lack of accounting and banking experience particularly noticeable in the 'mushroom banks established in anticipation of the imminent regulation of the industry<sup>61</sup> and;

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<sup>60</sup> Quoted in Newlyn and Rowan (1954, p.239).

<sup>61</sup> This lack of experience and bad management was usually reflected in the over branching practices of some of the failed banks. For instance, the Nigerian Trust Bank Limited with a Paid Up Share Capital of £10,000 established 25 branches within one year of its inception (see table 4 and West African Pilot, August 2 1952). The report of the Banking Officer on the Nigerian Trust Bank in October 1953, noted that the "Managing Director... has made every possible mistake. He opened no fewer than 26 branches of which six were closed by February 1953 and 17 during the last seven months. There now remains only three branches operating... The reasons given for the closing of the branches were lack of patronage, heavy withdrawals, high overhead costs and dishonesty on the part of the staff. Original proceedings have been taken against 5

(2) fraudulent practices by some directors especially with regards to goods sent by companies abroad to be surrendered against the payment of bills for collection. These goods were sometimes cleared and surrendered or otherwise disposed of counter to the instructions of the contracting parties and without proper remittances being made.<sup>62</sup>

The above causes were not unrelated to the general difficulties faced by most indigenous banks. These difficulties, as articulated by a veteran indigenous banker and one time Chairman of the National Bank, included:

(1) The inability of most indigenous bankers to understand the limitations of the ability of the banker to create money by loan deposit. Many writers have regarded this failing as a derivative of the so called inherent dishonesty and lack of integrity of the African businessman. This is far from the case. When a Managing Director gives a loan or an advance to his wife or other nominees and buys an American car with the proceeds, he obviously cannot distinguish between income and capital- a distinction which is not all that easy even for the sophisticated minds of economists. Dishonesty should be based on self interest, not obvious self destruction.

(2) Lack of capital, management personnel, technical and operating staff: the problem is very acute in banking because the highest standards are required for efficient banking operations- there is the story of a "one man" bank whose owner-Director is his own Managing Director, Chief Accountant, Auditor and General Manager, etc. Gilbert and Sullivan could not

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members of the staff, 4 of whom have received terms of imprisonment. The banking returns for the quarter ending 30th June 1953 are long overdue. The manager has been given some latitude on the grounds that fraudulent practices at the branches have necessitated the rigorous checking of the branch accounts and the institution of criminal proceedings by the Police against various members of the staff have resulted in the books being put in the custody of the court" (BEAFN OV68/2, Folio 110).

<sup>62</sup> BEAFN OV68/2 (Folio 43e, p.2).

have improved on the situation. When the authorities forced him to fill these posts, nominees were appointed on meagre nominal salaries- a Chief Accountant who never saw the ledger, an Auditor who only signed on the dotted lines.

(3)..the fierce and intense competition the indigenous banker now faces from the foreign banker with his immense capital resources and first-class management personnel and technical know-how....<sup>63</sup>

Though the National Bank Chairman may have in some cases been right about his suggestion that bank failures of the indigenous banks were due to lack of experience and reasons other than fraud,<sup>64</sup> to suggest that this was mainly the case was certainly an overstatement. The argument of ignorance certainly does not hold in a situation where the Management clearly takes actions with the intentions of deceiving a third party. A case in point was the frantic attempt by the African Continental Bank to meet the liquidity ratio requirements of the 1952 Banking Ordinance.<sup>65</sup> Similarly, in the case of the Standard Bank of Nigeria, which went into liquidation on 20th September 1952, the Bank Examiner reported that:

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<sup>63</sup> Cited in Ayida (1960, pp.31-32).

<sup>64</sup> The 1952 voluntary liquidation of the Union Bank of British Africa Limited was, for instance, not caused by fraudulent activities (BEAFN OV68/2, Folio 43e, p.2). Also the Banking Examiner in 1955, while reporting that all was not well with three banks (The Cosmopolitan Commercial Bank Limited, The Onward Bank Limited and the Pan Nigerian Bank Limited), acknowledged that no "fraud is suspected in connection with any of the above named banks, but they are so under capitalised that their losses to date make them insolvent and I have advised them to liquidate their debts and to get out while the going is good as they have neither the capital nor the experience to carry on the business of banking" (BEAFN OV68/2, Folio 45b).

<sup>65</sup> See Chapter Six.

An investigation into the accounts of the Bank revealed a very serious state of affairs. The directors are now facing four charges of stealing and along with the Auditor, a further charge of concurring in the making of a false balance sheet.<sup>66</sup>

The above view of the Bank Examiner was further corroborated by the bank's winding up notice which asserted that the bank:

cannot by reasons of its liabilities, persistent stealing, bad management, inexperienced accounting and other difficulties carry on its business.<sup>67</sup>

The case of the Industrial Bank of West Africa Limited was not dissimilar. The December 1954 Banking Officers report intimated that:

Two directors of the bank were sentenced to terms of imprisonment for falsifying the books.... Since then the bank has ceased to operate and it will formally be refused a licence on the 22nd May, 1955, if it has not by then gone into liquidation.<sup>68</sup>

Allegations of fraud and embezzlement were also in the forefront of the winding up of the Provincial Bank, Afroseas Credit Bank and the United Commercial Credit Bank.<sup>69</sup>

However, not all the indigenous banks failed. Of the 24 or so banks established between 1929 and 1952, four survived

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<sup>66</sup> BEAFN OV68/2 (Folio 43e, p.1).

<sup>67</sup> Daily Times (24 September 1952, p.1).

<sup>68</sup> BEAFN OV68/3 (Folio 23, p.3).

<sup>69</sup> See report of the Banking Officer on the Banking position in Nigeria as at 31st October 1953 (BEAFN OV68/2, Folio 110).

at least till 1960<sup>70</sup>. Their survival have in most cases been Government aided and not 'Market' driven.

#### 4.5 Indigenous Banks and Government Support

Government support was a conspicuous factor in most of the indigenous banks that survived in pre-independence Nigeria. Arguing that foreign banks did not aim to satisfy the needs of the locals, indigenous banks modelled themselves as protest institutions determined to reverse the *status quo*. it was not surprising that these banks sought help from Regional Governments especially when they came under the control of Nigerian Politicians.<sup>71</sup> The Politicians on their side were not unsympathetic to the dilemma of the local banks.<sup>72</sup> Chief Obafemi Awolowo, then Premier of the Western Region, once declared that:

I believe that it is generally known that one of the cardinal policies of the Government is the studied encouragement of indigenous banking institutions... the Government intends to pursue vigorously its policy of giving financial assistance to indigenous

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<sup>70</sup> National Bank of Nigeria, African Continental Bank, Agbonmagbe Bank and Merchants Bank.

<sup>71</sup> Brown (1964, p.3).

<sup>72</sup> Since most of these indigenous banks were protest institutions, their inherent characteristics not surprisingly differed from those of the Colonial Banks. One such characteristic was the policy among African banks to mobilise African savings and re-lend to African borrowers who for various economic and legal reasons normally lacked the collateral necessary in attracting loans from British banks (Rowan, 1952, p.171). This trend was sanctioned by Sayers who argued that though the underdeveloped territories do not want wild-cat banks, they did however want banks which would lend to persons who did have ability but lacked collateral (1947, p.301).



banks so that they may be better able to provide credit facilities to Nigerian business men and women and others who have profitable projects on which to invest the funds thus provided them....<sup>73</sup>

The NCNC which then controlled the Eastern Region apparently thought along similar lines and made the nationalisation of all banks, upon attaining self government in Nigeria, one of their party policies.<sup>74</sup>

Not all indigenous banks were however supported. Indeed, in most cases, the indigenous banks that received Government assistance all had some form of connection with the regional governments. The African Continental Bank, which was the only indigenous bank that received the support of the Government of the Eastern Region, was established by Dr Nnamdi Azikiwe who was the Premier of the Eastern Region at the time the support was offered.<sup>75</sup> Likewise, the decision, by the Western Region Government, to support Agbonmagbe Bank<sup>76</sup> was made at a personal meeting between the bank's Chairman and the Premier of the Region. This decision to assist Agbonmagbe Bank was

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<sup>73</sup> Western Region House of Assembly Debates (December 21 1956, p.51).

<sup>74</sup> This policy was based on the following principles: (a) to discourage monopoly of monetary transactions by any one bank; (b) to liberalise credit facilities for Nigerian entrepreneurs; (c) to encourage the development of indigenous Nigerian banking and {d} to plan for the eventual establishment of a state bank.

<sup>75</sup> See chapter six for a detailed analysis of the African Continental Bank case.

<sup>76</sup> In 1955, the Western Region Production Development Board made a long term deposit of £25,000 (three years) with the bank. In 1959, the bank also received £200,000 as a fixed deposit from the Western Region Marketing Board. Of the £200,000, £80,000 was converted into shares in the bank in 1960 (Brown, 1964, p.12).

made:

before Executive Council approval was obtained. Although the purpose of the deposit was to help 'indigenous banking' no investigation was made to determine whether in fact the deposit would help the bank.<sup>77</sup>

Government support programmes did indeed help some indigenous banks. It was, for instance, the investment of the Eastern Regional Government in the African Continental Bank that saved the bank from imminent collapse.<sup>78</sup> Government assistance was also instrumental to the survival of the National Bank. A National Bank advert explicitly acknowledged this as follows:

But the big brake (sic) came in 1952 when the first Action Group Government, led by Chief Obafemi Awolowo, was installed in Western Nigeria. Conscious of the difficulties which had retarded the growth of indigenous banks in the country for many years, the Regional Government was instrumental in getting the Regional Marketing Board and other Corporations and agencies run by the Government to bank with the National Bank. This was followed in 1953 by the Marketing Board buying Preference Shares in the bank. This was a turning point in the life of the bank. It enabled it to enjoy some new advantages. As part owner through the Marketing Board, the Regional Government was not only interested in seeing that the bank was run on proper lines but it was determined to help in providing training in banking for its personnel. Furthermore, the banks association with the Regional Government contributed in no little measure to the rapid growth of the banks branches both in Nigeria and abroad. This happy relationship existed until the Federal Government asked the Regional Government to take over the bank early this year.<sup>79</sup>

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<sup>77</sup> Ibid, p.15.

<sup>78</sup> See chapter 6.

<sup>79</sup> Daily Times (30 September 1961, pp.11 & 17).

Government support did not however always ensure the survival of indigenous banks. A classic example was the Merchants Bank which failed despite extensive support from the Western Regional Government. Established in January 1952, the Merchants Bank apparently had a very good start<sup>80</sup>. Within one year, it was licensed by the Financial Secretary under the 1952 Banking Ordinance. Up till October 1953, the Banking Officer was obviously very satisfied with the general conduct of the bank- In his report, he noted that the Merchants Bank:

retains the services of a firm of Chartered Accountants, Messrs. Sale, Stewart and Company, who audit their accounts. In general, the bank appears to be consolidating its position. There has been a very gradual expansion in the current and deposit accounts and the banking methods adopted appear to be above reproach. No complaints have been received against this bank either from the public, the other banks or the police. The Merchants Bank maintains only one branch in Lagos; it has withstood the temptation to venture into branch banking.<sup>81</sup>

As time went by various Government Parastatals patronised the bank heavily especially with deposits. As the Government deposits grew the Bank's Management became reckless, turning all the favourable assertions of the Banking Officer in 1953 on their head. They displayed a total disregard for the provisions of the 1952 Banking Ordinance. For instance the Bank's Managing Director, P J Osoba, was convicted and

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<sup>80</sup> Of all the banks established in the 15 months from February 1951 to May 1952, it was the only bank to be licensed and indeed the sole survivor after 1954 (see table 3).

<sup>81</sup> BEAFN OV68/2 (Folio 110, pp.1-2).

sentenced to prison for stealing £35,000 being part of a £100,000 deposit by the Western Region Production Development Board.<sup>82</sup> A 1959 report of the Banking Examiner also found that Chief Osoba and his Companies owed the bank over £67,000. This contravened both Sections 7 (1) (a)<sup>83</sup> and 7 (1) (c)<sup>84</sup> of the 1958 Banking Ordinance. Also the Chairman of the Bank M A K Shonowo operated three accounts which contravened the 25% limit. Based on the above actualities, the Banking Examiner noted that:

the Bank is in a very precarious state owing to the Osoba position in the large number of dormant overdrafts. If it were wound up now, it is almost certain that its assets would not realise sufficient to cover its liabilities to the public.<sup>85</sup>

Despite the above problems, the Banking Examiner concluded that:

if present difficulties can be overcome, it has the nucleus of a sound banking system.<sup>86</sup>

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<sup>82</sup> He used the money for the 10% down payment on a private ship.

<sup>83</sup> This prevented any licensed bank from granting to any person credit facilities or advance of more than twenty five percent of the sum of its Paid Up Capital plus Reserves. The December 31st 1958 Balance Sheet of the Bank showed a paid up Capital of £12,650 and reserves of £431 making a total of just £13,103. The maximum permissible advance was therefore about £3,275 (Brown, 1964, p.40).

<sup>84</sup> Prohibited any bank from granting unsecured advances in excess of £500 to any director or companies associated to such directors.

<sup>85</sup> Quoted in the Report of the Coker Commission of Inquiry (1962, pp.16-17).

<sup>86</sup> Ibid.

This was not to be as the Bank's licence was withdrawn on September 23 1960 and it subsequently went into liquidation.

#### 4.6 Conclusion

Since the colonial banks did not aim to satisfy the needs of the Africans, poorly capitalised, poorly staffed and sometimes fraud infested indigenous banks soon emerged on the platform of aiding Africans, the Colonial Government reacted with regulation which subsequently led to the failure of many of these indigenous banks. Regulation was defended, by Colonial Government and Bank of England 'experts', on grounds of public interest.<sup>87</sup> Yet schemes like deposit insurance and training facilities for indigenous bankers, which may have served the public interest even more were not put in place. The fact that the United Nations and some other banking experts recommended such schemes did not change this fact.<sup>88</sup> The damage of this colonial policy failure on the banking habits of Nigerians was no doubt enormous.

The next chapter will attempt a detailed analysis of the various forces that shaped the provisions of this 1952 premier banking ordinance in the British Nigerian colony.

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<sup>87</sup> According to the Bank of England, the 1952 banking Ordinance was designed to achieve the stability of existing banks and to prevent the growth of 'wild cat' banks (BEAFN OV68/2, P.42).

<sup>88</sup> See chapter 4.

TABLE 3  
INDIGENOUS BANK REGISTRATION IN NIGERIA  
1929-1960

Indigenous Commercial Banks	Year of Establishment	Remarks
The Industrial and Commercial Bank	1929	Failed in 1930
The Nigerian Mercantile Bank	1931	Failed in 1936
National Bank of Nigeria	1933	
Agbonmagbe Bank	1945	Now Wema Bank
Nigerian Penny Bank	?	Failed in 1946
Nigerian Farmers and Commercial Bank	1947	Failed in 1953
African Continental Bank	1947	
Pan Nigerian Bank	1951	Failed by the end of 1954
Standard Bank of Nigeria	1951	"
Premier Bank	1951	"
Nigerian Trust Bank	1951	"
Afroseas Credit Bank	1951	"
Onward Bank	1951	"
Central Bank of Nigeria	1951	"
Provincial Bank of Nigeria	1952	"
Metropolitan Bank of Nigeria	1952	"
Merchants Bank	1952	Failed in 1960.
Union Bank of British Africa	1952	Failed by the end of 1954
United Commercial (Credit) Bank	1952	"
Cosmopolitan Credit Bank	1952	"
Mainland Bank	1952	"
Group Credit Bank	1952	"
Industrial Bank	1952	"
West African Bank	1952	"
Muslim Bank	1958	
Bank of Lagos	1959	
Bank of the North	1959	

Sources: Brown (1966, Table 1)  
Central Bank of Nigeria

TABLE 4  
 DETAILS OF INDIGENOUS BANKS OPERATING IN NIGERIA ON THE 22ND MAY 1952  
 (the date of the commencement of the banking Ordinance  
 COMPILED FROM THE FIGURES OF 30TH SEPTEMBER 1952

Date of Incorporation	Name of Bank	Authorised Capital £	Paid Up Capital £	Reserve Funds £	Total Deposits £	Cash in Hand and at Bank £	Advances £	Investments £
7/4/33	National Bank of Nigeria Limited	250,000	76,559	35,996	960,190	92,406	793,349	96,492
2/5/45	AgbonMagbe Bank	25,000	13,410	-	19,565	16,626	6,393	-
7/2/47	Nigerian Farmers and Commercial Bank Ltd	300,000	13,853	660	581,645	110,818	380,695	-
17/11/47	African Continental Bank Ltd	50,000	23,883	6,422	653,710	92,406	246,814	253500
24/2/51	Pan Nigerian Bank Ltd	100,000	5,016	-	33,952	6,618	8,259	-
21/6/51	Standard Bank of Nigeria	25,000	14,627	-	-	-	-	-
8/8/51	Premier Bank Ltd	4,000	1,125	-	8,804	4,943	4,658	-
28/8/51	Nigerian Trust Bank Ltd	10,000	10,000	-	38,365	20,488	9,572	-
30/11/51	Afroseas Credit Bank Ltd	10,000	1,000	-	-	-	-	-
4/12/51	City Bank Ltd	10,000	105	-	1,667	212	-	-
4/12/51	Onward Bank Ltd	10,000	410	-	154	365	-	-
6/12/51	Central Bank Ltd	50,000	3,560	-	904	762	271	-
15/1/52	Provincial Bank of Nigeria Ltd	5,000	4,500	200	565	1,088	193	-
23/1/52	Metropolitan Bank of Nigeria Ltd	25,000	1,000	-	-	-	-	-
25/1/52	Merchants Bank Ltd	50,000	12,650	-	18,664	8,248	6,967	-
5/2/52	Union Bank of British Africa Ltd	10,000	5,100	-	6,387	2,428	543	-
4/3/52	United Commercial Credit Bank Ltd	10,000	3,000	-	153	154	1,748	-
24/3/52	Cosmopolitan Commercial Bank Ltd	10,000	1,220	-	3,943	2,013	69	-
5/4/52	Mainland Bank Ltd	5,000	5,000	-	2,173	1,743	79	-
5/4/52	Group Credit and Agricultural Bank Ltd	5,000	1,395	-	128	138	-	-
9/4/52	Industrial Bank of West Africa Lid	10,000	10,000	-	708	11,076	22	-
14/5/52	West African Bank Ltd	25,000	2,648	-	462	26	38	-

Source: Bank of England Archives ( OV68/2, Folio 43p ).

## CHAPTER FIVE

### **THE 1952 NIGERIAN BANKING ORDINANCE**

#### **5.1 Introduction**

Before the banking ordinance of 1952, banking in Nigeria remained largely unregulated.<sup>1</sup> The only provisions that existed for the control of banks could be found in two sections of the companies ordinance of 1922 and section 34 of the Stamp Duties Ordinance Number 5 of 1939.<sup>2</sup> Under Section 2(1) of the Companies Ordinance:

No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying out the business of banking, unless it is registered as a company.

Section 108 further required each limited banking company to prepare a half yearly statement of its liabilities and assets and a copy of this statement had to be exhibited in a conspicuous place in all the offices of the company.

Section 34 of the Stamp Duties Ordinance prohibited the issue by bankers of bank notes other than the notes of the bank of England and the West African Currency Board. Under the above regulations, it was therefore possible for a partnership of less than ten persons to be formed for the purpose of carrying out banking business without the need to be

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<sup>1</sup> Uzoaga (1986), Nwankwo (1990) and Teriba (1986).

<sup>2</sup> Paton (1948b, p.9).



registered as a company.<sup>3</sup> However, no such partnerships appear to have been formed.<sup>4</sup>

On 7 September, 1948, the Chief Secretary to the Nigerian Government, in a letter with the reference number 52413/99, appointed G D Paton to enquire into the Nigerian banking system with the view of introducing legislation.<sup>5</sup> Mr Paton submitted his report which was accompanied by a draft Ordinance on 28 October, 1948. Extensive criticism of the Paton recommendations, mainly by the local banks led the government to produce its own report<sup>6</sup> (Barriff Report).<sup>7</sup> This culminated in the 1952 Banking Ordinance. Unlike several other

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<sup>3</sup> A similar situation existed in the UK at the time. For instance, prior to the 1979 Banking Act, any partnership, company or individual could take money on deposit. No licence was needed and no undertaking had to be given about the assets of the business or the way in which the business was conducted (Horton and Macve, 1996, p.8).

<sup>4</sup> Paton (1948b, p.9). Note that under the 1922 Companies Ordinance, every company was required to appoint an auditor who reported to the shareholders on whether, in his opinion, the accounts represent a true and correct view of the state of the company's affairs. (Sections 112-113). The Ordinance also empowered the Registrar, under certain circumstances, to appoint inspectors to investigate the affairs of a company (see section 109). A company, by special resolution, could also appoint inspectors to investigate its affairs (Section 110).

<sup>5</sup> Mr Paton was also requested to examine the possibility of creating an agricultural bank and/or a co-operative bank (Bank of England Archive File Number OV68/1, p.165).

<sup>6</sup> Financial Secretary's statement in the House of Representatives debate (1952, p.1111).

<sup>7</sup> Named after Mr R A Barriff who prepared the report. He was then the Assistant Director (Commerce), Department of Commerce and Industries, Lagos Nigeria.

ordinances in Colonial Nigeria<sup>8</sup> the 1952 Banking Ordinance had some degree of originality in the sense that it took into account some local factors. This was perhaps due to the fact that there was no equivalent legislation in the United Kingdom at the time. The Ordinance however borrowed provisions from other British colonies, like Pakistan and India, which by that time had already introduced banking regulation.<sup>9</sup> This chapter examines the various factors that influenced the provisions of this pioneer banking ordinance in Colonial Nigeria.

## 5.2 The Paton Enquiry

There is some divergence in the literature as to the reasons that led to the appointment of Mr Paton to investigate the business of banking in Nigeria and as to whether indeed the Paton enquiry was the cause or consequence of the indigenous banking boom of the time. Nwankwo (1986) argued that it was the sudden burst of registrations in 1947 added to the potential and actual threat to the public of 'wild cat' banks which stirred up some concern in the Government that subsequently led to the setting up of the Paton enquiry in 1948.<sup>10</sup> Nwankwo (1990) also argued that:

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<sup>8</sup> See for instance, the Nigerian Companies Ordinance of 1922 which was literally copied from the British Companies Act of 1908 and the Nigerian Stamp Duties Ordinance which bears a striking resemblance to the British Stamp Duties Management Act of 1891.

<sup>9</sup> The Banking Companies (Control) Act was introduced in Pakistan in 1948 while the Banking Companies Act was introduced in India in 1949.

<sup>10</sup> p.24.

...the spate of these banking establishments and the collapse of many of them, moved government to set up an enquiry (the Paton Commission) in September 1947 to enquire generally into the business of banking in Nigeria and make recommendations on the form and extent of control which should be introduced.<sup>11</sup>

Brown (1966) argued, on the contrary, that it was the fact that the recommendations of the Paton report were well known in Lagos that led to the indigenous banking boom. He suggested that:

it therefore appeared likely that any one even vaguely interested in banking rushed to register his bank before the Ordinance could be passed and the capital requirements take effect.<sup>12</sup>

Newlyn and Rowan also argued on similar lines. They assert that:

the principal reasons for this sudden burst of registrations is to be found in the prevailing state of expectations with regard to the Government's intentions.<sup>13</sup>

Teriba (1986) evidently relying on Newlyn and Rowan (1954), argued that though the recommendation of the Paton report with regards to a minimum paid up capital of £12,500 and 'adequate' cash reserves were aimed principally at remedying the defect of under-capitalization and illiquidity in indigenous banks, it was misconstrued in indigenous banking circles as an attempt to stifle native banking development. Teriba then concluded

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<sup>11</sup> pp.17-18.

<sup>12</sup> p.26.

<sup>13</sup> 1954, p.108.

that it was the foreknowledge and premature disclosure in Lagos Business circles of the above provisions that led to the spate of the beat the Law registrations of indigenous banks culminating in the abortive banking boom.<sup>14</sup>

The above diverging interpretations are based on different statistics relied upon by the authors. For instance Nwankwo, citing the Financial Secretary of Nigeria asserts that between 1947 and 1952 a total of 185 banks were registered in Nigeria, of which 145 banks were registered in 1947.<sup>15</sup> Brown (1966), Newlyn and Rowan (1954), Teriba (1986) and even the Central Bank of Nigeria (1986) all assert that between 1933 and 1963, 26 indigenous banks were registered of which 18<sup>16</sup> were registered in the 15 months period between February 1951 and May 1952. The figures by Newlyn and Rowan et al are likely to be nearer the truth than that by Nwankwo for several reasons. Firstly, in the 1950s, Rowan was apparently regarded as a competent source of information about Nigerian Banking especially by the Bank of England.<sup>17</sup> Secondly, though

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<sup>14</sup> p.13.

<sup>15</sup> According to Nwankwo, this was a 'statement by the Financial Secretary to the Federal Government during his address to the House of Representatives on the urgency of banking legislation in Nigeria'. We have not been able to access the said speech in order to verify the correctness of this citation. It is however important to note that even Nwankwo, in a later writing, expressed some reservations about these statistics given by the Financial Secretary- See Nwankwo (1990, p.17).

<sup>16</sup> Though 18 banks are quoted, seventeen banks are actually listed. See for instance Brown (1966, p.25).

<sup>17</sup> For instance in a letter dated 19th December, 1952 addressed to the Overseas and Foreign office, Mr Jackson of the Bank of England, while admitting that information about 'native' banks was not easy to come by, extensively relied on

the Colonial Government may not have been unmindful of previous bank failures in Nigeria, it was unlikely to have been a major factor in setting up the Paton enquiry. Indeed the three indigenous banks that had previously failed were fairly well spaced out.<sup>18</sup> Thirdly, if indeed there was a high risk of bank failure, at least as perceived by the government, and if thus it was the intention of the government to curtail the proliferation of these indigenous banks, then it was unlikely that the government would have allowed four years to elapse between the submission of the Paton report (1948) and the passing of legislation (1952).

Perhaps an authoritative view with regards to the thinking of the government at the time could be deduced from a statement by the Governor of Nigeria in 1950. He asserted that:

in the boom conditions which have existed in Nigeria over the past few years, there have been no banking failures but it is highly problematical whether some of our indigenous banks would be capable of weathering a trade recession.<sup>19</sup>

Also Paton's report of 1948 threw more light on the actual position of the time. Paton asserted that by 1948:

roughly 120 existing companies... have been

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Rowan (1951, 1952) in analysing the Native banking position in Nigeria (Bank of England Archive File OV68/2 P.42).

<sup>18</sup> These banks and their dates of failure were (1) The Industrial and Commercial Bank (1930), (2) The Nigerian Mercantile Bank (1936) and (3) The Nigerian Penny Bank (1946).

<sup>19</sup> See letter dated 18th August 1950 (BEAFN OV68/2, p.4).

registered with banking as one of their objects. At present any of these companies can commence to carry on banking business if it so wishes.<sup>20</sup>

The Paton report however went on to defend its recommendation that banks be licensed on the grounds that it would help check these companies which had been registered with banking as one of their objectives. Finally, perhaps the Financial Secretary made himself clearer in another speech to the House of Representatives in 1952. He asserted that:

In 1947, the Registrar of Companies reported that there were 145 registered companies in this country using the word 'banking' or 'bank' in their titles. Since then, another forty companies have been registered and, while most of these are ordinary commercial firms, at least fourteen are known to be operating as true banks and many of them have branches throughout the country.<sup>21</sup>

We therefore conclude that, though between 1947 and 1952, 185 companies were registered with 'bank' in their title or one of its objectives there were actually much fewer banks in existence. Also, the appointment of the Paton Committee was more the cause, than the consequence, of the indigenous banking boom. It was its cause in the sense that it led to a spate of 'beat the law' registrations. At least seventeen indigenous banks were registered in 1951 and 1952. This represents more than 40% of the total number of registered banks in the country from the commencement of banking in the

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<sup>20</sup> p.15.

<sup>21</sup> House Debates (1952, p.1113).

colony (1891) to Independence (1960).<sup>22</sup> We shall now examine in detail the various forces that influenced the provisions of the 1952 Ordinance.

### 5.3 Provisions of the 1952 Ordinance

#### 5.3a *Defining a Bank*

Under section 33 of the stamp duties ordinance of 1934, a banker is defined as:

any person carrying out the business of banking in the United Kingdom or in Nigeria.

The provision of this act was criticised in the Paton report on the grounds that it did not go ahead to define banking business. Paton while admitting that the manifold activities of modern banking make it difficult to define, went ahead to define such banking business as the business of receiving from the public on current account which is payable on demand by cheque and of making advances.<sup>23</sup> Paton claimed that such a definition which places the issue of cheques and the making of loans as the main theme of banking business has proved satisfactory in practice.<sup>24</sup> This definition was adopted in the

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<sup>22</sup> This represents the total number of both indigenous and foreign banks registered in the country during the period. Failed and merged banks are included in this total- See Central Bank of Nigeria (1986, pp.65-66). Note also that no new bank was registered between 1952 and 1958 when the Muslim Bank was registered.

<sup>23</sup> BEAFN OV68/1, p.177. This definition is similar to that in the Indian Banking Companies Act of 1949 (section 5).

<sup>24</sup> 1948b, p.10.

Barriff draft Ordinance.<sup>25</sup>

The Secretary of State for the Colonies on the advice of the Bank of England,<sup>26</sup> suggested that such definitions should be ad-hoc. He argued that:

experience elsewhere has shown that it is extremely difficult if not impossible to contrive a satisfactory definition of 'banking'.... Unless you have special reasons for doing otherwise, I suggest that it is necessary to say no more than that banking means the business carried on by a bank and a bank is an institution doing banking business. The effective decision can be made ad-hoc and administratively by the time a new comer to the profession is to be licensed.<sup>27</sup>

The Bank of England later shifted its position as regards the ad-hoc definition of banks mainly on political grounds. They asserted that:

in the special circumstances of Nigeria, some form of definition for the limited purposes of the ordinance might still be necessary. Desirable as it may be to avoid a definition and to leave the interpretation of banking to the authority granting the licence, this may not now be acceptable in the political background of Nigeria. A possible compromise would be a slight variation of the interpretation used in the South African Banking Act which still leaves some discretion to the licence issuing authority, viz., 'banking business' means 'business of which a substantial part consists of the acceptance of deposits of money repayable on demand by means of cheque, draft or order'.<sup>28</sup>

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<sup>25</sup> BEAFN OV68/1, P.177.

<sup>26</sup> See letter dated 10 October, 1950, from W J Jackson of the Bank of England to the Colonial Office (BEAFN OV68/2, p.14).

<sup>27</sup> BEAFN OV68/2, p.16.

<sup>28</sup> BEAFN OV68/2, p.9.



The definition in the draft Ordinance finally put forward to the legislature was along the line of the Paton recommendation.<sup>29</sup> This was passed by the legislature unamended.

### **5.3b Restriction of the use of the word Bank**

Section six of the Paton report empowered the Governor, after consultation with the 'Advisory Committee',<sup>30</sup> to order a company to delete the word 'bank' from its name and to cease to carry on 'banking business.'<sup>31</sup> Paton explained that this was an essential safeguard against the use of the word 'bank' and was necessary given the 'present' structure of Nigeria. He argued that:

the application of the provisions of this section will put the public on its guard against the activities of a company which may be holding itself out as a bank and whose main business is something very different from any accepted connotation of banking business.

The report also noted that:

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<sup>29</sup> See Section 2 of the 1952 Nigerian Banking Ordinance (reproduced as appendix 1 in this thesis).

<sup>30</sup> Section 5 of Paton's draft Ordinance recommended the establishment of an Advisory Committee to advise the Governor on banking matters. This recommendation neither appeared in Barriff's draft Ordinance nor in the 1952 Banking Ordinance.

<sup>31</sup> This is similar to the provisions of section 7 of the 1949 Banking Companies Act in India which stated that "no company, other than a banking company, shall use as part of its name any of the words "bank", "banker" or "banking" and no company shall carry on the business of banking in any province of India, unless it uses as part of its name at least one of such words."

the application of the section will not force a company into liquidation. The company would merely be required to cease to be a bank as defined and be at liberty to pursue its main activity (e.g. money lending).

The report went on to argue that:

experience in Nigeria and elsewhere has shown it to be desirable to restrict the use of high sounding titles by banks.... Small firms sometimes give publicity in their letter headings and advertisements to their authorised capital without mentioning the authorised and paid up capital, prominence may also be given to the names of large banks of international standing as agents and correspondents. Objectionable practices of this nature could be curbed by threat of application of this section.<sup>32</sup>

At the time of the report, the indiscriminate use of the word bank was quite perverse in Nigeria. Barriff, while agreeing with the general principles and logic of the Paton report, recommended that the Financial Secretary should petition the court where it seemed expedient to delete the word 'bank' from a company's title and to restrain banks from receiving public money withdrawable by cheques or orders.<sup>33</sup> This provision was part of the Barriff recommendations deleted from the final draft Ordinance apparently at the recommendation of the Colonial Office.<sup>34</sup>

Though most of the provisions of this section of the

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<sup>32</sup> 1948b, pp.12-13.

<sup>33</sup> Section 12 (3) of the Barriff draft Ordinance. See Bank of England Archive File Number OV68/1, P.177.

<sup>34</sup> See letter from the Secretary of States for the Colonies to the Officer Administering the Government of Nigeria dated 5 December, 1950 (Bank of England Archive File Number OV68/2, p.16).

draft ordinance put forward to the legislature were generally acceptable to the Nigerian legislators, it was however opposed by K O Mbadiwe who proposed an amendment that would transfer the powers of the Financial Secretary to a 'Nigerian Banking Board'. The motion was not debated mainly on technical grounds<sup>35</sup> and the section was therefore passed unamended.<sup>36</sup>

### **5.3c Minimum Paid Up Capital**

Section 3 of the Paton report recommended that banking business be transacted only by companies. No such company could be registered unless it had a subscribed capital of at least twenty five thousand pounds of which not less than twelve thousand five hundred pounds had to be paid up in cash. For companies registered outside Nigeria a paid up capital of one hundred thousand pounds was to be required. Paton explained that the fixing of a minimum paid up share capital was a method of safe guarding the public against 'mushroom banks'. The low minimum paid up capital required for local banks was justified by Paton on the grounds that it was suitable considering the reigning local conditions at the time. Paton explained that:

By the standards of the outside world, the minimum

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<sup>35</sup> In the words of the Chairmen of the legislature: "My trouble is that I cannot find any reference to the Nigerian Banking Board in this ordinance nor can I find the constitution of it in his proposed amendment and if that is so I cannot call the amendment because it would be out of order to discuss it in connection with the Banking Bill" (House Debates, 1952, p.1131).

<sup>36</sup> See section 4 of the 1952 Nigerian Banking Ordinance.

capital requirements which I suggest for local banks may appear inadequate but in fixing a low minimum I have had special regards for local conditions, in particular the low average income of the people and the need to avoid creating undue obstacles to the formation and development of Nigerian banks by Nigerians.<sup>37</sup>

The Barriff report adopted the above recommendation.<sup>38</sup> This was subsequently approved by the Bank of England which stated that:

the capital provisions appear adequate (the actual amount of the prescribed minimum is a matter to be determined by local experience) and should not be politically objectionable; they do not discriminate against the native banks in any way.<sup>39</sup>

However the above recommendation received some opposition in the legislature. K O Mbadiwe argued that while the amounts recommended might be appropriate in some cases, a general application of this minimum paid up capital across all categories of banks was improper. He suggested that:

...there could be no quarrel whatsoever with the minimum requirement of £12,500, but I think to apply it generally to all African banks is not fair because they should be agricultural banks, and we cannot expect each to raise a figure of £12,500. There could have been differentiation between commercial banks and farm banks because if we are going to develop agriculture in this country, we must have farm banks and the capital of £7,500 would be adequate to ensure the existence of agricultural banks, but since this provision has not been made, I have no quarrel and accept the minimum requirement... when the minimum requirement has been

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<sup>37</sup> 1948b, p.11.

<sup>38</sup> See Bank of England Archive File Number OV68/1, P.177.

<sup>39</sup> Bank of England Archive File Number OV68/2, P.10.

accepted... to lay any other condition I consider is an effort to stifle the honest activity of African banks, that step is not progressive, but going backwards.<sup>40</sup>

However, no amendment was proposed and the draft ordinance as put forward to the legislature was passed into law.<sup>41</sup>

### **5.3d Licensing of Banks**

Section 9 of the Paton report recommended that companies obtain licence from the Governor before commencing banking business. The need for this provision was explicitly explained in the report, which suggested that:

As a further measure of control and in view of the important influence which banks may exert over the financial and economic life of a country I do not consider that mere registration as a company in accordance with the provisions of the proposed section 3 should entitle a company to commence to carry on the banking business. In addition to complying with the minimum capital requirements,.. it is highly desirable that a bank should be under competent management. This section is also necessary to cover the cases of roughly 120 existing companies which have been registered with banking as one of their objects. At present, any of these companies can commence to carry out banking business if it so wishes.<sup>42</sup>

The Barriff report generally adopted the above view but with some slight variation.<sup>43</sup> The Colonial office was also in

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<sup>40</sup> House Debates (1952, p.1119).

<sup>41</sup> See Section 3 of the 1952 Nigerian Banking Ordinance.

<sup>42</sup> 1948b, p.15.

<sup>43</sup> Mr Barriff recommended that such a licence should be obtained from the Registrar of Companies. Bank of England Archive File Number OV68/1, P.177.

general agreement with the need for banks to be licensed. It however called for the ordinance to be more specific. In a letter to the officer administering the colony of Nigeria, the Secretary of State for the Colonies stated that:

I have been advised that it is desirable to provide in the Ordinance if possible for the powers of the Financial Secretary in deciding whether to grant a licence or not and for the principles to be followed in this connection.

He concluded that:

...it would be better if the ordinance itself could be more specific.<sup>44</sup>

This call was apparently heeded as the final draft bill that was introduced for legislative debate in 1952 explicitly spelt out the powers of the financial secretary in deciding whether to grant a licence or not and the principles to be followed.

The need for this licensing provision in the banking ordinance was explained by the Financial Secretary as being in the interest of depositors. He argued that:

If you are a Banking Company in existence at the commencement of this ordinance, you have to get a licence within three months.<sup>45</sup> If you start after the commencement of the ordinance, that you have to apply to the financial secretary for such a licence and the Financial Secretary is given the power to make sure that the company is carrying on a banking business- or rather, is not carrying on a banking business-that is to the detriment of the interests of its depositors; but the Financial secretary is

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<sup>44</sup>Bank of England Archive File Number OV68/2, p.16.

<sup>45</sup> This was a slight misrepresentation of the draft Ordinance. Already established banks were just required to apply for a banking licence within three months of the Ordinance coming into effect.

not as has been represented in the local press, some local dictator who can do what he likes when an application is made to him. In point of fact, he has in section 6, to have regard to certain factors. He must look at the bank's liquid resources, the amount of its issued and paid up capital, the amount of its reserves and such other matters which in his opinion are relevant.<sup>46</sup>

The need for and/ or the powers heaped on the Financial Secretary by this licensing section of the draft ordinance were challenged by some Nigerian legislators. Some rejected it based on ignorance while others did not trust the Financial Secretary's competence and political neutrality. S L Edu, while calling for the entire banking bill to be rejected, argued that:

there is no where in the world where licences are issued for banking.<sup>47</sup>

This was certainly incorrect. As at that time similar provisions existed in the banking regulations of India and the United States of America.<sup>48</sup> The competence of the financial Secretary to monitor the licensing procedure was also questioned by Edu. He asserted that:

I wouldn't like the House to be misled that because the Financial Secretary said something about banking, he is an expert on banking. He knows nothing about banking. I see no reason why every power should be given to the Financial Secretary.<sup>49</sup>

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<sup>46</sup> House Debates (1952, p.1112).

<sup>47</sup> House Debates (1952, p.1115).

<sup>48</sup> Nwankwo (1986, p.25).

<sup>49</sup> House Debates (1952, p.1115).

D T Akinbiyi argued on similar grounds. He suggested that instead of heaping so much power on the Financial Secretary who was not a banking expert, a banking committee should be set up as suggested by the Paton Report. He argued that the Financial Secretary:

...is not a banker himself and therefore, is not experienced in banking. Paton who was appointed by the Government of this country to go into the problem of banking did recommend that a committee should be set up to supervise the control over banks. Paton was an expert.

He went on to suggest that:

If that recommendation has been heeded, certainly there should have been representatives of bankers, both African and European, and from the Government Service. That would have ensured balanced views of the committee and would have been responsible for the running of banks in this country and would have been able to ensure to some extent that banks would be made efficient and safe for the people of this country.

He then concluded that:

the Financial Secretary forgetting that the old days are gone, still arrogates to himself, the sole authority of commanding and supervising the banks. We have it on the authority of the sages of old that two heads are better than one. Certainly a committee composed of bankers and Government experts as well must be far better than the Financial Secretary alone.<sup>50</sup>

K O Mbadiwe specifically attacked section 6 (2) of the draft Ordinance, which gave the financial Secretary powers under certain conditions not to licence banks existing prior to the

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<sup>50</sup> House Debates (1952, pp.1115-6).



coming into force of the Ordinance. He stated that:

I can summarise this section, that after three years, the Financial Secretary can still direct that a bank already in existence before the legislation is passed could be closed.... [T]hat clause or that provision is a negative provision. When a bank is already in existence, if it fulfils its requirements of necessary paid up capital, and maintains an adequate reserve, and the word 'adequate' we have come to know what adequate really means, it is left solely at the discretion of the Financial Secretary. Now that again is bad-he could use his information, and that is not banking, it is a make shift arrangement, and in no way constitutes banking arrangements.

He concluded that:

a company already in existence should in no way be stopped or a licence refused by the Financial Secretary if once it could meet this required capital... and the appointment... of a sole person who has the entire say on banking activity is wrong.<sup>51</sup>

An amendment was then proposed to leave out 'Financial Secretary' and insert 'Council of Ministers' in its place. This was put to vote and negatived<sup>52</sup> and the draft Ordinance put forward to the legislature was passed unamended.<sup>53</sup>

### **5.3e Restriction of Loans and Advances to Directors**

Though the Paton report was silent on this issue, Barriff thought it appropriate to incorporate it into the draft

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<sup>51</sup> House Debates (1952, p.1119).

<sup>52</sup> House Debates, 1952, p.1134 ).

<sup>53</sup> See section 6 of the 1952 Nigerian Banking Ordinance.

Ordinance.<sup>54</sup> The general provisions of the Barriff report, in this regard,<sup>55</sup> was described by the Bank of England as 'necessary and adequate.'<sup>56</sup> The essence of this draft bill provision as explained by the Financial Secretary was to:

prohibit loans to directors of a bank without security or loans to a company of which the bank directors are also directors without security.<sup>57</sup>

He then went on to support this section with the story of an unidentified company A which wanted an overdraft and:

went to the bank and got a loan. On the first occasion it got £10,000 and later it was extended until it reached £70,000. Fortunately for that bank, company A did not go into insolvency, but let us see what happened. The money used for the loan was the depositors money and when the company took it, it had favourable facilities with which to expand its business and try to make a profit. In this case, I believe it did make a profit, but who got the profit? The directors got the profit. But let us assume it made a loss. Who would have got the loss? Not the directors but the depositors.<sup>58</sup>

When pressed by a Nigerian legislator to reveal the names of

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<sup>54</sup> Similar provisions were contained in section 20 of the 1929 Indian Companies Act and section 7 of the 1948 Banking Companies (Control) Act in Pakistan.

<sup>55</sup> The only amendment passed by the legislature was in line 2 of 7(1) where the words 'in excess of £300' were inserted after the word 'advances.' All other parts of the Barriff's proposal, in this regard, were replicated in Section 7 of the 1952 Nigerian Banking Ordinance.

<sup>56</sup> See Bank of England Archive file number OV68/2 P.10.

<sup>57</sup> House Debates (1952, p.1112).

<sup>58</sup> Ibid.

the people concerned, he answered to the negative categorically stating that:

I am not prepared to reveal the name of this bank. All the profits go to the borrowing company and all the losses go to the depositors in the bank; to avoid which is the object of section 7.<sup>59</sup>

The above assertions were challenged by K O Mbadiwe on the grounds that the section discriminated against bank directors. He argued that:

if on the one hand, a bill will empower a bank to grant a loan to companies or individuals that are unsecured and on the other hand says that a member or a director of the bank or company can never get any loan unless it is secured I feel that it is discriminatory, either that we could say that no bank should grant loans unless those loans are secured. I will accept that but once a provision has been made to grant unsecured loan I think it should be made all round.<sup>60</sup>

He then went on to propose that loans worth up to forty percent of the directors stake in the bank be granted such director unsecured arguing that:

it is very fair that where a director of a bank has £200 and he wants money very badly for a commercial undertaking which will be of interest to the bank and will enrich it by interest, that he has sufficient amount and forty percent of that should be granted him without any security.<sup>61</sup>

The above proposed amendment was not further discussed mainly

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<sup>59</sup> Ibid.

<sup>60</sup> House Debates (1952, p.1136).

<sup>61</sup> Ibid.

on technical grounds.<sup>62</sup>

Section 7(1) of the proposed banking Act was again challenged on the grounds that it seemed to suggest that security was needed irrespective of the amount of the loan the director or his associated company wanted. A Enahoro with the apparent permission of the Financial Secretary proposed an amendment which would ensure that only loans to directors and related companies in excess of £300 need be secured. He argued that the draft clause was rather funny because:

what it amounted to was that if a bank director wanted a loan of £5 from his bank, he would have to leave his belt or shoes behind as security. I think there should be a limit to the size of a loan, and I understand the Financial Secretary will not oppose the addition of the words 'in excess of £300 after the word 'advances'.<sup>63</sup>

With the backing of the Financial Secretary already secured, the amendment was instantly agreed to by the legislature.

Section 7 (3) of the draft banking ordinance was opposed by some Nigerian legislators again on the grounds that it granted unlimited powers to the Financial Secretary. S L Edu proposed that the entire sub-section 7(3) be deleted from the draft banking ordinance on the grounds that unlike in the case

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<sup>62</sup> K O Mbadiwe proposed that the word 'unsecured' be left out. The Financial secretary however pointed out that this would make section 7(1) of the draft bill read: 'No banking company shall make any loans and advances on the security of its own shares or grant loans or advances to any one or more of its directors or to a firm or private company....' This would have meant that a director could not get a loan from a bank be it secured or unsecured (House Debates, 1952, p.1136).

<sup>63</sup> House Debates (1952, p.1137).

of the issue of licences, where aggrieved parties could petition the decision of the Financial Secretary to the Council of Ministers, there was no such provision here.

S O Gbadamosi also called for the deletion of the entire sub section from the draft ordinance describing it as a 'dangerous proposition'. Arguing by analogy, he suggested that Nigeria:

is undergoing today what I would call a political revolution and in the carrying out of the aspirations of the people of the country, it might be necessary to establish institutions like, for instance, a Press which would devote a great deal of its activities to removing the imperialistic grip on this country. If such a Press is established and there is a bank owned entirely by Africans in this country who felt that it was useful and gives it a loan of £50,000 the Financial Secretary seeing the item on the balance sheet of the bank may close it down.

He further asserted that:

If we allow this sort of bill to pass, it will be very dangerous indeed for this country. In our political struggle, the time may come when we need to fight the government of this country and in doing so we might go to the extent of borrowing money from the bank. Where the Government of the country is in a position to say "No. [Y]ou can't have that money" I think we shall be endangering ourselves if we allow the bill to pass. We know that the banks in the world have financed wars between one country and another. Well there is not such a provision in banking law anywhere in the world as this.<sup>64</sup>

D T Akinbiyi also supported the deletion of the sub-section. He argued that:

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<sup>64</sup> House Debates (1952, p.1137).

Too much power is being vested on our Financial Secretary. Mr Paton who is an expert and who was especially paid by the Nigerian Government did recommend a committee, I wonder why there should be a departure from the recommendations of that commission, that the Financial Secretary could be taken for a 'Know-all' who could thwart the aspirations of the nationalism of this country, that the Financial Secretary should be constituted an authority over the banks and properties of the people of this country savours of tyranny.<sup>65</sup>

A Enahoro also argued on similar lines asserting that :

the greatest fault that this sub-clause proposes is this. Here is a man who is not a business man. He is not a banker and yet... when returns are submitted, if it appears to him that unsecured loans are being granted to the detriment of depositors, in his inexpert opinion, then he may not only order that such loans be not granted in the future, but he may also order that the banking company should recover existing loans within the period specified by him in his absolute discretion.... I suggest that these powers would be better exercised by a committee or an expert banker.<sup>66</sup>

E Njoku however spoke in support of the clause on the grounds that deleting it would be against the spirit of clauses 7(1) and (2) already agreed on by the legislature. He asserted that by virtue of the earlier amendment on clause 7(1) which prevents unsecured lending to directors and related parties in excess of £300:

we have accepted the fact that we ought to limit the amount of unsecured loans which a bank may make to its directors. I take it that we all agree that a bank should not make a large number of unsecured loans. In sub-section 2 we ensure that the bank

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<sup>65</sup> Ibid, p.1138.

<sup>66</sup> Ibid, p.1140.

shall furnish such particulars as will enable us to know whether it has in fact gone against sub section 1.

He then concluded that:

All section 3 is trying to bring out is, suppose a person has gone against what is laid down, what should be done? After laying down that unsecured loans should be limited, how can we propose to do nothing if somebody goes on giving a large amount of unsecured loans? Deletion of sub section 3 leaves this matter hanging in the air. Why should we go to the trouble of limiting the amount of unsecured loans and calling for necessary information if we are going to do nothing if the limit is exceeded?<sup>67</sup>

The question that sub-section 3 of clause 7 be left out was then put to vote and negatived.

The Bank of England later expressed some doubts in the amendment passed by the legislature as regards section 7 (1) of the Ordinance.<sup>68</sup>

### **5.3f Inspection of Banks and Minimum Cash Ratios**

Section 8 of the Paton report recommended the appointment

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<sup>67</sup> Ibid, p.1139.

<sup>68</sup> In a letter to the Colonial Office, Mr Atkinson of the Bank of England, stated that "We have some doubts about the insertion of the words 'in excess of three hundred pounds' in sub-section 7(1) of the Ordinance. It is not clear to us whether the limit of £300 applies to the aggregate amount of such loans that can be made by any one bank or to each individual loan or advance. If the former is the case, there can be no cause for complaint; if, however, the later is the correct interpretation there would appear to be nothing to prevent a director of a bank obtaining several such loans through the agency of a number of private companies or firms, and it may be remembered that it would not take many bad debts of £300 to swallow up the minimum amount of paid up capital as laid down in section"- letter dated 1st July 1952 (BEAFN OV68/2, p.37).

of a Bank Examiner who should be an Officer of the Government. He should have power to call for and examine the books of these banks in addition to the returns the banks will be making to the Financial secretary, the main purpose being to satisfy himself as to the liquidity of each bank. The report went on to further explain that:

if the degree of liquidity is found to be insufficient, the Government Officer would advise the bank as to the policy it should adopt with a view of improving its liquid position. The degree of liquidity which banks should maintain (which will vary according to the changing financial conditions, local and international) would be a matter for consideration by the advisory committee.<sup>69</sup>

A minimum cash ratio was not recommended by the Paton Report which stated that:

a system of supervision primarily designed to ensure the maintenance of an adequate degree of liquidity is the most effective method of reducing the risk of banking failures. In many countries there is a legislation providing for a minimum cash ratio, but the cash reserve of the bank is no criterion of the general liquidity, particularly in less advanced countries where liquid local assets may not be available and where small banks may be under incompetent management.<sup>70</sup>

The above claim that the cash reserves of a bank is no criterion of its general liquidity at first was taken with some scepticism by officials of the Bank of England. They argued that:

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<sup>69</sup> 1948, p.14.

<sup>70</sup> Ibid, pp.14-15.



this sentence seems to involve a non sequitur. A minimum cash reserve is admittedly no criterion of general liquidity but at least it would prevent the sort of situation disclosed in his report where a bank's only realisable asset included a bicycle and a sewing machine.<sup>71</sup>

By 1950, however, the bank had shifted its position in support of the Paton report. It argued that:

it is questionable whether provisions for minimum cash reserves are desirable in simple legislation or in the conditions of Nigeria where a cash ratio would not necessarily be a guarantee of liquidity. The advances made by a bank operating in the territory might not be so easily callable nor the collateral so readily realisable as in a more advanced country and it might show a perfectly satisfactory cash position according to local law but still be in a poor state of liquidity.... It is a very moot point whether the advantages of fixing minimum cash reserves by law are not outweighed by its disadvantages. The keeping of the right amount of cash against liabilities calls for experience and skill and what may be right in one country may be quite inappropriate elsewhere.

The bank went on to suggest that:

the danger here is that the inexperienced or bad bank may regard the extremely low percentage in the law as its maximum and may shelter behind the law when it gets into trouble. I would far rather see a section in general terms which required the banks to maintain a proper liquidity and to hold at all times an adequate cash reserves against their obligations.<sup>72</sup>

While the Barriff report implicitly adopted the above view of not fixing the minimum liquidity ratio, it went ahead to

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<sup>71</sup> Bank of England Archive File Number OV68/1, P.189.

<sup>72</sup> See Bank of England Archive File Number OV68/2, P.14. The bank in question was the Nigerian Penny Bank which went into liquidation in 1946.

expunge the provisions relating to the appointment of a bank examiner and an advisory council. This was replaced with a rather extensive set of provisions<sup>73</sup> which were described by

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<sup>73</sup> Clauses 7 to 14 of the Barriff draft Ordinance related to this area. Their contents are summarised as follows;

7. On application of 200 shareholders or holders of 'one tenth of the issued shares,' the Financial Secretary shall appoint one or more inspectors to investigate the banks affairs. Such applicants may be required to give security of up to £100 for cost of investigation.

8(a). On request from company or order by court, the Financial Secretary shall appoint inspectors to investigate and report.

b. The Financial Secretary may appoint inspectors to investigate and report if it appears to him that there are circumstances suggesting that :

i. a bank's business is conducted with intent to defraud or in a manner oppressive of its members.

ii. a bank's management is of doubtful integrity.

iii. information has been withheld from members of a bank.

9. Inspectors under 7 and 8 above may investigate related companies.

10(i). Obligations of banks to produce books etc. and assist inspectors.

ii. Inspectors may examine bank officials on oath.

iii. Non compliance with 10 (i) to be treated as contempt of court.

iv. Inspector may apply to have persons whom he has no power to examine on oath examined on oath by court. (a), (b) and (c) detail legal procedure for such examinations.

v. Definitions of terms 'officers' and 'agents' used in this section.

11(i). Provisions for interim and final report by inspectors.

ii. Financial Secretary -

a. shall send a copy to bank.

b. may supply to other interested parties on payment of fee.

c. shall furnish copy to applicants under section.

d. shall furnish copy to court.

e. may cause report to be printed and published.

12(i) Financial Secretary shall draw attention of the Attorney General to any criminal offence which appears to have been brought to light in investigation.

ii. Attorney General shall prosecute if necessary and bank's officials are to assist.

iii. if it seems expedient, Financial Secretary may petition court -

a. to delete 'bank' from company's title.

b. to restrain bank from receiving public money withdrawable by cheques or orders.

iv. if it appears in public interest, proceedings may be brought against management in name of bank in the light of any fraud etc. which emerges from an inspector's report.

v. Government shall indemnify banks against costs of

the Bank of England as:

some rather vague provisions for inspection of banks, on application from members or at the discretion of the financial secretary.<sup>74</sup>

The Bank of England report went ahead to state that:

in view of the fact that no minimum cash ratio is provided in the draft, some continuing control and supervision of banks is, in the circumstances of Nigeria, clearly necessary. This is very necessary from the situation disclosed in the Paton's report, and I think that we should ask Barriff the reasons why a Controller and an advisory committee were repugnant to Nigeria and put it into his mind that if these reasons were not very cogent, it will be as well to reconsider Paton's suggestion which seems not only necessary but also very sensible and flexible.<sup>75</sup>

On the issue of banking inspection, the Bank of England later adjusted its position, suggesting that:

In Nigeria, there are a number of reasons for not attempting to legislate for full scale inspection. Firstly, conditions there are quite unlike those in India and South Africa; even in Palestine, the organisation was relatively simple. Secondly, over 90% of the banking business is conducted by two powerful British banks who need no control; no system of full audit or inspection could ignore any particular bank and both these banks would therefore rank equally with the weakest. With the present state of political feeling in the colony, it might even be dangerous to place such a measure before the

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proceeding under iv above.

13. Inspectors expenses to be defrayed by government but the later is not precluded from suing for recovery where equitable.

14. Authenticated report may be accepted in court of law as evidence (Bank of England Archive file no. OV 68/1, P.179-80).

<sup>74</sup> Bank of England Archive File Number OV68/1, P.189.

<sup>75</sup> Ibid.

legislative council and so precipitate a demand for complicated banking control which might be objectionable and cause undesirable and unnecessary interference with the two chief banks. Finally,.. even if they did legislate, it seems quite certain that they would for a long time to come be unable to operate a full audit- there are no competent examiners.<sup>76</sup>

Despite this recommendation not to legislate bank inspection, the Bank of England still believed that unsound banking practices could be prevented. Measures such as licensing, minimum capital requirements, reserve provisions and the examination of returns should afford sufficient safeguards and prevent the growth of mushroom banks. If, despite these precautions, a close inspection of a bank became necessary, administrative action should then be taken under plenary powers embodied in the Ordinance, rather than through the slow complicated machinery of the courts.<sup>77</sup>

The final draft bill put forward to the legislature did not therefore provide for bank examination. Section 8 of the draft Ordinance however provided for banks to maintain 'adequate' cash reserves as recommended in the Paton report. This was passed by the legislature unamended<sup>78</sup> but not without

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<sup>76</sup> See letter from W J Jackson of the Bank of England to W Hullah of the Colonial office dated 22 May, 1950 (Bank of England Archive File Number OV68/1, p.193).

<sup>77</sup> Bank of England internal memo by J B Loynes, dated 15th February, 1957. Bank of England Archive File Number OV68/4, P.47.

<sup>78</sup> See Section 8 of the 1952 Nigerian Banking Ordinance. Both the Indian Banking Companies Act of 1949 (section 24) and the Pakistan Banking Companies (Control) Act of 1948 (section 8) provided for banks to maintain at least 20% of their total demand liabilities in cash, gold or other unencumbered approved securities.

the protest voice of A Enahoro who wondered whether it was indeed right for the Financial Secretary to have powers to decide whether or not bank reserves are adequate, even if his opinion conflicted with those of expert bankers.<sup>79</sup>

### **5.3g Reserve Funds and Restriction of Dividend Payments**

Section nine of the draft banking Ordinance presented to the legislature in 1952 stated that:

1. Every banking company incorporated in Nigeria and operating solely within Nigeria shall maintain a reserve fund, and shall, out of the net profits of each year and before any dividend is declared, transfer a sum equivalent to not less than twenty per centum of such profits to the reserve fund, until the amount of the said sum is equal to the paid up capital.

2. The provisions of sub-section (1) of this section shall also apply to banking companies incorporated outside Nigeria unless it is proved to the satisfaction of the Financial Secretary that the aggregate reserves of the company fulfil the requirements of that sub-section.

The provisions of this section were neither recommended by the Paton report or the Barriff draft Ordinance. They were borrowed from section 17 of the Indian banking act. Its introduction into the Nigerian Banking Ordinance was initiated by the Bank of England. In a letter dated 22nd may 1950 to the Colonial Office, they suggested that:

There is a useful provision which appears in the Indian Act but not in neither the Nigerian nor Uganda drafts, viz., the building up of a reserve fund by an appropriation from profits before the

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<sup>79</sup> House Debates (1952, p.1141).

declaration of a dividend; such reserves could not of course be drawn upon to pay a dividend in any year in which there were insufficient or no profits available for this purpose.<sup>80</sup>

The Bank of England however acknowledged the possibility of such a provision being misconstrued by the legislature as discriminating against indigenous enterprise given the political climate of the time.<sup>81</sup> This advice was subsequently passed on to the Government of Nigeria by the Colonial Office.<sup>82</sup> It was then incorporated into the draft ordinance which was passed by the legislature unamended.<sup>83</sup>

Section ten of the draft Ordinance presented to the legislature stated that:

No banking company shall pay any dividend on its shares until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling commission, brokerage, amounts of losses incurred and any other item of expenditure not represented by tangible assets) has been completely written off.

The provisions of this section was recommended not by the

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<sup>80</sup> See Bank of England Archive File Number ov68/1, p. 193.

<sup>81</sup> See Bank of England Archive File Number ov68/2, p.9.

<sup>82</sup> See letter from the Secretary of State for the Colonies to the Officer administering the Government of Nigeria dated 5th December 1950 (Bank of England Archive Reference number OV68/2, p.16). The relevant excerpt of the letter reads; 'You may wish to consider the insertion of section 17 of the Indian Act which provides for the building up of a reserve fund by appropriation from profits before declaration of a dividend, such reserves, of course, not being used simply to provide the means for a dividend in any year when profits are insufficient.'

<sup>83</sup> See Section 9 of the 1952 Nigerian Banking Ordinance.

Paton report but by the Barriff draft Ordinance. This clause was borrowed from the section 15 of the Indian Banking Act of 1949.<sup>84</sup> This section was also passed by the legislature unamended.<sup>85</sup>

### **5.3h Returns Submitted to the Financial Secretary**

Section 10 of the Paton report recommended that banks furnish to the Financial Secretary, a quarterly statement of their assets and liabilities and a half yearly analysis of loans and advances. The report went ahead to suggest such a statement of assets and liabilities as the basic feature of the system of supervision of banks by a bank examiner. The report concluded that since banking statistics provide essential material for the comprehensive survey of economic conditions of a country, such figures should be published in aggregate form for the information of the public. In reference to the above Paton recommendation, the Bank of England commented that it is a:

basic requirement of Colonial Banking Legislation as recommended.... Provision is made for a statement of assets and liabilities and a breakdown of advances to be submitted quarterly. Paton recommended that the later be submitted half yearly but if the local administration do not consider quarterly submission unreasonable, so much the better. These provisions apply to all banks indiscriminately.<sup>86</sup>

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<sup>84</sup> See Bank of England Archive File Number ov68/2, p.9.

<sup>85</sup> See section 10 of the 1952 Nigerian Banking Ordinance.

<sup>86</sup> See Bank of England Archive File Number ov68/2, p.9.

This provision that banks submit returns to the Financial secretary was aptly explained by him as necessary in order that:

he can find out, or probably find out, what they are doing.<sup>87</sup>

While the need for banks to file returns was generally perceived to be desirable by the legislature, the frequency of these returns was perceived by some as too high. K O Mbadiwe, while proposing an amendment that returns be filed twice yearly, argued that:

the four returns-balance sheet returns-is far too much for this young country, because you are fully aware here that the technical skill here is woefully lacking and once you want a young bank just beginning to submit four returns plus other returns to the Registrar of Companies and other forms to be made, that bank will just spend its time compiling those reports.<sup>88</sup>

He then concluded that:

reports submitted two times a year are quite adequate, once this country grows and we begin to have more technical skill, there is no reason why that more periodic returns should not be adopted but at this particular period of our development,... I feel that the Financial Secretary wishes to have the co-operation of the banks and not to put them under great disadvantage and handicap, that a method be devised whereby, for the meantime, half-yearly returns are submitted.<sup>89</sup>

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<sup>87</sup> House Debates (1952, p.1113).

<sup>88</sup> Ibid, p.1141.

<sup>89</sup> Ibid.



This proposed amendment was supported by A Enahoro on the grounds that it would be too much of a financial burden on banks especially those with many branches. He asserted that:

It has been suggested to me that in some cases it might cost as much as £500 and in other cases it might be £100 or £200.... You have to employ a Chartered Accountant and qualified people like that. What would happen in the case of a bank which has say, like the Continental Bank or the Farmers bank, twenty branches, and which has to prepare this return every quarter, if it has to pay £100 or £200 to prepare one for each branch? You find that they have to spend at least £10,000 to £50,000 every year on these returns. I think that this is certainly discouraging to African Banks.<sup>90</sup>

S L Edu also supported the amendment arguing that the quarterly production of reports by banks was bound to be expensive and could lead to either an increase in the percentage of interests or a call on the Government to bear the relevant expenses.<sup>91</sup> M Aboderin while supporting the motion cited section 433 paragraph (1) of the 1948 Companies Act of England.<sup>92</sup> He went on to assert that:

I am also informed that throughout the civilised world, these returns are submitted twice annually and not quarterly.<sup>93</sup>

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<sup>90</sup> Ibid, pp.1141-2.

<sup>91</sup> Ibid.

<sup>92</sup> This states that: Every company being a limited banking company or an insurance company or a deposit, provident or benefit society shall, before it commences business and also on the first Monday in February and the first Tuesday in August in every year during which it carries on business make a statement in the form set out in the thirteenth schedule to this act or as near thereto as circumstances admit.

<sup>93</sup> Ibid, p.1143.

The Financial Secretary, while stating categorically that the Government would not accept such an amendment, argued that:

It is on the basis of these returns that the Financial Secretary or any one else will know what action to take when a bank is going wrong... the whole object of this ordinance is to try and stop banks going wrong. It is not to find out when it is too late that they have gone wrong because these advances or reserves have got out of line.<sup>94</sup>

On the suggestion that the schedule would impose a heavy cost on the banks, he argued that:

these schedules are what any ordinary bank should fill in every week for its own information. The manager must keep this information up to date to know how to run his bank and to see that every thing is secure.<sup>95</sup>

On the issue of the clause being repressive, the Financial Secretary suggested that it was not. He then went on to assert that:

There are at least two Nigerian Banks who send me the information set out in the first of these schedules every quarter and they don't have to do it. They do it just because I ask for it. I think that if they can do it voluntarily, others can do it without repressive measures.<sup>96</sup>

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<sup>94</sup> Ibid, p.1142.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid, PP.1142-3.

The question that quarter be left out was then put to vote and the result was negative. The provisions of this section of the draft ordinance were therefore passed by the Legislature unamended.<sup>97</sup>

### **5.31 *Exhibition and Publication of Balance Sheet***

Section 11 of the Paton Report recommended the exhibition and publication of bank balance sheets. According to the report, most banks of standing already published such reports whether or not they were required by law to do so. The report went on to justify its recommendation of publishing and exhibiting such reports on the grounds that:

the man in the street should be given an opportunity of forming his own opinion of the financial condition of any bank in which he may meditate depositing his money.

The report went on to suggest that:

several private companies are operating as banks. Under the provisions of section 27 (3) of the Companies Ordinance, a private company is not required to file a copy of its balance sheet and as far as I have been able to ascertain, the private companies which are carrying on banking business at present do not publish their balance sheets.<sup>98</sup>

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<sup>97</sup> See section 11 of the 1952 Nigerian Banking Ordinance. At the time, monthly returns were required in both Pakistan and India (see sections 10 and 27 of the 1948 Banking Companies (Control) Ordinance of Pakistan and 1949 Banking Companies Act of India respectively).

<sup>98</sup> Paton (1948b, p.16).

The above views were endorsed by Barriff's draft<sup>99</sup> and then the Bank of England which described it as 'another basic requirement.'<sup>100</sup>

When the relevant section of the draft Ordinance was tabled at the legislature, Mr Enahoro pointed out that this was unnecessary as a related provision was in existence under existing laws. He suggested that:

under section 108 of the Companies Ordinance, the banks are already obliged to exhibit throughout the year particulars of their balance sheet as per schedule of the Companies Ordinance.<sup>101</sup>

He then went on to conclude that the provisions in the Companies Ordinance was quite adequate and that there was no need to compel the banks to incur extra expenses by preparing and publishing these balance sheets in newspapers. The motion to exclude this section from the banking Ordinance was then put to vote and negatived.<sup>102</sup>

### **5.3j Provisions Relating to Directors**

Clause 13 (1) of the draft Banking Ordinance presented to the Legislature related to the publication of names of directors. it stated that:

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<sup>99</sup> See Bank of England Archive File Number ov68/1, p.177.

<sup>100</sup> See Bank of England Archive File Number ov68, p.9.

<sup>101</sup> House Debates (1952, p.1143).

<sup>102</sup> See section 12 of the 1952 Nigerian Banking Ordinance. Section 33 of the 1949 Indian Banking Companies Act contained a similar provision which applied only to banks incorporated outside the province of India.

After the expiry of three months from the commencement of this banking Ordinance, every banking company shall, in all circulars and letters issued or sent by or on behalf of the company in connection with its business, cause to be set out in legible characters the full and correct names of all persons who are directors of the company.

Clause 13 (2) went on to specify a penalty of not more than one hundred pounds for non compliance. There was no objection raised to this clause when presented to the legislature and it was passed unamended.

Clause 14 of the draft banking Ordinance addressed the conditions under which directors may be disqualified.<sup>103</sup> This section had its origins in the Paton Report which recommended that certain individuals should not be eligible to become directors or managers of banks. The Paton Report while justifying the need for such a provision argued that:

From past experience in Nigeria, the need for the proposed section is evident.

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<sup>103</sup> The full text of this clause 14 of the draft Ordinance read as follows:

1. Without Prejudice to anything contained in section 74 of the Companies Ordinance, no person-

a. who has been a director of, or directly or indirectly concerned in the management of, a banking company which has been struck off the registrar of companies under the provisions of this Ordinance; or

b. who has at any time been adjudicated bankrupt or has suspended payment, or has compounded with his creditors, or who is or has been convicted by a criminal court of an offence involving dishonesty or has not received a full pardon for the offence of which he is convicted, shall, without the express authorization of the Governor act or continue to act as a director of, or be directly or indirectly concerned in the management of, any banking company.

2. Any person acting in contravention of sub-section (1) of this act shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or both such imprisonment and such fine.

The report went on to explain that:

The wording 'an offence involving moral turpitude' is intended to exclude the case of a man who may have undergone a term of imprisonment as the result of a criminal offence not involving dishonesty, fraud or misfeasance (e.g. manslaughter following a road accident).<sup>104</sup>

The above provision was adopted by the Barriff report, on which the Bank of England's comments read:

Follows Paton's recommendation and the Palestinian Ordinance. A necessary provision in Nigeria.<sup>105</sup>

At the legislature, Enahoro moved for the words 'who has at any time been adjudicated bankrupt or' in clause 14 (1) (b) to be left out on the grounds that it was unfair. Arguing by analogy, he asserted that:

if I were bankrupt five years ago and have recovered from that misfortune, it should not haunt me for life and that is no reason why I should not now be a bank director.<sup>106</sup>

His argument was accepted by the Financial Secretary with a minor synchronising correction.<sup>107</sup> The amendment was then

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<sup>104</sup> Paton (1948b, pp.16-17).

<sup>105</sup> See Bank of England Archive File Number ov68/2, p.9.

<sup>106</sup> House Debates (1952, p.1144).

<sup>107</sup> The Financial Secretary while noting that there was no bankruptcy Ordinance in Nigeria at the time argued that it did not make sense to leave out the words 'who has at any time been adjudicated bankrupt or' and leave the words 'has suspended payment or has compounded with his creditors, or'. Based on this advise Enahoro subsequently amended his motion.

agreed on by the legislature.<sup>108</sup>

### **5.3k Commencement of the Banking Ordinance**

The arguments in the legislature concerning the commencement date of the banking ordinance further elucidate the suspicious environment under which the banking ordinance was promulgated and perhaps the limited understanding of the contents of the draft Ordinance by some members of the legislature including the Financial Secretary. J A Wachukwu proposed an amendment that would allow the bill come into effect six calendar months from the date of passing the Ordinance. This he explained was to be a compromise position in order to allay the fears of the opponents of the bill and also give these 'interested parties' an opportunity to put things right.<sup>109</sup> This point was further explained by another Nigerian legislator, E O Eyo, who argued that:

the moment this Bill is passed into law, all the African banks in this country will find themselves in a very tight corner, and I suggest that in fairness to them, we should allow them some time to tidy up.... [I]f we have already passed one or two Bills and Government has urged us to agree to the law being made with retrospective effect, it will not be asking too much if we turn round in this case and ask the Government, in view of the strong feelings of some people outside this House against the Bill, to allow the passing of this law to have effect six months hence.<sup>110</sup>

Another Nigerian legislator, K O Mbadiwe supported the

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<sup>108</sup> See section 14 of the 1952 Nigerian Banking Ordinance.

<sup>109</sup> House Debates (1952, p.1127).

<sup>110</sup> Ibid, pp.1128-9.

amendment arguing that discretion was the better part of valour and taking a middle stance was always a better course to follow in any delicate issue.<sup>111</sup> The need for the amendment was however arrogantly, but naively rejected by the Financial Secretary. He stated categorically that "the government cannot accept this amendment".<sup>112</sup> This he explained was against the philosophy of the banking ordinance which he explained was to get some control into the banking system and prevent more mushroom banks from springing up. The debate was however brought to an end when another Nigerian legislator, E Njoku, pointed out that under the draft ordinance, existing banks were allowed three years within which to fully comply with the provisions of the ordinance.<sup>113</sup>

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<sup>111</sup> Ibid, p.1130.

<sup>112</sup> Ibid, p.1128.

<sup>113</sup> Clause 5 of the draft Banking Ordinance presented to the legislature which was unchallenged in the house and therefore passed unamended read as follows:

1. Any company lawfully carrying on banking business in Nigeria at the date of the commencement of this Ordinance which has not on that date a nominal capital of not less than twenty five thousand pounds of which not less than twelve thousand five hundred pounds has been issued and paid up in cash shall , within a period of three years from the date aforesaid, increase its nominal capital to an amount not less than twenty five thousand pounds of which not less than twelve thousand five hundred pounds shall have been issued and paid up in cash.

2. Where any banking company fails to comply with the requirements of sub-section (1) of this section, it shall at the expiry of three years from the date of the commencement of this ordinance-

a. cease to carry on banking; and

b. cease to use the word 'bank' or any of its derivatives in the name under which it is carrying on business:

Provided that the cessation of banking shall not affect the rights of any creditors of the company.



#### 5.4 Conclusion

The poor capitalization, poor management and sometimes fraudulent nature of some of the indigenous banks made regulation, on grounds of public interest, plausible. Such regulation was however not always compatible with the need for the development of a financial system aimed at promoting the economic and developmental interest of Africans, which was also in the public interest. The Colonial Government therefore had to balance the goals of deterring bad banking practices and of encouraging a financial system conducive to the developmental and economic needs of the Africans. The fact that the bill had to be passed by a legislative council dominated by Africans did not make their task any easier. Accusations that the legislation was simply a tool to deter the setting up of local banks while protecting the interest of foreign banks were rife.<sup>114</sup> These suspicions were not all together unfounded. For instance, one of the main reason given by the Bank of England for not advising on full scale legislation of banking inspection was because "it might precipitate a demand for complicated banking control which might be objectionable and cause undesirable and unnecessary

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<sup>114</sup> This pioneer banking ordinance also applied to foreign banks except for the fact that while the indigenous banks were required to maintain a paid up Capital of £12,500, foreign banks were required to maintain £100,000. Unlike most local banks, foreign banks did not have much difficulty in complying with the provisions of the Ordinance since their headquarters were usually abroad and they had better capital base. For instance, by 1948, the Bank of British West Africa (BBWA) and the Barclays bank had a paid up share capital of £1,200,000 and £7,121,500 respectively while that of the African Continental Bank was only £5,000 (Paton, 1948b, pp.4-6).

interference with the two chief banks." The provisions of the Ordinance were therefore aimed at preventing, rather than curing, any unsound banking practices.<sup>115</sup> The Ordinance therefore did very little to assist the existing indigenous banks which were the main culprits of unsound banking practices. Rather it threatened their existence. These indigenous banks accordingly had to explore other means of survival. One such bank was the African Continental Bank.

The next chapter will examine the impact of the 1952 ordinance on the African Continental Bank and the various tactics employed by the bank to ensure that it survived.

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<sup>115</sup> Bank of England to Overseas and Foreign Office, 15 February 1957 (OV68/4, folio 47a).

## **CHAPTER SIX**

### **THE AFRICAN CONTINENTAL BANK CRISIS**

#### **6.1 Introduction**

As can be deduced from the last chapter, the passing into Law of the 1952 Banking Ordinance extensively altered the playing field for indigenous banks in the British West African Colony of Nigeria. Sections 5(2) and 6(2) of the Ordinance gave the existing banks three years within which to comply with the provisions of the Ordinance or discontinue banking business. The African Continental Bank (ACB) was one of the indigenous banks that was already in existence and therefore had to comply with the above provisions in order to be licensed. This chapter examines the various tactics employed by ACB to meet the requirements of the Ordinance, the various political issues intertwined with the compliance process, the regulatory issues that arose from the compliance process and how these issues were tackled by the relevant authorities.

#### **6.2 History of the ACB**

The African Continental Bank was originally incorporated as Tinubu Associates Limited under the Companies Law Ordinance on 15th February 1937.<sup>1</sup> On 30th March 1944, the company was

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<sup>1</sup> Azikiwe, 1956, p.4. The bank's original capital was £250 divided into fifty ordinary shares of £5 each- see Report of the Tribunal Appointed to Inquire into Allegations Reflecting the Official Conduct of the Premier (Foster-Sutton Report, 1957, p.3).

bought by Dr Nnamdi Azikiwe (Zik)<sup>2</sup> from Mr Rasmussen, his Swedish friend, and its name was subsequently changed by special resolution to Tinubu Bank Limited on 9th February 1946. The nominal Capital of the Bank was also raised to £5,000 by the creation of 950 ordinary shares of £5 each.<sup>3</sup>

During his speech at the inauguration of the bank, Azikiwe made it explicit that he was setting up the bank because of the discriminatory attitude of the BBWA towards him and his business and his subsequent realisation that political freedom without economic freedom, was, at best, not very helpful.<sup>4</sup> Not surprisingly, therefore, the Azikiwe family and the Zik Group of Companies were well represented in the share holding,<sup>5</sup> board of directors<sup>6</sup> and loan portfolio of the

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<sup>2</sup> A Nationalist and then the leader of one of the Political Parties in Nigeria: The National Council of Nigeria and the Cameroons (NCNC). According to Dr Azikiwe, the real reason for buying the Company was because one of the objects of its memorandum was 'generally to act as bankers to customers and others'- See Report on Banking and Finance in Eastern Nigeria (1956, p.13). Zik was perceived by the Colonial Government as being "anti white" - Richards to Hall, 9 August, 1946 (PRO CO 583/277/30658).

<sup>3</sup> Foster-Sutton Report, 1957, p.3.

<sup>4</sup> Azikiwe, 1961, pp.211-3.

<sup>5</sup> It has not been possible to access the breakdown of the bank's share-holding relating to the period of the 1940s. As at March 31, 1955, however, Dr Nnamdi Azikiwe and the members of his family had the following shares in the bank:

1. Dr N Azikiwe	28,000	£1 Ordinary Shares.
2. Mrs C E Arinze (his sister)	4,000	£1 Ordinary Shares.
3. Miss E O Arinze (a niece)	4,000	£1 Ordinary Shares.
4. Mr O C Azikiwe (his father)	4,000	£1 Ordinary Shares.
5. Mr J O Nwosisi (a cousin)	100	£1 Ordinary Shares.

The following shares in the bank were also held by the Zik Group:

Zik Enterprises Limited	49,900	£1 Ordinary Shares.
African Book Co. Ltd.	2,000	£1 Ordinary Shares.
Nigerian Commodities Limited	4,000	£1 Ordinary Shares.
Nigerian Paper Co. Ltd.	2,000	£1 Ordinary Shares.

bank.<sup>7</sup> In being controlled by one individual, the ACB was merely following examples set by the pioneer British banks in the colony. As noted in chapter 3, at the inception of the Bank of British West Africa in 1894, Alfred Jones, then Chairman of the Elder Dempster Shipping Company, owned almost 58% of the bank's share capital.<sup>8</sup> The bank, for several years, also maintained close links with the Elder Dempster Shipping Company.<sup>9</sup>

In 1953, Dr Azikiwe's party (NCNC) won the general elections in the Eastern Region of Nigeria. In January 1954 Dr Azikiwe, as leader of the party, was appointed 'Leader of Government Business and Minister of Local Government' by the then Lieutenant Governor of the Region, Sir Clement Pleass, and was invited to form a Government. In accordance with the

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Nigerian Printing Supply Co. Ltd. 2,000 £1 Ordinary Shares. Dr Azikiwe held substantial interests in all the above Companies. He had 44.9% in Zik Enterprises Limited, 45% in the African Book Company Limited, 45.4% in the Nigerian Paper Co. Ltd., and 63% in the Nigerian Printing Co. Ltd. The total number of Ordinary Shares of the bank at the time was 115,935 (Foster-Sutton Report, p.7).

<sup>6</sup> At the end of 1953, apart from Dr Azikiwe who was the Chairman, the bank had four other directors: three of them were Zik's relatives.

<sup>7</sup> In 1951, the following advances were made to the Zik Group of Companies by the Bank:

Zik Enterprises Limited	£135,000
Comet Press Limited	£5,000
Nigerian Printing Supply Company Limited	£15,000
Nigerian Real Estate Corporation Limited	£50,000.

These were described as investments in the Balance Sheet. In addition to these investments, the Zik Group of Companies was further indebted to the bank to the tune of £112,173 out of the bank's total loans and advances of £471,874 (See Foster-Sutton Report, p.8 & appendix E).

<sup>8</sup> Fry, 1976, p.26.

<sup>9</sup> Baster, 1977, Chapter iv.

regulations of the time,<sup>10</sup> Dr Azikiwe fully disclosed the directorships and other interests held by him in the African Continental Bank and in the Zik Group of Companies, and subsequently resigned from the offices of Chairman and Governing Director of the African Continental Bank<sup>11</sup> and from his Directorships in the Zik Group of Companies.

### 6.3 Complying with the 1952 Banking Ordinance

Section 6(2) of the 1952 Banking Ordinance, stipulated that "every banking company in existence at the time of commencement of this Ordinance shall before the expiry of three months from such commencement,.. apply in writing to the Financial Secretary for a licence...." On August 20, 1952, the African Continental Bank applied to the Financial Secretary for a banking licence<sup>12</sup> in compliance with the above section of the Ordinance. On October 13, 1953, the Financial Secretary replied, declining to grant the licence. The bank was advised

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<sup>10</sup> The regulations of the time with regards to the disclosure obligations and conduct of Government Ministers were spelt out in a dispatch from the Secretary of State of the Colonies with reference Number WAF/39/3/05 dated December 1, 1951 and addressed to the Officer administering the Government of Nigeria (Foster-Sutton Report, 1957, p.5).

<sup>11</sup> In his resignation letter Dr Azikiwe appointed Mr A Kofi Blackson, who was also a director of the bank, to act in his place and to "exercise all powers and enjoy all privileges appertaining to these offices excepting that of shareholder until your company has had opportunity to make necessary arrangements in accordance with your memorandum and articles of association." Blackson was described in an internal memo of the Bank of England as "an African stooge of Dr. Azikiwe and reputed to be hopelessly incompetent"- Loynes to Parsons, July 16, 1956 (BEAFN OV68/3, folio 93).

<sup>12</sup> Letters with reference Numbers HO/58/5/52. This was followed up with a second letter with reference number HO/58/9/52 dated 6th October 1952 (Foster-Sutton, 1957, p.5).

that before the request could be reviewed, it would be necessary for the ACB to follow up the following points: (i) increase the ratio of cash reserves to time and demand liabilities to a minimum of 30% within the next six months; (ii) provide adequate information as to the current value of the investments by the bank including the latest audited balance sheet of the companies in which the bank holds shares or debentures; (iii) provide a copy of the latest audited balance sheet of the bank in accordance with section 12(c) of the banking Ordinance and (iv) complete the reconciliation of the inter-branch accounts.<sup>13</sup>

The conclusions of the Financial Secretary were consistent with an October 1953 secret report, by the Banking Officer, on the banking position in Nigeria.<sup>14</sup> The report frowned at the unhealthy economic climate of the bank, stressing widespread staff embezzlement, loss of deposits, low liquidity ratio and under-capitalization.<sup>15</sup> Also, the bank's total cash reserves of £58,000 (30th June 1953) were seen as too slender to withstand any abnormal demands by its depositors.<sup>16</sup> A subsequent report in 1954, by the same Banking Officer was consistent with the 1953 report and concluded that the position of the bank was "dubious and unsatisfactory in

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<sup>13</sup> Foster-Sutton Report, 1957, p.6.

<sup>14</sup> Under the Banking Ordinance of 1952, a Banking Officer was appointed in the Ministry of Finance to monitor the enforcement of the Ordinance. He was responsible to the Financial Secretary.

<sup>15</sup> BEAFN OV68/2, folio 110.

<sup>16</sup> Ibid.

the extreme".<sup>17</sup> Given the above circumstance, it was unlikely that the bank could meet the three years deadline for compliance with the new ordinance. The threat of a run on the bank was even more immediate.

In an apparent attempt to meet some of the conditions set by the Financial Secretary for the granting of a Banking Licence, especially that relating to the ratio of cash reserves to the time and demand liabilities, the General Manager addressed a memo to each of the fourteen branches of the bank,<sup>18</sup> its main purpose being to draw their attention to the absolute need for conserving sufficiently large reserves in liquid assets (cash) at the end of March, particularly on the 31st March (1954), so that the bank's overall percentage of cash on hand to the total of Current, Deposit and Other Accounts would, if not conform to the requirements of the Banking Ordinance, at least meet them halfway. To this end, branches were advised to conduct vigorous house to house campaigns for cash deposits by customers against the end of the month. The understanding was that depositors should be free to withdraw their deposits after the 31st March target date.<sup>19</sup>

This cajoling of depositors and debtors into placing their funds with the bank for a single day at the end of the accounting period so that these monies could be counted as

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<sup>17</sup> BEAFN OV68/3, folio 23, p.2.

<sup>18</sup> The memo which was dated 19th March 1954, was marked 'Strictly Confidential' and titled 'Reserve of Liquid Assets'.

<sup>19</sup> Memo reproduced in Foster-Sutton Report, 1957, p.6.



liquid in order to achieve legal compliance with the Banking Ordinance, at least as interpreted by the Financial Secretary, were mere palliatives. What actually saved the bank was the decision of the Eastern Region Finance Corporation in May 1955 to invest £877,000 in the bank's equity.<sup>20</sup>

#### **6.4 The Role of the Eastern Region Finance Corporation**

The ability of indigenous banks to survive under the conditions set by the Banking Ordinance of 1952 was not only questioned by the immediate post regulation happenings in these banks,<sup>21</sup> but also by the Bank of England. In an internal memo, J B Loynes, then an Adviser to the Governors of the Bank of England, expressed doubts as to whether:

an African Commercial Bank of any size, doing African business and being properly run could make an adequate profit in present circumstances. Private Capital was unlikely to be forthcoming in any quantity and on a straight-forward investment basis. Hence official support whether capital, deposits or subsidy was probably inevitable.<sup>22</sup>

The NCNC, apparently thinking along similar lines, made as one of their party policies the nationalisation of all banks upon attaining self government in Nigeria.<sup>23</sup> On its return in 1954,

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<sup>20</sup> Tignor (1993, p.192). See also Deloitte Plender Griffiths and Co (Deloitte's Report, 1956, p.2).

<sup>21</sup> In 1954 alone, 16 of the then existing 24 indigenous banks failed.

<sup>22</sup> Memo dated 19/3/57 BEAFN OV68/4 folio 56c.

<sup>23</sup> This policy was based on the following principles: (a) to discourage monopoly of monetary transactions by any one bank; (b) to liberalise credit facilities for Nigerian entrepreneurs; (c) to encourage the development of indigenous

the Economic Mission of the Government of the Eastern Region to Europe and North America<sup>24</sup> recommended that a statutory body known as the Finance Corporation should be established to kindle investments in business enterprises and financial institutions. The committee also recommended that the proposed Corporation should make a considerable investment in an indigenous bank to enable it 'always to control not less than three-fourths of the equity capital of that bank' and that the bank should in addition to being used as a depository of public funds, be 'the nucleus for a central bank'.<sup>25</sup>

In December 1954, the House of Assembly enacted the Eastern Region Finance Corporation Law. This vested the Corporation with the authority to finance agriculture, trade, commerce and industry by granting loans or subsidies or by the taking up of loan or share capital in any government agency, statutory corporation, local government body, co-operative society or a limited liability company.<sup>26</sup> On 6th April 1955, the Finance Corporation held its inaugural meeting, at which the then Finance Minister of the Eastern Region, Mbonu Ojike announced that a grant of two million pounds was being made available to the Corporation as working capital.<sup>27</sup> The meeting

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Nigerian banking and (d) to plan for the eventual establishment of a state bank.

<sup>24</sup> The delegation was led by Dr Azikiwe.

<sup>25</sup> Report on Banking and Finance in Eastern Nigeria, 1956, p.4.

<sup>26</sup> Eastern Region Finance Corporation Law 1954.

<sup>27</sup> This grant was made by the Eastern Region Marketing Board. The circumstances in which this was done was one of the issues investigated by the Foster-Sutton inquiry (pp.67-78).

then unanimously agreed that the Corporation invest £750,000 of its funds in the purchase of shares in the African Continental Bank.<sup>28</sup> An application was subsequently made to the African Continental Bank and on May 20, 1955, an agreement was signed between the Corporation and the bank.<sup>29</sup>

On June 26, 1956, Mr E O Eyo<sup>30</sup> moved a motion in the Eastern House of Assembly which requested that "an independent commission of enquiry be appointed forthwith to enquire into the circumstances surrounding the investment and/ or deposit of public funds of the Eastern Region totalling nearly £2

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<sup>28</sup> Foster-Sutton Report, 1957, p.23. A subsequent board meeting of the Eastern Region Finance Corporation, held on the 27th of July 1955, increased the amount investible in ACB shares to £877,000 (ibid, p.26).

<sup>29</sup> The terms of this agreement were as follows: (1) The bank shall increase its nominal capital from £250,000 to £1 million and pay all the preliminary expenses entailed, including stamp duty on capital, fees and deed stamp; (2) The corporation shall purchase from the bank and the bank shall sell to the corporation 784,000 Ordinary Shares and 93000 Preference Shares at £1 per share of either denomination; (3) The bank shall pay the Corporation £87,700 as commission for purchasing the above mentioned Ordinary and preference Shares; (4) The Corporation shall be at liberty to appoint any banking company to act as managing agents of the bank for and on behalf of the Corporation so long as it has controlling shares in the bank; (5) The bank shall waive the restriction in its Articles of Association and sanction any transfer of shares from any shareholder to the Corporation, provided the sale is negotiated at par value per share; (6) The Corporation shall nominate five and the bank shall nominate four out of the nine directors including the Chairman; (7) The Corporation and the Bank shall adjust all outstanding obligations of the bank to its directors and shareholders to the mutual satisfaction of both parties (Report on Banking and Finance in Eastern Nigeria, 1956, p.6).

<sup>30</sup> Formerly an ally of Dr. Azikiwe. Once described by the Glasgow Herald of 25th July, 1956 as a 'bizarre figure' who attained the high rank of Chief Whip, deputy speaker and chairman of the Regional Development Corporation in Eastern Nigeria despite the fact that he had served five years eleven months with hard labour for being in possession of counterfeit coins (p.7).

million in June 1955 in the African Continental Bank Limited in which Azikiwe, the Premier of the Eastern Region had an interest".<sup>31</sup> This motion was however not debated since there was a related case still pending in Court and the Standing Order of the House, Section 25(3) forbade references to be made to any matter on which a judicial decision was pending in such a way as might, in the Speakers' opinion, prejudice the interests of the parties thereto. The inability of the house to debate the motion was however interpreted differently by the Bank of England. in an internal memo, Mr J B Loynes asserted that:

Dr. Azikiwe managed to block Mr. Eyo's first motion by getting the Speaker (an African) to rule it out of order. Dr. Azikiwe was then clever enough to bring an action for libel which is pending against Mr. Eyo and the Newspaper which published the latter's accusations. This has given the Speaker firmer grounds for rejecting Mr. Eyo's further attempts to discuss the matter in the regional parliament.<sup>32</sup>

Apart from his motion, Mr Eyo also appealed to the Regional Governor.<sup>33</sup> The Colonial Government saw this as providing the last opportunity before Regional Independence to inject some understanding of financial rectitude into the Government of the Eastern Region,<sup>34</sup> an opportunity to discredit Azikiwe who

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<sup>31</sup> Eastern Region House of Assembly Debates, June 26 1956, p.65.

<sup>32</sup> Memo dated 6th July 1956 (BEAFN OV68/3, folio 89).

<sup>33</sup> Bank of England Internal Memo dated 29/6/56 (BEAFN OV68/3, folio 85).

<sup>34</sup> Bank of England internal memo dated 6th July 1956 (BEAFN OV68/3, folio 89).

they did not like<sup>35</sup> and a pretext to postpone the Constitutional Conference in order to maximise the benefits of colonisation.<sup>36</sup> Amidst controversy,<sup>37</sup> the Secretary of State for the Colonies set up the Foster-Sutton Commission of enquiry<sup>38</sup> with terms of reference which differed fundamentally from the original intentions of Mr E O Eyo who moved the initial motion in the house.<sup>39</sup> Under these terms of reference,

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<sup>35</sup> Internal Memo dated 29/6/56 (BEAFN OV68/3, Folio 85).

<sup>36</sup> Azikiwe (1956, p.2).

<sup>37</sup> Before the 1952 Constitution, the Secretary of State could set up such a Commission under section 22 of the Commission of Inquiry Ordinance without consulting with any one. At that time there were no Regional Governments. With the creation of the regional Governments in 1951 and the advent of the 1952 Constitution, the Secretary of State could only set up such a commission on matters relating to the Regions on the advise of such regional Governments. The infeasibility of this option led to the introduction of an Order in Council which gave a legal cloak to the actions of the then Secretary of State. This Order in Council was described by the then British Attorney General as nothing more than a piece of machinery to overcome a 'technicality'. See Azikiwe (1956) for further discussions in this area.

<sup>38</sup> Members of the Commission included: Stafford Foster-Sutton, Chief Justice of the Federation of Nigeria; Joseph Henri Maximede Comarmond, Chief Justice of the High Court of Lagos and of the High Court of the Southern Cameroons; Vincent Akinfemi Savage, a Chief Magistrate in the Eastern Region of Nigeria and George Forrest Saunders, Fellow of the Institute of Chartered Accountants in England and Wales. Initially Dr Azikiwe pressed that the inquiry be conducted by Savage (an African). Though the Colonial Government believed that Savage was incorruptible, they feared that he was far too inexperienced to conduct an enquiry of such magnitude and may be 'brow beaten' by Zik. He was however co-opted as the fourth member of the commission as a gesture to Azikiwe- Loynes to Parsons, 19/7/56 (BEAFN OV68/3, folio 96). An earlier idea that a banker be made a member of the Commission, was dropped by the Colonial Office because of Zik's accusations about British Banking monopoly- Loynes to Hawker, 23/7/56 (BEAFN OV68/3, folio 97).

<sup>39</sup> The Tribunal which was appointed to inquire into the allegations reflecting on the Official Conduct of the Premier of and certain persons holding Ministerial and other Public

the Commission of Enquiry was mandated to probe into all the business activities of the Premier not only before the investments of public funds in the African Continental Bank, but also before he became a Minister. This was tantamount to a personal attack on the integrity of the Premier.<sup>40</sup>

This was perhaps the first major flaw in the Banking regulatory process in Nigeria. The probe which could have been used to settle some major issues in banking regulation, was instead primarily and purposely directed at a person (Dr Nnamdi Azikiwe) all for political reasons. The disaffection the Colonial Administration had for Azikiwe was evident, and was explicitly stated by a senior Bank of England official. In

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Offices in the Eastern Region of Nigeria, was specifically required to look into the following matters: (1) Allegations of improper conduct on the part of Dr. Nnamdi Azikiwe, Premier of the Eastern Region of Nigeria, in connection with the affairs of the African Continental Bank; (2) The circumstances in which securities or the proceeds of securities belonging to the Eastern Region Marketing Board were transferred to the Eastern Region Finance Corporation and the circumstances in which such proceeds were invested in or deposited with the African Continental Bank Limited; (3) The relationship, direct or indirect, between Dr Nnamdi Azikiwe and the African Continental Bank Limited, its Directors, shareholders or officers, at all times, whether before or after such investment or deposit as aforesaid, material to the circumstances as aforementioned; (4) The relationship between the Eastern Region Finance Corporation and the African Continental Bank Limited at all material times as aforesaid; (5) The relationship between any body or organisation, corporate or unincorporate in which Dr Nnamdi Azikiwe has or had at any material time as aforesaid, an interest, whether direct or indirect, and the African Continental Bank Limited; (6) The use made of the resources of the African Continental Bank Limited whether before or after the investments and deposits referred to in paragraph 2 were made, in so far as any such use appears to the Tribunal to be material for the foregoing purposes and (7) Whether in respect of any of the aforesaid matters any person holding ministerial or other public office has infringed the standards of conduct demanded of the holder of such office and if so in what respect.

<sup>40</sup> *The Economist*, August 25 1956, p.622.

apparent reference to the issue of injecting Marketing Board Capital into the African Continental Bank, the official asserted that:

The Colonial Office do not like Dr. Azikiwe and would be privately glad to see a commission set up.<sup>41</sup>

This dislike for Azikiwe may not have been unrelated to his Nationalist activities. British Officials were usually quick to complain about corruption and self-enrichment whenever Africans challenged British hegemony.<sup>42</sup> Before the Foster-Sutton Commission was inaugurated, the Colonial Office had already found Dr Azikiwe guilty. Its minute books of September 1955, in reference to the investment of public funds in the ACB, noted that:

such partisan action is a clearly dishonourable departure from the ethical conduct we are entitled to demand from people in Dr Azikiwe's position.... Zik wants money. Zik is a lazy man. Zik is not in any way at all an ascetic nor in any way at all a man who believes that what he could do for Nigerians would be in Nigeria's own interests. Zik is motivated by one interest only: his own interest. And his own interest is money and the pleasure and power that money can buy.<sup>43</sup>

At another occasion, Azikiwe was described by the Colonial Office as:

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<sup>41</sup> Loynes to Hawker, 29/6/56 (BEAFN OV68/3, folio.85).

<sup>42</sup> Tignor, 1993, p.180.

<sup>43</sup> Colonial Office Minutes, September 1955 (PRO CO 554/1181).

Lazy, out for money and women, with ambitions to become an international statesman.<sup>44</sup>

The disdain for Azikiwe by the Colonial Masters did not however start with the African Continental Bank 'Scandal'. In 1945 during a controversy on an alleged plot to assassinate Azikiwe, he was described by the then Governor Alan Richards as 'no longer sane... an irresponsible lunatic'.<sup>45</sup>

It was perhaps this paranoia for Dr. Azikiwe that blurred the Colonial Office's vision of the regulatory issues at stake. Naivety or ignorance on the part of the Colonial Office, were certainly not the case. This was so since Wainwright, an expatriate inspector with the African Continental Bank had secretly informed the Colonial Government in Nigeria of the alarming irregularities and the unhealthy financial position that existed in the bank<sup>46</sup>. Wainwright identified the causes of the unhealthy situation as follows; (1) As at 31st March 1955 there was a loss of £168,500 and this was expected to be considerably larger at the end of March 1956; (2) Management was so inept that large sums of money were lying idle on current account in London earning no interest; (3) The bank's only investments were debentures in the Zik Group of Companies, the value of which was at best arguable (4) The bank's outstanding advances at Yaba Branch alone amounted to £250,000 at the end of May. Of this,

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<sup>44</sup> T.B Williamson to J.B. Johnston, 6th January 1955 (PRO CO 554/840).

<sup>45</sup> PRO CO 583/275/30647/1A.

<sup>46</sup> Acting Governor General of Nigeria to Secretary of State, 12/7/56 (BEAFN OV68/3 folio 91).



£187,000 was shown to be unsecured. Advances to the Zik Group from Yaba branch at the end of April were over £92,000 and by 19th June had increased to over £100,000. Advances to NCNC Party accounts were over £40,000. Even where advances were said to be secured, the security was dubious.

The Bank of England's view of the weaknesses noted in the Wainwright report was that they "did not necessarily suggest that the bank was in danger or that false returns had been made".<sup>47</sup> For instance, the losses up to March 1955 were incurred before the injection of money from the Eastern Region Finance Corporation. Also, failure to employ large cash balances in London suggested incompetence on the part of the Management but not dishonesty. Furthermore, the Bank of England argued, many indigenous banks tended to overinvest in Government Securities or local industries and it was natural in the Eastern Region that they should play a large part in financing Azikiwe's enterprises. The propriety of granting unsecured advances depended on the credit worthiness of the borrower.<sup>48</sup>

The incompetence of the Management and Staff of indigenous banks and its inherent dangers had been identified by the Paton Report of 1948<sup>49</sup> and Paton subsequently advised that everything possible should be done to raise the standard of banking practice amongst Nigerians. In particular, he

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<sup>47</sup> Secret internal Memo signed by J B Loynes and dated 16th July 1956 (BEAFN OV68/3 folio 93).

<sup>48</sup> Ibid.

<sup>49</sup> Paton Report, 1948b, p.17.

advised that Government give consideration to the provision of grants to enable selected Nigerians to undergo courses or training with leading banks in the United Kingdom.<sup>50</sup> The Colonial Government ignored this recommendation,<sup>51</sup> probably because they were only interested in preventing local banks from being a nuisance, and not in encouraging their development.<sup>52</sup>

Apparently inspired by the disclosures of Wainwright, the Colonial Office instigated the Financial Secretary to order an investigation into the affairs of the African Continental Bank in advance of the Foster-Sutton Commission of Enquiry (the Deloittes Enquiry)<sup>53</sup> and in 1958, there was another enquiry

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<sup>50</sup> Ibid.

<sup>51</sup> D T Akinbiyi (House of Representatives Debate, 1952, p.1116).

<sup>52</sup> For instance, the 1952 Ordinance stipulated minimum reserve requirements without providing a 'reserve force' and no lender of last resort to assist banks in distress. It also required banks to maintain adequate liquidity without providing investible money market instruments. This made indigenous banks to operate at heavy expense by maintaining all their liquidity in idle cash (Nwankwo, 1990, p.19).

<sup>53</sup> In a secret internal memo of the Bank of England dated 16/7/56, J B Loynes asserted that 'the Colonial Office wished to have an investigation made of the bank's affairs in advance of the Commission of Enquiry. I said that it might be considered as a separate matter reflecting on the good management and solvency of the bank although it might well provide material for the Commission's scrutiny of Azikiwe's doings. The ideal method of starting the investigation was to have a petition from a substantial body of depositors or shareholders in the bank, but this was probably not feasible. The Nigerian Banking Ordinance permitted the Financial Secretary to order an investigation on his own initiative but he must presumably be able to justify his action. Whether he could refer to Wainwright's disclosures seemed doubtful; but perhaps there were other grounds' (BEAFN OV68/3, folio 93).

by Price Waterhouse.<sup>54</sup>

## **6.5 The Investigation Reports**

Neither the Foster-Sutton nor Deloittes enquiries found that any funds of the bank had been misappropriated.<sup>55</sup> The reports, like that of Wainwright, however raised various regulatory and Management issues. The issues raised by the reports included: (a) the practice of banks allowing some of their Capital to lie idle without earning interest rates; (b) the 'inadequate' rate of interest on some loans, overdrafts and debentures; (c) the prevailing practice of charging high service charges by foreign banks; (d) improper execution of guarantees; (e) long outstanding uncalled capital and (f) payment of directors fees out of capital.

### **6.5a The Issue of Idle Capital**

The Deloittes report, while acknowledging an improvement in this regard, went on to suggest that the bank was still not employing its funds in the best possible way. The report further asserted that:

It is unusual for such a large part (29.5%) of a bank's total funds to be earning no interest at all, particularly when 34% of those total funds represents customers' deposits on Savings and Time

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<sup>54</sup> No copy of this report appears to have survived. An insight into the terms of reference of and the result of the inquiry can however be gotten from a July 1, 1958 internal memo of the Bank of England (See BEAFN OV68/6, Folio 35a).

<sup>55</sup> Deloittes Report (1956, p.1). and Foster-Sutton Report (1956, p.43). The Foster-Sutton report was however of the view that Azikiwe's conduct, in the whole affair, fell short of the expectations of honest, reasonable people (p.42).

Deposit Accounts on which an average rate of interest of 2% per annum has to be paid.<sup>56</sup>

The report subsequently recommended that the bank should endeavour to have as much of its funds as possible earning interest at all times.<sup>57</sup>

On the issue of these idle balances, an internal memo of the Bank of England wondered whether Barclays Bank, which was the custodian of a substantial amount of these funds, ever drew the attention of the African Continental Bank to the possibilities of employing the idle funds,<sup>58</sup> and described the level of Cash in Hand as 'astonishing'.<sup>59</sup> In the aggregate however, this was not abnormal in the Nigerian context. For instance, as at December 31, 1953, the ratio of liquid assets to total deposits of all Commercial Banks in Nigeria was 69% and the ratio of liquid assets to demand deposits was 88%.<sup>60</sup> By 1956, the ratios had reduced to 50% and 70% respectively.<sup>61</sup> These high liquidity ratios were not unrelated to the absence of a Central Bank and of a developed Securities Market.<sup>62</sup>

Since the liquidity ratio of banks are usually inversely correlated to the amount of loans and advances they are able

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<sup>56</sup> Deloittes Report (1956, p.2).

<sup>57</sup> Ibid, p.9.

<sup>58</sup> Loynes to Parsons, 12/10/56 (BEAFN OV68/4, folio 21).

<sup>59</sup> Ibid,

<sup>60</sup> IBRD, 1955, p.153.

<sup>61</sup> Report of the Advisory Committee on Aids to African Businessmen (1959, p.9).

<sup>62</sup> Rowan (1952, p.163). See also Nwankwo (1990, p.19).

to make, this inadvertently limited the amount of loans and advances granted by these banks. In December 1953, loans and advances accounted for only 33.3% of the total deposits of all Nigerian Commercial Banks.<sup>63</sup> This low ratio of loans to deposits was compensated for by higher interest rates.<sup>64</sup>

#### **6.5b Interest Rate Charges**

Unlike Greaves (1953), the Deloitte report considered the interest rate question within the context of the bank's dealings. According to the Report, the rate of interest charged on loans and overdrafts varied from 3% to 10%. Compared with the average rate of 9% charged by the bank to other borrowers, the rate of 3% charged to A G Leventis and Co Limited and that of 6% charged to Zik Enterprises Limited and Associated Companies were considered low.<sup>65</sup> The report further suggested that unless the ACB operated efficiently and charged adequate rates of interest, it would not be able to earn the necessary profits to enable it to build up sufficient reserves to meet unforeseen losses from bad debts. Such losses were to be expected if the bank continued to take unduly high credit risks as evidenced by the large amount of bad and doubtful

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<sup>63</sup> IBRD Report, 1955, p.153.

<sup>64</sup> The rates charged by the British Banks appear to exceed those in other British Colonies outside West Africa. For instance, it was estimated that interest rates charged by these banks were usually between 4-6% in the West Indies as compared with 6-8% in West Africa- See Greaves (1953, p.47).

<sup>65</sup> At that time it was possible to obtain 5% interest on British Government Treasury Bills and 3.5% on Seven days Time Deposits with the Commercial Banks in London (Deloitte Report, 1956, p.2).

debts already incurred.<sup>66</sup>

The 3% interest rate charged Leventis related to a loan of £300,000. It was suggested to the Foster-Sutton Commission that this was unduly favourable to the Company and may have in fact been inordinately influenced by Dr Azikiwe who had cause to be grateful to Leventis. In a letter to Mr Blackson, the General Manager of the ACB, dated January 30, 1954, Dr. Azikiwe, in apparent reference to the help received from Leventis by Pilot Newspapers, where he had financial interests, pronounced that: "But for Leventis, the Pilot would have had a terrible time...." thus "we should be grateful to this firm for its considerateness in extending credit facilities to this young Nigerian Company".<sup>67</sup>

The Deloittes report also expressed further reservations on the loan to Leventis observing that:

it is secured on land and buildings and is stated to be repayable on demand.... Whether in fact the loan can be repaid on demand depends on the financial position of A.G. Leventis and Co. Limited of which we have no knowledge. Commercial companies ordinarily borrow money on a short term basis only to finance their trading activities, and when the money is invested in trading stocks and other working capital, it is not generally possible to repay it on demand.... A.G Leventis and Co. Ltd., have confirmed to us the nature of the loan.<sup>68</sup>

The Foster-Sutton report however concluded that the criticism of the above transaction was not well founded as in fact the

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<sup>66</sup> Ibid, p.2.

<sup>67</sup> Foster-Sutton Report, 1957, p.35.

<sup>68</sup> Deloittes Report, 1956, pp.6-7.

'low' interest rate charge was not unconnected with another service rendered the bank by Leventis.<sup>69</sup>

### **6.5c High Service Charges**

Sometimes intertwined with these low interest rate charges is the issue of high service charges charged by banks, especially British banks. For instance, the low interest rate charged Leventis was not unconnected with a previous service rendered the bank in this area. Between April and June 1956, Leventis helped the bank to avoid transfer charges on remittances totalling £650,000. The purpose of the transactions was to transfer £650,000 of the bank's funds from London to Nigeria without incurring the normal transfer cost of 0.5% of remittances. The money was paid to A.G. Leventis and Co. Ltd. in Manchester and their Nigerian offices repaid it to the Kano, Port Harcourt and Yaba branches of the bank by cheques drawn on local banks. Deloittes satisfied itself that the money was infact repaid to the bank in Nigeria about the same time that it was paid out in London.<sup>70</sup>

These service charges were a major source of income for the British Banks in the West African Colony, and were frequently criticised as excessive. A 1951 report in the Gold Coast colony noted this fact and recommended that internal remittances should be made available freely at cheaper rates.<sup>71</sup> In Nigeria, the story was not much different.

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<sup>69</sup> See next sub-heading.

<sup>70</sup> p.4.

<sup>71</sup> Trevor Report (1951, paragraph 123).

According to the IBRD Report:

The business of the European Banks has been to provide services rather than to extend credit. The greater part of their income comes from service charges. Internal remittances bear high charges, the rates ranging from .25% for short distance transfers such as from Lagos to Ibadan to 1% for transfer to an outlying branch such as Maiduguri. These charges and in particular, high minimum charges, have frequently been criticised as excessive.<sup>72</sup>

Other methods of avoiding these charges included the use of Post Office Savings Bank accounts for internal remittances<sup>73</sup> and in some cases by merchants undertaking to transfer large sums of currency themselves usually by air.<sup>74</sup> The Deloitte report did not comment on the above connection either because it was not apparent to them and/or it was beyond the scope of their terms of reference. Regulation in this direction was also not anticipated by the Financial Secretary or the Colonial Office, arguably because foreign banks were the sole benefactors of the *status quo*.

#### **6.5d Loans Secured by Guarantees**

Section 7(1) of the 1952 Banking Ordinance prohibited unsecured loans or advances in excess of £300 to a private company in which any one of its directors is interested as director. Accordingly, all the loans to the Zik Group of

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<sup>72</sup> 1955, p.155.

<sup>73</sup> At that time, the savings system permitted withdrawals without charge any where in Nigeria irrespective of the place of deposit.

<sup>74</sup> IBRD Report, 1955, p.155.



Companies were 'secured' mainly by written undertakings by Mr M N Ugochukwu and Mr L P Ojukwu<sup>75</sup> guaranteeing the loans.<sup>76</sup> The Deloittes report expressed some reservations on the ability of the Zik Group of Companies to repay these loans. According to the report, Zik Enterprises Limited and associated companies, to whom the loans and overdrafts had been made, were shown, by their 1954 accounts, to be insolvent. They therefore could not be expected to repay their loans and overdrafts if called upon to do so. All the Group Companies reported losses in 1954 with the exception of two which made very small profits and one, namely, Zik Enterprises Limited, which made a profit of £2,673. This however was due entirely to a non recurring profit of £8,852 on the sale of political party buttons to the National Council of Nigeria and the Cameroons.<sup>77</sup>

With regards to the guarantees by Messrs Ojukwu and Ugochukwu, the report noted that Mr Ojukwu's letter was dated November 17, 1955 but that his oral undertaking was said to date from January, 1953. Mr Ugochukwu's letter was dated November 28, 1955 and his oral undertaking was said to date from June, 1954. Both men confirmed to Deloittes that their guarantees were still effective at the time of the inquiry. They however made no reference to the dates on which their

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<sup>75</sup> Both were prominent African Businessmen.

<sup>76</sup> Though Azikiwe had resigned his directorships of these companies, Blackson was still a director in some of them.

<sup>77</sup> Deloittes Report, 1956, p.6.

oral undertakings were said to have been given.<sup>78</sup>

On the legal validity of these guarantees, the report asserted that Deloittes had been advised that Mr Ugochukwu's letter was no more than an invitation to enter into negotiations and that Mr Ugochukwu could not be sued on it. Also, the wording of Mr Ojukwu's letter was generally vague so that he could almost certainly escape liability if he wished to do so; it was not stated, for example, whether the guarantees applied to existing or future overdrafts, or both. The mandatory stamp required for such an agreement was also missing though it could be affixed later on payment of a penalty.<sup>79</sup> The Bank of England also arrived at similar conclusions.<sup>80</sup> The Foster-Sutton report however threw more light on the issue suggesting that the guarantees were only confirmed in writing at the request of the then Auditors of the bank.<sup>81</sup> The report went on to assert that Mr Ojukwu, in the course of giving evidence had confirmed that he considered himself bound by his undertaking. He was believed by the committee.<sup>82</sup>

#### **6.5e Unpaid Capital**

Inconsistencies in both the practice and procedure of calling up subscribed Capital was also pointed out by the

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<sup>78</sup> Ibid, p.5.

<sup>79</sup> Ibid.

<sup>80</sup> Internal memo dated 1/7/56 (BEAFN OV68/6, folio 35a).

<sup>81</sup> Akintola Williams and Co.

<sup>82</sup> BEAFN OV68/6, folio 35.

Foster-Sutton Report. According to the report, of the principal shareholders in the bank, as at March 31, 1955, almost all the unpaid capital related to shares held by Dr Azikiwe and his family and the Companies of the Zik Group. The majority of the other shareholders were called upon to pay for their shares in full.<sup>83</sup> Not all Dr. Azikiwe's shares, however, were partly unpaid. Those originally purchased by him in Tinubu Properties Limited in 1944 were fully paid. Due to improper accounting records, it was impossible for the commission to determine how much has been paid up on any one share.<sup>84</sup> The Foster-Sutton report further noted that although Dr. Azikiwe had, by his own holding and through the shares owned by the Zik Group of Companies, a major interest in the bank, on the basis of Capital invested, the voting power he controlled was even greater as, under the Articles of Association, each ordinary shareholder was entitled to one vote per share irrespective of whether it was fully paid or not.<sup>85</sup>

The Deloittes report was also in broad agreement with the Foster-Sutton views. According to the report:

some of the shares have been fully paid up while others have been only partly paid up and even these vary in the proportions that have been paid up. We have been unable to obtain a satisfactory explanation of the position regarding the amounts actually called up and in arrear.<sup>86</sup>

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<sup>83</sup> Foster-Sutton Report, 1957, p.8.

<sup>84</sup> Ibid, p.9.

<sup>85</sup> Ibid.

<sup>86</sup> Deloittes Report, 1956, p.9.

The report then recommended that the outstanding capital be called up and if not paid within a reasonable time the shares should be forfeited.<sup>87</sup> J B Loynes of the Bank of England, obviously personalising the issue, regretted the delayed action of the Financial Secretary. He argued that:

if the Financial Secretary in Lagos had acted when the bank was in difficulties, it might have been possible to call up more capital and certainly to write off capital already paid up and, if necessary, to wind up the bank. Once Zik had arranged the injection of nearly £2mn. of Regional Government money, the bank was put in a strong financial position however inefficient or corrupt the management. There is now no immediate need for a call on the shares which may now possess a market value for the first time.<sup>88</sup>

On the thinking of the Colonial Office that Azikiwe alone among the shareholders should be asked to pay up the outstanding balance on his 28,000 shares and that those shares should then be taken over by the Eastern Regional Government at a price to be fixed, Mr Loynes argued that it was pointless to call up the unpaid balance on the shares if the adjudicator were then to value them at the paid up figure or even higher. After all, whatever Azikiwe's misdeeds, he was entitled to the market value of his share on surrender. Also, it was neither practically or legally possible to make a call on one shareholder without making on others.<sup>89</sup>

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<sup>87</sup> Ibid.

<sup>88</sup> Loynes to Bolton, 30/1/57 (BEAFN OV68/4, folio 45).

<sup>89</sup> Ibid.

Despite the strong position of Azikiwe, at least with regards to compensation for his shares in the ACB, he still offered to surrender these shares without compensation.<sup>90</sup>

#### **6.5f Payment of Directors' Fees Out of Capital**

Another concern that arose from the Foster-Sutton Inquiry, was the issue of paying directors' fees out of Capital. Prior to the investment of public funds in the African Continental Bank, outstanding directors' fees which had been suspended over the years totalled £10,092.<sup>91</sup> Once public money was injected into the bank, the outstanding fees were cleared.<sup>92</sup> The Foster-Sutton report considered this to be inappropriate. According to the report:

There is of course nothing wrong in the payment of directors outstanding fees due to them, but in the circumstances here and bearing in mind that the payment was only rendered possible by the injection of public money into the bank, we think the transaction is open to question.<sup>93</sup>

The Bank of England agreed with the above view, but noted that there was only a moral and not a legal case of restitution for the return to the bank of the directors fees paid out of the

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<sup>90</sup> BEAFN OV68/4, folio 47.

<sup>91</sup> On several occasions in the past, the payment of these directors fees had been put off apparently due to the limited resources of the bank (See Foster-Sutton Report, 1957, p.33).

<sup>92</sup> Of the said sum, Zik received £5,252, Mr O C Azikiwe (his father) received £2,000, Mrs C E Arinze (his sister) received £1,550 and Mr Blackson (the General Manager of the bank) received £1,150.

<sup>93</sup> p.33.

Government's funds deposited with the bank and not out of the banks earnings.<sup>94</sup>

Azikiwe eager to be seen as co-operating, offered to pay back his share of the directors fees provided that the bank acknowledged a debt to him for these fees and undertook to repay it out of its current earnings.<sup>95</sup> The Colonial Office considered the offer as 'very fair and reasonable' but however noted that there was no prospect in attempting to get the other members of the Azikiwe family to surrender their directors fees.<sup>96</sup> The Bank of England however saw the whole gesture as worthless since the banks resources and income at that point, were enough to permit handing back the money to Azikiwe immediately.<sup>97</sup>

#### **6.5g Other Concerns**

Following the publication of the various reports, the Eastern Regional Government started campaigning for the Nationalisation of the African Continental Bank in line with the NCNC policy. This move was interpreted differently by the Bank of England. In a secret internal memo, J B Loynes of the bank asserted that:

Azikiwe, who is now again feeling his strength, has announced that he wants the Federal Constitution amended to enable the Eastern Region to

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<sup>94</sup> BEAFN OV68/4, folio 45.

<sup>95</sup> BEAFN OV68/4, folio 47.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

'nationalise' the African Continental Bank. The bulk of the Banks shares are already owned by a Regional Government Institution, but formal nationalisation would suit Azikiwe for political reasons and as a method of bailing out the private shareholders (largely his relations and friends).<sup>98</sup>

At the time in question, there was a widespread subscription to the view that regional Governments' investment in banks was inevitable whatever the constitutional position.<sup>99</sup> Mr Loynes of the Bank of England, however opposed any such Government ownership or even large Government participation whether as shareholder or depositor, on the grounds that "it was a potential danger to the interest of the region and British Banks."<sup>100</sup>

In another internal memo Mr Loynes, while admitting the impossibility of local banks to survive without Government assistance, argued that:

it was one matter to have official support.... It was another matter to condone the political direction, the inefficient management and the unbalanced accounts of the African Continental Bank.<sup>101</sup>

Mr Loynes also expressed reservations on the takeover bid of the ACB shares by the Eastern Region Government on the grounds that management of the bank ought to be at least at arms

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<sup>98</sup> Loynes to Watson, 11/4/57 (BEAFN OV68/4, folio 63d).

<sup>99</sup> Bank of England Internal memo, 19/3/57 (BEAFN OV68/4, folio 56d).

<sup>100</sup> Ibid.

<sup>101</sup> Loynes to Watson, 19/3/57 (BEAFN OV68/4, folio 56c).

length from the Regional Government.<sup>102</sup> The 1952 Banking Ordinance was however subsequently amended to enable the Eastern Regional Government to nationalize the African Continental Bank.<sup>103</sup>

On realizing the unattainability of the Colonial Government's goal to discredit Azikiwe,<sup>104</sup> a Bank of England Official bluntly stated that:

the first opportunity for action had been fluffed. The Executive Council in Lagos (which of course contains some of Azikiwe's men) has approved a singularly ineffective message to the Eastern Region Government about the Bank. The Governor of the Region has rightly said that, whatever the past history, he remains concerned over the likelihood of future mismanagement.<sup>105</sup>

It was however noted by the Bank of England that, although teeth ought to be put into the Banking Ordinance, it was unreasonable to expect the Financial Secretary, by virtue of resultant bank supervision, to do what the Federal Government seemed unable to do now after a detailed enquiry and a first class scandal.<sup>106</sup>

Put in another way and adapting Ayida, the African

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<sup>102</sup> Loynes to Watson, 11/4/57 (BEAFN OV68/4, folio 63d).

<sup>103</sup> And also to permit Regional Governments generally to own or participate in Commercial Banks (See House of Representatives Debate, 12th September, 1957, p. 2233).

<sup>104</sup> Though the Foster-Sutton report concluded that Zik's conduct in the ACB affair fell "short of the expectations of honest reasonable people", it conceded that nationalist idealism had animated Zik to found and strengthen the ACB (p.42).

<sup>105</sup> Loynes to Watson, 19/3/57 (BEAFN OV68/4, folio 56c).

<sup>106</sup> Ibid.



Continental Bank succeeded against all odds and without the support of, if not against latent opposition from the Colonial Government.<sup>107</sup> Paradoxically, the Nationalist activities of Azikiwe, which, as Tignor (1993) had suggested, were one of the reasons for the personalised nature of the ACB investigations, also helped ensure the survival of the bank.<sup>108</sup> In a secret internal memo, the Bank of England confirmed that whatever the outcome of the official enquiry into Dr Azikiwe's behaviour, it was politically impossible for the Federal Government to close the Bank down or even to insist that the Eastern Region Government's Account be transferred elsewhere.<sup>109</sup> In another similar document, the Bank admitted that:

The basic problem facing H.M.G. is that a Tribunal report which, in any civilised country, would have put Zik out of public life is unlikely to do him any harm in Nigeria. It may even increase his prestige. H.M.G., in the virtual certainty that they will have to treat with him as Prime Minister of the East after the March elections are now obviously seeking some face saver through the 'restitution' proposals for accepting him back into the fold.<sup>110</sup>

After this unsuccessful attempt to discredit Azikiwe, regulatory issues which had taken a back seat in deference to

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<sup>107</sup> Ayida (1960, p.28).

<sup>108</sup> Ajibola (1986, p.36).

<sup>109</sup> Loynes to Parsons, 12/10/56 (BEAFN OV68/4, folio 21).

<sup>110</sup> Loynes to Bolton, 30/1/57 (BEAFN OV68/4, folio 45).

political objectives, took their proper place.<sup>111</sup>

## 6.6 Conclusion

This chapter demonstrates how public policy could be influenced by the private interests of policy makers. Specifically it shows how a politically motivated decision to invest Government funds in the ACB saved the bank from imminent collapse. It also shows how the Colonial Government used regulation as a political tool to attempt to discredit Dr Azikiwe, an anti-white nationalist leader. The provisions of the 1952 Banking Ordinance made it difficult for the indigenous banks in Colonial Nigeria to survive without some form of Government support. Various calls for such Government support were not heeded by the Colonial Government at the time. For instance, K O Mbadowe, in 1952, called for the immediate establishment of a central bank, one of its main aims being to strengthen the existing African banks. Had his call been heeded, there might have been little incentive for politicians to wrongly exercise their political muscle in order to save their private investments in indigenous banks.

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<sup>111</sup> Some of the regulatory issues raised during the ACB crisis were tackled in a subsequent banking regulation: the 1958 Banking Ordinance (reproduced as appendix 2 in this thesis). Among other things, the 1958 Banking Ordinance provided for the appointment of a Bank Examiner (section 11); yearly appointment of an approved auditor by banks (section 15); no one individual to be granted a loan for an amount equivalent to more than 25% of the bank's share capital (section 7); prohibited the payment of dividend before a bank's capitalised expenditure, not represented by tangible assets, have been written off (section 6) and; the mandatory transfer to a reserve fund, of 25% of net profit, in each year whenever the reserve fund is less than the paid up capital (section 5).

The next chapter will examine in detail the conflicting forces that finally influenced the establishment of a Central Bank in Colonial Nigeria.

## CHAPTER SEVEN

### **THE ORIGINS OF THE NIGERIAN CENTRAL BANK**

#### **7.1 Introduction**

Monetary activities in Nigeria during the pre-central banking era were overseen by the West African Currency Board (WACB)<sup>1</sup> which was established in 1912 with headquarters in London.<sup>2</sup> The constitution of the WACB charged it "to provide for and to control the supply of currency to the British West African Colonies, Protectorates and Trust Territories."<sup>3</sup> In practice however, the board was no more than a *Bureau de Change* issuing as much local currency as the banks wanted to

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<sup>1</sup> The other members of this Board were Gold Coast (Ghana), Gambia and Sierra Leone. The four territories were served by a single currency under the WACB regime. Note that before 1914, the territories of Southern Nigeria and Northern Nigeria were administered as two separate territories under the British Colonial rule.

<sup>2</sup> This followed the recommendations of the Emmott Committee which was appointed by the British Colonial Government to "inquire and report as to the desirability of introducing into West Africa a special silver coinage common to the five British West African Administrations, and also to the desirability of establishing a joint issue of currency notes in the same territories, and to advise upon the measures necessary for the regulation of the special coinage if introduced or for the better regulation of the existing currency in the event of a special coinage not being adopted." See Loynes (1974) and Newlyn and Rowan (1954, Chapter 2) for the history of the Currency Board.

<sup>3</sup> Section one of the regulation of 1949 defining the constitution, duties and powers of the WACB (reproduced in Loynes, 1974).

buy for sterling and vice versa.<sup>4</sup> It was therefore not, in the technical sense, a monetary authority. Such a system, however, satisfied the Bank of England monetary policy objective of achieving price stability in the colonies.<sup>5</sup> The price stability policy was also compatible with British commercial interests in the colony as it helped facilitate trade with London. The colonial banks that oiled the trade mechanism also benefitted from the system.

Price stability and parity conversions however had its cost: the ability of the WACB to create credit was severely hampered. This pre-central banking system also perpetuated a situation where large parts of Nigerian Government funds were held abroad. This further reduced the amount of money available for indigenous development.<sup>6</sup> Access to credit was

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<sup>4</sup> In practice, the WACB's function of controlling the supply of money had been fundamentally a procedure of issuing as much local currency as the banks wanted to buy with sterling and buy for sterling as much local currency as the banks wanted to sell. The board therefore had no discretionary power over the supply of money. The board also had no banking functions. Moreover, since the board did not hold local government stocks of the territories which they ministered to, the governments of these colonies were precluded from exercising any control over the money supply and thus incapable of pursuing any independent monetary policy. Finally, nobody in these British West African colonies had the responsibility for determining credit policy. This was so since the banking systems in these colonies were mostly extensions of the United Kingdom banking system. Not surprisingly therefore, the credit policies of such banks were determined by their London headquarters (Olakanpo, 1965a, p.18).

<sup>5</sup> Schenk (1993, p.412). The currency board system, no doubt, satisfied other objectives. For instance, the Colonial Government earned enormous seigniorage profits from the system (Emmott Report, 1912, pp.8-9).

<sup>6</sup> In obvious reference to pre central banking Nigeria, a IBRD internal memo noted that the British were "overtly timid in spending money, piling up reserves under various names and

indeed what the Africans, rightly or wrongly, believed that they needed most if they were to break away from the shackles of colonialism. Dispensing with the colonial monetary system in favour of a central bank was therefore an integral part of breaking off the economic fetters of colonialism. Political factors were also at work in accelerating the change process: according to Sayers, "Colonial territories seeking some measure of political independence have tended to regard a Central Bank as an outward and visible sign of independence and the lack of one as signifying continued subjection."<sup>7</sup> In fact, the WACB system was generally seen by Africans as "the financial hallmark of colonialism."<sup>8</sup>

As has already been noted, it was the dissatisfaction of Africans with the colonial commercial banking system that added impetus to the transition to central banking: this led to the establishment of poorly capitalised and poorly staffed indigenous commercial banks. The imminent collapse of most of these indigenous banks, led to calls for a 'God Father' bank to help save them. Such rescue operations were seen by the Bank of England as beyond the scope of an infant central bank if one were established. The Bank of England also had doubts about the ability of a central bank, run by Africans, to resist political interference in monetary policy management.

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tucking them away in various corners, for fear that African politicians would go on a spending spree." See Broches to Hoar and Demuth (IBRD Archives, March 6 1954).

<sup>7</sup> 1957, p.117.

<sup>8</sup> See Gold Coast Legislative Assembly Debates (February 13 1957, Col. 852).

From previous experience of the interwar years, the Bank of England knew that political interference in the activities of central banks was an infallible way to high inflation.<sup>9</sup> It is not the prime intention of this chapter to attempt a belated contribution to the literature regarding the merits and demerits of establishing central banks in pre-independence or newly independent developing countries in the 1940s and 1950s.<sup>10</sup> Rather, an attempt will be made to unravel the various interests at work that influenced both the establishment of a central bank in Nigeria and the shape of the emergent institution.<sup>11</sup> In the main, this chapter will concentrate on the various roles of the Bank of England<sup>12</sup> and the International Bank for Reconstruction and Development (IBRD) and how these influenced the change process. Emphasis will be placed on the forces which ensured that the emergent central bank satisfied both the political needs of the colonies as well as the Bank of England monetary policy objective of price stability.

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<sup>9</sup> Harvey (1927, p.11).

<sup>10</sup> This was promptly addressed by scholars at the time. See for instance Clauson (1944), Hazlewood (1954), Shannon (1952) and Olakanpo (1961).

<sup>11</sup> The transformation from currency board to central banking was, no doubt, an important institutional change in colonial economic studies. Very little work has however been done to enhance our understanding of the forces that impacted on this change process. This is, in part, due to the widespread archival practice of allowing considerable time to elapse before making public their records.

<sup>12</sup> Its role is of great importance since the bank was the main source of advise for the colonial government.

## 7.2 The Fisher Enquiry

Subsequent to the enactment of the 1952 Banking Ordinance, a motion was moved in the Federal House of Representatives for the immediate establishment of a central bank, one of its main aims being to strengthen the existing African banks. This motion did not please the Colonial Government appointed Financial Secretary who argued that Nigeria at "its stage of development" was better served by a currency board than a central bank. He was however prepared, perhaps due to the immense support the motion received from the African Parliamentarians, "to reconsider the matter". This culminated in the revision of the motion by the Government. The final version of the motion approved by the House read as follows:

That as practical means of marshalling the financial resources of this country for the purpose of aiding Economic Development in all its phases, the Government should examine the possibility of establishing a Central Bank and report to this House as soon as possible.<sup>13</sup>

In essence, the colonial government did not consider it important that such a central bank, if established, should

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<sup>13</sup> Nigeria House of Representatives Debate, 9th April, 1952, Col 1181. This motion was described by the Nigerian Government in a letter to the Colonial Office dated 1st July 1952 as "cumbersome and ambiguous". The reason was that the Government had been forced to compromise on the motion instead of putting it to vote because the motion had considerable support from both the Government and non Government benches in the Legislature. "The mover was therefore induced to amend his original motion but naturally insisted in retaining as many of the original words as possible. Consequently, like many compromises, the resolution has succeeded in attracting to it the worst of both parties" (BEAFN OV68/12).



concern itself with helping and strengthening of the existing African banks. If such banks failed, so be it. The Colonial Government, no doubt, reasoned that several of the poorly capitalised, poorly managed and fraud infested indigenous banks were not salvageable, hence its insistence on a revised motion which was silent on "strengthening the existing African Banks." The revised Government motion, approved by the House of Representatives, however led to the setting up of an expert enquiry into the possibility of establishing a central bank in the Nigerian Colony. This marked the beginning of the journey towards the establishment of the Central Bank of Nigeria (CBN).

At the time of the adoption of the revised motion by the Colonial Government, D C Rowan<sup>14</sup> had just completed his research into banking in Nigeria and was then writing up his treatise.<sup>15</sup> Initially the Nigerian Government thought that the study would include some observations about central banking in Nigeria and that this combined with the 1951 Trevor Report on the Gold Coast (Ghana), "might furnish sufficient information on which the Council of Ministers might be advised of the answer which should be conveyed to the House of Representatives in the light of the above resolution".<sup>16</sup> Further enquiries however disclosed that the subject of

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<sup>14</sup> He was at the time a staff of the West African Institute of Social and Economic Research (Ibadan, Nigeria). In 1982, he retired as Professor of Economics from the University of Southampton.

<sup>15</sup> His research resulted in Rowan (1951; 1952) and Newlyn and Rowan (1954).

<sup>16</sup> Himsworth to Vile, 1/7/52 (BEAFN OV68/12).

central banking was outside the scope of Rowan's study. Rowan also refused an invitation to carry out any such enquiry.<sup>17</sup> He however expressed doubts on the usefulness of adapting the Trevor Report to Nigeria on the grounds that it did not apply "to the special conditions" which prevailed in Nigeria.<sup>18</sup> Based on the above, the Council of Ministers sought expert advice from the United Kingdom.<sup>19</sup> Sir Cecil Trevor<sup>20</sup> was then pencilled for the job. Misgivings were expressed from within the Bank of England about the 1951 recommendations of Trevor for the setting up of a National Bank in Ghana "whose chief function apparently will be to grant advances to people who at the moment were regarded as un-credit worthy by the commercial banks".<sup>21</sup> Trevor's unwelcome recommendation sensitised the Bank of England to the need of using experts loyal to the bank in such assignments. J L Fisher, then an Adviser to the

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<sup>17</sup> Ibid. Professor Rowan has told me that he cannot recall being officially approached by the Colonial Government to carry out such an inquiry.

<sup>18</sup> Unlike in the Gold Coast colony, indigenous banks were established in the Nigerian Colony. The needs of these indigenous banks, Rowan must have thought, were to form an integral part of any study on central banking in the Nigerian colony.

<sup>19</sup> According to an internal document of the Bank of England dated July 11, 1952, the Nigerian Ministers could only be satisfied by the appointment of an independent expert and could not therefore "be fobbed off with the substitute of a long range treatise from Whitehall" (BEAFN OV68/12).

<sup>20</sup> Formerly of the Reserve Bank of India.

<sup>21</sup> A P S Smith, then a Deputy Chief Cashier of the Bank of England, thus concluded that "this mission sounds as though it has gone seriously wrong" (BEAFN OV69/2, folio 9). Not surprisingly, P S Beale, then Chief Cashier of the Bank of England, advised that for Trevor to be selected, "he should be given a clear warning not to get himself committed to any particular action" (BEAFN OV68/12).

Governors of the Bank of England was subsequently approached. His views on the subject was perhaps best articulated in an internal memo to the Chief Cashier dated July 17, 1952 and signed by Mr Siepmann, then an executive director of the Bank of England. According to Siepmann:

I sounded JLF who thinks the job is unattractive and thankless but would take it if we wanted him to provided we also told him the conclusions we should wish to endorse.... I do not think any of us are happy about the encore from Trevor. My own feeling would be that unless you can improve on Trevor, we should ask JLF and promise him our support if he stamps on the idea (as he easily could do unanswerably).<sup>22</sup>

Bluntly interpreted, Fisher left London with firm instructions on what the recommendations of his report should be. The visit to Nigeria was therefore unnecessary and simply a deceptive tactics to make the Africans believe that something was being done. At the time, this was not an unusual Bank of England practice. In the 'ill fated' 1951 Trevor Investigation on the Gold Coast Colony, the style was similar: the investigation was clearly intended to be a fruitless exercise.<sup>23</sup> Unfortunately for the Bank of England, the scheme back-fired.<sup>24</sup> Unlike Trevor, however, Fisher worked for the Bank

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<sup>22</sup> BEAFN OV68/12.

<sup>23</sup> "...[T]he enquiry would be mainly educational and likely to lead to little"- Bank of England Internal memo dated 2nd April 1951 (BEAFN OV69/1, folio 216).

<sup>24</sup> Evidence of the above questionable tactics employed by the Bank of England, will no doubt provide excellent arsenal for 'conspiracy theorists'. This chapter does not however intend to argue along these lines as there is little evidence to show that the Bank of England had ulterior motives.

of England, his loyalty was to the bank and he was specifically told the recommendations and conclusions his report was to arrive at. Fisher (1953, p.18), not surprisingly, concluded that:

it would be inadvisable to contemplate the establishment of a Central Bank at the moment. It would be difficult to establish a Central Bank which could operate satisfactorily in such a narrow field. Moreover, it is hard to see how a Central Bank could function as an instrument to promote the economic development of the country. But that is not to say that a Central Bank would not be a useful coping stone to the banking system at a future time. Given further development of the indigenous banking system and growth in the financial mechanism, the establishment of a Central Bank would be a logical and useful step in due course.<sup>25</sup>

The above conclusion was arrived at after 'examining' the following limited functions which a central bank could perform in a developing country like Nigeria. These included: (1) Provision of rediscount facilities, (2) commercial banking inspection and (3) note issue and management.

On the provision of rediscount facilities, the report was of the opinion that such a facility should depend on a change in existing standards and on a growth in the banking habit.<sup>26</sup> This view was defended on the grounds that a growth in banking deposits and customers would lead to a greater direct community of interests between the commercial banks and the

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<sup>25</sup> Fisher, 1953, p.18.

<sup>26</sup> The expression 'banking habit' has been described as an omnibus term "covering not only economic psychology with respect to banks but also the objective economic facts and practices of people with regard to the use of banking facilities and their asset holding patterns." There is little doubt that the banking habits of Nigerians at the time were far from impressive- See Teriba (1986, p.69).

larger banking public. This, the report argued, would put the bank in a better position to appreciate the credit standing of its customers. Fisher then asserted that:

Nigeria must guard against the unwise extension of credit. Nigeria cannot afford to waste her resources. It would be a mistake to force the pace at the risk of loss and possibly ruinous setbacks.<sup>27</sup>

Another factor that officially influenced Fisher's negative decision, was the lack, or the primitive stage of development, of supporting institutions, especially a securities market. The Fisher report argued that the lack of a securities market would greatly impede the duties of the Central Bank especially in the area of enforcing credit policies. Fisher then concluded that "it is better to build the financial structure from the base upwards rather than try to build from the top downwards."<sup>28</sup>

On banking inspection carried out by a central bank Fisher, while admitting that there was a possibility that the central bank might positively influence the conduct of banking in Nigeria either through moral persuasion and/or powers of ultimate sanction, argued that:

It would be wrong to saddle a Central Bank with a responsibility for the solvency of banks in Nigeria. The banks in Nigeria must stand on their own feet. It would be wrong if the public were to be led to believe that a Central Bank was responsible for the management of Nigerian banks. To saddle a Central

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<sup>27</sup> Fisher, 1953, p.13.

<sup>28</sup> Ibid, p.17.

Bank with such a responsibility would mean, in effect, that the Central Bank would have actively to control the operations of the banks. In effect, the banks would become branches of the Central Bank. This could hardly lead to a strong and stable banking system. It would indeed in practice entail that the only indigenous bank in Nigeria would be the Central Bank. It is clearly preferable that a Central Bank should operate through a system of banks; and that the habit of banking should grow in the community.<sup>29</sup>

The report then concluded that a spirited use of the Financial Secretary's powers of examination by a competent bank examiner, coupled with action by the banks themselves, ought to lead to significant progress among the indigenous banks.<sup>30</sup>

On the base duty of note issue and management, Fisher was of the opinion that staffing and provision of capital might serve as impediments arguing that:

it would be of little use to establish a Central Bank if it could not be operated satisfactorily except only in a very restricted field. Clearly, if expenses were no object, it would be possible to found a bank by law and give it the sole right of note issue; but whether or not it could in practice operate satisfactorily, would depend on whether it could be satisfactorily staffed and whether the field in which it would operate were such that it could influence the economy beneficially.<sup>31</sup>

To this end, the report recommended three stages of development towards the goal of central banking: (1) Transfer the West African Currency Board to Africa; here, Fisher

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<sup>29</sup> Ibid, p.13-14.

<sup>30</sup> Ibid, p.17.

<sup>31</sup> Ibid, p.8.

reasoned that by associating the population more closely with the management of the currency, West Africans could gain experience in both the doctrine and practice of currency management (2) the establishment of a Nigerian currency board and a distinctive Nigerian Currency and (3) the establishment of a bank of issue which should be able to assume other functions of a central bank according to the stage of development of the financial mechanism.

The above views of the Bank of England on the inadvisability of central banking<sup>32</sup> were not limited to Nigeria alone.<sup>33</sup> It was based on the belief that central banks were of little use in countries with underdeveloped securities markets.<sup>34</sup> The Bank of England also feared that central banks in newly independent developing countries might be unable to adhere to sound principles of monetary management, especially when exposed to political pressures.<sup>35</sup> The Bank of England was no doubt keen to avoid the mistakes of

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<sup>32</sup> There was no doubt that the experts from the bank shared a common view as regards central banking in its theoretical and practical aspects- See Loynes to Taylor, July 23, 1962 (BEAFN OV70/2, folio 16a).

<sup>33</sup> In 1949, H C D Mynors, later to become Deputy Governor of the Bank of England, also advised against the establishment of a Central Bank in Southern Rhodesia. This report was however not made public (Olakanpo, 1965a, p.25). A similar advise was also proffered by Loynes (1961, pp.6-7) in the case of the Sierra Leone.

<sup>34</sup> Sayers (1957, p.112-3); Newlyn and Rowan (1954, p.271).

<sup>35</sup> There was a widespread belief in the Bank of England that Africans lacked the mentality and outlook to effectively manage such an institution. See Executive Director to Chief Cashier, 17th July 1952 (BEAFN OV68/12).

the past.<sup>36</sup>

The appropriateness of this line of thinking has not gone undisputed. Several notable scholars justified the usefulness of central banking in the older Commonwealth by the new functions which such banks performed.<sup>37</sup> For instance, the Reserve Bank of India took on the function of developing and integrating the banking system in India,<sup>38</sup> while banking supervision became an integral part of central banking in Pakistan.<sup>39</sup> These activities had originally been seen as being outside the scope of central banking.<sup>40</sup> Perhaps the most formidable opposition to the views of the Bank of England, at least with respect to the setting up of a central bank for the Nigerian colony, came from the IBRD.

### 7.3 The IBRD Mission

In 1953, the Governments of the United Kingdom and

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<sup>36</sup> Writing about the collapse of central banks in Europe, in the early twentieth century, a one time Comptroller of the Bank of England asserted that "in every instance an examination of events which led to their collapse reveals that their failure in time of crisis was largely due to the fact that political pressure was put upon the central banks to avoid the fundamental principles of sound central banking and to subordinate financial prudence to political expediency" (Harvey, 1927, p.11).

<sup>37</sup> Newlyn and Rowan (1954, Chapter 13); Sayers (1957, Chapter 9); Basu (1967, Chapter 8).

<sup>38</sup> See Section 55 (1) of the Reserve Bank of India Act 1934.

<sup>39</sup> See Sections 26 and 36 of the State Bank of Pakistan Order, 1948.

<sup>40</sup> Sen (1967, p.1). A former Deputy Governor of the Bank of England once asserted that he never remembered hearing the word "supervision" used in the bank before 1974. Quoted in Nwankwo (1990, p.1).



Nigeria, invited the IBRD to look into the future economic and developmental prospects of Nigeria.<sup>41</sup> The Mission<sup>42</sup> which arrived Nigeria in September 1953 was asked to:

assess the resources available for future development, to study the possibilities for development in the major sectors of the economy and to make recommendations for practical steps to be taken, including the timing and co-ordination of developmental activities.<sup>43</sup>

The terms of reference were wide ranging and the mission, rightly or wrongly, interpreted them to include an examination of the entire financial system. The final report which was divided into three parts,<sup>44</sup> therefore included sub-section on 'State Bank'<sup>45</sup> and 'Money and Banking'. We shall, for the purposes of this chapter, concentrate on the recommendations of the above sub-sections.

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<sup>41</sup> This was the tenth general economic survey mission to be organised by the IBRD, and the first to visit Africa. At the time, survey missions had already been completed dealing with the development problems of British Guyana, Ceylon (Sri Lanka), Colombia, Cuba, Guatemala, Iraq, Jamaica, Surinam and Turkey- Press Release Number 340 (IBRD Archives, September 18, 1953).

<sup>42</sup> The mission consisted of ten full time members and five part time consultants. Six of the above number were recruited from outside the bank. This included the adviser on Money and Banking who was on the regular staff of the International Monetary Fund.

<sup>43</sup> IBRD, 1955, p.vii.

<sup>44</sup> General Report, Technical Reports and Appendices.

<sup>45</sup> In the 1940s and 1950s, the terms 'central bank' and 'state bank' were used interchangeably in British colonial monetary circles. While, for instance, a central bank was established in Nigeria, a state bank was set up in Pakistan (1948). Both banks performed similar functions. For the purposes of this chapter, both terms will be used interchangeably.

On the issue of creating a State Bank, the above report used the Fisher report as a foundation. The mission agreed with Mr Fisher on "many points" including the view that the creation of a fully fledged Central Bank was premature at the time. The report however argued that with the increased massive strides towards self government,<sup>46</sup> the timing for the setting up of a State Bank need not be as cautious as that proposed by Fisher. The mission therefore proposed the early establishment of a 'State Bank of Nigeria' with limited functions.<sup>47</sup> These functions were to be gradually expanded over time so as to enable the institution to assume other functions of a central bank. The report then concluded that:

The continued political and economic advancement of Nigeria is bound to lead to the establishment of a Central Bank. To postpone the day when functions of currency issue and the management of foreign assets are performed in Nigeria will also postpone the day when trained Nigerians will be able to perform these functions responsibly by themselves.<sup>48</sup>

The above view, which was also maintained in an earlier draft report by the IBRD team,<sup>49</sup> did not please the Bank of England.

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<sup>46</sup> It is important to note that Fisher's report was completed before the decision was taken to convene the London Constitutional Conference (IBRD, 1955, p.97) which was to provide for greater Regional autonomy and for the removal of powers of intervention by the centre (Ezera, 1964, p.176).

<sup>47</sup> The initial functions to be taken up by the bank, as advised by the mission, included: (1) currency issue (2) act as principal depository of funds for Government and semi-Government Institutions (3) regulating banks and accepting deposits from them and (4) buying and selling Government Securities.

<sup>48</sup> IBRD, 1955, p.97.

<sup>49</sup> A copy of this draft report dated March 19, 1954 was available to the Bank of England (BEAFN OV68/2, folio 116).

In a draft document, the Bank of England affirmed that:

we would have preferred that the mission did not raise the question of a Central Bank for Nigeria at all. their recommendations on this will certainly be embarrassing to us<sup>50</sup>.

Equipped with the draft report from the IBRD, a meeting was arranged in London with Messrs Broches<sup>51</sup> and Adler<sup>52</sup>, respectively Chief and Assistant Chief of the IBRD Mission to Nigeria.<sup>53</sup> Unable to convince Broches and Adler to alter their main recommendations, the Bank of England explored various ways of overturning this 'embarrassing' recommendation. First, they toyed with the idea of fighting it on the grounds that it was outside the jurisdiction of the mission. The Bank of England, in conjunction with the Colonial Office, however concluded that a chapter on currency and credit reasonably fell within the terms of reference of the mission.<sup>54</sup> The Bank of England also explored the idea of "inducing the I.M.F. to take issue with the I.B.R.D. on the question of their respective fields of responsibility."<sup>55</sup> This also never materialised. The Bank of England was left with no other

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<sup>50</sup> Letter dated June 25, 1954 (BEAFN OV68/2, folio 128).

<sup>51</sup> A citizen of the Netherlands.

<sup>52</sup> A citizen of the United States of America.

<sup>53</sup> Bank of England internal document dated 21/6/54 (BEAFN OV68/2, folio 112).

<sup>54</sup> Ibid. See also Potter to Melville, 25/6/54 (BEAFN OV68/2, folio 127).

<sup>55</sup> Bank of England internal memo dated 4/5/54 (BEAFN OV68/2, folio 117d).

option than to secretly attempt to persuade the IBRD to alter the draft report.

The Bank of England then went ahead to prepare a draft letter to the British representative at the IBRD, the aim being to "ask him to let it be known informally that we consider two of the proposed recommendations in the chapter to be unsound and one of them dangerous."<sup>56</sup> This draft letter which was titled "IBRD Mission to Nigeria" was then forwarded to the Colonial Office for clearance. The Colonial Office replied disagreeing with both the tactics of the Bank's proposition. According to Melville of the Colonial Office:

apart from the fact that it seems to me to be much too late to intervene, I think it inappropriate that views should be expressed to the Banks Mission from the U.K. side which purport to run contrary to the express wishes, or probable wishes of the West African Governments, to one of which the Mission is reporting direct. Moreover, I think it unfair and also dangerous to involve our Washington people in an argument with the Bank Mission on this difficult and complicated subject.<sup>57</sup>

Melville then advised that the precious time and energy being wasted on belatedly attacking the mission should rather be spent "preparing the ground" for any recommendations the Mission may put forward.<sup>58</sup>

Though the Bank of England, by this time, had realised that very little could be done to revise the IBRD recommendation as regards the establishment of a central bank

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<sup>56</sup> Bank of England internal memo dated 4/5/54 (BEAFN OV68/2, folio 127).

<sup>57</sup> Melville to Potter, 29/6/54 (BEAFN OV68/2, p.129).

<sup>58</sup> Ibid.

in the Nigerian colony, it was determined not to allow future IBRD missions to British colonies to get out of their control. To this end, the following strategy was devised: (a) to restrict Colonial Government's, so far as lies in the Bank of England's power, invitations for General Survey Missions from the IBRD. Instead, they should put up properly prepared projects and proposals for a loan, which the IBRD would investigate with its normal machinery and in which the danger of spilling over into central banking area is less; (b) to ensure, so far as possible, that the Bank of England get full advance notice of missions and that these missions are properly acquainted with its point of view and (c) to try, so far as possible, to get hold of advance copies of the report before issue, and criticise it fully with the authors before it goes before the IBRD board of directors for approval.<sup>59</sup>

All the above complaints, criticisms and schemes by the Bank of England against the draft IBRD report did not go unrewarded as the "majority" of the "factual comments" made by the bank were accepted and incorporated into the final report by the IBRD mission.<sup>60</sup> The above changes did not however alter

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<sup>59</sup> Stamp to Ryan, 12/11/54 (BEAFN OV68/3, folio 11, p.3).

<sup>60</sup> A letter from R.H. Atkinson of the Overseas and Foreign Office to Mr Ryan of the Bank of England dated 19th October 1954 noted the following differences: (1) the final report placed less emphasis on the urgency for the establishment of a State Bank. (2) A statement was added stating that "foreign reserves should not fall below 100% of the Currency issue in the foreseeable future". The letter noted that this would not appear to be an objection to the establishment of a fiduciary issue but rather a statement that Nigeria's existing external reserves are adequate to maintain a 100% currency backing for some time to come. (3) The State Bank was no longer specifically charged with the responsibility for the external solvency of Nigeria. (4) A

the substance of the draft report,<sup>61</sup> thus the clock for the establishment of a State Bank continued to tick. The Bank of England had little choice but to accept the earlier advice of Melville at the Colonial Office to start "preparing the ground" for implementing the recommendations of the IBRD Mission.

Despite the dislike by the Bank of England of most of the recommendations of the IBRD Mission,<sup>62</sup> it was recognised that there was still room for manoeuvre. For instance, the IBRD concluded that:

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paragraph suggesting that the State Bank should assist the commercial banks in the training of Staff was omitted. (5) The final report also recommended that the Nigerian Government should seek the expert assistance of the UK Monetary authorities or of the IMF while carrying out its recommendations (BEAFN OV68/3, P.2).

<sup>61</sup> Ibid.

<sup>62</sup> Several complaints of the Colonial Administration against the draft report were not reflected in the final report. For instance: (1) Although the final report still stated that particular attention should be given to the selection of the first Governor of the Bank, the further recommendation that he should be "a man of experience in the field of central banking and command the respect of British banking circles" was omitted. (2) The final report accused the West African Currency Board of virtually limiting its investments to UK Securities. The recommendations by the Colonial Machinery that it should be altered to read "sterling securities issued and marketable in the United Kingdom" was not accepted. (3) The final report still stated that an appreciation of the West African Pound would be essentially inconsistent with the Currency Board System. (4) No notice was taken of the comment of the Colonial Authorities that it was unfair to compare the development of banking in Nigeria with that in India, which already had a 'State Bank' since India already had a long standing indigenous banking system in operation and (5) The final report still described European Banks as "extremely conservative" and nothing was said about the lack of adequate security and the fact that the demand for credit and loans is largely for purposes unsuitable for bank credit- See Atkinson to Ryan, 19/10/54 (BEAFN OV68/3, folio 2).

Our recommendations are not intended to present a complete blueprint for a State Bank. In the creation of such an institution, problems will arise which we have not discussed or to which we have referred only in general terms. In carrying out our recommendations, the Government should seek the expert assistance of the United Kingdom monetary authorities or of the International Monetary Fund (IBRD, 1955, p.101).

The Bank of England also took solace in the fact that Nigerians knew very little about the subject matter and that the IBRD recommendations were 'vague enough' giving room for considerable freedom of both interpretation and recommendations.<sup>63</sup>

Despite the above loopholes, the attitude of the financial secretary and other colonial officials in Lagos was that the question of a central bank and a national currency for Nigeria should be approached cautiously and as slowly as possible: "They considered it essential to set an enquiry in motion at a fairly early date in order to satisfy local ambitions: but in view of local inexperience and of the expense of creating a bank of issue, they hoped to play the matter long."<sup>64</sup> J B Loynes of the Bank of England advised against this arguing that the advantage of looking forward to an early implementation was that "this should at least remove the possibility of a further report being asked for later on and of an adviser being chosen from elsewhere to make it."<sup>65</sup>

On the April 13, 1956, representatives of the Bank of

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<sup>63</sup> Loynes to Fisher, 9/4/56 (BEAFN OV68/3, folio 61a).

<sup>64</sup> Loynes to Parsons, 17/10/56 (BEAFN OV68/4, folio 21a).

<sup>65</sup> Ibid.

England, the Colonial Office and the Treasury met and it was agreed that the Bank of England should suggest an expert to go to Nigeria and make "recommendations in regards to the type of bank to be set up paying lip service to the recommendation of the IBRD."<sup>66</sup> The Bank of England was also asked to suggest the terms of reference which would ultimately be agreed with the Nigerian Government.<sup>67</sup> Within the Bank of England itself, the job of drafting the terms of reference ironically fell on J L Fisher, whose 1952 report frowned at the idea of an early establishment of a State Bank and on J B Loynes.<sup>68</sup> The draft proposal which they prepared and later approved by the Bank of England, read as follows:<sup>69</sup> "Having regard to the political and economic development of Nigeria, to the existing organisation of banking and currency, and to the importance of maintaining monetary stability at home and the credit standing of Nigeria abroad; and in the light of the recommendations of the 1953 mission of the IBRD:- to advise on: (1) the creation of a Nigerian currency, whether to be introduced at an early or later stage, and the administration of such a currency so as to preserve its external value and its acceptability within the country; (2) the form of a Federal institution with its Head Office at the Federal Capital which would act as bank of issue and would perform other appropriate central banking

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<sup>66</sup> Fisher to Hawker, 10/4/1956 (BEAFN OV68/3, folio 62a).

<sup>67</sup> Ibid.

<sup>68</sup> Loynes was later sent to Lagos to advise on "the establishment of a Nigerian Central Bank, the introduction of a Nigerian Currency and other associated matters".

<sup>69</sup> See Fisher to Hawker, 1/5/56 (BEAFN OV68/3, folio 65a).



functions; (3) the relationship of such an institution to the Federal and Regional Governments, to Government institutions, to the commercial banks and to the public; and (4) the role of such an institution in the development of local money and capital market".

These terms of reference were then discussed at a secret meeting of the representatives of the Bank of England, the Colonial Office and the 'Nigerian Government' held at the Colonial Office on the 22nd of May, 1956. According to the notes on the meeting,<sup>70</sup> doubts were expressed about the desirability of putting the creation of a Nigerian currency as the first item on the terms of reference. Mr Carlyle, then acting Financial Secretary of Nigeria, clearly asserted that he was not in favour of the early introduction of a Nigerian Currency. He argued that apart from 'other considerations', such a project would be too expensive<sup>71</sup> and that no provision had been made for this in the Economic programme which was to run until 1960. It was therefore not possible to introduce a Nigerian currency at the time except of course if it was done at the expense of some other project(s). In any event, he did not believe that Nigeria was ready to manage its own currency.

Further discussions revealed the inevitability of the establishment of a separate currency for Nigeria. Gold Coast (Ghana), which was one of the four members of the West African Currency Board, had indeed already decided to issue its own

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<sup>70</sup> See BEAFN OV68/3, folio 69c.

<sup>71</sup> It was estimated that this would cost about £4m.

currency.<sup>72</sup> Given the above element, it was agreed that it was probably advisable that the new currency be introduced while Her Majesty's Government still had some control over Nigerian affairs. This was important in order to ensure that such a currency was properly established. There was also some disagreement on the issue of delaying the establishment of a Nigerian Currency. It was argued that such an action would only put Nigeria in the undesirable position of attaining political independence without the necessary experience and expertise in managing its financial affairs. It was however noted that even if a Nigerian currency was introduced immediately, the actual currency arrangements and management would to a great extent fall on the Governor of the State Bank "who would certainly have to be an experienced European". There could however be no question of an early introduction of a local currency in Nigeria since it would take at least three years to finalise the necessary arrangements.

It was then agreed, at the meeting, that the reference to the creation of a Nigerian currency in the terms of reference should be retained but that the draft terms should be reexamined to see whether this aspect of the investigation should be given less prominence. The meeting further agreed that the reference to the IBRD Mission Report which gave significance to the need for the creation of a Nigerian Currency should remain in the preamble since the opposition in the Federal House of Representatives would doubtless query the

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<sup>72</sup> As early as 1954, Nkrumah in his election manifesto pledged himself to giving Gold Coast (Ghana) a Central Bank with issue functions (BEAFN OV68/2, folio 128, p.2).

absence of any reference to the IBRD Report. Mr Carlyle then accepted that, despite his varied misgivings against the early introduction of a local currency, the only tenable objection given the existing circumstances could only be on grounds of cost.

As regards the second item on the terms of reference (form of the Federal institution to be introduced), Loynes explained that he had worded it carefully in order to avoid pre-judging the title of the bank. He argued that the title "State Bank" was primarily an "Iron Curtain" expression and that the powers of such banks varied considerably. It was thus preferable to give the Nigerian Federal Bank some other name. Based on the above suggestions, Mr Loynes revised the terms of reference and subsequently forwarded it to Carlyle in Nigeria. This was then presented and subsequently approved by the Federal Executive Council with a minor amendment.<sup>73</sup> On the appointment of the expert that was to go to Nigeria, Fisher

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<sup>73</sup> The Federal Council of Ministers decided that there should be a central bank and a national currency at an early stage. This did not involve any change in the draft terms of reference other than the removal of the phrase "at such time as the Federal Government may decide"- See Loynes to Parsons, 17/10/56 (BEAFN OV68/4, folio 21a). The final terms of reference read thus: "Having regard to the political and Economic development of Nigeria, to the existing organisation of banking and currency and to the importance of maintaining monetary stability at home and the credit standing of Nigeria abroad; and in the light of the recommendations of the 1953 mission of the I.B.R.D. to advise on (1) the establishment of a Federal institution to perform appropriate central banking functions; (2) the introduction of a Nigerian currency and the administration of such a currency so as to preserve its external value and its acceptability within the country; (3) the relationships of the Federal institution to the Federal and Regional Governments, to Government institutions, to the commercial banks and to the public; and (4) the role of such an institution in the development of a local money and capital market."

first suggested to the Governor of the Bank of England the appointment of a person from outside the Bank of England. He argued that:

if a person from the bank goes, presumably, he would not wish to ask for an honorarium, but if somebody from outside the bank goes, the Colonial Office think that the honorarium should be pitched on the high side since the more the Nigerians have to pay, the more they will value the advice and the greater importance will they attach to the person.<sup>74</sup>

This advice was ultimately not accepted as the Bank of England later advised the Colonial Office that Mr Loynes, who actively participated in drafting the terms of reference, "would suit the bill admirably."<sup>75</sup> On the issue of a honorarium, the bank advised that even though Mr Loynes may not be entitled to ask for it, it would however not be unusual for him to be accompanied by his wife with the Nigerian Government meeting her expenses.<sup>76</sup>

The linkage between making the recommendations and operationalising such recommendations was also explored by the Bank of England. Here Loynes suggested that different persons should be sent to do the two jobs. He argued that a second man sent after the planning, who would go as the governor designate, would be in a stronger position since he would be starting from a basis reinforced not only by his own views, but those of another expert: a "man commissioned for the dual purposes of working out a blueprint and then implementing it

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<sup>74</sup> Fisher to Hawker, 10/4/56 (BEAFN OV68/3, folio 62a).

<sup>75</sup> Fisher to Galsworthy, 2/5/56 (BEAFN OV68/3, folio 65b, p.1).

<sup>76</sup> Ibid, p.2.

seems less likely to be successful in the second stage and much more likely to be sniped at and to have his original motives and decisions repeatedly being called into question."<sup>77</sup>

With the stage set, a formal request was made for J B Loynes by the Nigerian Government to advise on "the establishment of a Nigerian Central Bank, the introduction of a Nigerian Currency and other associated matters". Despite an earlier decision by the Nigerian dominated Federal Council of Ministers, "that there should be a Central Bank and a National Currency at an early date,"<sup>78</sup> thereby limiting the room for manoeuvre by any 'expert adviser', Loynes was content with the scheme of events and asserted that "all things considered, the Nigerian response seems on the right lines and more positive than we might have expected."<sup>79</sup> The central bank which Loynes was obliged to recommend in his 1957 report was established in 1958. Mr R P Fenton, formerly of the Bank of England, was appointed its first Governor. The bank's principal objects were to issue legal tender currency in Nigeria, to maintain external reserves in order to safeguard the international value of the currency, to promote monetary stability and a sound financial structure in Nigeria and to act as a banker and financial adviser to the Federal Government.<sup>80</sup> More

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<sup>77</sup> Loynes to Fisher, 9/4/56 (BEAFN OV68/3, folio 61a).

<sup>78</sup> Loynes to Parsons, 17/10/56 (BEAFN OV68/4, folio 21A, p.1).

<sup>79</sup> Ibid.

<sup>80</sup> See section 4 of the Central Bank of Nigeria Ordinance 1958. The whole ordinance is reproduced as appendix 3.

important to the Bank of England, the Nigerian pound retained a one to one parity with the British Pound<sup>81</sup> and was substantially backed by sterling reserves. For instance, section 26(a) of the 1958 Central Bank of Nigeria Ordinance stipulated that, at least for a period of five years of the bank's coming into force, the value of external reserves to be maintained by the central bank should not be less than the aggregate of an amount representing 60% of the Bank's notes and coins in circulation together with an amount representing 35% of the Bank's other demand liabilities.

The main difference between the new central bank and the WACB was therefore in the degree of monetary policy autonomy exercisable by each. For instance, while the WACB lacked the authority to influence money supply, the new central bank was granted limited powers to do so. These provisions no doubt satisfied the Bank of England monetary policy objective of price stability. The creation of the Nigerian central bank also pleased the nationalists by replacing the WACB system which was generally seen by Africans as the financial hallmark of colonialism. The central bank however came too late to aid the collapsed indigenous banks.

#### **7.4 Conclusion**

There is no doubt that the Bank of England employed questionable methods in its attempt to delay the establishment of a central bank in the British Nigerian Colony. Though unjustifiable, the actions of the Bank of England may have

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<sup>81</sup> Ibid, section 17.

been based on some genuine fears it harboured at the time. For instance, it was feared that political interference with the money creating function of central banking in developing countries would be met with disastrous consequences. It was therefore not surprising that the Bank of England always favoured the enshrinement of statutory limits to the ability of such central banks to create money. The 1958 Nigerian Central Bank Ordinance, which the Bank of England advised on, contained such statutory limitation. The emergent central bank was also not designed to be a lender of last resort to indigenous commercial banks which was the main reason why the call for such a bank was made in the first place. Despite this, the changing political environment, given the imminence of political independence, made it necessary for some colonial banks to re-examine their credit policies towards Africans. One such bank was the Barclays Bank (DCO).

The next chapter will examine the accounting, control and operational consequences of a pre-independence experiment by Barclays Bank (DCO) to liberalise its credit policy towards Africans.

## CHAPTER EIGHT

### **THE BARCLAYS BANK CREDIT TO THE AFRICANS EXPERIMENT**

#### **8.1 Introduction**

In the mid 1950s, Barclays Bank (Dominion Colonial and Overseas) started its drive towards liberalising its credit policy towards Africans in the British Nigerian Colony. This brought to an end several years of discriminatory credit practices by the bank against the Africans. Within a few years, the bank was recognised by Africans as a 'friendly bank'<sup>1</sup> but this did not occur without costs: bad debts, until then a relatively unknown phenomenon in the bank's Nigerian operations,<sup>2</sup> took the centre-stage. This forced the bank to re-evaluate its accounting, control and operational procedures both for advancing new credit to Africans and for controlling existing ones. It also led to the reversal of the liberalisation policy, thus bringing to an end a very brave, but costly, experiment. Very little is however known about the underlying factors that impacted on this uncommon experiment in colonial banking history.

This credit to the Africans experiment was possible partly because credit policy and administration, at least under the 1952 Nigerian Banking Ordinance, remained largely

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<sup>1</sup> See Daldry to Macdona- Barclays Bank Archives (BBA 11/2044, 22nd November 1959).

<sup>2</sup> Crossley and Blandford (1975, p.258).



unregulated. As already noted in chapter 5, legislation for complicated banking controls, which were seen as unnecessary interference with the activities of the two main British banks, were avoided. With no external checks on this area of banking activity, Barclays Bank (DCO) had to depend mainly on its internal control mechanisms to ensure the effective monitoring of operations. Such internal mechanisms are however not infallible especially when management has other political objectives.

This chapter chronicles the bank's policy changes that culminated in the bad debt problem, and argues that the bad debt problem had little to do with the inadequacy of accounting and control procedure in the Nigerian branches of the bank. Rather, the problem lay mainly with the regular flouting of the existing controls, at the time, by inexperienced and overworked bank staff. It was this lack of adherence to control procedures that made it possible for most of the African bad debtors to emerge. It is not the intention of this chapter to delineate the residues of Barclays Bank's accounting past. Rather, an attempt will be made to decipher the underlying processes and forces at work that led to the disregard of the control regulations culminating in the bad debt problem.

## **8.2 Credit to the Africans Controversy**

Scholars are in general agreement that European banks were not very helpful to the indigenes of the British West African colonies, at least in terms of providing them with

credit facilities<sup>3</sup>. The contentious issue, however, is the question of whether these European banks deliberately discriminated against the Africans or whether the Africans were, in most cases, not credit worthy. Proponents of the deliberate discrimination policy include Kennedy who argued that the European banks:

normally refused to provide loans or overdraft facilities to their African customers.... The banks saw their main functions as serving the interests of their brother capitalists with whom they also shared certain common perceptions of the African population<sup>4</sup>.

Kaniki also arrived at a similar conclusion, asserting that:

recent research has shown that in their lending policies all the banks discriminated against African entrepreneurs in favour of the British and Asian population<sup>5</sup>.

The 'pro discrimination theorists' are however in the minority. The majority of commentators have offered alternative views and in some cases attempted to justify the unhelpful attitude of the British banks in economic terms. The Trevor report in the Gold Coast, for instance, concluded that:

an unduly high risk is involved in the granting of

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<sup>3</sup> Cf. Trevor (1951), Newlyn and Rowan (1954), Cox-George (1958), Nwankwo (1972), Kennedy (1988), Kaniki (1985) and Cowen and Shenton (1991).

<sup>4</sup> 1988, p.40.

<sup>5</sup> 1985, p.405.

credit in the colony<sup>6</sup>.

An official of the Bank of England who assisted Sir Cecil Trevor in his Gold Coast enquiry, also noted that:

The state of indebtedness among the Africans is fantastic, almost without exception, they are permanently in debt either to moneylenders [or] cocoa brokers.... The debts are never fully repaid, the debtors go on borrowing, paying a little on account and borrowing again. This is accepted as the normal way of life.<sup>7</sup>

Rowan<sup>8</sup> also attempted an economic justification of the discrimination by the British banks against Africans on four grounds: (1) the high risk of lending locally due to sharp fluctuations in crop prices, not only within the trade cycle but also within individual years<sup>9</sup>, (2) the unavailability of liquid assets in Nigeria<sup>10</sup> (3) the low reputation of Africans

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<sup>6</sup> para 122.

<sup>7</sup> Letter from Mr S W Payton to Mr O Brien (both of the Bank of England) dated July 7, 1951- Bank of England Archive File Number (BEAFN OV69/2, folio 3, p.2).

<sup>8</sup> Rowan, 1951, p.244.

<sup>9</sup> It was mainly due to this problem that Commodity Boards were established with the aim of ensuring price stability all year round ( Statement on Future Marketing of West African Cocoa, 1946, p.8).

<sup>10</sup> This could to some extent be attributed to the activities of the expatriate banks. For instance, the United Nations concluded that such institutions lacked interest in developing internal markets and in assisting indigenous enterprises especially in underdeveloped territories possessing racially heterogenous societies (Report on the Mobilisation of Domestic Capital, 1951, Chapter 3).

for commercial reliability and caution mainly because of scanty, if not non-existent accounts and the lack of fixed capital assets in their business<sup>11</sup> (4) the difficulty of the African traders in meeting the British bankers security requirements. The problem was partly legal since the systems of land tenure in most part of the country made it difficult to lend against mortgage.

Nwankwo is in agreement with Rowan and similarly concludes that:

the criticisms levied against the overseas banks do not stand rigorous economic analysis, and cannot be justified on economic grounds since the banks are profit making rather than philanthropic or humanitarian undertakings.<sup>12</sup>

Nwankwo's conclusion was based on three arguments: (1) What appeared to have been discrimination might have been derived from the objectives and practices of expatriate banks coupled with the institutional limitations of the indigenous population. The expatriate banks were established to finance

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<sup>11</sup> Bauer (1963, p.10) has argued that many "examples of African commercial dishonesty stem from periods of imperfect imports and price control during and after the war. Quick and almost riskless profits were open to those traders who were able to obtain short-supply merchandise at controlled prices or who were allotted the necessary import permits. The trade attracted many ad hoc traders including (school boys) who because they regarded their activities as isolated and discontinuous ventures, were not averse to breaking contracts if owing to changes in market conditions their fulfilment was no longer advantageous.... In fairness, it should be stated that some Overseas suppliers of African customers are also apt to follow standards very different from those prevailing in Britain and Western Europe."

<sup>12</sup> 1972, p.157.

foreign trade between the overseas country and their home countries. Domestic banking in these colonies developed later and as far as the overseas banks were concerned, this was only incidental to the achievement of their primary objective and thus of secondary importance; (2) the preference for expatriate business and customers by these expatriate banks stemmed from the fact that in most cases these expatriate firms in developing countries were branches or subsidiaries of large corporations which in some cases were of the same origins as the expatriate banks. They therefore had more developed banking habits and were more credit conscious than the native customers and; (3) discrimination was inconsistent with the profit maximising motives of the expatriate banks since this would have suggested that they would ordinarily have turned down profitable business propositions from local firms in preference for less profitable propositions from expatriate firms.

Similar justification was also proffered by Trevor in the Gold Coast where he concluded that there was:

no appreciable weight of evidence in support of the contention that the existing banks favour the Europeans, Levantine and Asiatic communities to the detriment of the African, but it did appear that, owing to their experience of more advanced economies, their greater degree of mutual trust and their willingness to enter into partnerships and company memberships, the other communities are able to make use of and take fuller advantage of the existing facilities<sup>13</sup>.

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<sup>13</sup> 1952, paragraph 103.

Archival evidence from Barclays Bank, however, lends support to the theory that colonial banks did indeed discriminate against Africans. For instance, before its credit liberalisation experiment, Barclays Bank's policy for granting loans, specifically to Africans, rested on three pillars:

(1) the purpose of such loan should be to finance seasonal or short-term or bridging expenditure containing no element of expenditure on fixed capital but rather providing further working capital;

(2) the repayment of such a loan should accrue from the transaction itself, which means that such a loan must be self liquidating. Such a loan should also usually be short term and subject to repayment on demand and;

(3) the borrower should be well known to the banker as a man of integrity. He should also possess reasonable business acumen and be skilled in his profession. Finally, he should be able to provide a substantial stake in the proposition he is putting forward before his banker.<sup>14</sup>

Bluntly interpreted, it was the bank's policy not to grant any capital investment or long term loans to Africans no matter what their previous record with the bank was. Such a blanket and stereotypical policy was explicitly discriminatory. This stereotype of the African arguably made British bankers reluctant to grant Africans even the recurrent expenditure loans that were permitted. Another factor that reinforced the prevention of credit flow to Africans was the

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<sup>14</sup> Business with West African Customers (BBA 11/2272, 19th March 1958, pp.1-2).

low credit approval limits given to bank managers in some of the localities. For instance, in 1958, the Barclays Bank branch managers in Aba and Onitsha had a loan approval limit of only £350 for unsecured loans and £1,000 for secured loans. Even on the few occasions when the Africans were given loans, it was not unusual for the interest rates to be substantially greater than those applying to non-African borrowers.<sup>15</sup> These discriminatory policies were sustained over a long time, perhaps because there was little incentive for the bank to make any real attempt to understand Africans in the context of their environment. This may have been due to the insignificance of the bank's operations in Africa in proportion to its global operations.<sup>16</sup> Even in staffing decisions, the needs of the African branches were usually subordinated to those of the other branches.<sup>17</sup> The oligopolistic nature of the Nigerian banking arena at the time also helped sustain this lackadaisical attitude. A deft economic calculation of the imminent political change<sup>18</sup> however led Barclays Bank to liberalise their credit policies

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<sup>15</sup> LHO to Cade (BBA 11/2272, 22nd May 1959).

<sup>16</sup> In 1951, for instance, Nigeria hosted only 10 of its 691 branches worldwide. The total number of the bank's branches in the entire British Colonial Africa in the same year was 84. This accounted for only 12% of the banks worldwide branches- See Newlyn and Rowan (1954, p.73).

<sup>17</sup> Daldry to Macdona (BBA 11/2272, 23rd November 1959, p.5).

<sup>18</sup> A Local Director once noted that: "...in the long run, the consolidation of our position in this country by a chain of branches completed before independence, and the build up of goodwill and high standing which we have achieved, may prove to have been worth even the heavy price we are paying" (Daldry to Macdona (BBA 11/2272, 23rd November 1959, p.4).

with respect to the Africans in the 1950s despite the perceived risks.<sup>19</sup>

### 8.3 Roots of the Bad Debt Problem

The starting point of this change in policy was 1951, when Barclays Bank established its Local Head Office (LHO) for the West African territory in Lagos.<sup>20</sup> The same year, J C D Coy was appointed as its first director and in 1952 he was joined by L C Daldry. Both men became the driving force behind the rapid expansion of branches of the bank in the 1950s.<sup>21</sup> According to the official history of the bank, the branch expansion of the 1950s was not:

a policy dictated by one man's whim but carried out in response to a tremendous demand for banking facilities from Nigerian and expatriate trading companies, from residents, district officers, emirs and natives administrators. Moreover, it was carried out in keen competition with the Bank of British

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<sup>19</sup> It was never anticipated by the Barclays Bank management that such a credit liberalisation policy towards Africans could be followed without making some losses (Cade to Daldry, BBA 11/2272, 28th April 1959).

<sup>20</sup> Covering the areas of Nigeria, Gold Coast, British Cameroons and Sierra Leone. The essence of a Local Head Office was part of the bank's decentralisation policy of encouraging the closeness of the bank to its immediate environment (See Tuke and Gillman, 1972, Chapter V and Crossley and Blandford, 1975, p.256). Note that the British Cameroons were part of the Nigerian Federation until 1961 when they decided in a referendum to join the federation of Cameroons. Thus the term "Nigeria and the Cameroons" will be used in some parts of this study.

<sup>21</sup> For instance the number of the bank's branches and agencies in Nigeria rose from 8 (1950) to 66 (1960) - See Memorandum to the General Managers, 25th April 1960 (BBA 11/2044).



West Africa.<sup>22</sup>

Complementing the official reason however, was an underlying economic reason which was identified by Milne<sup>23</sup> in 1946. According to him:

The future of banking in West Africa depends upon getting the African to conduct a normal banking account. There are considerable African markets in all the main towns where active trading takes place daily and very few of the traders conduct an account of any kind. The cash turnover must run into very large figures.<sup>24</sup>

Despite the above rapid increase in the number of branches,<sup>25</sup> it was the visit of J F Cade,<sup>26</sup> in 1955, to the West African territory that was the landmark of a policy change especially with regard to the granting of credit to Africans.<sup>27</sup> During his visit for instance, Cade instructed the opening of a sub-branch in the African section of Port Harcourt to serve the

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<sup>22</sup> Crossley and Blandford, 1975, p.256-7.

<sup>23</sup> General Manager, Barclays Bank (DCO), 1946-1951.

<sup>24</sup> Report on the visit to west Africa by W W Milne (BBA 38/906, 6th June 1946, p.5).

<sup>25</sup> Compare with the fact that there were only 19 Offices under the control of the Local Head Office which spanned, Nigeria, Ghana, British Cameroons and Sierra Leone in 1951.

<sup>26</sup> General Manager, Barclays Bank (DCO), 1952-1959.

<sup>27</sup> Previously, there was a perverse belief amongst the Barclays Bank managers that it was difficult to have any reasonable business dealings with Africans. This was mainly because of the high illiteracy level amongst Africans- see General Report of the visit to West Africa by W W Milne (BBA 38/906, 6th June 1946, pp.5-6).

Africans contending that:

I feel we should get in here as soon as possible in our effort to get closer to the Africans, and get them into our bank.<sup>28</sup>

He noted that the main branch in Port Harcourt was not suitable to serve Africans on the grounds that it was quite divorced from the African township. The siting of the branch also gave the impression that it was set up to serve only European interests. This certainly was not the way to compete for African business with African banks.<sup>29</sup> Likewise in Kaduna, when the branch manager explained that the bank did not have any African debtor because they knew of none who was sufficiently credit worthy, Cade retorted that the bank could not go far by maintaining that kind of attitude.<sup>30</sup> Implicitly, the managers were put under pressure from very high quarters to lend to Africans. Credit worthy Africans must be found at all costs and loans advanced them. Very little was done in terms of training the managers to understand the new business environment they were venturing into.

Two years later, on a second visit to Nigeria, Cade continued to preach his 'Gospel' of liberalising credit for the Africans despite the problems such a policy was already

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<sup>28</sup> Extracts from Mr Cade's visit to Port Harcourt, Nov 1955 (BBA 11/1275).

<sup>29</sup> Ibid.

<sup>30</sup> Crossley and Blandford, 1975, p.258.

causing.<sup>31</sup> On his visit to the Calabar branch of the bank, for instance, he described the loans granted to Africans as "disappointing" and "small in number and amount"<sup>32</sup> and on his visit to the Enugu branch he concluded that such advances to Africans were not "good enough".<sup>33</sup> In Aba, Cade similarly described the branch advances to Africans as "disappointingly small".<sup>34</sup> A similar conclusion was also arrived at in the Onitsha branch<sup>35</sup> and in Kano he concluded that:

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<sup>31</sup> By the time of the Cade's second visit in December 1957/ January 1958, bad debts was already becoming a problem in some branches. An example is the Ife branch where Cade noted that the African advances as at 15.1.58 "were 78 totalling £73,000 - and in addition, 15 African a/cs. in the B. & D. category totalling £9,000 (...some of the others seem to be heading the same way, so I think we can say that African advances have not been neglected at this branch!) (BBA 11/2155).

<sup>32</sup> Extracts from Mr Cade's notes on his visit to Calabar (BBA 11/2155, January 1958).

<sup>33</sup> Extracts from Mr Cade's notes on his visit to Enugu (BBA 11/2155, January 1958).

<sup>34</sup> Extracts from Mr Cade's notes on his visit to Aba (BBA 11/2155, January 1958).

<sup>35</sup> Here for instance, Cade noted that "Advances are only £24,000 - and £22,765 of these is to 54 Africans. The comparative smallness of advances at first sight seems to support the old criticism that we concentrate on raising money and don't lend it back to the community. One factor I believe is that B.W.A. has most of the big African traders, because they were in Onitsha long before we opened. Also lendings are low here because it is not a produce buying centre like Kano and the big European firms- all well represented in Onitsha- do not borrow from us here as they are mainly selling in Onitsha, not buying. However, it is the Africans who are buying from them and lots of the Africans must want to borrow". He further observed that "From 1.8.57 to 10.1.58 the branch received 93 applications - of which 32 totalling £30,500, were refused.... The record kept usually does not explain why the overdraft was refused- instructions are that it should always do so. I had a strafe about this. Some of the advances refused were required to take up bills or goods, and perhaps could have been made without any great risk" - Extract of Cade's visit to Onitsha (BBA 11/2155, January 1958).

we are still in many places not getting across to the Africans as we should.<sup>36</sup>

In all the above cases, Cade emphasised to the various Managers the need to improve the situation.

A major factor that precipitated the "disappointing" level of loans to Africans was the low discretionary limits of branch managers. Cade, for instance, described the limits of £1,000 for secured loans and £350 for unsecured loans in most of the branches as inadequate. The frequent transfers of branch managers also made them reluctant to lend even within their limits. This was mainly because the managers hardly spent enough time in a branch to understand the commercial climate of the area before being transferred to other branches.<sup>37</sup>

Cade thus instructed the local directors in Lagos to review the discretionary limits without delay as such conservative limits put the branches at a disadvantage especially in comparison with its competitors.<sup>38</sup> He further instructed the local directors to review the existing procedure for granting loans with the aim of making it more adaptable to the needs of the Africans.<sup>39</sup>

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<sup>36</sup> Extracts of Mr Cade's visit to Kano (BBA 11/2155, December/ January 1958).

<sup>37</sup> Extracts from Mr Cade's visit to Aba (ibid).

<sup>38</sup> At the time for instance, branch managers of the Bank of British West Africa in the colony had a credit limit of £2,000 for secured advances and £600 for unsecured advances (extracts from Cade's visit to Onitsha, ibid).

<sup>39</sup> Ibid.

On March 19, 1958, Daldry, a Local Director in Lagos, came out with a draft circular "Business with African Customers". He reviewed the existing guidelines for such lending to Africans and, like Cade, concluded that by insisting on such standards from all prospective borrowers, the bank could make little headway anywhere.<sup>40</sup> The draft circular was reviewed by the London Head Office and approved with few amendments.<sup>41</sup> In summary, the new rules made it possible for the bank, in some cases, to lend for capital projects, forego the usual requirement of loan repayments being on demand and increase its maximum loan repayment period from the usual 1 year to 2 1/2 years and in some cases even more.<sup>42</sup>

Within two years of putting in place the new policy for encouraging lending to Africans bad debts, previously a relatively unknown phenomenon in the Barclays Bank operation in Nigeria, "had reached a very alarming figure".<sup>43</sup> The sudden jump in bad debt levels, predictably, was an unwelcome development to London and soon Cade wrote to Daldry asserting that:

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<sup>40</sup> Cade's draft Circular to Branches "Business with African Customers" (BBA 11/2272, 19th March 1958, p.1).

<sup>41</sup> For instance, a recommendation that in granting advances, the rule of thumb should be that customers be granted up to 50% of their working capital was rejected by the London Head Office on grounds of impracticability - Colonial Advances Department to Harrison (BBA 11/2272, 29th May 1959).

<sup>42</sup> "Advances to Africans" Circular to the branches (BBA 11/2272, 11th April 1958, p.1).

<sup>43</sup> Daldry to Managers of full branches (BBA 11/2044, 21st November, 1959, p.1). See Table 5 for an appreciation of the African Debt problem.

We have been increasingly concerned here at the very substantial amounts of Bad Debts coming forward in respect of lending to Africans. This policy was, of course, introduced - and largely by myself - because we had to deal with the damaging allegations which we encountered on all sides that we were not lending to Africans and we were discriminating against them. We did not expect that we could follow this policy without making some losses, but I am afraid that the losses have been greater than anticipated.<sup>44</sup>

The first thing the General Managers in London wanted to know was the cause of the debt problem. Daldry identified the two main causes of the crop of African bad debts as: (1) the general lack of integrity and business experience of the customers who had borrowed and (2) the poor quality and lack of experience of so many of the officials who had done the lending. Various other related causes were identified by other interested parties.<sup>45</sup> For instance, the West African Advances Department at the London head office summarised the underlying causes of the bad and doubtful debt problem in Nigeria as due to the fact that the facilities were "out of line with the customer's means and our experience of them, coupled with a lack of control and continual scrutiny and 'follow up' by the branch, which Africans particularly take full advantage of."<sup>46</sup> While another local director concluded that many of the bad debts arose because "funds lent for the trade have been diverted to property development or acquisition of other fixed

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<sup>44</sup> Cade to Daldry (BBA 11/2272, 28th April 1959).

<sup>45</sup> See Table 6 for a summary of the causes of the bad debt problem.

<sup>46</sup> West African Advances to Mr Macdona (BBA 11/2044, 9th May 1960).

assets."<sup>47</sup>

A visiting bank examiner placed the blame on the local directors asserting that "no useful instructions appear to have been issued on how this business was to be conducted."<sup>48</sup> This claim may have been erroneous. Rather than a lack of guidelines, the likely cause for the sudden surge in the bad debts of Barclays Bank was the flouting of the existing uniform guidelines.<sup>49</sup> There is evidence, for instance, that the Local Directors gave several credit policy and management directives to branches which most branches either ignored or followed haphazardly. For instance in Circular No.45/1956 to the branches, the Local Directors stressed the importance of maintaining a separate file for each customer with the relevant advances information records.<sup>50</sup> A further Circular to the Branch Managers on 11th June 1959, by the local directors, repeated the above instruction.<sup>51</sup> Davies, a local director, also cautioned that the practice of describing a customer and or his business under 'character and general information' as "Good" "Well known to the branch" was quite inadequate. Rather something brief but illuminating on the following lines was recommended:

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<sup>47</sup> Dyson to Branch Managers (BBA 11/2272, 26th May 1960, p.3).

<sup>48</sup> Quoted in "Advances-West Africa" circular (BBA 11/2272, 22/3/60).

<sup>49</sup> Daldry to Managers of full branches (BBA 11/2272, 21st November 1959, p.1).

<sup>50</sup> Quoted in Dyson to branches 17th May 1960 (BBA 11/2272, 17th May 1960).

<sup>51</sup> Ibid.

Established 1950, account opened December 1958. Always conducted satisfactorily. Previously banked with X.Y.Z., whose report was satisfactory. Business progressing. Chief lines: textiles, cement, salt, stockfish and sugar. Main suppliers: A.B.C., who extend credit £1,000 and have no complaints.<sup>52</sup>

Davies further advised that the balance sheet of customers be obtained at least once a year but preferably every half year. This should be compared painstakingly with previous statements with explanations for any important differences obtained and recorded. The memorandum also emphasised the need not to take the customer's balance sheet on its face value, reminding branch managers that:

all balance sheets (except those certified by reputable auditors) must be checked by a signatory. This will involve a physical check of assets and enquiries of other banks and customer's suppliers regarding liabilities. A pencil note of the checker's valuation should be made against each item of the "Balance Sheet" so it will be clear how the estimate of surplus and of working capital has been calculated. Assets which cannot be checked should be excluded from the calculation. Property to which title has not been proved should also be excluded. It is preferable that no two consecutive "Balance Sheets" should be checked by the same official. If it is not possible to establish with reasonable certainty the extent of customers' assets and liabilities, no facilities should be granted.<sup>53</sup>

One factor that led to the rise of inexperienced managers was the rapid expansion in the bank's branch network in the Nigerian colony. It was such an expansionary scheme that made it possible for persons with little or no banking experience

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<sup>52</sup> Ibid.

<sup>53</sup> Ibid, p.2.



to be entrusted with management responsibilities. For instance, after a visit to a sub branch in Ibadan, Cade noted that:

the African Clerk-in-Charge had a discretionary limit of only £25 and only the sketchiest idea how to deal with the problems of lending to Africans (or any body else!). His advances totalled £350 to only ten Africans, and quite clearly these advances had arrived mainly by the process of the customer drawing a cheque without prior arrangement and the Sub Branch deciding to pay it rather than to return it.... The Clerk-in-charge described his advances as "overnight only" and they were of small amounts. No record was kept of advances declined and reasons. L.H.O. instructions on this were clearly not known to the C in C.<sup>54</sup>

He then concluded that:

It is quite hopeless to send these Africans out and put them in charge of branches on the present casual system.<sup>55</sup>

In a letter to Daldry, Cade reinforced his above views asserting that:

I think that a good deal of the trouble has been due to the inexperience of the Managers who have been applying the policy. Certainly some of the lending made has not been warranted.<sup>56</sup>

Sometimes entwined with incompetence was the acute staff shortage, in both numbers and quality. This may also have

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<sup>54</sup> Extracts from Cade's notes on his visit to Ibadan (BBA 11/2155, February 1958).

<sup>55</sup> Ibid.

<sup>56</sup> Cade to Daldry (BBA 11/2272, 28th April 1959).

affected the performance of the bank's branches especially with regards to the mounting bad debts. The problems caused by the rapid increase in branches were compounded by the inability of the head office to deliver the right calibre of staff. As a local director once noted:

It has been a perpetual struggle to staff L.H.O. and the branches at all, leaving aside any question of quality, and in the later respect I have often felt, quite frankly, that Nigeria's needs have been for the most part subordinated to those of the rest of the Bank.<sup>57</sup>

The Director, not surprisingly, concluded that:

Many of our young Managers, despite deficiencies of quality and experience, are really trying their best under most unattractive and difficult conditions, in remote spots with no other Europeans on their staff with whom to discuss anything. It is not their fault if they have been given a burden which they are unqualified to bear.<sup>58</sup>

Though the London directors did not expect to engage in loan liberalisation to Africans without running up some bad debts,<sup>59</sup> the scale of the bad debt run up by Nigerian branches, within a very short period, alarmed them and they swiftly moved to curb it.<sup>60</sup>

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<sup>57</sup> Daldry to Macdona (BBA 11/2272, 23rd November 1959, p.5).

<sup>58</sup> Ibid, p.3.

<sup>59</sup> Cade to Daldry (BBA 11/2272, 28th April 1959).

<sup>60</sup> As Cade noted "unless we can substantially reduce the flow of bad debts, we shall have to think very seriously of cutting down drastically on this lending policy, and that would be a great pity" - Cade to Daldry (BBA 11/2272, 28th April 1959, p.2).

## 8.4 Tackling the Bad Debt Problem<sup>61</sup>

The matter of dealing with advances in the Nigerian territory fell under three main headings: (1) Implementing and tightening existing controls (2) The granting of fresh facilities and (3) A vigorous drive for the recovery of bad and doubtful debts.

### 8.4a *Implementing and Tightening of Existing Controls*

Apparently due to observations on the ground and of course to pressures from the Head Office, the LHO decided to clamp down on branches especially with regards to their lending policies. With the major cause of the bad debt problem identified as the disinclination of the branch managers to follow the laid down procedures for awarding credit, a local director emphasised the need for branch managers to exercise their discretionary credit limits with the greatest caution. He further instructed that excesses over discretionary limits and limits sanctioned by the LHO must normally be first referred to the LHO and must not be granted without the prior approval of the LHO unless the delay in referring to LHO would be prejudicial to the bank's interests and managers were entirely satisfied that the excess was fully justified, of a purely temporary nature and would be repaid as arranged, the

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<sup>61</sup> Table 7 summarises a "question and answer session" between the London Head Office and Local Head Office on ways of tackling the problem.

facility being of course repayable on demand.<sup>62</sup>

Furthermore, the discretionary limits of all branch managers with regards to unsecured advances were reduced as follows (i) all limits of £5,000 were reduced to £3,000 (ii) all limits of £3,000 were reduced to £2,000 (iii) all limits of £1,500 were reduced to £1,000 and (iv) all limits of £750 were reduced to £500. Daldry further instructed the branches to: (1) regard all advances made in anticipation of the perfection of security as unsecured until security is perfected and (2) accept third party guarantees, unsupported by tangible security, as security only with the approval of the Local Head Office.<sup>63</sup>

The head office also instructed the local directors to prepare a security guide for the branches which was to take into consideration the various circumstances of the regions in general and the branches in particular. This security guide was deemed necessary because each of the Nigerian regions had different forms of land tenure so that the procedure for perfecting mortgage security varied between regions. In view of this, of the importance of obtaining effective security and of the normal frequent changes of managers and reliefs, it was considered that such guides would greatly assist managers and also LHO. Any latent procedural difficulties would moreover become more easily apparent and steps could be taken to initiate changes or improvements in procedure. Apart from

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<sup>62</sup> Daldry to Managers of Full Branches (BBA 11/2272, 21st November 1959, p.1).

<sup>63</sup> Ibid, p.1-2.

properties as security, problems also arose in connection with other forms of security e.g effective pledges over goods and over the legal assignments of rents payable and debts due which, in some cases, could be effectively registered.<sup>64</sup>

Apart from the above directives, the Bad and Doubtful Debts Committee at the London Head Office insisted on the separation of the total lending to Africans. This was obviously to enhance the close monitoring of the accounts of Africans. The total of provisions against such lending to Africans in the bad and doubtful debt category was also to be segregated.<sup>65</sup>

As it was realised that these instructions would be of little use without regular supervision,<sup>66</sup> London Head Office instructed the local directors to increase the frequency of visits to branches by experienced supervisors. This would, as far as possible, ensure that all individual managers were exercising proper judgement and control or, if not, that steps were taken to remedy matters before any damage was done.<sup>67</sup> Daldry agreed but expressed reservations on its practicality, mainly on grounds of costs and lack of skilled manpower.<sup>68</sup>

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<sup>64</sup> Harrison to the Nigerian and Cameroon Directors (BBA 11/2272, 11th May 1960).

<sup>65</sup> Harrison to the Nigerian and Cameroon Directors (BBA 11/2044, 29th February 1960).

<sup>66</sup> Inspection report dated 11/6/60. Quoted in Harrison to Nigerian and Cameroon Directors (BBA 11/1275, 7th July 1960).

<sup>67</sup> Harrison to Nigerian and Cameroon Directors (BBA 11/2272, 11th May 1960, p.2).

<sup>68</sup> Daldry to Macdona (BBA 11/2272, 23rd November 1959, p.2).

On the suggestion that more Local Head Offices be established to ensure closer monitoring of the branches, Daldry disagreed, again, on economic grounds pleading the inadequacy of experienced managers to man the new LHOs.<sup>69</sup> Instead, he suggested that head office should select a few men, truly experienced in advances, to visit Nigeria, two or three at a time, for periods up to nine months. They would tour branches, staying for periods varying from a week to, if necessary, a month. They would go through all the advances with branch managers and give advice and guidance. They could, where absolutely necessary, report to LHO. Otherwise, their report should be to the head office.<sup>70</sup>

The local directors also preferred on the spot training of local managers over attaching branch managers to head office or LHO for very short periods, arguing that time was the only cure for inexperienced managers. The local directors also proposed to introduce an internal proposal form with instructions that one must be completed for every advance within every manager's discretion. This was to compel managers to get into the habit of asking the orthodox questions.<sup>71</sup>

The bad and doubtful debt position was not just alarming in terms of the accounting numbers, it was also worrying in terms of the manpower the various branches spent in tackling it. Barclays Bank (DCO) had a global policy on bad debts which

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<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Daldry to Macdona (BBA 11/2272, 23rd November 1959, p.3-4).

required LHOs to monitor all bad debt accounts above £1,000 in branches and make regular reports to head-office on these accounts. By 1960, the Lagos LHO had almost one thousand of such accounts. With a small advances department consisting of a manager and three clerks, the local directors estimated that more than half of the department's time was spent dealing with accounts in the bad and doubtful debts category. Increased bad debt portfolio also meant a corresponding increase in the work load of the branch managers. This made it difficult for branch managers to get out of their offices to cultivate new business or to take active steps to recover bad debts without normal work falling into arrear. A viable solution, LHO reasoned, was for head office to devise some means of reducing internal correspondence.<sup>72</sup> The local directors further suggested some streamlining of the reports usually submitted to the London head office.<sup>73</sup> While head office sympathised with LHO Lagos' desire to eliminate unnecessary paperwork they refused to accede to most of their demands.<sup>74</sup>

Another measure suggested by the local directors directed at saving time was an increase in their £5 discretionary limit of writing off bad and doubtful debts without reference to head office.<sup>75</sup> The Assistant General Manager promptly turned

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<sup>72</sup> Daldry to General Managers (BBA 11/2044, 22nd April 1960).

<sup>73</sup> Colonial Advances Department to Assistant General Managers (BBA 11/2044, 22nd April 1958).

<sup>74</sup> Ibid.

<sup>75</sup> Local Director to General Manager (BBA 11/2044, 19th August, 1960).

down their request on the grounds that such an increase would take Lagos out of step with other controlling offices and in fact might send the wrong signals to Branch Managers. In his reply, the Assistant General Manager asserted that:

While we appreciate that an increase in the amount (you have not indicated the figure you have in mind) will go some way in easing the work of examining bad and doubtful accounts at your office we are reluctant to consider a change in the figure which is identical with that authorised to all our Controlling Offices.<sup>76</sup>

The Assistant General Manager further advanced that:

Apart from reasons which you may feel justify an increase, we consider that having regard to the comparatively large volume of bad and doubtful debts in your territory, it would not be desirable to do anything that might give the impression to branch managers that we are in any way relaxing our attitude towards the recovery of these small debts.<sup>77</sup>

Apart from the implementation and tightening of the existing controls, further guidelines were issued as to the types of advances requests to be entertained in the future. Changes were also put in place with regard to the mode of operationalising such future advances.

#### **8.4b The Granting of Fresh Facilities**

Here, an existing practice recommended to be made compulsory was the separation of the Loan Account from the

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<sup>76</sup> Harrison to Nigerian and Cameroon Directors (BBA 11/2044, 12th September 1960, p.1).

<sup>77</sup> Ibid, pp.1-2.



current account for operations purposes. The final mode of operation for the new system was outlined in the circular of May 19, 1960 to the branches from the LHO. This circular stated that:

1. Whenever a loan is granted, the customer should sign a cheque on the loan account for the full amount involved. If the loan is for a specific transaction, it is most desirable that the customer's cheque should be drawn in respect of the particular commitment involved and not for cash, to prevent the diversion of our advance to other purposes. If the loan is not for making a specific payment, a cheque should nevertheless be drawn on the loan and the amount credited to the customer's current account. In all cases, an active current account must be maintained.

2. The customer should sign a letter addressed to the bank acknowledging the loan and setting out the repayment arrangements - to include interests - incorporating a standing order, duly stamped, for transfers from the current account and undertaking to provide funds on the current account at regular and suitable intervals to meet the reductions. These need not, however, necessarily be for an even amount each month, but should be arranged to conform to the pattern of the customer's account business.

3. This letter signed by the customer must include a statement that he recognises and accepts the position that the loan is a banking advance repayable on demand.

4. The current account, which the customer should undertake in writing to maintain actively, must be kept strictly in credit and he should be suitably told that any cheques drawn against insufficient funds will automatically be returned unpaid. This rule must be rigidly followed without exception, for all African customers with loan accounts.<sup>78</sup>

These new regulations, which in some cases applied to existing facilities,<sup>79</sup> relieved the bank officials of a considerable

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<sup>78</sup> "Advances Policy" circular from LHO to Branch Managers (BBA 11/2272, 19th May 1960, p.2).

<sup>79</sup> As regards current facilities, the General Managers noted "we consider that it may be a little too sweeping to anticipate that all existing advances should be switched to

amount of work, especially that spent in dealing with "refers". This was so since nearly all cheques could then be drawn against credit balances in the customer's current account. The new system was however not infallible. For instance, the West African Advances Department at the London headquarters of the bank expressed reservations because of the possibility of Africans exploiting the system to their own advantage. For instance, they might pass little of their business over their ordinary current accounts and branches would find that all that their customers were doing was merely complying with their fixed loan repayment arrangements. The West African Advances department also felt that such arrangements might not be appropriate in every case, for example, where advances were made against specific goods to be reduced as and when goods were released for sale. The difficulty, therefore was to ensure that current accounts were being properly used,<sup>80</sup> and branch managers were advised to ensure that customers who had loan accounts should keep active current accounts and where possible, give a written

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Loan Accounts. We therefore suggest that some additional latitude should be allowed to Branch Managers as regards the extent to which they are to disturb existing arrangements which are working entirely satisfactorily. Certain advances may not be suitable for the loan system for example facilities effectively secured by goods in store which are to reduce proportionately with goods released or a temporary facility pending the receipt of specific remittances or sales proceeds may not be suitable for the loan arrangement" -Letter to Nigerian and Cameroons directors (BBA 11/2272, 11th May 1960, p.2).

<sup>80</sup> West African Advances Department to Mr Dyson (BBA 11/2272, 2nd May 1960).

undertaking to do so.<sup>81</sup>

Apart from the above controls, introduced to stem the flow of bad debts, four categories of business were identified as "carrying considerable risk" and were to be discouraged where possible.<sup>82</sup> An internal circular of the bank to its branches in Nigeria and the Cameroons identified the four categories as: (1) cattle traders in the North (2) transporters (3) rubber traders and exporters and (4) petrol station proprietors. Unless fully effective tangible security was held or was available in support of such lending, branch managers were advised to avoid them.<sup>83</sup>

The tackling of the bad debt problem did not stop with the implementing of existing controls and the setting of new ground rules for fresh advances: steps were also taken to remedy the existing level of bad debts.

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<sup>81</sup> Ibid.

<sup>82</sup> This was first suggested by Cade. In a Memorandum to the LHO, he suggested that: "What I think we must try to do is perhaps to give Managers a bit more guidance as to the lines on which they should work. Maybe some advances had better be blackballed more or less, for example lending money to people of small capital to buy lorries, or to pay the instalments required to buy lorries on hire purchase terms. There have been some losses on lorry lending, and it seems too easy for the borrower to disappear with his lorry. Perhaps also we might think of following a system adopted elsewhere for lending in less advanced communities of insisting that every would-be borrower must have at least two good sponsors who guarantee his overdraft. Perhaps also we could in some cases follow practices elsewhere of lending to co-operatives or to groups of people, all of whom know each other and will take responsibility for any lapses"- Letter to Daldry (BBA 11/2272, 28th April 1959, p.1).

<sup>83</sup> Ibid, p.1.

#### **8.4c The Recovery of Bad and Doubtful Debts**

Though a record of bad and doubtful debtors was already stipulated as an essential record that branches must maintain, it was in several cases not properly maintained. This prompted the LHO to circularise all the branches reminding them of the need to maintain proper and complete records of all bad and doubtful debtors. In the case of firms the names of all partners were to be separately indexed. Similar rules were also to apply to the directors of limited companies. It was the duty of the LHO to prepare a comprehensive list of all the previous loan defaulters and circulate the list to all branches. It was however the duty of the branch managers to verify that all new customers had no previous bad debt record. Should a defaulter customer apply to any of the branches for a facility or to open a new account, the application should be refused and the LHO and the customer's previous branch should be advised immediately. Efforts should also be made to establish the present address of the applicant in order to enable the bank reestablish contact where this had been lost.<sup>84</sup>

As regards the recovery of bad and doubtful debts, the circular directed the managers to continue the recovery drive "with all possible energy" as the local directors were worried by the slow progress and prospects of recovery of African debts. An impediment to the recovery process was the bank's lack of information concerning the assets of debtors. This

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<sup>84</sup> Local Director to branches (BBA 11/2044, 27th February 1960).

precluded Barclays Bank from considering legal action for recovery of such bad debts in several cases.<sup>85</sup>

To further deal with the recovery of bad debts, Daldry instructed branch managers to employ the services of African lawyers, on commission basis,<sup>86</sup> since they were obviously versed in the ways of fellow Africans and thus were at an advantage to effect recovery. African lawyers were also to be used to trace undisclosed assets belonging to African debtors where such assets were thought to exist but had not been established.<sup>87</sup> The policy to use African lawyers in recovering debts of fellow Africans was not in any way to jeopardise the bank's patronage of expatriate lawyers. In fact, such African lawyers were only to be used when expatriate lawyers were incapable of achieving results.<sup>88</sup>

The new scenario of using African lawyers, on commission basis, to recover bad debts, had accounting consequences. To put the records straight, a local director instructed that the full amount collected from the customer by the lawyer should be credited to the customer's account. The 10% commission payable to the lawyers should then be debited to Legal Charges. Managers were further instructed to disclose, on a

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<sup>85</sup> Daldry to Managers of full branches (BBA 11/2044, 4th March, 1960).

<sup>86</sup> Not all lawyers were appointed on commission basis. A case in point was that of one Mr Shonuga who was employed full time by the Broad Street Branch for recovery of debt purposes only - Memorandum to Mr Eaton, 12th June 1961 (BBA 11/2272).

<sup>87</sup> Daldry to Managers of full branches (BBA 11/2044, 4th March 1960, p.1).

<sup>88</sup> Ibid.

half yearly basis, how much of the legal charges related to the 10% commission paid to the lawyers.<sup>89</sup> Given that African lawyers were to be used only when there was no hope of the European lawyers making any recovery, it was not surprising that they achieved limited results.<sup>90</sup>

## 8.5 Conclusion

This chapter has attempted an analysis of the accounting, control and operational consequences of a pre-independence experiment by Barclays Bank to liberalise its credit policy towards Africans in the British Nigerian colony. It concludes that the resultant "alarming" bad debts had little to do with the absence of adequate instructions on control and operations procedures for dealing with credits even after the liberalisation process. Rather, such bad debts were attributable to the flouting of existing controls and operations procedures by inexperienced bank managers who were under pressure to lend to Africans. Such pressures were inconsistent with the management objective of minimising bad

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<sup>89</sup> Davies to Managers of full branches (BBA 11/2044, 10th June 1960).

<sup>90</sup> In 1961, an internal memo of the Barclays bank noted that "Results from the use of African debt collectors have been somewhat disappointing- most of them have lucrative practices and are naturally reluctant to spend time chasing the Bank's debtors. It should be mentioned, however, that debts placed in the hands of the debt collectors are, in the majority of cases, already considered irrecoverable by branches and it is considered that in all the circumstances the recoveries had been fair in relation to the nature of the debts handled. We have suggested to the General Manager in Nigeria that they may care to consider raising the commission to 25% but they prefer to leave it at the present rate for the time being - Memorandum to Mr Eaton (BBA 11/2272, 12th June 1961).

debts. Had the existing procedures been adhered to, the resultant bad debts would have been considerably curbed.

This chapter shows that internal control mechanisms are not infallible and therefore cannot always be a substitute for external regulation. Individual enterprises may not indeed be the best judges of their economic and political self. The next chapter will summarise and conclude the entire thesis.

Table 5

BARCLAYS BANK: NIGERIA AND THE CAMEROONS

Bad and Doubtful Debts Statistics as at 31st March 1960

Total Debit Balances 31/3/60	£10,998,000
Provision 30/9/59.	662,340
New and increased Provision	385,680
Global Provision	350,000
Not Required and Reduced Provision	63,044
Provision 31/3/60 (including Global)	£1,336,977

From the foregoing, details of African Advances and African Bad and Doubtful Debts have been extracted as follows:-

Total African Advances as at 31/1/60	£4,833,775
Total African Bad and Doubtful Debt at 31/3/60	£950,975
Total African Bad and Doubtful Debt Provision	£746,888

Sources:

Memorandum to General Mangers, 25th April 1960 (BBA 11/2044).  
 Memorandum to the General Managers, 21st October 1960 (BBA 11/2044).



Table 6

REASONS FOR THE AFRICAN BAD DEBT PROBLEMS

1. Advances being granted indiscriminately to new customers.
2. Insufficient investigation into customers' background, integrity, etc.
3. Failure to obtain reports from other banks before granting facilities.
4. Absence of balance sheet and previous results.
5. Advances out of all proportion to customers' available liquid resources.
6. Failure to check balance sheets supplied by customers and, in particular, to verify the existence of stocks and properties to the value claimed.
7. Undue reliance on customers' statements and promises.
8. Advances being made indiscriminately for unsuitable purposes.
9. Advances being granted to customers already known to be indebted to other banks.
10. Too many unsecured lending.
11. Advances being made against the promise of security.
12. Failure to check value of security adequately before advances are made
13. Advances being made before stipulated security are put in order and, in particular, before title of property has been verified.
14. Defects in security being discovered after advances have been made.
15. Failure to ensure that goods are adequately insured with the Bank's interest noted.
16. Advances against goods being bought on hire purchase without knowledge of branch.
17. Advances against rents in advance which do not materialise.
18. Failure to ensure that monies due by third parties will irrevocably be paid to the Bank.
19. Insufficient use of loan accounts with regular reduction arrangements.
20. Facilities granted without H.O.N.C. authority especially contractors' accounts.
21. Excesses not reported.
23. Failure to examine accounts frequently and follow up as soon as unsatisfactory trends become apparent.
24. Facilities used for purposes other than those arranged. Trading receipts being diverted for building, etc.
25. Reluctance to decline further facilities when previous facilities have been temporarily repaid, where experience of the account has been unsatisfactory.
26. Failure to obtain regular up to date balance sheets when facilities are current.
27. Credits secured by documents turning into unsecured overdrafts.

Source: Memorandum to the General Managers, 25th April 1960 (BBA 11/2044).

Table 7  
TACKLING THE BAD DEBT PROBLEM

	Questions from London Head Office	Answers from Local Head Office
1	Can we reduce the flow of Bad debts and get the business on a sounder basis?	Yes
2	Can we cut it out?	No, but we can be more selective.
3	What principles are our men working on?	Various
4	What sort of advances have the mistakes mainly been made in?	Over-generous desire to implement the policy, exaggerated by lack of experience at some branches
5	Are there some types of advances which we should not do at all (e.g. purchase of lorries or cash payments for H.P. transactions )	Yes
6	Are there others which we should do only with very special precautions or with very special additional security?	No
7	Are Managers getting the right sort of information about would be borrowers?	Not always, but the necessity of this has been emphasised to them
8	Do they get help from their African Staff?	Sometimes
9	Should we insist on having at least two sureties etc? I don't see why we would not insist.	A guarantor is usually an unsatisfactory form of security except where he provides suitable security in support of his guarantee
10	Do you think our discretionary limits for small branches are too high?	No
11	Should all advances be on loan account also?	Where possible
12	Should we charge higher interest because of the increased risk?	This is usually done

Sources:

"African Advance" Appendix in LHO to Cade (BBA 11/2272, 30th May 1959).

"Advances" Circular from Local Directors to all branches (BBA 11/2272, 22nd May 1959).

## **CHAPTER NINE**

### **CONCLUSION**

This thesis has attempted to show how different interest groups influenced the various banking developments in pre-independence Nigeria. In chapter two, we examined the two main theories of regulation (public good theory and capture theory). Some scholars have however argued that because of the ever shifting perception of 'public good', shifting individual and group interests and perhaps the entwinement of public and individual good, neither the capture theory nor the public good theory has yet fully explained the rationale for regulation. There have thus been calls for a synthesis of the two regulatory theories. This thesis will conclude by examining to what extent the above theories explain the various banking developments in pre-independence Nigeria and what these episodes tell us about these theories.

Perhaps the first significant episode in Colonial Nigeria that brought out the influence of interest groups on the regulation process and the impact regulation could have on the operations of various groups was the 1900 legislation on the recovery of credit to Africans. With the proclamation by the British Government of the Oil Rivers Protectorate, the protectorate Government, urged on by the British trading interests in the territory, adopted a credit policy aimed at discouraging the granting of credit to Africans. This was

followed by the Recovery of Credit Proclamation of 1900. This legislation was defended by the Colonial Government on grounds of public interest. The official explanation was that because of limited manpower in the newly created consular courts, it was necessary to discourage credit sales to Africans in order to reduce the court cases arising from such transactions. In other words, the economic consequences of trade credit litigations made legislation in the public interest necessary. This was however not the whole story.

Prior to the declaration of the Southern Nigeria Protectorate, the European and African traders had in place an effective and efficient way of settling such trade disputes: Courts of Equity. With such a system in place, the Consular Courts did not need to, in the first place, inherit such trade disputes. If indeed the workload of the consular courts was an issue, one would have thought that the Courts of Equity should have been encouraged to continue dealing with such cases with some occasional supervision from colonial officers. It is therefore more likely that the protection of the British trading interests was the main reason behind the recovery of credit legislation. The colonial credit legislation was simply a tool used by the Colonial Government to break the back of the African middlemen who were seen as all powerful, and to entrench the supremacy of the British in Anglo-African trade. This legislation thus had little to do with un-credit worthiness of the African. In other words, the regulation was used rhetorically to advance public good but effectively to protect British trading interests. This represents a clear

example of regulatory capture by the British trading interests. This legislation also served as the official excuse for some colonial banks for not lending money to Africans and also as the official proof that Africans were as a rule uncredit worthy. Even when Barclays Bank (DCO) changed their credit policies towards Africans, it was more based on an economic calculation of the imminent political change (independence). In other words, the bank reasoned that political power will put Africans in a position to formulate regulations that could fundamentally affect their operations. To be perceived as an enemy by the soon to be empowered Africans was certainly not in the bank's economic interest.

The foreign banks in the Nigerian Colony also remained unregulated by the Colonial Government for a long time. The advent of colonial banking in the Nigerian Colony was initially to provide banking services for the Government and the British commercial enterprises then in existence. It was therefore not surprising that these banks were registered in London, head-quartered in London, and controlled from London. These banks, at the time, preferred to be under the regulatory jurisdiction of London, where they had considerable influence and input in regulation, than be regulated by a Colonial Government that was under considerable pressure from the Africans to make such banks more useful to the indigenes.

By 1945, the two main Foreign banks had in place a working agreement on virtually all spheres of banking activity thus hindering competition. The agreement, for instance, fixed minimum charges for overdrafts, loans and local bills

discounted. Maximum interests payable on various forms of deposits were also fixed. This agreement ensured that the competition among the two banks did not lead to a price war. This agreement, no doubt, helped in making the interest and service charges in the Nigerian Colony one of the highest in the entire British Empire at the time. Government regulation of such excessive bank charges would no doubt have been in the public interest. This never happened despite protests from Africans. Even when regulation was introduced in 1952, such monopolistic arrangements were left untouched. Up until Independence, this agreement remained in force, in one form or the other, stifling competition. Also the 1952 Ordinance did not contain detailed inspection provisions partly because it had the potential of precipitating a demand for complicated banking control which could cause "undesirable and unnecessary interference with the two chief banks." To this extent therefore, the capture theory of regulation again provides a more useful explanation for the above episode.

But the self interest of the foreign banks is however not enough to explain the advent of the 1952 legislation nor its provisions. The introduction of this legislation was inevitable on grounds of public interest. The activities of poorly capitalised, poorly staffed and in some cases fraud infested indigenous banks had to be monitored in the interest of the public. Most of the requirements of the Ordinance were rudimentary and could clearly be defended on grounds of public interest. For instance, under the 1952 Ordinance, indigenous banks were required to: (1) have a nominal share capital of at

least £25,000 of which not less than £12,500 should be paid up; (2) be licensed by the Financial Secretary in order to be able to carry on banking business; (3) abstain from granting loans and advances on the security of their own shares and granting unsecured loans and advances in excess of £300 to any one or more of its directors or to a business in which it or any one or more of their directors had any interests; (4) maintain adequate cash reserves; (5) maintain a reserve fund out of net profit of each year of not less than 20% of such profits until the reserve fund equals the share capital; (6) refrain from paying dividend until all their capitalised expenditure not represented by tangible assets had been written off and (7) make periodic returns to the Financial Secretary.

The provisions of sections 5(2) and 6(2) of the Ordinance were however more contentious. They gave the existing banks three years within which to comply with the provisions of the Ordinance or discontinue banking business. Not surprisingly, there was an exodus of deposits from these indigenous banks further entrenching stress and resulting in mass failure of these indigenous banks. The fact that the colonial Government did little to protect the interest of the largely uninformed depositors have provided arsenal for conspiracy theorists. For instance no attempt was made to set up a deposit insurance scheme despite the fact that the United Nations at the time generally promoted the establishment of such schemes in developing countries. There is however no evidence that the colonial banks in any way influenced this provision. The

inability of the Government to take into consideration the welfare of the largely ignorant depositors, was more of a policy failure on the part of Government than any form of regulatory capture by the colonial banks. The Colonial Government is also indicted for its inability to appreciate the fact that Africans, no matter how backward they may appear by British standards and no matter how unprepared they may have appeared for self rule, needed a banking system to support them in their level of development. A task the British banks were unable to perform and the indigenous banks, despite all their deficiencies, were in a better position to accomplish, at least in some respects. The 1952 Banking Ordinance and its consequences can thus be explained by a combination of public interest theory, capture theory and Government policy failure.

The 1952 Banking Ordinance did not however result in the failure of all indigenous banks. Most of the indigenous banks that survived had regional Government support which was politically motivated. The African Continental Bank was one such bank. It was set up primarily to help further the interests of the Zik Group of Companies while at the same time protecting the economic interest of the indigenous people. Like most other indigenous banks, economic emancipation of the Africans was one of its cardinal objectives. The 1952 Banking Ordinance however altered its playing field. The bank's conduct was called to question especially as regards its ability to meet the requirements of the new Banking Ordinance. A political decision by the Government of the Eastern Region,



where Azikiwe was the helmsman, to invest almost £2 million in both shares and deposits in the bank was the obvious saviour.

The Colonial Office, which was well aware of the difficulty, if not of the impossibility of the bank's survival without such a political action, worried, on grounds of defending the public interest, about the consequences on sound banking practices and accountability of public officers of Government ownership and investments in such local banks and the procedures for such investments. More importantly however, this was seen as an opportunity by the Colonial Office to discredit Dr Azikiwe, whom they evidently did not like. Paranoia for Azikiwe relegated the ideal goal of establishing sound banking regulations to the background. The Colonial Office then caused the searchlights of three separate inquiries to be directed at the African Continental Bank and/or Azikiwe's relationships with the bank. Though some of the reports alluded to the fact that Dr Azikiwe's conduct in the whole affair fell short of the expectations of honest reasonable people, there was no indication that the bank's funds had been misappropriated. Paradoxically, it was the Nationalist activities of Azikiwe, which were clearly the reason why the probe was directed at his person, which also saved the African Continental Bank from being wound up. In this intermingling of politics and economics, "technical" regulatory issues were displaced in terms of importance by political objectives.

The African Continental Bank episode shows that there are various levels of "capture" all aimed at satisfying

organisational and individual objectives whatever they may be. While it was possible for the colonial banks to capture the regulatory agencies and influence regulation, it was also possible for some indigenous banks, like the African Continental Bank, to capture the political apparatus of regional governments and influence the formulation of government policies that could aid such indigenous banks in complying with regulation. In other words, people simply pursue their objectives, whatever they are, using the resources available to them. Again a synthesis of public interest and capture theories of regulation is needed in order to explain the African Continental Bank episode.

The 1952 Banking Ordinance was also fundamental to the initial call for the establishment of a central bank in the Nigerian Colony. The imminent collapse of most of these indigenous banks, led to calls for a 'God Father' bank to help save them. This was to some extent an attempt by the indigenes to influence regulation in order to protect private interests. The Bank of England however believed that it was in the public interest to put such rescue operations beyond the scope of an infant central bank, if established. The Bank of England also had doubts about the ability of a central bank, run by Africans, to resist political interference in monetary policy management. From previous experience in the interwar years, the Bank of England believed that political interference in the activities of central banks was an infallible way to high inflation. Thus the Bank's attitude could be explained in terms of defending the public interest in sound banking and a

stable economy. There is however an alternative explanation for the position adopted by the Bank of England. The bank was also interested in protecting the West African Currency Board system which provided the Colonial Government with enormous seigniorage profits. It was therefore in their interest to defend the currency board system. A pre-briefed Bank of England 'expert', in 1952, not surprisingly, advised against such a bank on 'technical grounds'. An IBRD Economic Mission to the Colony, the following year, advised to the contrary and again opened up the debate. Various overt and covert attempts by the Bank of England to get the IBRD to change its mind achieved little result. The Central Bank episode illustrates how the colonial Government used 'experts' and questionable methods to influence the regulatory process and enshrine policies that economically benefitted them. Such policies were also defensible on grounds of public interest. This episode therefore demonstrates that a synthesis of both the capture theory and the public good theory is necessary in order to explain banking developments in pre-independence Nigeria.

This thesis is distinct from other studies in the area of banking in Colonial Nigeria in two ways. Firstly, it has introduced new archival evidence into the study of the subject matter. Secondly, it has attempted to explain the various banking developments in pre-independence Nigeria, in the context of regulatory theories and principles. This thesis provides empirical support and illustration for the argument that neither the capture theory nor the public good theory can fully explain the rationale for regulation. A synthesis of

both theories leads to a better understanding of the various banking developments in Colonial Nigeria.

**APPENDIX 1: 1952 BANKING ORDINANCE**

A 118

Assented to in Her Majesty's name this 12th day of May, 1952.

J. S. MACPHERSON,  
*Governor*

(L.S.)



No. 15

1952

Colony and Protectorate of Nigeria

IN THE FIRST YEAR OF THE REIGN OF

**HER MAJESTY QUEEN ELIZABETH II**

SIR JOHN STUART MACPHERSON, G.C.M.G.

*Governor and Commander-in-Chief*

Title. AN ORDINANCE FOR THE REGULATION OF THE BUSINESS OF BANKING.

Date of commencement.

[22nd May, 1952.]

Enactment.

Short title.

BE IT ENACTED by the Legislature of Nigeria as follows:—  
1. This Ordinance may be cited as the Banking Ordinance, 1952.

Interpretation.

2. In this Ordinance, unless the context otherwise requires:—  
"bank" means any company carrying on banking business or using the word "bank" or any of its derivatives as part of the title under which it carries on business;  
"banking business" means the business of receiving from the public on current account money which is to be repayable on demand by cheque, and of making advances to customers;

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Banking

No. 15 of 1952

A 119

"company" means any limited liability company registered under the Companies Ordinance and includes a company incorporated outside Nigeria which is duly registered within Nigeria; Cap. 38.

"Court" means the Supreme Court;

"demand liabilities" means liabilities which must be met on demand, and "time liabilities" means liabilities which are not demand liabilities;

a company shall be deemed to be a "subsidiary" of another if that other either is a member of it and controls the composition of its board of directors or holds more than half in nominal value of its equity share capital or if the first mentioned company is a subsidiary of any company which is that other's subsidiary;

"equity share capital" means the issued share capital of the company excluding any part thereof which neither as respects dividends nor as respects capital carries any right to participate beyond a specified amount in a distribution.

3. (1) No banking business shall be transacted in Nigeria except by a company, and any person who acts in contravention of the provisions of this sub-section shall be liable on conviction to a fine not exceeding ten pounds for every day during which the offence continues.

Banking business to be transacted only by companies with prescribed minimum capital.

(2) The incorporation of a company which has as its object or one of its objects the carrying on of banking shall not be registered unless its nominal capital is not less than twenty-five thousand pounds.

(3) The Registrar of Companies shall not certify that any company which has as its object or one of its objects the carrying on of banking is entitled to commence to carry on business in accordance with the provisions of section 88 of the Companies Ordinance, unless its nominal capital shall have been issued and paid up in cash to the extent of at least twelve thousand five hundred pounds, and it shall have complied with the provisions of section 6 of this Ordinance.

(4) Notwithstanding anything contained in Part VII of the Companies Ordinance, no company incorporated outside Nigeria which has as its object or one of its objects the carrying on of banking shall commence business unless it is proved to the satisfaction of the Registrar of Companies that it has an issued and paid-up

capital which in his opinion is equivalent to not less than one hundred thousand pounds, and the Registrar of Companies is empowered to call for any documents as evidence that such capital has been so paid up.

(5) Notwithstanding the provisions of sub-section (4) of this section, a company incorporated outside Nigeria which has as one of its objects the carrying on of banking but does not intend to carry on banking in Nigeria may commence business other than banking within Nigeria upon the filing by the directors of such company with the Registrar of Companies of a statutory declaration to the effect that the company does not intend to carry on banking business in Nigeria, and of an undertaking not to carry on banking business unless the company shall comply with the provisions of this Ordinance.

Restriction  
on use of  
word "bank"

4. (1) After the expiry of one year from the commencement of this Ordinance, no person or body of persons, whether incorporated or unincorporated, other than a company authorised to carry on banking in accordance with the provisions of this Ordinance, shall, without the consent of the Financial Secretary, use or continue to use the word "bank" or any of its derivatives in the name under which such person or body of persons is carrying on business, and no company so authorised shall carry on banking unless it uses as part of its name the word "bank" or one of its derivatives.

(2) Any person or body of persons whether incorporated or unincorporated who acts in contravention of the provisions of this section shall be liable on conviction to a fine not exceeding ten pounds for every day during which the offence continues:

Provided that nothing in this section shall apply to any Association of Banks formed for the protection of their mutual interests.

Existing  
companies  
to acquire  
capital  
within three  
years of  
commence-  
ment of this  
Ordinance.

5. (1) Any company lawfully carrying on banking business in Nigeria at the date of the commencement of this Ordinance which has not on that date a nominal capital of not less than twenty-five thousand pounds of which not less than twelve thousand five hundred pounds has been issued and paid up in cash shall, within a period of three years from the date aforesaid, increase its nominal capital to an amount not less than twenty-five thousand pounds of which not less than twelve thousand five hundred pounds shall have been issued and paid up in cash.

(2) Where any banking company fails to comply with the requirements of sub-section (1) of this section it shall, at the expiry of three years from the date of the commencement of this Ordinance—

(a) cease to carry on banking; and

(b) cease to use the word "bank" or any of its derivatives in the name under which it is carrying on business:

Provided that the cessation of banking shall not affect the rights of any creditors of the company.

6. (1) Save as hereinafter provided, no company shall carry on banking in Nigeria unless it holds a licence granted by the Financial Secretary in such behalf.

Licensing of  
banking  
companies.

(2) Every banking company in existence at the date of commencement of this Ordinance shall, before the expiry of three months from such commencement, and every other company shall, before commencing banking in Nigeria, apply in writing to the Financial Secretary for a licence under this section:

Provided that in the case of a banking company in existence at the date of the commencement of this Ordinance, nothing in sub-section (1) of this section shall be deemed to prohibit the company from continuing to carry on banking until it is granted a licence in pursuance of sub-section (2) of this section, or is by notice in writing informed by the Financial Secretary that a licence cannot be granted to it:

Provided further that the Financial Secretary shall not give a notice as aforesaid to a banking company in existence at the date of the commencement of this Ordinance before the expiry of the period of three years referred to in sub-section (1) of section 5 of this Ordinance.

(3) Before granting any licence under this section, or at any time or times after the granting of a licence, the Financial Secretary shall be entitled to cause an inspection of the books of the company to be made or to call for such other information as he may think fit in order to satisfy himself that the affairs of the company are not being conducted to the detriment of the interests of its creditors.

(4) The Financial Secretary may cancel any licence granted under this section where the requirements of sub-section (3) of this section cease to be fulfilled or if the company ceases to carry on banking in Nigeria or goes into liquidation or is wound up or otherwise dissolved.

(5) Any banking company aggrieved by the refusal of a licence under sub-section (2) of this section or by the cancellation of its licence under sub-section (4) of this section may appeal to the Governor, and the decision of the Governor on such appeal shall be final.

(6) In considering an application for a licence under this section, the Financial Secretary shall have regard to—

- (i) the amount of the bank's liquid resources in relation to its liabilities to depositors and other creditors;
- (ii) the amount of its issued and paid-up capital;
- (iii) the amount of its reserves,

and he shall not issue a licence under this section if, in his opinion, the circumstances render the issue of such licence undesirable in the public interest.

Restrictions  
on loans and  
advances.

7. (1) No banking company shall make any loans or advances on the security of its own shares or grant unsecured loans or advances in excess of £300 to any one or more of its directors or to a firm or private company in which it or any one or more of its directors is interested as director, partner, manager or agent, or to any individual, firm or private company of whom or of which any one or more of its directors is a guarantor. For the purpose of this sub-section a private company means a private company as defined in section 121 of the Companies Ordinance.

(2) Every banking company shall, in the return required to be furnished to the Financial Secretary under section 11, give particulars of all unsecured loans and advances granted by it to companies other than private companies in which it or any of its directors is interested as director, manager or agent or guarantor.

(3) If on examination of any return submitted under section 11 it appears to the Financial Secretary that any loans or advances referred to in sub-section (2) are being granted to the detriment of the interests of the depositors of the banking company, the Financial Secretary may, by order in writing, prohibit the banking company from granting any further such loans or advances or impose such restrictions on the grant thereof as he thinks fit, and may by like order direct the banking company to secure repayment of any loan or advance within such time as may be specified in the order.

Cash reserve.

8. (1) Every banking company shall at all times maintain by way of cash reserve such amount as is necessary to ensure an adequate degree of liquidity and to provide adequate cash reserves against its commitments, and the Financial Secretary may from time to time require the banking company to furnish to the Financial Secretary a statement in writing setting out the cash reserve and the time and demand liabilities of the banking company at a date specified by him.

(2) If it shall appear to the Financial Secretary on examination of such statement that adequate cash reserves are not being maintained, he shall direct that steps be taken to increase the ratio of the cash reserves to the demand and time liabilities in such manner and within such time as shall be stated in the direction, and if such direction is not fully complied with he may at his discretion cancel any licence granted to the bank under section 6 of this Ordinance.

9. (1) Every banking company incorporated in Nigeria and operating solely within Nigeria shall maintain a reserve fund, and shall, out of the net profits of each year and before any dividend is declared, transfer a sum equivalent to not less than twenty *per centum* of such profits to the reserve fund, until the amount of the said fund is equal to the paid up capital. Reserve fund.

(2) The provisions of sub-section (1) of this section shall also apply to banking companies incorporated outside Nigeria unless it is proved to the satisfaction of the Financial Secretary that the aggregate reserves of the company fulfil the requirements of that sub-section.

10. No banking company shall pay any dividend on its shares until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling commission, brokerage, amounts of losses incurred and any other item of expenditure not represented by tangible assets) has been completely written off. Restriction as to payment of dividend.

11. (1) Every banking company shall furnish to the Financial Secretary:— Returns to be submitted to the Financial Secretary.

(a) not later than forty-two days after the last day of each quarter ending on the 31st March, 30th June, 30th September and 31st December, a statement in the form set out in the First Schedule to this Ordinance showing the assets and liabilities of the banking company at the close of business on the last day of the quarter; First Schedule.

(b) not later than forty-two days after the last day of March, June, September and December a statement in the form set out in the Second Schedule to this Ordinance, giving an analysis of advances current and bills discounted as at the 31st March, 30th June, 30th September and 31st December, respectively; Second Schedule.

Provided that in the case of a banking company which is a company incorporated outside Nigeria, the statements to which reference is made in paragraphs (a) and (b) hereof, shall comprise data only with respect to offices and branches of such company which are situated in Nigeria; and such statements shall be submitted by the manager or agent of the principal office of the company in Nigeria :

Provided further that the Governor may by regulation from time to time vary the form of the First and Second Schedules, and the dates as at which the information required in the Second Schedule shall be compiled and forwarded to the Financial Secretary.

(2) Any banking company failing to comply with the requirements set out in paragraph (a) or (b) of sub-section (1) hereof shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(3) Where a banking company is liable to furnish the returns set out in sub-section (1) of this section it shall not be liable to comply with section 108 of the Companies Ordinance.

Exhibition  
and publica-  
tion of  
balance sheet.

12. (1) Every banking company shall—

(a) exhibit throughout the year in a conspicuous position in every office and branch of the banking company in Nigeria a copy of its last audited balance sheet;

(b) on or about the date of the presentation of such balance sheet to the shareholders in general meeting, cause a copy thereof to be published in a daily newspaper circulating in Nigeria;

(c) forward to the Financial Secretary a copy of its last audited balance sheet within six months after the close of its financial year.

(2) Any banking company which fails to comply with any of the requirements of this section shall be liable on conviction to a fine not exceeding one hundred pounds.

Publication  
of names of  
directors.

13. (1) After the expiry of three months from the commencement of this Ordinance every banking company shall, in all circulars and letters issued or sent by or on behalf of the company in connection with its business, cause to be set out in legible characters the full and correct names of all persons who are directors of the company.

(2) Any banking company which fails to comply with the requirements of this section shall be liable on conviction to a fine not exceeding twenty-five pounds.

14. (1) Without prejudice to anything contained in section 74 of the Companies Ordinance, no person—

Disqualifica-  
tion of  
directors.

(a) who has been a director of, or directly or indirectly concerned in the management of, a banking company which has been struck off the register of companies under the provisions of this Ordinance; or

(b) who is or has been convicted by a criminal court of an offence involving dishonesty and has not received a full pardon for the offence of which he was convicted,

shall, without the express authorisation of the Governor, act or continue to act as a director of, or be directly or indirectly concerned in the management of, any banking company.

(2) Any person acting in contravention of sub-section (1) of this section shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or both such imprisonment and such fine.

15. (1) Any banking company which wilfully fails to comply with the provisions of this Ordinance, may, upon application to the Court by the Attorney-General, be struck off the register of companies.

Penalties.

(2) Any person who, being a director or manager of a banking company,

(a) fails to take all reasonable steps to secure compliance by the banking company with the requirements of this Ordinance, or

(b) fails to take all reasonable steps to ensure the correctness of any statement submitted under the provisions of this Ordinance,

shall be deemed to have committed an offence and shall in respect of each offence be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding three hundred pounds or to both such imprisonment and such fine :

Provided that no proceedings shall be instituted in respect of any such offence save by or under the direction of the Attorney-General.

16. The Governor may make such rules as may be required from time to time for carrying into effect the objects of this Ordinance and for regulating the proceedings and functions of the Financial Secretary under this Ordinance.

Power to  
make rules.



FIRST

To be rendered in accordance with section 11 of the  
Banking Ordinance, 1951.

NAME OF BANK \_\_\_\_\_  
QUARTERLY STATEMENT OF  
AS AT \_\_\_\_\_

## LIABILITIES

	£	s	d	£	s	d	£	s	d
1. CAPITAL PAID UP .. .. .									
2. RESERVE FUND .. .. .									
3. DEBENTURES .. .. .									
4. BALANCES HELD FOR :—									
(a) Other Banks in Nigeria .. .. .									
(b) Other Banks outside Nigeria .. .. .									
(c) Head Office of this Bank outside Nigeria .. .. .									
(d) Branches of this Bank outside Nigeria .. .. .									
(e) Subsidiary Companies :—									
(1) In Nigeria .. .. .									
(2) Outside Nigeria .. .. .									
(f) Other Correspondents .. .. .									
5. (a) CURRENT AND DEPOSIT ACCOUNTS OF CUSTOMERS REPAYABLE ON DEMAND :—									
Current Account .. .. .									
Savings Account .. .. .									
(b) OTHER DEPOSITS REPAYABLE AS FROM THE DATE OF THIS RETURN :—									
(i) within 3 months .. .. .									
(ii) between 3 and 6 months .. .. .									
(iii) between 6 and 12 months .. .. .									
(iv) later than 12 months .. .. .									
6. BILLS PAYABLE .. .. .									
7. ADVANCES FROM :—									
(a) Other Banks in Nigeria .. .. .									
(b) Other Banks outside Nigeria .. .. .									
(c) Other parties or institutions .. .. .									
Contingent Liabilities .. .. .									
8. ACCEPTANCES ON ACCOUNT OF CUSTOMERS .. .. .									
9. CONFIRMED DOCUMENTARY CREDITS .. .. .									
10. GUARANTEES, ENDORSEMENTS AND OTHER OBLIGATIONS ON ACCOUNT OF CUSTOMERS .. .. .									
OTHER ACCOUNTS .. .. .									

\* Details should be given, on an attached sheet, in regard to balances lodged in countries in  
† "Scheduled Territories" means the territories specified in the First Schedule to the Exchange  
We declare that the foregoing is made up from the books of the Bank, and that, to the best of

Date \_\_\_\_\_

## SCHEDULE

## ASSETS AND LIABILITIES

19

## ASSETS

	£	s	d	£	s	d	£	s	d
1. CURRENCY ON HAND AND IN TRANSIT .. .. .									
2. BALANCES WITH, INCLUDING REMITTANCES IN TRANSIT TO :—									
(a) Other Banks in Nigeria .. .. .									
* (b) Other Banks outside Nigeria .. .. .									
* (c) Head Office of this Bank outside Nigeria .. .. .									
* (d) Branches of this Bank outside Nigeria .. .. .									
* (e) Subsidiary Companies :—									
(1) In Nigeria .. .. .									
(2) Outside Nigeria .. .. .									
* (f) Other Correspondents .. .. .									
3. TREASURY BILLS :—									
(a) Nigerian Government Bills .. .. .									
4. LOANS AND ADVANCES TO :—									
(a) Subsidiary Companies of this Bank :—									
(1) In Nigeria .. .. .									
(2) Outside Nigeria .. .. .									
(b) Other Banks in Nigeria .. .. .									
(c) Other Banks outside Nigeria .. .. .									
(d) Other Customers .. .. .									
(i) Repayable within six months from date of this return .. .. .									
(ii) Repayable within one year from date of this return .. .. .									
(iii) Repayable later than one year from date of this return .. .. .									
5. INVESTMENTS :—									
(a) Investments in subsidiary companies of this Bank :—									
(1) In Nigeria .. .. .									
(2) Outside Nigeria .. .. .									
(b) Nigerian Securities :—									
(1) Nigerian Government .. .. .									
(2) Other .. .. .									
(c) Foreign Securities :—									
(1) British Government .. .. .									
(2) Other Scheduled† Territories securities :—									
(i) Empire .. .. .									
(ii) Other .. .. .									
(3) Investments outside the Scheduled Territories .. .. .									
6. BANK PREMISES AND OTHER IMMOVABLE PROPERTY (including Furniture, Fixtures, and Fittings) .. .. .									
7. LIABILITIES OF CUSTOMERS FOR ACCEPTANCES (as per contra)									
8. LIABILITIES OF CUSTOMERS FOR CONFIRMED DOCUMENTARY CREDITS (as per contra) .. .. .									
9. LIABILITIES OF CUSTOMERS FOR GUARANTEES, ENDORSEMENTS AND OTHER OBLIGATIONS (as per contra) .. .. .									
10. OTHER ACCOUNTS .. .. .									

which currency restrictions exist, and which are subject to such restrictions.  
Control Ordinance, 1950.

our knowledge and belief, it is correct.

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General Manager

Chief Accountant

SECOND SCHEDULE

To be rendered in accordance with section 11 of the Banking Ordinance, 1951

NAME OF BANK .....

ANALYSIS OF CUSTOMERS' LIABILITIES TO BANK AS AT .....  
FOR LOANS AND ADVANCES

	Amount £	Number of Customers
1. To Government .. .. .		
2. To Native Administrations, Townships and other Local Authorities ..		
3. To electricity, water, harbour, dock and other public utility bodies ..		
CREDIT AND FINANCIAL INSTITUTIONS :		
4. To Banks, etc. .. .. .		
AGRICULTURE :		
5. Cocoa .. .. .		
6. Groundnuts .. .. .		
7. Palm products .. .. .		
8. Other export crops (including timber) .. .. .		
9. Other agriculture (including livestock) .. .. .		
MINING :		
10. Tin .. .. .		
11. Other mining .. .. .		
FOR MANUFACTURE OF :		
12. Textiles, leather and clothing .. .. .		
13. Wood products (including furniture) .. .. .		
14. Soaps and oils .. .. .		
15. Stone, cement, bricks, glass, ceramics and pottery .. .. .		
16. Other manufactured products .. .. .		
CONSTRUCTION :		
17. For buildings in course of erection .. .. .		
GENERAL COMMERCE :		
18. To wholesale and retail merchants .. .. .		
19. MISCELLANEOUS .. .. .		
TOTALS .. .. .	£	

	Amount £	Number of Customers
Number of customers liable in respect of loans and advances :-		
up to £50 .. .. .		
over £50 and up to £100 .. .. .		
over £100 and up to £500 .. .. .		
over £500 and up to £1,000 .. .. .		
over £1,000 and up to £5,000 .. .. .		
over £5,000 and up to £10,000 .. .. .		
over £10,000 .. .. .		
TOTALS .. .. .	£	

Date .....

.....  
General Manager

.....  
Chief Accountant

This printed impression has been carefully compared by me with the Bill which has passed the House of Representatives, and is found by me to be a true and correctly printed copy of the said Bill.

S. ADE. OJO,  
Clerk of the House of Representatives

J. W. ROBERTSON,  
*Governor-General*

(L.S.)

No. 19



1958

**Federation of Nigeria**

IN THE SEVENTH YEAR OF THE REIGN OF

**HER MAJESTY QUEEN ELIZABETH II**  
STR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.  
*Governor-General and Commander-in-Chief*

AN ORDINANCE TO PROVIDE FOR THE REGULATION AND LICENSING OF THE  
BUSINESS OF BANKING. Title.

[1st May, 1958]

Commence-  
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria as  
follows— Enactment

1. This Ordinance may be cited as the Banking Ordinance, 1958, and  
shall come into operation upon such date as may be notified by the Govern-  
or-General after the signification of the pleasure of Her Majesty thereon. Short title  
and com-  
mencement.

Interpre-  
tion.

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

"bank" means any person who carries on banking business ;

"banking business" means the business of receiving money on current account, of paying and collecting cheques drawn by or paid in by customers and of making advances to customers ;

"Central Bank" means the Central Bank of Nigeria ;

"company" means—

Cap. 38.

(i) any limited liability company registered under the Companies Ordinance and includes a company incorporated outside Nigeria which has complied with Part VII of that Ordinance ; and

(ii) a body incorporated directly by a law of any Legislature in Nigeria ;

"director" in relation to a banking company incorporated directly by a law in Nigeria includes any person, by whatever name he may be referred to, carrying out or empowered to carry out substantially the same functions in relation to the direction of the company as those carried out by a director of a banking company registered under the Companies Ordinance ;

"licence" means a licence granted under section 3 authorising the carrying on of banking business in Nigeria, or deemed to be so granted in accordance with that section ;

"licensed bank" means a bank holding a licence and all the offices and branches in Nigeria of such a bank shall be deemed to be one bank ;

"Minister" means the Minister charged with responsibility for matters relating to banking in the Federation, or a person acting under his direction or on his behalf.

Necessity  
for licence ;  
grant and  
revocation  
thereof.  
No. 15 of  
1952.

3. (1) No banking business shall be transacted in Nigeria except by a company which is in possession of a valid licence, which shall be granted by the Minister after consultation with the Central Bank, authorising it to carry on banking business in Nigeria : Provided that a valid licence granted under the provisions of the Banking Ordinance, 1952, shall be deemed to be a licence granted under the provisions of this section.

(2) Any person who contravenes the provisions of subsection (1) shall be liable to a fine of fifty pounds for each day during which the offence continues.

(3) Prior to commencing banking business in Nigeria a company shall apply in writing through the Central Bank to the Minister for the grant of a licence, and shall submit a copy of the memorandum of association and articles of association under which it is incorporated and, if it is currently carrying on banking business outside Nigeria, a copy of its latest audited balance sheet.

(4) The Minister may call for such information from the company in such manner as he may think fit.

(5) (a) If the Minister is of the opinion that it would be undesirable in the public interest that a licence should be granted, he shall report the circumstances to the Governor-General in Council who may direct him to refuse to grant a licence, and the Minister need not give reasons for so refusing.

(b) The Minister may by Order revoke any licence—

(i) if the holder ceases to carry on banking business in Nigeria or goes into liquidation or is wound up or otherwise dissolved ; or

(ii) in the circumstances and in the manner provided for in section 14.

4. No bank shall be granted or shall hold a licence unless—

(a) in the case of a bank of which the Head Office is situated in Nigeria, its capital paid up in cash is not less than twelve thousand five hundred pounds ;

(b) in the case of a bank of which the Head Office is situated outside Nigeria, its capital paid-up in cash is equivalent to not less than two hundred thousand pounds.

Minimum  
paid-up  
capital.

5. (1) Every licensed bank of which the Head Office is situated in Nigeria shall maintain a reserve fund and shall, out of its net profits of each year and before any dividend is declared, transfer to that fund a sum equal to not less than twenty-five *per cent* of such profits whenever the amount of the reserve fund is less than the paid up capital of the bank.

Maintenance  
of reserve  
fund.

(2) The provisions of subsection (1) shall also apply to any licensed bank of which the Head Office is situated outside Nigeria unless it is proved to the satisfaction of the Minister that the aggregate reserves of that bank are adequate in respect of its business.

(3) This section shall not apply to any bank the reserve fund or aggregate reserves of which amount to at least two hundred thousand pounds.

6. No licensed bank shall pay any dividend on its shares until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling commission, brokerage, amounts of losses incurred) not represented by tangible assets has been completely written off.

Restriction  
on  
dividends.

7. (1) A licensed bank shall not in Nigeria—

(a) grant to any person any advance or credit facility or give any financial guarantee or incur any other liability on behalf of such person so that the total value of the advances, credit facilities, financial guarantees and other liabilities in respect of such person is at any time more than twenty-five *per cent* of the sum of the paid-up capital and published reserves of the bank : Provided that—

Restriction  
on certain  
activities by  
licensed  
banks in  
Nigeria.

(i) the provisions of this paragraph shall not apply to transactions between banks or between the branches of a bank, or to the purchase of clean or documentary bills of exchange, telegraphic transfers or documents of title to goods the holder of which is entitled to payment outside Nigeria for the payment of exports from Nigeria or to advances made against such bills, transfers or documents ;

(ii) the provisions of this paragraph shall not apply to advances or credit facilities granted to or established on behalf of a Marketing Board established by any legislature in Nigeria, or to the purchase of bills of exchange payable in Nigeria and accepted by any such Board or to advances made against such bills where such advances or credit facilities or bills are for the purpose of financing the movement in Nigeria of produce delivered to a Marketing Board ;

(iii) the provisions of this paragraph shall not apply in respect of any bank while all the banking liabilities it may from time to time incur are the subject of an irrevocable guarantee given by another bank inside or outside Nigeria, if the form and substance of that guarantee have been approved by the Minister upon an express recommendation by the Governor of the Central Bank.

(b) grant any advance or credit facility against the security of its own shares ;

(c) grant or permit to be outstanding unsecured advances or unsecured credit facilities of an aggregate amount in excess of five hundred pounds—

(i) to any one of its directors whether such advances or facilities are obtained by its directors jointly or severally ;

(ii) to any firm, partnership or private company in which it or any one or more of its directors is interested as director, partner, manager or agent, or to any individual, firm, partnership or private company of whom or of which any one or more of its directors is a guarantor. For the purpose of this paragraph, a private company means a private company as defined in section 121 of the Companies Ordinance ;

(d) grant or permit to be outstanding to its officials and employees unsecured advances or unsecured credit facilities which in aggregate amount for any one official or employee exceed one year's emoluments of such official or employee ;

(e) engage, whether on its own account or on a commission basis, in the wholesale or retail trade, including the import or export trade, except in so far as may exceptionally be necessary in the course of the banking operations and services of that bank or in the course of the satisfaction of debts due to it ;

(f) acquire or hold any part of the share-capital of any financial, commercial, agricultural, industrial or other undertaking except such shareholding as a bank may acquire in the course of the satisfaction of debts due to it which shareholding shall, however, be disposed of at the earliest suitable moment : Provided that this paragraph shall not apply—

(i) in respect of any shareholding approved by the Central Bank in any corporation set up for the purpose of promoting the development of a money market or securities market in Nigeria or of improving the financial machinery for the financing of economic development ;

(ii) to all shareholdings in other undertakings the aggregate value of which does not at any time exceed twenty-five per cent of the sum of the paid-up capital and published reserves of that bank ;

(g) purchase, acquire or lease real estate except as may be necessary for the purpose of conducting its business or housing its staff : Provided that—

(i) in respect of any real estate held or leased by a bank at the coming into operation of this Ordinance for purposes other than those referred to herein, that bank shall be allowed a period of three years in which to comply with this paragraph ; and,

(ii) in the event of any debt due to a bank becoming endangered the bank may secure such debt on any real or other property of the debtor and may acquire such property which shall, however, be resold at the earliest suitable moment.

(2) In paragraph (c) and (d) of subsection (1), the expression "unsecured advances or unsecured credit facilities" means advances or credit facilities made without security, or, in respect of any advance or credit facility made with security, any part thereof which at any time exceeds the market value of the assets constituting that security.

(3) Any licensed bank which, prior to the coming into operation of this Ordinance, entered into any transactions incompatible with the provisions of paragraphs (a) to (f) of subsection (1), shall submit a statement of those transactions to the Minister through the Central Bank and shall, within one year from the said date, liquidate the transactions.

8. (1) Every licensed bank shall maintain a holding of specified liquid assets not less than such amount as may from time to time be prescribed by the Central Bank by virtue of section 40 of the Central Bank of Nigeria Ordinance, 1958.

Minimum  
of  
specified  
liquid assets.

(2) For the purpose of computing the amount of specified liquid assets to be held by each licensed bank, the offices and branches situated in Nigeria of such a bank operating in Nigeria and elsewhere shall be regarded as if those offices and branches constituted a separate bank carrying on business in Nigeria. All the demand liabilities, and all the time liabilities, of that bank owed through any of those offices or branches in Nigeria shall be regarded as if they constituted liabilities of that separate bank, and all the assets held by or to the credit of any of those offices or branches on behalf of that bank and not on behalf of a customer, including any balance in the books of any office or branch of that bank situated in the United Kingdom, shall be regarded as if they were assets of that separate bank.

(3) For the purpose of subsection (2), "demand liabilities" means the total of deposits in any bank which must be repaid on demand, and "time liabilities" means the total of deposits repayable otherwise than on demand".

(4) The specified liquid assets referred to in this section shall consist of all or any of the following—

(a) notes and coins which are legal tender in Nigeria ;

(b) balances at the Central Bank ;

(c) balances at any other bank in Nigeria and money at call in Nigeria ;

(d) balances at any bank, including the offices and branches of a licensed bank, in the United Kingdom and money at call in the United Kingdom ;

(e) Treasury Bills issued by the Federal Government and maturing within ninety-three days ;

(f) Treasury Bills issued by the Government of the United Kingdom and maturing within ninety-three days ;

(g) inland bills of exchange and promissory notes rediscountable at the Central Bank ;

(h) bills of exchange bearing at least two good signatures and drawn on and payable at any place in the United Kingdom.

(5) A licensed bank shall be guilty of an offence if—

(a) it fails to furnish within a reasonable time any information required by the Central Bank to satisfy itself that that bank is observing the requirements of subsection (1) ;

(b) it allows its holding of specified liquid assets to be less in amount than is from time to time prescribed by the Central Bank ;

(c) during the period of any such deficiency of specified liquid assets, it grants advances or overdrafts without the prior approval of the Central Bank.

(6) Any licensed bank which commits an offence under subsection (5) shall be liable to a fine of fifty pounds—

(a) for every day during which a default under paragraph (a) of that subsection exists ;

(b) for every day during which a deficiency under paragraph (b) of that subsection exists, and

(c) for every offence under paragraph (c) of that subsection.

Publication  
of certain  
accounts, etc.

9. (1) Not later than four months after the close of each financial year of each licensed bank, the bank shall publish in a daily newspaper circulating in Nigeria, and exhibit in a conspicuous position in each of its offices and branches in Nigeria, and forward to the Minister and to the Central Bank, copies of its balance sheet and profit and loss account and the full and correct names of the directors of the bank. The balance sheet and profit and loss account must bear on their face the certificate of an auditor who is an approved auditor in accordance with subsection (5) of section 15.

(2) Any licensed bank which fails to comply with the requirements of subsection (1) shall be liable to a fine of one hundred pounds.

Delivery of  
returns to  
Central  
Bank.

10. (1) Every licensed bank shall submit to the Central Bank—

(a) not later than thirty-one days after the last day of each month a statement in the form set out in the First Schedule showing the assets and liabilities of its offices and branches in Nigeria at the close of business on the last business day of the preceding month, together with a statement of the total of any outstanding unsecured advances or unsecured credit facilities as defined in subsection (2) of section 7 ;

(b) not later than thirty-one days after the last day of each half-year ending on the 30th day of June and the 31st day of December a statement in the form set out in the Second Schedule to this Ordinance giving an analysis of advances and other assets of its offices and branches in Nigeria as at the 30th day of June and 31st day of December respectively.

(2) The Central Bank may exceptionally require a licensed bank to submit such further information as the Central Bank may deem necessary for the proper understanding of the statements furnished by that bank under subsection (1) of this section, and such information shall be submitted within such reasonable period as the Central Bank may require.

(3) Any licensed bank which has its head office in Nigeria but maintains offices or branches outside Nigeria shall produce to the Central Bank such statements relating to its offices or branches outside Nigeria in such form and at such times as the Central Bank may require.

(4) Any licensed bank failing to comply with the requirements of subsection (1), (2) or (3) of this section shall be liable to a fine of fifty pounds for every day during which the offence continues.

(5) The Minister may, after consultation with the Central Bank, amend by regulation the form of the First or Second Schedule and the dates for the compilation or submission of the statements under subsection (1).

First  
Schedule.

Second  
Schedule.

(6) It shall be the responsibility of the Central Bank to prepare and to publish consolidated statements aggregating the figures in the statements furnished under subsection (1). The statements submitted by each bank under subsection (1) or (3) and any information submitted under subsection (2) shall be regarded as secret other than as between that bank and the Central Bank ; Provided that the Central Bank shall furnish any such information required by the Minister, and shall inform the Minister if at any time in its opinion there is a need for an examination of any licensed bank, and may in support of its opinion convey to the Minister such information as it possesses concerning the state of that bank's affairs.

11. An examiner shall be appointed, who if the Minister so approves shall be an officer of the Central Bank appointed by the Central Bank, and otherwise shall be an officer of the Ministry appointed by the Minister, to examine periodically, under conditions of secrecy, the books and affairs of each and every licensed bank. If the examiner is an officer from the Ministry he shall be given access to any accounts, returns or information with regard to licensed banks that are in the possession of the Central Bank.

Appointment  
of  
examiner.

(2) In examining any bank in accordance with subsection (1) it shall be the duty of the examiner at all times to avoid unreasonable hindrance to the daily business of that bank and to confine the investigation to matters strictly relevant to the examination.

(3) The examiner shall report to the Governor of the Central Bank, who shall inform the Minister of any circumstances likely to call for action by the Minister in accordance with section 14.

12. The Minister may at any time require the examiner appointed in accordance with section 11, or one or more other qualified persons whom he shall appoint, to make a special examination under conditions of secrecy of the books and affairs of any licensed bank—

Further  
examination  
in certain  
special cases.

(a) where, after consultation with the Central Bank, the Minister has reason to believe that that licensed bank may be carrying on its business in a manner detrimental to the interests of its depositors and other creditors or may have insufficient assets to cover its liabilities to the public or may be contravening the provisions of this Ordinance ;

(b) where application is made by shareholders holding not less than one-third of the total number of shares in that bank for the time being issued or by depositors holding not less than one-half of the gross amount of the total deposit liabilities in Nigeria of that bank : Provided however that the applicants submit to the Minister such evidence as he may consider necessary to justify an examination, and provided also that they furnish adequate security for the payment of the costs of the examination ;

(c) if the bank suspends payment or informs the Minister or the Central Bank of its intention to do so.

13. (1) Every licensed bank of which an examination has been ordered under section 11 or 12 shall produce to the appointed examiner at such times as the examiner may specify, all books, accounts and documents in its possession or custody, or of which it is entitled to possession or custody, relating to its business, and shall produce within such times as the examiner may specify all oral information concerning its business which he may require.

Production  
of books, etc.,  
to examiner.

(2) If any book, account, document or information is not produced in accordance with subsection (1) the bank shall be guilty of an offence and shall be liable to a fine of fifty pounds in respect of every day during which the offence continues. If any book, account, document or information is false in any material particular, the bank shall be liable to a fine of five hundred pounds.

(3) As soon as may be after the conclusion of the examination the examiner shall submit a full report thereon to the Minister who shall forward a copy to the Head Office of the bank concerned.

(4) The Minister shall have power to order that all expenses of and incidental to an examination shall be paid by the bank examined. He shall also have power, in respect of examinations made under paragraph (b) of section 12, to order that the expenses shall be defrayed by the applicants.

Powers after examination.

14. If, in the opinion of the Minister, an examination shows that the licensed bank is carrying on its business in a manner detrimental to the interests of its depositors and other creditors or has insufficient assets to cover its liabilities to the public or is contravening the provisions of this Ordinance, the Minister may take such one or more of the following steps from time to time as may seem to him necessary—

(a) require that bank forthwith to take such steps as he may consider necessary to rectify the matter ; or,

(b) appoint a person who in his opinion has had proper training and experience to advise the bank in the proper conduct of its business and fix the remuneration to be paid by the bank to such person ; or,

(c) report the circumstances to the Governor-General in Council who, unless satisfied that the bank is taking adequate measures to put its affairs in order, may direct the Minister to make an Order revoking the bank's licence and requiring its business in Nigeria to be wound up : Provided that he shall not so report the circumstances without giving the bank reasonable prior notice of his intention to do so and an opportunity of submitting a written statement in reply.

Approved auditor.

15. (1) Every licensed bank shall appoint annually an approved auditor whose duties shall be to make to the shareholders of that bank a report upon the annual balance sheet and accounts, and in every such report the auditor shall state whether in his opinion the balance sheet is full and fair and properly drawn up, whether it exhibits a true and correct statement of the bank's affairs, and, in any case in which the auditor has called for explanation or information from the officers or agents of the bank, whether this is satisfactory.

(2) The report of the approved auditor shall be read together with the report of the board of management of the bank at the annual meeting of shareholders and a copy shall be sent to the Central Bank for transmission to the Minister. If any default is made in complying with the requirements of this subsection, the bank shall be liable to a fine of five hundred pounds.

(3) If a licensed bank fails to appoint an approved auditor under subsection (1) of this section or, at any time, fails to fill a vacancy for such auditor, the Minister shall have power to appoint an approved auditor and shall fix the remuneration to be paid by that bank to such auditor.

(4) The duties, powers and liabilities imposed and conferred by subsections (1) and (2) of section 13 in relation to examiners appointed under sections 11 and 12 are hereby imposed and conferred also in relation to approved auditors.

(5) For the purposes of this section, an approved auditor shall be an auditor who is a member of one of the professional bodies for the time being declared by the Minister by notice in the *Gazette* to be approved for such purposes : Provided that—

(i) during a period of three years from the coming into operation of this Ordinance, the Minister may, on application from a licensed bank, authorise the appointment as auditor of that bank of a person who, although not so qualified, has had such professional experience as an auditor or accountant as is, in the opinion of the Director of Federal Audit, equivalent to at least five years service in the Federal Audit Department in a rank not below that of assistant auditor, and any such person so appointed shall be deemed to be an approved auditor to the extent and for the duration of any such authorisation ;

(ii) no person having an interest in any bank otherwise than as a depositor and no director, officer or agent of any bank shall be eligible for appointment as an approved auditor for that bank and any person appointed as such auditor to any bank who subsequently acquires such interest or becomes a director, officer or agent of that bank shall cease to be such auditor.

(6) Sections 112 and 113 of the Companies Ordinance shall not apply to licensed banks.

Cap. 38.

16. (1) Save with the consent of the Minister, no person other than a licensed bank shall—

Use of the word "bank" in company's name.

(a) use or continue to use the word "bank" or any of its derivatives, either in English or in any other language, in the description or title under which such person is carrying on business in Nigeria ;

(b) make or continue to make any representation in any billhead, letter paper, notice, advertisement or in any other manner whatsoever that such person is carrying on banking business in Nigeria : Provided that nothing in this subsection shall apply to any association of licensed banks formed for the protection of their mutual interests.

(2) Every licensed bank shall use as part of its description or title the word "bank" or some one or more of its derivatives, either in English or in some other language.

(3) Any person who acts in contravention of this section shall be liable to a fine of fifty pounds for every day during which the offence continues.

17. (1) Without prejudice to anything contained in section 74 of the Companies Ordinance, no person—

Disqualifications as director, etc.

(a) who has been a director of, or directly or indirectly concerned in the management of, a bank which has had its licence revoked in accordance with paragraph (c) of section 14 of this Ordinance, or has been struck off the register of companies under the provisions of the Banking Ordinance, 1952 ;

(b) who is or has been convicted by a criminal court of an offence involving dishonesty and has not received a full pardon for the offence of which he was convicted, shall, without the consent in writing of the Minister act or continue to act as a director, or be directly or indirectly concerned in the management, of any licensed bank.

(2) Any person acting in contravention of subsection (1) shall be liable to imprisonment for a term not exceeding two years or to a fine of five hundred pounds or both such imprisonment and such fine.

Penalties  
on directors  
upon  
directors  
and  
managers.

18. Any person who, being a director or manager of a licensed bank—

(a) fails to take all reasonable steps to secure compliance by the bank with the requirements of this Ordinance, or

(b) fails to take all reasonable steps to ensure the correctness of any statement submitted under the provisions of this Ordinance, shall be liable to imprisonment for a term not exceeding two years or to a fine of five hundred pounds or to both such imprisonment and such fine.

Attorney-  
General's  
fiat.

19. No prosecution in respect of any offence committed by a licensed bank under this Ordinance shall be instituted except by, or with the consent of, the Attorney-General of the Federation.

Savings.

20. (1) The provisions of this Ordinance shall not apply to—

(a) the Central Bank established under the Central Bank Ordinance ;

(b) the Post Office Savings Bank constituted and appointed under the Savings Bank Ordinance.

Cap. 204.

(2) Except where this Ordinance expressly provides otherwise, the provisions of this Ordinance shall have effect in addition to and not in derogation of any other provisions having the force of law in Nigeria.

Regulations.

21. The Minister may make such regulations as may be required from time to time for carrying into effect the provisions of this Ordinance.

Consequen-  
tial amend-  
ment  
Cap. 38.

22. Section 108 of the Companies Ordinance is amended by the deletion of the words "a limited banking company or an insurance company" and the substitution therefor of the following—

"a limited insurance company".

Repeal.

23. The Banking Ordinance 1952 is repealed.



**Banking**  
**FIRST SCHEDULE**

A 9.

NAME OF BANK \_\_\_\_\_

**MONTHLY STATEMENT OF ASSETS AND LIABILITIES**

AS AT \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_  
(To be submitted in accordance with section 10 of the Banking Ordinance (section 104), 1958)

LIABILITIES	£				s				d				ASSETS	£				s				d			
1. CAPITAL PAID UP .. .. .													1. Cash in hand .. .. .												
2. RESERVE FUND .. .. .													2. BALANCES HELD WITH (INCLUDING REMITTANCES IN TRANSIT TO)—												
3. DEBENTURES .. .. .													(a) Other banks in Nigeria .. .. .												
4. BALANCES HELD FOR—													(b) Offices and branches of this bank outside Nigeria .. .. .												
(a) Other banks in Nigeria .. .. .													(c) Other banks outside Nigeria .. .. .												
(b) Offices and branches of this bank outside Nigeria .. .. .													3. Money at call in Nigeria .. .. .												
5. DEPOSITS—													4. TREASURY BILLS (MATURING WITHIN 3 MONTHS)—												
(a) Repayable on demand .. .. .													(a) In Nigeria .. .. .												
(b) Savings Accounts .. .. .													(b) Outside Nigeria .. .. .												
(c) Other deposits repayable as from the date of this return—													5. BILLS DISCOUNTED—												
(i) within 3 months .. .. .													(a) Payable in Nigeria .. .. .												
(ii) between 3 and 6 months .. .. .													(b) Payable outside Nigeria .. .. .												
(iii) between 6 and 12 months .. .. .													Comprising bills—												
(iv) later than 12 months .. .. .													(i) maturing as from the date of this return—												
of which, in total, by Governments .. .. .													(aa) within 3 months .. .. .												
6. BILLS PAYABLE .. .. .													(bb) between 3 and 6 months .. .. .												
7. LOANS AND ADVANCES FROM—													(cc) later than 6 months .. .. .												
(a) Other banks in Nigeria .. .. .													(ii) past-due (unpaid and unaccepted) .. .. .												
(b) Offices and branches of this bank outside Nigeria .. .. .													6. LOANS AND ADVANCES TO—												
(c) Other banks outside Nigeria .. .. .													(a) Other banks in Nigeria .. .. .												
(d) Other creditors .. .. .													(b) Offices and branches of this bank outside Nigeria .. .. .												
(Contingent liability in respect of bills rediscounted) .. .. .													(c) Other banks outside Nigeria .. .. .												
Other contingent liabilities) .. .. .													(d) Subsidiary companies of this bank—												
													(i) In Nigeria .. .. .												
													(ii) Outside Nigeria .. .. .												
													(e) Other customers; repayable as from the date of this return—												
													(i) within 3 months .. .. .												
													(ii) within 6 months .. .. .												
													(iii) within 12 months .. .. .												
													(iv) later than 12 months .. .. .												
													7. INVESTMENTS—												
8. Acceptances on account of customers (as per contra) ..													(a) In Nigeria—												
9. Confirmed documentary credits (as per contra) ..													(i) Federal Government securities .. .. .												
10. Guarantees, endorsements and other obligations on account of customers (as per contra) ..													(ii) Investments in subsidiary companies of this bank .. .. .												
11. Other liabilities .. .. .													(iii) Other .. .. .												
													(b) Outside Nigeria .. .. .												
													8. Bank Premises (including furniture, fixtures and fittings) .. .. .												
													9. Liabilities of customers for acceptances (as per contra) ..												
													10. Liabilities of customers for confirmed documentary credits (as per contra) .. .. .												
													11. Liabilities of customers for guarantees, endorsements and other obligations (as per contra) .. .. .												
													12. Other assets .. .. .												

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Total of outstanding—  
(i) Unsecured advances and unsecured credit facilities other than those granted under the provisions of paragraphs (c) and (d) of subsection (1) of section 7 of the Banking Ordinance .. .. .  
£ .. .. . (Nearest £)  
(ii) Loans, advances and credit facilities secured against real-estate .. .. .  
£ .. .. . (Nearest £)

Net external assets £ .. .. . (Nearest £)  
Net external liabilities £ .. .. . (Nearest £)

\*Details should be given, on an attached sheet, in regard to balances which are not freely transferable to Nigeria.  
N.B.—A company shall be deemed to be a subsidiary of a bank if that bank either is a member of it and controls the composition of its board of directors or holds more than half in nominal value of its equity share capital or if a company is a subsidiary of any company which is a subsidiary of that bank. (By equity share capital is meant the issued share capital of the company excluding any part thereof which neither as respects dividends nor as respects capital carries any right to participate beyond a specified amount in a distribution).  
We declare that this statement is made up from the books of the bank, and that, to the best of our knowledge and belief, it is correct.

General Manager  
Chief Accountant

Date .. .. .

## SECOND SCHEDULE

To be submitted in accordance with (section 10 (1)) of the Banking Ordinance 1958

Name of bank \_\_\_\_\_

## ANALYSIS OF CUSTOMERS' LIABILITIES TO BANK FOR LOANS AND ADVANCES

AS AT \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_

	Amount £	Number of Customers
1. To Governments .. .. .		
2. To Native Administrations, Townships and other Local Authorities .. .. .		
3. To electricity, water, harbour, dock and other public utility bodies .. .. .		
CREDIT AND FINANCIAL INSTITUTIONS :		
4. To banks, etc. .. .. .		
AGRICULTURE :		
5. Cocoa .. .. .		
6. Groundnuts .. .. .		
7. Palm products .. .. .		
8. Other export crops (including rubber and timber) .. .. .		
9. Other agriculture (including livestock) .. .. .		
MINING :		
10. Tin ore .. .. .		
11. Other mining .. .. .		
FOR MANUFACTURE OF :		
12. Textiles, leather and clothing .. .. .		
13. Wood products (including furniture) .. .. .		
14. Soaps and oils .. .. .		
15. Stone, cement, bricks, glass, ceramics and pottery .. .. .		
16. Other manufactured products .. .. .		
CONSTRUCTION :		
17. For buildings in course of erection .. .. .		
GENERAL COMMERCE :		
18. To wholesale and retail merchants .. .. .		
19. Miscellaneous .. .. .		
TOTALS .. .. .		
Number of Customers liable in respect of loans and advances :-		
Up to £50 .. .. .		
Over £50 and up to £100 .. .. .		
Over £100 and up to £500 .. .. .		
Over £500 and up to £1,000 .. .. .		
Over £1,000 and up to £5,000 .. .. .		
Over £5,000 and up to £10,000 .. .. .		
Over £10,000 .. .. .		
TOTALS .. .. .		

\_\_\_\_\_  
General Manager

Date \_\_\_\_\_

\_\_\_\_\_  
Chief Accountant

R. F. A. GREY,  
*Officer Administering the  
Government of the Federation*

(L.S.)

No. 24



1958

Federation of Nigeria

IN THE SEVENTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR RALPH FRANCIS ALNWICK GREY, K.C.V.O., C.M.G., O.B.E.

*Officer Administering the Government of the Federation*

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF A CENTRAL BANK OF NIGERIA AND TO PROVIDE FOR ITS CONSTITUTION AND FUNCTIONS; TO PROVIDE THAT IT SHALL BE A BANK OF ISSUE AND FOR SUCH PURPOSE TO PROVIDE THAT ITS NOTES AND COIN SHALL BE LEGAL TENDER AND AT SOME FUTURE DATE SHALL BE THE SOLE LEGAL TENDER IN NIGERIA; TO PROVIDE THAT THE CENTRAL BANK SHALL BE BANKER TO THE GOVERNMENT AND SHALL HAVE CERTAIN POWERS IN RELATION TO OTHER BANKS; AND FOR PURPOSES ANCILLARY TO THE PURPOSES AFORESAID.

[By Notice]

Commence-  
ment.

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BE IT ENACTED by the Legislature of the Federation of Nigeria as follows—

Enactment.

Short title and commencement.

1. This Ordinance may be cited as the Central Bank of Nigeria Ordinance, 1958, and shall come into operation upon such date as may be notified in the Gazette by the Governor-General after the signification of the pleasure of Her Majesty thereon, and different dates may be prescribed for the coming into operation of different sections of the Ordinance.

#### INTERPRETATION

Interpretation.

2. In this Ordinance, unless the context otherwise requires—  
 "the Bank" means the Central Bank of Nigeria established by this Ordinance;  
 "the Board" means the Board of Directors of the Bank;  
 "the Governor" and "the Deputy Governor" mean, respectively, the Governor of the Bank and the Deputy Governor of the Bank;  
 "the Minister" means the Minister charged with responsibility or matters relating to finance in the Federation;  
 "Region" or "Regional" means appertaining to the Regions of Nigeria or to the Southern Cameroons, either individually or collectively as the context requires.

#### CONSTITUTION

Establishment and incorporation of the Bank.

3. (1) A bank to be called the "Central Bank of Nigeria" shall be established in accordance with the provision of this Ordinance and shall commence business on a day to be appointed by the Governor-General by notification in the Gazette.

(2) The Bank shall be a body corporate and shall have perpetual succession and a common seal, and may sue and be sued in its own name, and subject to the limitations contained in this Ordinance may acquire, hold and dispose of movable and immovable property for the purpose of its functions.

Objects.

4. The principal objects of the Bank shall be to issue legal tender currency in Nigeria, to maintain external reserves in order to safeguard the international value of that currency, to promote monetary stability and a sound financial structure in Nigeria and to act as banker and financial adviser to the Federal Government.

Chief office and branches.

5. The Bank shall have its chief office in Lagos and may open branches in Nigeria and appoint agents and correspondents in accordance with decisions of the Board.

#### CAPITAL AND RESERVE

Capital

6. (1) The authorised capital of the Bank shall be One Million Five Hundred Thousand Pounds. There shall be paid up such amount as shall be resolved by the Bank and confirmed by the Minister and this amount shall be subscribed by and paid up at par by the Federal Government upon the establishment of the Bank.

(2) The paid-up portion of the authorised capital may be increased by such amount as the Board may, from time to time, resolve with the agreement of the Minister, and the Federal Government shall subscribe and pay up at par the amount of such increase.

(3) All the paid-up capital shall be subscribed and held only by the Federal Government.

7. (1) The Bank shall establish a general reserve fund to which shall be allocated at the end of each financial year of the Bank—

General reserve fund.

(a) one-eighth of the net profits of the Bank for the year when, at the end of that year, the fund is less in amount than the paid-up capital of the Bank;

(b) one-sixteenth of the net profits of the Bank for the year when, at the end of that year, the fund is not less in amount than the paid-up capital of the Bank but is less in amount than twice the paid-up capital.

(2) After any allocation has been made in terms of subsection (1), one half of the remainder of the net profits shall be applied to the retirement of any outstanding obligations of the Federal Government to the Bank arising from the financing of the cost of the printing, minting and shipment of the initial stock of the Bank's notes and coins.

(3) The remainder of the net profits shall be paid to the Federal Government.

(4) The net profits of the Bank for each financial year shall be determined by the Bank after meeting all current expenditure for that year and after making such provision as it thinks fit for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds, and all other contingencies.

#### ADMINISTRATION

8. (1) There shall be a Board of Directors of the Bank which shall be responsible for the policy and general administration of the affairs and business of the Bank.

Board of Directors.

(2) The Board shall consist of a Governor, a Deputy Governor and five other directors.

(3) The Governor or, in his absence, the Deputy Governor shall be in charge of the day-to-day management of the Bank and shall be answerable to the Board for their acts and decisions.

9. (1) The Governor and Deputy Governor shall be persons of recognised financial experience and shall be appointed by the Governor-General by instrument under the public seal on such terms and conditions as may be set out in their respective letters of appointment.

Governor and Deputy Governor.

(2) The Governor and Deputy Governor shall each be appointed for a term of five years and shall be eligible for reappointment: Provided that the appointment, or first appointment, of the first Deputy Governor shall be for a term of three years.

(3) The Governor and Deputy Governor shall devote the whole of their professional time to the service of the Bank and while holding office, shall not occupy any other office or employment whether remunerated or not:

Provided that they may, by virtue of their office, be members of or advisers to the Loans Advisory Board or its successor: Provided also that they may, if so appointed with the approval by resolution of the Board,

(a) act as members of any commission established by the Federal Government to enquire into any matter affecting currency or banking in Nigeria;

(b) become governors, directors or members of the Board, by whatever name called, of any international bank or international monetary authority to which the Federal Government shall have adhered or given support or approval;

(c) become directors of any corporation in Nigeria in which the Bank may participate under paragraph (i) of section 29.

Directors.

10. (1) The five other directors of the Bank shall be appointed by the Prime Minister of the Federation.

(2) A director shall be a person of recognised standing and experience in affairs, but as a director of the Bank he shall not be regarded or act as a delegate on the Board from any Federal or Regional authority or from any commercial, financial, agricultural, industrial or other interests with which he may be or may have been connected.

(3) A director shall hold office for three years and be eligible for re-appointment: Provided that, of the first five directors to be appointed under this section, one shall, or shall in the first instance, be appointed for one year, and two shall, or shall in the first instance, be appointed for two years.

(4) A director shall be entitled to fees and allowances in accordance with such rules as the Board, subject to confirmation by the Minister, may lay down.

Disqualifi-  
cation  
from and  
cessation  
of  
appoint-  
ment.

11. (1) No person shall be appointed or shall remain Governor, Deputy Governor or other director of the Bank who—

(a) is a member of the Federal Legislative House;

(b) is a member of a Regional Legislative House;

(c) is a director, salaried official or shareholder of any bank licensed under the provisions of the Banking Ordinance, 1958;

(d) is an officer in the public service of the Federal or a Regional Government: Provided that this paragraph shall not render ineligible any person whose sole duties are those of economic adviser to the Federal Government.

(2) (a) The Governor or Deputy Governor may resign his office on giving at least three months' notice in writing to the Governor-General of his intention.

(b) Any Director may resign after a notice in writing of at least a month to the Governor-General of his intention.

(3) The Governor, Deputy Governor or any other director shall cease to hold office in the Bank if—

(a) he becomes of unsound mind or incapable of carrying out his duties;

(b) he becomes bankrupt or suspends payment or compounds with his creditors;

(c) he is convicted of a felony or of any offence involving dishonesty;

(d) he is guilty of serious misconduct in relation to his duties;

(e) in the case of a person possessed of professional qualifications, he is disqualified or suspended (otherwise than at his own request) from practising his profession in any part of Her Majesty's dominions by the order of any competent authority made in respect of him personally.

Appoint-  
ment to fill  
a vacancy.

12. If the Governor or Deputy Governor or any other director of the Bank dies, or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person shall be appointed in his place for the unexpired period in the manner specified in subsection (1) of section 9 or of section 10 as the case may be,

13. (1) Meetings of the Board shall take place as often as may be required but not less frequently than once in each of any ten months in every financial year of the Bank.

Meetings of  
Board.

(2) The Governor, or in his absence the Deputy Governor, shall be chairman of the Board, and in the absence of both from any meeting the other directors attending shall elect a chairman for that meeting from among themselves.

(3) Four members of the Board shall form a quorum at any meeting and, unless otherwise provided, decisions shall be adopted by a simple majority of the votes of the members present. In the case of an equality of votes, the chairman shall have a casting vote.

(4) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the directors of the Bank.

(5) All acts done by any person acting in good faith as a director shall be as valid as if he were a director, notwithstanding that some defect in his appointment or qualification be afterwards discovered.

14. (1) All appointments of officials and other employees of the Bank shall be only to positions created by decision of the Board and on such terms and conditions as shall be laid down by the Board.

Appoint-  
ments of  
officials.

(2) No salary, fee, wage, or other remuneration, or allowance paid by the Bank shall be computed by reference to the net or other profits of the Bank.

15. (1) There shall be an advisory committee of the Bank which shall consist of—

Advisory  
committee.

(a) the Minister or his alternate;

(b) the Minister charged with responsibility for finance in respect of each Region or his alternate;

(c) the Governor or Deputy Governor.

(2) The Committee shall meet not less than twice in each calendar year for the purpose of considering matters of common interest.

(3) Meetings of the Committee shall take place in Lagos or in such other places as may be agreed from time to time. The Committee shall establish its own rules of procedure.

## CURRENCY

16. (1) The unit of currency in Nigeria shall be the Nigerian pound which shall be divided into twenty shillings, each shilling being divided into twelve pence.

Currency  
of Nigeria.

(2) Subject to the provisions of section 46, every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing whatsoever relating to money or involving the payment of or the liability to pay any money which, but for this subsection, would have been deemed to be made, executed, entered into, done and had, in and in relation to currency issued by the West African Currency Board shall in Nigeria be deemed instead to be made, executed, entered into, done and had, in and in relation to Nigerian pounds: Provided that this clause shall not affect any obligation to pay any money in any country other than Nigeria where currency issued by the West African Currency Board is legal tender.

Parity of pound.	17. The parity of the Nigerian pound shall be one Nigerian pound to one pound sterling.
Sole right to issue.	18. The Bank shall have the sole right of issuing notes and coins throughout Nigeria and neither the Federal Government nor any Regional Government nor any other person shall issue currency notes, bank notes or coins or any documents or tokens payable to bearer on demand being documents or tokens which are likely to pass as legal tender.
Provisions for issue.	19. The Bank shall— (a) arrange for the printing of notes and the minting of coins ; (b) issue, reissue and exchange notes and coins at the Bank's offices and at such agencies as the Bank may, from time to time, establish or appoint ; (c) arrange for the safe custody of unissued stocks of currency and for the preparation, safe custody and destruction of plates and paper for the printing of notes and of dies for the minting of coins.
Denomination and form of notes and coin.	20. (1) Notes and coins issued by the Bank— (a) shall be in such denominations of the pound or fractions thereof as shall be approved by the Minister on the recommendation of the Bank ; (b) shall be of such forms and designs and bear such devices as shall be approved by the Minister on the recommendation of the Bank. (2) The standard weight and composition of coins issued by the Bank and the amount of remedy and variation shall be determined by the Minister on the recommendation of the Bank.
Bank's currency to be legal tender.	21. (1) Notes issued by the Bank shall be legal tender in Nigeria at their face value for the payment of any amount. (2) Coins issued by the Bank shall, if such coins have not been tampered with, be legal tender in Nigeria at their face value up to an amount not exceeding ten pounds in the case of coins of denominations of not less than sixpence and up to an amount not exceeding one shilling in the case of coins of a lower denomination. (3) Notwithstanding the provisions of subsections (1) and (2) the Bank shall have power, on giving not less than three months' notice in the Gazette, to call in any of its notes and coins on payment of the face value thereof and any such notes or coins with respect to which a notice has been given under this clause shall, on the expiration of the notice, cease to be legal tender, but, subject to the provisions of section 23, shall be redeemed by the Bank upon demand.
Tampering with coinage.	22. A coin shall be deemed to have been tampered with if the coin has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by stamping, engraving or piercing whether the coin has or has not been thereby diminished or lightened.
Lost and damaged currency.	23. No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect note or coin. The circumstances in which, and the conditions and limitations subject to which, the value of lost, stolen, mutilated or imperfect notes or coins may be refunded as of grace shall be within the absolute discretion of the Bank.

	24. The Bank shall not be liable to the payment of any stamp duty under the Stamp Duties Ordinance in respect of its notes issued as currency.	Exemption from stamp duty.
	25. The Bank shall at all times maintain a reserve of external assets consisting of all or any of the following— (a) gold coin or bullion ; (b) sterling notes, coin, bank balances and money at call with banks in the United Kingdom ; (c) Treasury Bills of the Government of the United Kingdom of a maturity not exceeding ninety-three days ; (d) bills of exchange bearing at least two good signatures and drawn on, and payable at any place in the United Kingdom and having a maturity not exceeding three months exclusive of days of grace ; (e) sterling securities of, or guaranteed by, the Government of the United Kingdom and maturing within five years : Provided that securities held under the provisions of this paragraph shall not exceed thirty per cent of the reserve specified in this section ; (f) for a period not exceeding three years from coming into operation of section 18, notes and coins of the West African Currency Board.	External reserve.
	26. The value of the reserve specified in section 25 shall— (a) for a period of five years from the coming into operation of section 18, be not less than the aggregate of an amount representing sixty per cent of the Bank's notes and coins in circulation together with an amount representing thirty-five per cent of the Bank's other demand liabilities ; (b) after five years from the coming into operation of section 18, be not less than forty per cent of the aggregate of the Bank's notes and coins in circulation and other demand liabilities.	Value of external reserve.
	27. (1) The Bank shall publish in the return provided for in subsection (4) of section 45 the proportion which the value of the reserve specified in section 25 and set out in each such return bears to the total of demand liabilities shown in the same return. (2) For a period of five years from the coming into operation of section 18, the Bank shall in addition likewise publish the proportion of such reserve to its liabilities in respect of notes and coins in circulation.	Proportion of value of reserve to demand and currency liabilities.
OPERATION		
	28. The Bank shall on demand— (a) sell sterling for immediate delivery in London at a rate of not less than ninety-nine pounds five shillings sterling for one hundred Nigerian pounds ; (b) buy sterling for immediate delivery in London at a rate of not more than one hundred pounds fifteen shillings sterling for one hundred Nigerian pounds ; Provided that the Bank shall not be required so to sell or buy sterling for an amount less than ten thousand pounds in respect of any one transaction.	Obligation in respect of currency.

General powers of Bank.

29. (1) The Bank may—

(a) issue demand drafts and effect other kinds of remittances payable at its own offices or at the offices of agencies or correspondents ;

(b) purchase and sell gold coin or bullion ;

(c) open accounts for and accept deposits from the Federal Government, the Regional Governments, the funds, institutions and corporations of all such Governments, banks, other credit institutions and, with the prior approval of the Minister, other persons in Nigeria ;

(d) purchase, sell, discount and rediscount inland bills of exchange and promissory notes arising out of *bona fide* commercial transactions bearing two or more good signatures and maturing within ninety days, exclusive of days of grace, from the date of acquisition ;

(e) purchase, sell, discount and rediscount inland bills of exchange and promissory notes bearing two or more good signatures, drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of crops, and maturing within one hundred and eighty days, exclusive of days of grace, from the date of acquisition ;

(f) purchase, sell, discount and rediscount Treasury Bills of the Federal Government which have been publicly offered for sale and are to mature within ninety-three days ;

(g) purchase and sell securities of the Federal Government maturing in not more than twenty-five years which have been publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition : Provided that the total amount of such securities of a maturity exceeding two years in the ownership of the Bank (other than securities held in terms of paragraph (h)) or held by the Bank as collateral under subparagraph (ii) of paragraph (k) shall not together at any time exceed twenty per cent of the total demand liabilities of the Bank ;

(h) invest in securities of the Federal Government for any amount, and to mature at any time, on behalf of staff and superannuation funds and other internal funds of the Bank ;

(i) with the approval of the Minister, subscribe to, hold and sell shares of any corporation set up with the approval of, or under the authority of, the Federal Government for the purpose of promoting the development of a money market or securities market in Nigeria or of improving the financial machinery for the financing of economic development : Provided that the total value of any holding of such shares shall not at any time exceed twenty per cent of the General Reserve Fund of the Bank ;

(j) grant advances for fixed periods not exceeding three months against publicly issued Treasury Bills of the Federal Government maturing within ninety-three days ;

(k) grant advances for fixed periods not exceeding three months at a minimum rate of interest at least one per cent above the Bank's minimum rediscount rate against promissory notes secured by the pledge with Bank of—

(i) gold coin or bullion ;

(ii) securities of the Federal Government which have been publicly offered for sale and are to mature within a period of twenty years : Provided that no advance so secured shall at any time exceed seventy-five per cent of the market value of the security pledged and that the total of such securities held by the Bank is within the limitations imposed by paragraph (g) ;

(iii) such bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the Bank up to seventy-five per cent of their nominal value ;

(iv) warehouse warrants, or their equivalent (securing possession of goods), in respect of staple commodities or other goods duly insured and with a letter of hypothecation from the owner : Provided that no such advance shall exceed sixty per cent of the current market value of the commodities in question ;

(l) purchase and sell external currencies, and purchase, sell, discount and rediscount bills of exchange and Treasury Bills drawn in or on places abroad and maturing within ninety-three days, exclusive of days of grace, from the date of acquisition ;

(m) maintain accounts with central banks and other banks abroad ;

(n) purchase and sell sterling securities of, or guaranteed by, the Government of the United Kingdom ;

(o) act as correspondent, banker or agent for any central bank or other monetary authority and for any international bank or international monetary authority established under governmental auspices ;

(p) undertake the issue and management of loans publicly issued in Nigeria by the Federal or Regional Governments or by Federal or Regional public bodies ;

(q) accept from customers for custody securities and other articles of value ;

(r) undertake on behalf of customers and correspondents the purchase, sale, collection and payment of securities, currencies and credit instruments at home and abroad, and the purchase or sale of gold and silver ;

(s) promote the establishment of bank clearing systems and give facilities for the conduct of clearing business in premises belonging to the Bank ;

(t) subject as is expressly provided in this Ordinance, generally conduct business as a bank, and do all such things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Ordinance.

(2) The Governor may at any time in his discretion by previous notice in writing lodged with the Board decide that the powers conferred by subsection (1) in accordance with the provisions of paragraphs (f), (g), (h), (j) or subparagraph (ii) of paragraph (k) of that subsection may be extended to the Treasury Bills or the securities, as the case may be, of any Regional Government with which the Bank appears substantially to have established the relationship of banker, or to any specified Treasury Bills or securities of such a Regional Government, subject to the same conditions as specified in those paragraphs and subject to the limitations specified in paragraph (g), which limitations shall then apply to the aggregate value of the Federal and Regional securities so dealt with.

Prohibited activities.

## 30. The Bank may not—

(a) engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or, save as provided in paragraph (i) of section 29, any other undertaking, except such interests as the Bank may in any way acquire in the course of the satisfaction of debts due to it, and provided that all such interests so acquired shall be disposed of at the earliest suitable moment ;

(b) save as provided in paragraph (i) of section 29, purchase the shares of any corporation or company, including the shares of any banking company ;

(c) grant loans upon the security of any shares ;

(d) subject to the provisions of section 34, grant unsecured advances or advances secured otherwise than as laid down in paragraphs (j) and (k) of section 29 : Provided that in the event of any debts due to the Bank becoming in the opinion of the Bank endangered, the Bank may secure such debts on any real or other property of the debtor and may acquire such property, which shall be resold at the earliest suitable moment ;

(e) purchase, acquire or lease real property except in accordance with the proviso to paragraph (d) and except so far as the Bank shall consider necessary or expedient for the provision, or future provision of business premises for the Bank and its agencies and any clearing houses set up in terms of section 42, and of residences for the Governor, Deputy Governor, officials and other employees ;

(f) draw or accept bills payable otherwise than on demand ;

(g) allow the renewal or substitution of maturing bills of exchange purchased, discounted or rediscounted by or pledged with the Bank save in exceptional circumstances when the Board may by resolution authorise one renewal or one substitution only in either case of not more than fifty per cent of the original amount of any such bill for a period not exceeding ninety days ;

(h) pay interest on deposits ;

(i) accept for discount, or as security for an advance made by the Bank, bills or notes signed by members of the Board or by the Bank's officials or other employees ;

(j) open accounts for and accept deposits from persons other than as provided in paragraphs (c) and (o) of section 29.

31. The Bank shall make public at all times its minimum rediscount rate.

Publication of rediscount rate.

## RELATIONS WITH THE FEDERAL GOVERNMENT

Functions regarding Federal Government.

32. (1) The Bank shall be entrusted with the Federal Government's banking and foreign exchange transactions in Nigeria and abroad.

(2) The Bank shall receive and disburse Federal Government moneys and keep account thereof without remuneration for such services.

(3) In any place where the Bank has no branch, it may appoint another bank to act as its agent for the collection and payment of Federal Government moneys.

33. Notwithstanding the provisions of section 32, the Federal Government may,

Federal Government's rights.

(a) maintain accounts in Nigeria with other banks in such cases and on such conditions as may be agreed between the Minister and the Bank ;

(b) use the services of the Regional Treasuries for the collection and payment of Federal Government moneys in places where it may be appropriate and convenient to do so.

34. (1) Notwithstanding the provisions of paragraph (d) of section 30, the Bank may grant temporary advances to the Federal Government in respect of temporary deficiencies of budget revenue at such rate or rates of interest as the Bank may determine.

Advances to Federal Government.

(2) The total amount of such advances outstanding shall not at any time exceed twelve and one half per cent of the estimated recurrent budget revenue as laid before the Federal Legislature for the Federal Government financial year in which the advances are granted.

(3) All such advances shall be repaid as soon as possible and shall in any event be repayable by the end of the Federal Government financial year in which they are granted. If after that date any such advances remain unrepaid the power of the Bank to grant further such advances in any subsequent financial year shall not be exercisable unless and until the outstanding advances have been repaid.

35. The Bank shall be entrusted with the issue and management of Federal Government loans publicly issued in Nigeria, upon such terms and conditions as may be agreed between the Federal Government and the Bank.

Issue and management of Federal loans.

36. The Bank may act as banker to any fund, institution or corporation of the Federal Government or of a Regional Government.

Federal funds and institutions.

37. The Bank may act generally as agent for the Federal Government or of a Regional Government—

Agency for Federal Government.

(a) where the Bank can do so appropriately and consistently with the provisions of this Ordinance and with its duties and functions as a central bank ; and

(b) on such terms and conditions as may be agreed between the Bank and the Government concerned.

## RELATIONS WITH OTHER BANKS

38. The Bank may act as banker to other banks in Nigeria and abroad.

Nigerian and other banks.

39. The Bank shall wherever necessary seek the co-operation of, and co-operate with, other banks in Nigeria—

Co-operation with banks in Nigeria.

(a) to promote and maintain adequate and reasonable banking services for the public ;

(b) to ensure high standards of conduct and management throughout the banking system ;



(c) to further such policies not inconsistent with this Ordinance as shall be in the national interest.

Bank may prescribe liability minimum.

40. (1) The Bank may prescribe from time to time by publication in the Gazette the amount of specified liquid assets which each bank operating in Nigeria under the Banking Ordinance, 1958, is required to hold as a minimum in Nigerian pounds or in sterling.

(2) The minimum amount so prescribed shall be expressed as a percentage of the gross demand liabilities of each such bank due in Nigerian pounds, together with a percentage of the gross time liabilities of each such bank arising out of its time and savings deposits due in Nigerian pounds. No bank shall be required to maintain a higher percentage than any other bank.

(3) If the Bank at any time increases either of the percentages referred to in subsection (2), every bank shall be allowed such period of grace, being not less than ten days nor more than twenty-one days, as the Central Bank may specify, in which to comply: Provided that during a period of three years from the coming into operation of this section the Bank may if it thinks fit prescribe some period of more than twenty-one days for compliance with this section, which period shall then apply in respect of all banks operating in Nigeria.

(4) The Bank may require any bank to furnish such information in such form as the Bank may deem necessary to satisfy itself that the bank concerned is holding not less than the prescribed minimum amount of specified liquid assets.

Other banks as agents.

41. The Bank may appoint one or more other banks in Nigeria to act as its agent for the issue, reissue, exchange and withdrawal of notes and coins, or for other purposes, on such terms and conditions as may be agreed between the Bank and each of such other banks.

Clearing house.

42. It shall be the duty of the Bank to facilitate the clearing of cheques and other credit instruments for banks carrying on business in Nigeria. For this purpose the Bank shall, at an appropriate time and in conjunction with the other banks, organise a clearing house in Lagos and in such other place or places as may be desirable in premises provided by the Bank.

#### ACCOUNTS AND STATEMENTS

Financial year.

43. The financial year of the Bank shall begin on the 1st day of April and end on the 31st day of March or shall be such other period as shall be prescribed by the Minister.

Audit.

44. (1) The accounts of the Bank shall be audited by an auditor appointed by the Bank with the approval of the Minister.

(2) Without prejudice to the provisions of subsection (1) the Minister may at any time and from time to time request the Director of Federal Audit to make an examination of and submit a report on the accounts relating to the issue, reissue, exchange and withdrawal of notes and coins by the Bank or, in what the Minister shall think to be exceptional circumstances, the accounts of the Bank as a whole, and the Director of Federal Audit shall do so accordingly, and the Bank shall provide all necessary and proper facilities therefor.

45. (1) The Bank shall, within two months from the close of each financial year, transmit to the Minister a copy of the annual accounts certified by the auditor and such accounts shall then be, as soon as may be, published in the Gazette.

Accounts and annual report and publication thereof.

(2) The Bank shall, within two months from the close of each financial year, submit to the Minister a report on its operations during that year. Such report shall be published by the Bank.

(3) Both such annual accounts and such annual report shall be, as soon as may be, laid before the Federal Legislature.

(4) The Bank shall, as soon as may be, after the fifteenth day and also after the last day of each month make up and publish a return of its assets and liabilities as at the close of business on that day; or, if either of those days is a holiday, as at the close of business on the last preceding business day. A copy of the return shall be transmitted to the Minister and shall be published in the Gazette.

#### TRANSITIONAL PROVISIONS

46. (1) At any time after the enactment of this Ordinance and before the coming into operation of section 19 the Minister may by writing under his hand authorise such persons or authorities as he may think fit to make such arrangements as he may expressly authorise for the printing of notes and minting of coins for the purpose of this Ordinance, and for the safe custody of such notes and coins, and may provide for the method of reimbursement of the cost thereof.

Preparatory provisions for first issue.

(2) At any time after the establishment of the Bank and notwithstanding that section 19 may not have been brought into operation, the Bank may take up Treasury Bills of the Federal Government issued in respect of the expense incurred under the provisions of this section whether or not the same have been first offered to the public.

47. Currency notes and coins of the West African Currency Board which are legal tender in Nigeria on the coming into operation of section 18 shall remain legal tender until such further day as the Bank, giving at least three months' notice in the Gazette, may specify, and shall then cease to be legal tender in Nigeria: Provided that—

Existing currency.

(a) the Bank may so specify different days in relation to different denominations of such currency notes and coins;

(b) with effect from the coming into operation of section 18, and thereafter while coins of the West African Currency Board remain legal tender in Nigeria, such coins shall be legal tender at their face value up to an amount not exceeding ten pounds in the case of coins of denominations of not less than sixpence and up to an amount not exceeding one shilling in the case of coins of a lower denomination.

#### MISCELLANEOUS

48. The Board may, with the approval of the Minister, make by-laws for the good order and management of the Bank. Any such by-laws shall be authenticated by the Bank's seal and shall be published in the Gazette.

By-laws.

- Income tax  
Cap. 92.            49. The Bank shall be exempt from the provisions of sections 27 and 45 of the Income Tax Ordinance.
- Companies  
Ordinance  
Cap. 38.            50. The provisions of the Companies Ordinance shall not apply to the Bank.
- Prohibited  
banking  
names.            51. Save with the written consent of the Minister on the recommendation of the Bank, no bank shall hereafter be registered under the provisions of any Federal or Regional legislation by a name which includes any of the words "Central", "Federal", "Federation", "National", "Nigeria", "Nigerian", "Reserve" or "State".
- Liquidation.        52. The Bank shall not be placed in liquidation except pursuant to legislation passed in that behalf and then in such manner as that legislation directs.

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This printed impression has been carefully compared by me with the Bill which has passed the House of Representatives, and is found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,  
*Clerk of the House of Representatives*

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