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16 APR 18

1918
previous Paper
1764/E.A.P.
S/EM

British character and control of
companies operating in the Colonies
and Protectorates

Minutes as to proposed legislation to provide for —

2 pp
Mr. Robinson
Mr. Bottomley

Please see extracts from minutes within
? we should proceed to consider the general
question of legislation in other Prot. and
Colonies to provide for British character
and control of companies

Att. N.

23. 10. 18
I suggested that this could be by separating
so that portion of the general legislation may not
be without delaying the current list of
papers.

As this is a legal question...
? Ask Mr. Bush to prepare...
take on the basis of the...
...in...
...in...

subsequent Paper
4527/18

I understand this to be a proposal for a law that all limited liability companies operating in the S. A. P. shall be under British control with a view to excluding enemy interests but not to include neutral interests which are not mere cloaks for enemy principals.

Also, the proposal goes much further than anything yet suggested for applying a protective financial post applies to every kind of enterprise.

On the other hand it is not so wide as the British control of S. A. P. oil if it is only aimed at enemies.

I suggest that it would be well to keep distinct the two questions of (a) exclusion of direct or indirect enemy control (b) British control of certain raw materials.

As regards (a) we can do what we like without fear of treaties. Only our legislation must be directed against enemies not mere foreigners. There are plenty of precedents.

For the present would it not be enough to consider whether the existing S. A. P. legislation against

enemy control is sufficient & if not so, how it can be strengthened by adopting action from other colonial countries.

As regards (b) Sir H. Keble committee is shortly going to consider a list of minerals which ought to be under British control to the exclusion of all neutrals. Here we come up against treaty questions, locomotion policy & many other things which will present an early decision & I submit that the matter should be considered generally & first as an S. A. P. question. Further consideration on this paper might be deferred until we have a policy settled.

Meanwhile it is quite evident that we cannot, except possibly as a temporary measure for the period of the war, erect a Chinese wall round any part of the Empire & say no foreign company shall conduct any sort of business there. To attempt to do this would merely defeat the whole policy of exclusion of enemies & substitution of British control of really important raw materials & we should have our "German brothers" back again over the ruins of our walls.

The Library might get together a collection of the Orders relating to enemy property & see how far they can be adapted to business generally in the S. A. P.

(2.) that permission had already been given in the case.

Not acceptable
My ~~objection~~ is that the Ordinance will itself operate to exclude non-British Companies from business in the E.A.P. A Trading Company must have land for go-downs if for nothing else, and a financial Company could not advance money on mortgages.

But these are war measures and they do not get over the danger of peaceful penetration of Germans under neutral disguise after the war. I agree that the question should be held up till we have cleared the ground as regards the British control of raw materials, but I think that the general question of neutral business should not be left entirely out of account.

It may be of interest to draw attention to the papers which we have as regards mining concessions in Malaya and where a tree was passed down that the law relating to prospecting concessions or the renewal of such concessions should be required that three-quarters of the governing body of the colony be FR or nationals, subjects or dependents of FR. I think it is a question to which we have come and we may decide to do in the case of raw materials, and has no direct bearing on the question of businesses generally.]

Sir G. Yiddes.

We have discussed the general question informally with the Beard of Trade (See C.O. 24527) and quite recently with Mr. Kershaw of the India Office. We understand that the Government of India in dealing piecemeal with the whole question of enemy control under such

Sir G. Yiddes.

sent these papers to Mr. Cradock because I understood that he had a similar question in hand and I wished to avoid duplication. I did not intend to trouble him to minute and, as a matter of fact, what we had under consideration was the question of the control of the materials which, as he says, are to be considered in Committee next week.

The intention of this paper (though it is registered E.A.P.) was to ~~draw~~ the general consideration of the question raised in Sir George Yiddes' minute and to point out, what the Germans would attempt to use neutrals extensively as a cloak for their operations in British Colonies and Protectorates in the early days after the war.

The E.A.P. we have probably go the further than in other Colonies. In addition to the ordinary legislation for that enemy trade we have forbidden any foreigner to acquire any interest in land during the war without the consent of the Government Council and we are also insisting that Companies incorporated within the Empire shall satisfy us as to British character and control before carrying on business in the E.A.P.

Mr. Kershaw was advising that we cannot go further without a breach of the provisions of the Berlin Act as to freedom of trade and he has expressed a doubt whether our Ordinance as to land might not be regarded as a breach of that Act. I have already had an enquiry about it from the Italian Embassy but I was able to point out

(1) that it was a war measure, and

5077/10

W.Y. 10.5.18

W.Y. 10.5.18

heads is raw materials (e.g. public utility (e.g. gas, electric lighting, etc.), steamer services, etc.). With regard to raw materials we gather that the policy for the moment is to confine the requirement of British control to minerals, or perhaps certain specified minerals, and not to extend it to other produce. This is really only a continuation of the pre-war policy under which minerals were divided into 2 classes "reserved" and "unreserved". The Indian Government are however considering schemes for regulating the participation of foreigners in the marketing (not the production) of raw materials. At present they have not got beyond a scheme for registration of all foreign traders as individuals. The difficulties in applying this scheme to companies have not yet been solved, but one measure which has been proposed is that legislation should be passed giving the Government power to examine the books of any Company and to call for any information with a view to ascertaining its true character.

Mr. Kershaw personally is disposed to think that the merchant rather than the planter or mine-owner is the person who matters. The merchant can be restrained by devices such as differential export duties. But he recognizes that different considerations may come into play in undeveloped countries. In India there is ^{less} ~~more~~ room for expansion ~~there~~ there is in Africa.

After much discussion it seems to us that it would be premature to lay down a policy for the Colonies with regard to the general question of enemy control until His Majesty's Government have gone further towards formulating their policy. For the present we had better be content to secure British

British control of the exploitation of important minerals on Crown lands, and leave the question of British control of companies working agricultural plantations (rubber, cotton, etc.) and companies engaged in certain lines of business (banking, insurance, etc.) to be dealt with as further experience may show to be necessary - e.g. if the Bill now before Parliament goes through, the Colonies will no doubt be invited to restrict enemy banks for a term of years; and, if it should subsequently be decided that e.g. marine insurance companies must be British, the Colonies will be asked to copy any home legislation on the subject.

With regard, however, to the particular question of Germans trading under the guise of neutrals after the war, we suggest that the question of legislation for registration of foreign traders etc. in the Colonies, on the lines adopted or contemplated for India, should now be considered in consultation with the India Office.

The Circular of 26th June, 18 ~~1918~~ indicated to the Colonies what minerals should in the Secretary of State's opinion be kept as far as possible in British hands.

H. J. R. G. B.
25/6/18 25.2.18

M^r Hewson
M^r Long

It is to be noted that in the light of the important revolution in business legislation
W. H. 26/7/18

on heads as raw materials, such as those of public utility (e.g. cable cars for trams, electric lighting, etc.), steamer services, etc. With regard to raw materials we gather that the policy for the moment is to confine the requirement of British control to minerals, or perhaps certain specified minerals, and not to extend it to other produce. This is really only a continuation of the pre-war policy under which minerals were divided into 2 classes "reserved" and "unreserved". The Indian Government are however considering schemes for regulating the participation of foreigners in the marketing (not the production) of raw materials. At present they have not got beyond a scheme for registration of all foreign traders as individuals. The difficulties in applying this scheme to companies have not yet been solved, but one measure which has been proposed is that legislation should be passed giving the Government power to examine the books of any Company and to call for any information with a view to ascertaining its true character.

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H. J. R. G. B.
25/11/18 25.2.18

M^r Headin
M^r Long

26.7
It is not in order to consider these questions in the light of the important revolution in circumstances
I agree
W. H. 26/7/18

Mr. Hensons discussed this at length with
Mr. F. J. Harding
myself. The substance of the
discussion was that it was agreed
that the whole question of the steps to be taken
to make the Empire self-sufficient with regard to
certain raw materials specified by the Imperial
War Staff should be taken up as one of the items
by a Committee of which Mr. Hensons should be Chairman
Put by.

above.

G. J. B.

5/11/18

Extract from minutes on B/4592

If however you want to stop this sort of thing in other cases in future you might consider the desirability of introducing a law in E.A.P. on the lines of the provisions to be found in the Chinese Companies Order in Council and of the conditions imposed generally in Trinidad and other oil leases, providing for British control &c. with regard to all companies carrying on operations in E.A.P.

amending C. further defining the provisions is now for consideration. J.S.R.

J.S.R. 7/1/18

Mr. Hewins Proceed as proposed by Mr. Bottomley - and then consider Mr. Risley's suggestion not only with reference to the E.A.P. but also with reference to other Protectorates and Colonies?

H.J.R. 8/1/18.

At once. W.H. 8/1/18.

Extract from minutes on Gov/72998/EAP

Mr. Hewins, Mr. Long,

Our working rule should be:-suspicion of all neutrals. F.O. of course don't agree.....

The action proposed on B/ 4592 will, I hope, secure the situation in the E.A.P. as to British-character firms; but there seems to me sufficient ground for expecting that Germans will attempt to use neutrals extensively as a cloak for their operations in British Colonies and Protectorates in the early days after the war, and we should proceed to consider Sir H.Read's suggestion (63362) for general action.

G.V.F. 21.2.

W.H. 22/2/18.

I approve +/- As proposed.

W.N.L. 22.2.18