

18288

1932

516

18288

KENYA

CO533/426

us	to Strickland	2/12
	to Allen	2/12
Y228/31	to C. A. Stanley	1/11
uent		
3043/53.		
297		2/19
Presumably		2/19
to Strickland		11
to Strickland		12/10
to Strickland		2/11
R. Strickland		4/11
to Strickland		2/11
to Allen		2/11
Stanley		2/11
J. A.		1/11
Allen		
2/11		2/11
297		2/11
Stanley		2/11
to Strickland		

1. D/Gov. 421 30th Aug. 32.2

Trans. copies of a bill to make provision for control of the Coffee Industry and submits reasons thereon. Requests that any comments on the draft be communicated by telegraph.

I attach a minute - 12

H.S. P. 1015/11/10
29/9/32

Mr. Stockdale

I have kept this some days for perusal. When you have read the pp., may we discuss?

H. P. 1015
11/10

Mr. Frazier,

I have now been through these papers and would be glad to discuss with you. Would tomorrow Thursday be suitable. You should also see file Ceylon 92953/7 of 1932 which I have obtained from the Registry & now tied up with these papers.

J. D. Stockdale

12/10

31 Oct.

~~SECRET~~ UNDER STATUTE

(Asks for early reply to 1)

I must apologise for the delay in sending on this paper. The Governor's proposals were discussed with Mr. Stockdale shortly after the date of his minute above. His general view is that in so far as the Bill provides for furthering the interests of the coffee industry by levy, it may be accepted; but

but that, as in the case of the Ceylon Tea Propaganda Board (see 92953/7 hemmith) the Board's duties should be strictly confined to this purpose.

Drafts submitted for consideration.

Director
3/11

? Para 4. Para 2 of draft says - This seems to be merely a matter of terms used, for is not the export levy just as much a "tax" as the dealer's licence fee? It is proposed to delete the words "to the benefit of a single industry", so why not the latter? They are both parts of the industry to be benefitted. Would there be any objection to keeping the dealer's licence fee at 10/- & providing that when a licence is taken out or renewed the licensee should pay in addition a levy of 1/-? If not this para seems to require amendment.

Mr Stockdale has considered the draft J.A.P.

Para. Comment on 3(1)(c). I feel some uneasiness about this. Would there not be coffee dealers in a coffee producing district?

Comment on Cl 6. How is the dealer to be defined? Even if the dealer cannot

write English, I imagine he would get someone to write his name and the words presented for him? "insert" perhaps no other done.

J.A.P. Stockdale
4/11/32

I am inclined to the view expressed by Mr Roberts in para 4 and have suggested an amendment of the draft.

J.A.P. Stockdale
4/11/32

I have discussed with Mr Roberts Wray: & the passage in the memo relating to clause (3)(1)(c) has been amended. Check to Mr Stockdale in enclosure.

X for Stockdale agrees J.A.P. 7/11

J.A.P. Allen

27/11/32

The additional para: is inserted after consultation with Mr Stockdale. A statement which distinguishes between native & non-native coffee might be against the former, but being relating but absolutely.

As the Govt. has indicated, I have handed the draft. But think that limitations should be placed on being done before the draft is done further.

Let's 7/11/32 above

DESTROYED UNDER STATUTE

Tel. to Gov. No. 225 - 8.11.32

By Air Mail
8/11/32

H

To Gov 825 (w/ memorandum) cons
(1 amended)

8 NOV 1932

Lord Plymouth

S. J. S. to rec

PL

18/11

Scan

24/11/32

5. Lawrence Byrne Tel. 222. — 30 Nov '32.

Sketches details of amendments to clauses 6(2), 9(4) & 14(1) & seeks early permission to publish Bill so amended, & its introduction in the Council at forthcoming session.

This seems to meet the points raised raised in 4 with the exception of item in para 4 regarding coffee dealers licenses. No additional measures are given for the proposal to divert the fee from general revenue and as there should be no difficulty in arranging for the imposition of a special levy as has been suggested, it seems reasonable to request approval for the introduction of the Bill unless it is considered as urgent.

? subject to this agree to the introduction of the Bill

15.11.32
30/11/32

On a point of principle I would be inclined to adhere to the dealers licenses being left to General Revenue and 29.10 as a Special Levy to the Coffee Board, especially as the planter license fees are not to be changed and are to be paid to General Revenue. The amount of same is however small (less than £100) and should again pass for the other principle I would not suggest that the introduction of the Bill in this respect should be refused. It is rather a case of explaining any objection attached to the ~~proposal~~ proposal and not to be dispensed.

In case I think except the case of the Kenya Col. regarding coffee from other experience the licensing conditions should be equal to other parts of coffee if it is satisfactorily used.

*The assumption is correct.

After which conversation F. L. Stockdale

assure that Mr. Stockdale has accepted A-

N. Keller

2/12/32

15.11.32

To Gov. Tel. No. 202 - 5 Dec - 2/12/32

6/5

C. O.

Mr. Allen 1/13/32

Mr. Wooddale 2/1/32

Mr. Allen 4/1/32

Mr. Parkinson.

Mr. Tomlinson.

* Sir C. Bottomley 2.1.32

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Codes & sent
8.0 pm
2-12-32
Ch

Announced by No 1
3043/53

C.D.	
R	3 000
D	

No. 262 Your telegram No.

(3)

222 Suggestion in par. 4 my despatch

(4)

No. 825 was made as I attached im-

portance to applying same principles

to dealers' licences ^{as are applied} ~~as to planters'~~

licences, fees ^{for} which remain un-
altered and are to be paid to

General Revenue but as revenue from
dealers' fees is small, I do not wish

Bill delayed on this account. I

note that point ^{to} has to be further
considered by Executive Council,

Subject to this I agree to publica-

tion and introduction of Bill as
amended. If intention of Govt.

in regard to native coffee not al-
ready ^{made} known presume it will be made
clear in introducing Bill.

DRAFT. Tel. for consen-
v. minutes.

Governor, Nairobi.

* I do not trouble you
but for "A."

A

6
5
1

Telegram from Governor Kenya to the Secretary of State for the Colonies

REC'D
30 NOV

Dated 30th November Received 11.42.a.m. 30th November 1932

No 14
Jan 3

let for
inter
Am for
inter
3rd for
inter

4th for
inter

No. 222. Your despatch of 8th November No. 825. Coffee Bill. Clause 4(2) and 9 (4) will be amended to provide that District Commissioners shall consult with Director of Agriculture instead of Board. Provision will be made for election of dealers and planters by their respective representatives by amending definition of conference and election of rules. Clause 4 (1) will be amended to exempt dealers in coffee grown outside Kenya. Clause 6 will provide for notice in Swahili. Cases of refusal to renew licence's under Clause 9 would it is thought be very rare and would be dealt with under Diseases of Plants Prevention Rules.

I should be glad of early permission to publish Bill/amended and introducing into Legislative Council at forthcoming session.

With reference to paragraphs 4 and 5 of your despatch revenue from dealers licence fees amount to under £100 whereas dealers are able and willing to pay £10 fee. Further consideration will be given to this point in Executive Council but trust that introduction of Bill may not be delayed on this ground only.

Native grown arabica coffee which with supervision and control to be exercised should be of equal quality with European grown will be sold at Kenya coffee and benefit from any advertisement of industry as a whole.

Am 2 (6)

C. O.

Actual

7
[Signature]

Mr. Freeston. 3/11
Mr. Robert Wray 4/11
Mr. Stockdale 4/11
Mr. Pether 5/11
Mr. Parkinson.

see suggested amendment to para 4.

DOWNING STREET,

Mr. Tomlinson.
Sir C. Bottomley. 5.11. f.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

Answer 4 NOS
54

8 November, 1932.

Sir,

I have, etc., to acknowledge the receipt of your despatch No. 421 of the 30th August forwarding the draft of a Bill to make provision for the control of the coffee industry.

2. I am in sympathy with the general object sought to be achieved by the Bill; namely the establishment, by means of a compulsory levy upon all coffee exported from the Colony, of a Fund to be devoted to furthering the interests of the industry, and I welcome the proposal that this Fund shall be administered by a Board of which the larger part is to be elected by the industry. There are, however, certain subordinate proposals in which I am not prepared on present advice to concur.

2 DRAFTS Cars:

V. minute

KENYA

NO. 825

Gov.

Memorandum

V. minute

3. Under Clauses 4(2) and 9(4) of the draft Bill it is provided that the District Commissioner shall before issuing a licence to deal in or to grow coffee take the opinion of the Board. Such an extension of the Board's activities beyond its primary function appears to me to be without justification and to constitute an intrusion by a largely unofficial body upon the duties and responsibilities of Government.

I consider that the opinion to be sought by the District Commissioner should be that of the Director of Agriculture, who would, however, be at liberty should he so desire to consult the Board, of which he is to be the First Chairman, in regard to any particular application that may be received.

4. Clause 11(1) provides that in addition to the proceeds of the levy the fund shall be augmented

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4. Clause 11(1) provides that in addition to the proceeds of the levy the fund shall be augmented

by

by the fees for coffee dealers licences, the amount of which is raised by Clause 4(5) to £10 from the present figure of 10/-. [The allocation to the benefit of a single industry of the proceeds of a particular tax would constitute, to my mind, an undesirable precedent; and] I should prefer that the coffee dealers licence fee should remain at its present figure and be credited to general revenue, separate provision being made, if necessary, for a ^{special levy} ~~contribution~~ from coffee dealers to the Fund.

You have informed me that you consider it undesirable that the licence fee of coffee growers should be paid to the Fund and

I think this meets my point. R.L.W.

Insert para 5 from outline.

b. The enclosed memorandum draws attention to certain minor points of the draft Bill which appear to call for amendment or explanation. I shall await the receipt of your observations in regard to the various matters discussed in this despatch and enclosure, but I should raise no objection to your affording such publicity

by the fees for coffee dealers licences, the amount of which is raised by Clause 4(5) to £10 from the present figure of 10/-.

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publicity as you may desire to your
despatch under acknowledgment
and my reply.

I have, etc.,

5. I state ^{from para. 3 of your} ~~that~~ ^{despatch} that you are satisfied
that active growers would share
the benefits of the operations of the
Board. It is however not clear
to me that the advertisement
of Kenya coffee (which is by
now practically a trade name) would
actually promote the sale
of coffee grown by action in Kenya,
and I should be glad if you would
give further consideration to the
question how far it will be
possible to secure that the advantages
of advertisement are in fact
shared by such coffee.

Insert on
previous page.

publicity as you may desire to your

despatch under acknowledgment

and my reply.

I have, etc.,

5. I note ^{from para: 3 of your} ~~that~~ ^{deduct} that you are satisfied that native growers would share the benefits of the operations of the Board. It is however not clear to me that the advertisement of Kenya coffee (which is by now practically a trade name) would necessarily promote the sale of coffee grown by natives in Kenya, and I should be glad if you would give further consideration to the question how far it will be possible to secure that the advantages of advertising are in fact shared by such coffee.

Insert on
previous page.

MEMORANDUM

Substantive slip A.
Clause 3(1)(c). It appears undesirable that the coffee dealers' representatives on the Board should be elected by a body ~~composed wholly of coffee planters~~ *which might include coffee* (see the definition of 'conference' in

Clause 3(1)(c). It is not clear (see the definition of 'Conference') that representatives of coffee dealers would be ~~elected by a body including coffee dealers themselves.~~ *delegates to the conference* ~~to the conference~~ *to the conference*

It is a matter for conison. whether either (a) the definition should be amended to ensure that coffee dealers are adequately represented at the Conference, or, (b) provision should be made for dealers and planters respectively to elect their own representation ^{VCO} on the Board.

Agreed to include all inland coffee
Agreed

Territory should not apply equally to coffee produced in Uganda.

Clause 6 should ^{provide} also provide for an alternative notice in Swahili.

Clause 9 forbids the planting or maintaining of a coffee plantation except under annual licence. Coffee, however, is a permanent crop and it is not clear what is to be done with the trees of a planter whose application for the renewal of his licence is refused. If they are to be destroyed who is to be responsible for ensuring that it is done?

Deal with lands areas of plant trees

(Sgd.) P. CUNLIFFE-LISTER



MEMORANDUM

Substitute slip A.
Clause 3(1)(c). It appears undesirable that the coffee dealers' representatives on the Board should be elected by a body ~~which might be~~ ^{composed wholly} of coffee planters (see the definition of 'conference' in ...)

A.
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Should all under grass etc. be made to this

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(Sgd.) P. CUNLIFFE-LISTER

MEMORANDUM

Substitute slip A.

Clause 3(1)(c). It appears undesirable that the coffee dealers' representatives on the Board should be elected by a body ^{which might} ~~composed~~ ^{wholly} of coffee planters (see the definition of 'conference' in Clause 2). The alternatives seem to be either

- (i) To amend the definition of 'conference' so as to ensure that the coffee dealers are adequately represented at its annual meetings; or
- (ii) To amend Clause 3(1)(c) so as to ensure that the two coffee dealers on the Board are elected by whatever body may be taken to represent the coffee dealers as a whole.

Clause 4(1). It would be interesting to learn why the exemption of coffee grown in the Tanganyika Territory should not apply equally to coffee produced in Uganda.

Agreed to include all inland coffee

Clause 6 should ^{perhaps} also provide for an alternative notice in Swahili.

Agreed

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*Don't call under trees
...
...*

(Sgd.) P. CUNLIFFE-LISTER.

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Agreed to include all outside coffee

Clause 6 should ^{perhaps} also provide for an alternative notice in Swahili.

Agreed

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Deal with under clause 6 Nov. 1945

(Sgd.) P. CUNLIFFE-LISTER

1a
10

The first point to consider in connection with the Bill now submitted is whether it in any way conflicts with the Secretary of State's decision regarding the growing of coffee by natives contained in the despatch at 9 in 17094/31. In that despatch the Secretary of State was prepared to admit restriction of native coffee growing to such extent as is necessitated by the shortage of agricultural supervisory staff in order to ensure that the coffee plantations, as a whole, are kept free from disease, but in para. 6 it was suggested that power should be taken to control coffee planting in non-native areas in any case in which the Director of Agriculture is satisfied that it is in the public interest to exercise such control as an insurance against the dissemination of disease and in order to maintain the quality of the product.

Section 9 of the Bill provides that the issue of licences in non-native areas shall be in the discretion of the District Commissioner after he has taken the opinion of the Board thereon. But the provisions of this section do not apply to coffee plantation in any native reserve. It is proposed to provide for the issue of licences in respect of the latter by means of rules under the Crop Production and Life Stock Ordinance. It seems anomalous, however, that there should be two separate licensing authorities and this section of the Bill as it stands appears to be definitely discriminatory against natives. It would be undesirable to provide in this Ordinance for the issue of licences in respect of native reserves

not necessary?

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and ... ?

as natives are not represented on the Board, but as Mr. Stockdale observes in his minute of 2.7.31 in 17220/31, there seems no reason why the Board should be consulted on the issue of licences as this is an administrative matter and he does not approve the handing over of such power to unofficial bodies.

It seems preferable therefore to suggest that the issue of planters' licences should be dealt with comprehensively in separate legislation.

As regards the remainder of the Bill:-

Section 2. There seems no reason why the definition of Inspector should not be made to include Administrative Officers.

Section 3. The Board is to consist of 3 official and 8 unofficial members. Although the Director of Agriculture is to be the first Chairman, it was considered by the Coffee Planters Conference not to be essential that the Director of Agriculture should be Chairman (see page 12 of the proceedings in 16291/32).

Section 4(2). The District Commissioner before issuing a dealer's licence must take the opinion of the Board. It seems unnecessary to consult the Board (see Mr. Stockdale's views quoted above).

Section 4(5). The fee for a dealer's licence has been increased from the 10/- payable by Section 6 of Cap. 152 to £10. No reasons in justification of this increase have been submitted.

Section 6 should, presumably, also provide for an alternative notice in Kisumu.

Section 10

See
Postscript

11
Section 10. There seems no objection in principle to the levy proposed, and this should of itself be sufficient without having recourse to the licence fees.

Section 11(1). The proposed payment into the fund of the receipts from the issue of dealers licences involves the loss to Government funds of the 10/- already charged for such licences. Apart from this it seems objectionable in principle that revenue derived from this source should be handed over to the coffee industry and that Government should bear the cost of collection.

The inclusion of the phrase "and of such sums as the Legislative Council may from time to time vote for the purpose" also seems objectionable in that it contemplates financial assistance by Government. In this connection it will be observed from para. 4 of the Governor's despatch at 1 in 17220/31 that the Coffee Planters' Union would not accept the previous Bill because it did not set out the principle of financial assistance by Government, but at an interview the Governor made it clear that he was unwilling to pledge Government to this financial contribution at a time when neither the planters nor the Government were in a position to proceed with the original scheme.

? In the first instance Mr. Stockdale should see for any observations.

See
Postscript

Ps.

Mr. Allen has invited my attention to the Sisal Industry Bill at 3 in 16240/30. This provides for a levy on sisal and for a contribution by the Government of Kenya on a pound for pound basis to be paid into a fund which

Mr. Allen's note
29/3/35

which is to be devoted primarily to research. Expenditure on advertising whether for sale, marketing, or manufacturing is expressly prohibited by Section 9(2) of the Bill. The fund is to be administered by a committee consisting of the Director of Agriculture as Chairman, and four members, of whom one is nominated by the Governor.

That Bill was referred to the Colonial Advisory Council of Agriculture and Animal Health, who were agreed that organised industries in the Colonies should be encouraged to provide their own research services wherever possible, and recommended that the proposals submitted by the Government of Kenya should, in general, be approved.

6 of 16240/30.

In conveying his approval, in principle, of the scheme contained in the Bill, the S. of S. concurred in the view expressed by the Agricultural Commission and supported by the Advisory Council that, when agricultural industries had reached a certain stage of development, they should finance their own research. It was pointed out that the Bill gave to the Director of Agriculture substantial control ~~of~~ the work to be financed out of the fund and was indicated that experience

elsewhere

12

elsewhere had shown this to be most desirable, at least in the early stages of such a scheme. As regards the finance of the scheme, it was suggested that the Government should not be committed to the provision of a contribution except for a limited though fairly long period, say five years. The despatch went on to state that it was understood that a scheme was then being prepared to enable the coffee industry to finance its own research. The S. of S. trusted that when definite proposals were formulated, they would be on the same general lines as the sisal proposals. The S. of S., as then advised, would regard as undesirable proposals for a scheme on a more ambitious scale.

The Sisal Industry Bill was not, in fact, enacted.

The Coffee Industry Bill differs from the Sisal Bill in the following respects:-

The fund is not intended primarily for research; it can be applied to advertising purposes; the Director of Agriculture has not substantial control over the work to be financed out of the fund; the appointment of staff does not rest with the Governor.

This appears to strengthen the case for suggesting complete separation of the proposals for a levy on the coffee industry from the questions of licensing and restriction of growing and dealing in coffee, etc.

J.P.P.
3/21

31



KENYA

GOVERNMENT HOUSE
NAIROBI
KENYA

No. 421

RECEIVED
28 SEP 1932
COL. OFFICE

20th AUGUST, 1932.

Sir,

20/8/32
226/31

2/9/32
225/3

Amal. let 8/11/32
at m. around 825-8 m.m. 1932

I have the honour to refer to Kenya despatch No. 275 of the 15th May, 1931, transmitting copies of a Bill to establish a Board for the Improvement of the Marketing of Coffee, and to Lord Passfield's telegram of the 4th July, 1931, asking that action on the Bill should be suspended pending consideration of the question of the growing of coffee by natives. This question has since been dealt with in separate correspondence and the approved policy has been communicated and explained, with your permission, to representatives of the coffee industry.

In the meantime the draft of the Bill previously sent you has been considerably altered and I now enclose copies of a new Bill which is entitled "A Bill to make provision for control of the Coffee Industry" and which differs from the previous draft in certain important respects.

2. The present Bill provides for the establishment of a coffee levy fund, consisting of the proceeds of a levy of not exceeding 1/- per cwt. of coffee produced in and exported from the Colony (and not exceeding 2 cents per cwt. in the first year), the proceeds of a coffee dealer's licence of £10, and of such sums as the Legislative Council may from time to time vote for the purpose. The fund is to be applied by the Board to the purposes

named

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

70.1 a
1722834

named in clause 11, which include the extension and exploitation of markets. As regards these purposes, as explained in paragraph 3 of Kenya despatch No.275 of the 15th May, 1931, the earlier proposals for financing extended research services from such a fund are not and cannot in present financial circumstances be contemplated, and it is considered that such funds can be spent with great benefit to the industry upon the improvement of marketing and the exploitation of new markets, though it is possible that the Board may wish to spend part of the fund upon other services.

3. Clause 9 provides for the issue of coffee planters' licences by District Commissioners after taking the opinion of the Board thereon. The fee for this licence is to remain the same as at present, viz. Shs.30/- per annum, and will not be paid into the levy fund. By sub-clause (5) it is provided that this clause should not apply to native plantations. The reasons for this are that it was felt that this section could not be made to apply with advantage to native coffee growing for which special conditions would be required, and that a Board constituted in accordance with Clause 3 would not be the most appropriate authority to advise on the issue of licences in Native Reserves. It further appeared undesirable to repose in District Commissioners the ultimate discretion in the granting of such licences. I propose to entrust this discretion to the Director of Agriculture, and it is my intention to provide for the licensing and control of native coffee plantations by Rules under the Crop Production and Livestock Ordinance. These Rules are now being drafted.

Any levy, however, which might be imposed would be payable both by native and non-native producers and the question naturally arises as to how far the purposes on

which

which the funds derived from the levy would be spent would be of benefit to native growers. The answer is, first, that native growers would share with non-native growers any benefit that the Kenya coffee industry as a whole might reap from expenditure of the levy funds, and, secondly, in view of the limited extent to which coffee will be grown by natives, at least in the experimental stages, and of the period required by coffee trees to reach maturity, production of native coffee for export on a commercial scale cannot be expected to eventuate for some years to come.

4. In consideration of this point attention may be directed to the proposed constitution of the Board. The Director of Agriculture is to be the first Chairman and in any case a member of the Board, and of the ten other members, two are appointed by the Governor (one being a member of the Department of Agriculture), two are coffee dealers and six are coffee planters. The dealers and planters are to be elected at an annual conference representative of the industry as a whole, and not, as previously suggested, to be nominated by the Council of the Coffee Planters' Union of Kenya and East Africa. Printed copies of the Report of the proceedings of the Conference held in Nairobi on the 1st and 2nd July last will be transmitted to you shortly.

1820/32

5. The present Bill has been discussed at several meetings of Coffee Planters and with the Coffee Consulting Committee; also at the final stages by the Coffee Conference, and recommendations made have been embodied in the Bill with the advice of Executive Council, with two exceptions; first in regard to Clause 9 (5) on which the Coffee Conference passed the following resolution :-

"That as this Conference is opposed in principle to coffee growing by natives it therefore decides to delete paragraph 9 (5) reading as follows:-
"The provisions of this section shall not apply to any coffee plantation in any native reserve, which has been inserted in the later copy of the Bill."

At a later meeting with representative coffee growers, the proposals in regard to coffee growing by natives were discussed, and subsequently at the Annual General Meeting of the Coffee Planters' union the following resolution was passed:-

"That this Union, while maintaining its opposition to the growing of coffee by natives, which it believes will not be for the benefit of the natives themselves and will constitute a serious menace to the European Industry which is today the chief mainstay of the Colony's economic position, yet sees no reason for rejecting the Coffee Industry Bill on the ground of the inclusion of Clause 9 (5) in the Bill."

The second exception is in regard to the credit to the fund of the licence fee of coffee growers. I concur in the advice of Executive Council that this revenue should not be surrendered.

6. Before any steps are taken towards publication of the Bill, which it is hoped may be taken at the next session of Legislative Council, I shall await any comments which you may wish to make on the present draft, and shall be grateful if these may be communicated to me, if possible, by telegraph.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Wm. Wilson

GOVERNOR'S DEPUTY.

COLONY AND PROTECTORATE OF KENYA



A BILL TO MAKE PROVISION FOR CONTROL
OF THE COFFEE INDUSTRY

**A Bill to Make Provision for Control of the
Coffee Industry.**

BE IT ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Coffee Industry Ordinance, 1932", and shall come into operation on such date as the Governor may by proclamation appoint.

Short title
and commence
date

2. In this Ordinance, unless the context otherwise requires—

Interpretation

"Board" means the Board established under this Ordinance.

"bum" means coffee dried in the fruit or cherry.

"coffee" means the fruits or parts thereof of *Coffea* species and includes "clean coffee", "parchment coffee", "bum" and roasted and/or ground berries.

"coffee dealer" includes any person who buys or sells, cleans or grades commercially in a factory other than on the plantation, or otherwise deals in, unroasted coffee.

"coffee plantation" includes any area of land on which coffee is grown for the production of berries, or for the growing and sale of coffee plants.

"coffee planter" includes any person who owns, manages or occupies a coffee plantation.

"conference" means any meeting of delegates appointed by farmers' associations or similar bodies in coffee-producing districts convened for the purpose of election of members of the Board as provided under section 3 of this Ordinance and for the consideration of any other matters affecting the coffee industry.

"Director" means the Director of Agriculture.

"Inspector" means any magistrate, European Police Officer or any European officer of the Department of Agriculture;

"trade samples" means samples of coffee not exceeding ten pounds in weight.

Constitution of the Board.

3. (1) There shall be constituted a Board to be known as "the Coffee Board", which shall consist of—

- (a) the Director of Agriculture, who shall be the first chairman;
- (b) two members, to be appointed by the Governor, of whom one shall be a member of the Department of Agriculture;
- (c) two licensed coffee dealers to be elected at the Conference;
- (d) three coffee planters who shall be elected at the Conference by coffee planters who own, occupy or manage coffee plantations situated to the east of the Meridian of longitude thirty-six degrees twenty-five minutes, east of Greenwich;
- (e) three coffee planters who shall be elected at the Conference by coffee planters who own, occupy and manage coffee plantations situated to the west of the Meridian of longitude thirty-six degrees twenty-five minutes east of Greenwich.

(2) The first appointments of members of the Board under paragraphs (c), (d) and (e) of sub-section (1) of this section shall be made by the Governor on the recommendation of the Director. The Board shall convene a Conference in the first half of each calendar year after the passing of this Ordinance at which elections of such members to the Board as is provided in sub-section (5) of this section shall be made.

(3) Subject to the provisions of sub-section (1) (a) of this section the Board shall elect a chairman and vice-chairman annually.

(4) Members of the Board other than those referred to in paragraphs (c), (d) and (e) of sub-section (1) of this section shall hold office during the Governor's pleasure.

(5) With respect to the members elected at each Conference, the following provisions shall apply—

- (a) Of the two members of the Board elected under sub-section (1) (c) of this section, one shall retire annually;
- (b) Of the three members of the Board elected under sub-section (1) (d) of this section, one shall retire annually;
- (c) Of the three members of the Board elected under sub-section (1) (e) of this section, one shall retire annually;
- (d) The order of retirement of members under sub-section (5) (a) (b) and (c) of this section shall be decided by ballot by the Board;
- (e) Any member retiring as aforesaid shall be eligible for re-election.

(6) In any case in which the Board is satisfied that any member of the Board is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office the Board may appoint some fit person to be a deputy to act for that member during such incapacity; and any deputy shall, while he acts as such, have all the powers and authorities of the member for whom he is so acting.

(7) In the absence of the chairman and vice-chairman from any meeting of the Board a chairman for such meeting shall be chosen by the members present.

(8) The chairman of a meeting shall have a casting vote in addition to a deliberative vote.

(9) At its first meeting the Board shall fix the number required for a quorum and make rules for the conduct of its business.

(10) The chairman shall within one month convene a meeting of the Board upon receipt of a requisition signed by three members of the Board calling upon him to do so.

(11) The Board shall be a body corporate having perpetual succession and a common seal, and shall be capable in law of suing and being sued, and of purchasing, holding and alienating land and other property movable or immovable.

Meetings.

(12) The Board shall meet not less than once in three months.

Licensee to deal in coffee.

4. (1) No person shall conduct the business of a coffee dealer unless and until he is licensed in that behalf by the District Commissioner of the district in which his business premises are situated:

Provided that no retail seller of provisions shall require a licence for the purchase of clean coffee from a licensed coffee dealer or coffee planter or for the sale of such coffee in retail quantities not exceeding five pounds in weight, and that such retail seller shall keep a register of all purchases of such coffee.

And provided further that no licence shall be required by any person who deals only in coffee grown in Tanganyika Territory.

(2) The issue of such licence shall be in the discretion of the District Commissioner who, before issuing any such licence, shall take the opinion of the Board thereon. It shall be competent for the District Commissioner to prescribe as a condition of the issue of a licence that it shall be endorsed by the District Commissioner of every district in which business under the licence is to be carried on.

(3) Every such licence shall specify the premises on which such business may be carried on.

(4) Every licence under this section shall be issued annually and, subject to any cancellation which may be imposed under section 15, shall remain in force until the thirtieth day of June next following the date on which it was issued.

(5) There shall be payable in respect of every such licence and every renewal thereof a fee of ten pounds:

Provided that only one licence fee shall be payable in respect of any or all premises in which the business of the licensee is carried on throughout the Colony.

Licensee to keep books.

5. (1) Every licensee under section 4 of this Ordinance shall keep on his licensed premises a register in English or Kiswahili of all purchases or sales of coffee made in pursuance of his licence, and shall within forty-eight hours of each such sale or purchase insert in such register the name and address of each vendor or purchaser of coffee, as the case may be, the quantity purchased or sold and the date of the transaction:

Provided that if the method of dealing in or disposing of coffee be otherwise than by purchase or sale the licensee shall enter in the register the method of such dealing or disposal and the date thereof.

(2) It shall be lawful for an Inspector to enter upon the premises of any coffee planter or coffee dealer or retail seller of provisions and inspect all coffee kept therein and to demand the production of and inspect any licence or any register kept in pursuance of this section, and any obstruction or denial of entry and any refusal to produce such licence or register shall be deemed to be an offence.

6. Every licensee under section 4 of this Ordinance shall always keep, exhibited in English characters not less than three inches deep, over the outer door of his shop or place of business, his name and the words "licensed coffee dealer."

Licensee to exhibit his name, etc.

7. Every licensed dealer shall submit such returns at such periods to such persons as the Governor by rule may prescribe.

Licensee to submit returns.

8. Nothing in section 4 of this Ordinance contained shall be deemed to prohibit any licensed coffee planter from selling the produce of his own plantation to a licensed coffee dealer, or to any person for his own consumption, or for planting, or from exporting the same from the Colony:

Saving for sale by licensed dealer.

Provided that such licensed coffee planter shall enter in a book to be kept for that purpose a full and true account of all such sales and dealings and shall produce such book for inspection upon demand made by an Inspector:

Provided further that any person may without a licence buy from a licensed coffee dealer or licensed coffee planter coffee for his own consumption or for planting, but for no other purpose.

9. (1) No person shall plant or maintain any coffee plantation unless and until he is in possession of a licence issued to him in that behalf by the District Commissioner of the district in which such coffee plantation is situated.

Coffee planters license.

(2) There shall be payable in respect of every licence issued under this section a fee of thirty shillings.

(3) Every licence under this section shall be issued annually and shall expire on the thirtieth day of June next following the date on which it was issued.

(4) The issue of licences under this section shall be in the discretion of the District Commissioner who, before issuing any such licence, shall take the opinion of the Board thereon: provided that no such opinion shall be necessary in the case of coffee planters previously licensed under the Registration of Coffee Plantations and Coffee Dealers Ordinance.

(5) The provisions of this section shall not apply to any coffee plantation in any native reserve.

10. (1) It shall be lawful for the Governor on the recommendation of the Board from time to time by proclamation in the Gazette to impose a levy on all coffee produced in and exported from the Colony, hereinafter referred to as "the levy": Provided that the amount of such levy shall in no event exceed one shilling per one hundredweight or part of a one hundredweight of coffee, and provided also that no levy shall be imposed in respect of buni:

Provided further that during the first year of its being in operation the amount of such levy shall not exceed fifty cents per one hundredweight or part of a one hundredweight of coffee.

Provided also that nothing in this section contained shall prohibit any licensed coffee planter or coffee dealer or the Board from exporting trade samples without payment of such levy.

(2) No levy shall become operative until two months after the date of the proclamation imposing it.

(3) As from the date on which a levy becomes operative under sub-section (1) of this section no coffee produced in the Colony shall be exported from the Colony unless the levy has been paid to the Commissioner of Customs in respect of such coffee and any person who exports or attempts to export any such coffee from the Colony without paying such levy thereon shall be guilty of an offence.

11. (1) There shall be established a fund, to be known as "the coffee levy fund" which shall consist of all moneys paid in respect of the levy and licences issued under section 4 of this Ordinance, and of such sums as the Legislative Council may from time to time vote for the purpose.

(2) The coffee levy fund shall be in the custody of the Treasurer, who as soon as possible after the last day of each month, shall pay the amount of such fund into an account

opened in the name of the Board with a bank approved by the Governor, and the receipt of such bank for sums so paid shall be a full and effectual discharge to the Treasurer.

(3) The Board shall apply such moneys as follows:—

(a) In payment of the expenses, commission and other charges incurred by the Board or for which the Board may become liable in the course of its business.

(b) To the cost of advertising the merits of Kenya coffee and increasing its sale by efforts to extend existing markets and exploiting new markets, and any matters incidental thereto.

(c) To the payment of travelling and out-of-pocket expenses to the members of the Board at rates to be approved by the Governor.

(d) To the employment of such staff as the Board may think fit for the purpose of carrying out its functions.

(e) With the approval of the Governor in Council to any other service which in the opinion of the Board is calculated to promote the welfare of the coffee industry or the more economic production or preparation of coffee.

12. The accounts of the coffee levy fund shall be audited in such manner as the Governor may direct, and shall, as soon as may be after the close of each year and after audit as aforesaid, be published in such manner as the Governor may direct.

Audit and publication of accounts

13. The Board shall prepare annually a report of its operations which shall be submitted to the Conference and be published in such manner as the Governor may direct.

Annual report

14. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

Liability of member of the Board

15. Any person who is guilty of an offence against this Ordinance or who contravenes or fails to comply with any of the provisions of this Ordinance shall be liable, on conviction before a magistrate of the first or second class, for every such offence, contravention or failure to comply with the provisions of this Ordinance to a fine not exceeding one hundred pounds

Penalty

or to imprisonment for a period not exceeding six months or to both such fine and imprisonment; and if the magistrate thinks fit, to the cancellation of any licence issued under section 4 of this Ordinance.

Offences cognizable to police.
Power to make rules.

16. All offences under this Ordinance shall be cognizable to the police.

17. The Governor in Council may make Rules—

- (a) prescribing the returns and the form thereof to be made by licensed coffee dealers;
- (b) generally for the better carrying out of the provisions of this Ordinance.

Repeal.

18. The Registration of Coffee Plantations and Coffee Dealers Ordinance (Chapter 152 of the Revised Edition) is hereby repealed:

Provided that a coffee dealer's licence issued to any person under section 7 of the said Ordinance shall remain in force until the thirtieth day of June next following the date on which it was issued, and it shall not be necessary for any person to whom such licence was issued to take a licence under this Ordinance until after the said thirtieth day of June.

OBJECTS AND REASONS.

Representations have been made to Government by organizations and persons connected with the coffee industry that the advancement of that industry would be promoted if funds were made available for advertising Kenya coffee and for extending markets for its sale; also in other directions generally for the promotion of the industry.

2. With these objects in view the present coffee dealers licence, together with the proceeds of a levy on all coffee exported, is funded under the control of a Coffee Board to be devoted to these purposes.

3. Opportunity has been taken to tighten up the control of the operations of coffee dealers. This bill also embodies the main provisions of the Registration of Coffee Plantations and Coffee Dealers Ordinance, which is repealed.

No expenditure of public moneys will be involved if the provision of this Bill become law, unless money be voted by Legislative Council to the fund.