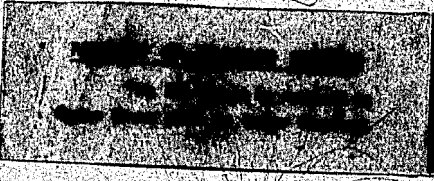


1931

Kenya

CO 533/408

No. 17094



SUBJECT

coffee growing by natives

Previous

See 16181/30

Subsequent

P. Q. File

18103/52.

26087/51. & d.

17220/31. (Coffee Ind. Order.)

Parliamentary Question by Mr. Hanrahan for
Oral reply (Wednesday 25 February 1931.
(No. 1 on P.Q. file.)

Opposition

at 2.30
at once

Copy to 1
15/2/31
right on
Mr.

1. Gov. Conf. (P.Q. & A. No. 1 on P.Q. file.) done. 4/7 MAR 1931

~~Mr. Stockdale (Extract)~~ 10 February
Hopes to be able to send, in a few days, a
memorandum on coffee growing by natives.

DESTROYED UNDER STATUTE

Outs

Mr. Hanrahan

1813

at once

Out

N.B.
when reply to
No. 1 no recd.,
B.D. 2408/31
AND 1770/31 K. E.A.
See 30108/31 T.T. for P.Q. by Mr. Hanrahan
enquiring if any spread of weeds etc. as result
of increased growing of coffee by natives
in T.T. and if experience will be
applied to Kenya

P.T.O.

Eastwood

to reply to his reply
shows
16/7/31

See on 17/20/31 B. u. with
noted
that on 17/7 - Sept. as follows
notes
Eastwood
17.7.31
alt

Eastwood

Please see your minute of

17/7/31 above.

shows
17/9/31

as in Sh.

Eastwood
17.9.31

PP Hunt
17/9/31

DESTROYED UNDER STATUTE - 28 SEP 1931

4 Gov. Kenya 177 Conf. 25th November, 1931

States that the only coffee growing licences in the 30/- p.a. registration fee. No such licences were applied for or granted to Africans in 1930. On general principles there is no valid reason why natives should not be permitted to grow coffee subject to certain safeguards. Summarises the recommendations of the Agric. Conference at Amani on 5/2/31 and discusses their application to Kenya.

This is the long awaited despatch on coffee growing by natives. Mr. Stockdale's observations on the proposals will be very valuable. I attach a preliminary note. 5

Eastwood

8-1-32

On the technical question involved we must of course be guided by Mr. Stockdale. On the administrative side I would suggest that Mr. Eastwood's fears on the score of racial discrimination are not wholly justified.

Neither the Crop Production Ord. 1926, nor the Rules thereunder now submitted for approval, impose any restriction on natives which is not equally imposed on Europeans. True, the Rules are to apply only to "Native reserves", but in theory they conform to the criteria suggested in para. 10 of the "Native Policy Memorandum".

The I.C.C. Coffee Report (80724) which has aroused great interest among the European coffee planters in E. Africa, does not of course touch upon the problem of native coffee-growing in Kenya. But its insistence

* Copy attached
* end to 4)

* quoted in the Eastwood's note.

on the need for standardised grading etc.
in order to maintain the high quality
of the Kenya product. Leads me to
wonder whether it would not be
wise to suggest to Kenya that ^{one of} the
damages of native production could not
be averted by legislation forbidding
export of coffee ^{except} after inspection
at the port of shipment by a
Export Produce Inspector. A law on these
lines exists in Uganda, and there are
plenty of precedents elsewhere (e.g. Jamaica).
Such a law would be non-racial,
would probably be welcomed by the white
planters, and would discourage the
production of an inferior berry.

L. M. M. M.
12/1.

The proposals in this despatch are
all right as far as they go, but I doubt if
they go far enough. I am in agreement with
the details of the despatch up to paragraph
4 (b). I do not, however, like paragraph
4 (c). If this had read: "Concurrently,
I propose to prevent coffee growing by
natives in other areas until it has been
demonstrated that, with the special
assistance that is to be rendered to the

4

native growers by the Department of Agriculture,
it can be profitably established" I would
have been much happier. The phraseology in
the despatch rather indicates that the Government
has some doubts as to the ultimate success of the
trial and, if the Department sets out with this
view, the "measure of success" required before
extension is authorized may not be attained. It
would be better to indicate clearly from the
beginning that the issue of permits in other
Reserves is contemplated when the initial tests
which are to be made in the Meru and Embu
Reserves under the guidance of the Department of
Agriculture have been made.

A

It was obvious that there would be a demand
from the Kikuyu at Fort Hall and Kyambu and I,
personally, would not be afraid of making an
experiment at these places on the lines indicated
in the early parts of the despatch if I were in
charge of the Department of Agriculture in Kenya,
provided that the issue of permits were limited,
in the first instance, to specifically defined
blocks of limited area. In other words, declare
defined areas of, say, 100-150 acres in extent
in which permits would be issued, and prohibit
planting outside in order to prevent scattered
small areas. The Governor of Kenya has thought
it desirable to decide otherwise, and we must, of
course, give the utmost weight to his advice.
Prohibition of planting in any areas in the Kikuyu
Reserve will most probably lead to protests,
questions in the House of Commons etc. If even
one area in the Kikuyu Reserve could have been

defined this would have been avoided. The planting in any such area in the Kikuyu Reserves would have led to similar protests, questions etc. from European settlers interested in coffee. The Governor has decided to avoid the issue and one would anticipate that this will only lead to grumbings from both sides. This political issue you alone can decide upon.

In regard to the proposed Rules, I would submit that it might be advisable to make some reference to "defined areas", say, in Section 3.

"No person shall plant coffee within a Native Reserve except in defined areas and by virtue"

This would enable it to be understood that the first course the Government would take would be to define the areas and then issue permits for cultivation within such areas. Otherwise, there are likely to be applications, under the Governor's proposals, from the Kikuyu for permits refused by the Director of Agriculture, and such refusal upheld by the Governor in Executive Council. It may safely be taken that no reasons for refusal will be given either by the Director of Agriculture or the Governor in Executive Council, and the applicant brooding over the refusal will attribute it most assuredly to the action of the white settlers. Far better, in my view, to let the Kikuyu know where they stand by either defining an area in their Reserve or definitely deciding not to so define an area there but only, at first, in the Eruu and Meru Reserves. This issue turns on the decision of the political issues involved.

The

The suggestions made by Mr. Freeston will have to be given effect to when the coffee is grown. It could be pointed out to Kenys that would not be needed for four or five years after planting by natives has begun. I have been asked semi-officially to assist Uganda in framing their rules under the Ordinance mentioned by Mr. Freeston, and am now in communication with the Coffee Trade Association on the question.

Some technical point of view the proposals made in the draft are satisfactory
J. S. S. S. S.
 12.1.32.

The Native Policy Memorandum specifically deprecates any prohibition in this matter, and also lays down that any safeguarding regulations should apply without racial discrimination. In his evidence before the Joint Committee, Chief Koinange definitely said "We ask that we should not be prohibited to plant economic plants such as coffee, etc."

The political issue is ^{settled} ~~under~~ the Secretary of State is now prepared to acquiesce in:
 (a) a definite legal prohibition of coffee growing in native reserves except under permits;
 (b) The permits being limited in the first instance to small areas in the Meru and Eruu districts, in spite of the fact that actual applications have already been received from Kikuyu for licences.

106

I attach a note showing what the position has hitherto been and suggesting that prohibition as

a condition precedent to a new policy of real encouragement is perhaps not indefensible. But obviously everything depends on whether there is a real effort to make native coffee growing a success including provision of adequate staff for the necessary instruction and guidance. Even if the prohibition proposed is not to be objected to in principle it would seem necessary to refer back to the Governor criticisms on the lines suggested by Mr. Stockdale, and the Governor might, at the same time, be asked whether the regulations could not be so drawn as to avoid racial discrimination in any form. For example, the prohibition ^{might} ~~should~~ be general: existing plantations, irrespective of size, to be allowed to remain, but:

(1) Future planting of new areas whether within or without the native reserves to be prohibited except under permits; and

(2) The permits to be restricted to (a) areas of not less than say 50 acres wholly under coffee; or, (b) to smaller plots within areas to be declared on the lines suggested in Mr. Stockdale's minute at 'A'. and I think the Governor should be given a lead in favour of granting a permit in the Kikuyu Reserve. The reason he has not done so is given in paragraph ^{4(c)} 12 of this despatch, namely: the proximity to European plantations with the danger of theft of berries, but as regards this danger the Agricultural Conference held at Muni on the 5th February, 1931 expressed the view that there was little doubt that the fear in respect of thefts from non-native estates was unfounded.

J. H. Allen
2/2/32

Mr. S. Wilson

I must have told this up with
other papers - it has just come back from

I agree with Mr. Allen's proposal
for action. Especially, I consider
that it is botanically impossible to
keep the village from growing
coffee during the three or four years
of experiment in so many
favorable localities. The
village of Kambura have for
dozen years helped their
European neighbors to
grow coffee on land which
which is - much of it -
they regard as indispensable
from the native land. We
cannot afford to limit
production at present.

God. 10.2.32.

Sec of State

(through Sir R. Hamilton)

I agree.

I agree

W.H.H.

16.2.32

S.H.H.

13.2.32

O.P.O.

The Secretary of State discussed this with Mr. Freeston see note No. 7 attached.

As regards Uganda and Tanganyika Territory the position is set out fully in No. 26087/31 E.A. (flagged)

Briefly the position is

(a) that Uganda has reversed its previous policy and is encouraging the growth of arabica as well as robusta under carefully controlled conditions.

(b) In Tanganyika Territory coffee growing by natives is carried out (under control) on areas contiguous to non-native plantations as well as elsewhere.

So far as I am aware there is no discriminatory system of permit in either Territory.

The proposals on my minute were put forward as suggestions which might be considered by the local Government. I did in fact mention them to Mr. Stockdale and understood that he agreed that they might well be considered, but ^{as} he did not before he left see the actual terms, I did not feel justified in quoting here in support of them.

The re-examination desired by the Secretary of State can I think ^{only} be made in consultation with the Colonial Government and I now submit for consideration a draft despatch. In drafting I have kept in view the necessity of leaving the Secretary of State free to take a final decision on outstanding points when the Governor's further views are received.

H.T. Allen.
12/3. (sent on 14/3)

W.C.S. 14.3.32

(Action on this coffee insects file (17220/31) must I think be kept!)

Dr. S. Wilson

I must have tied this up with
other papers - it has just come back & as

I agree with Mr. Allen's suggestion
of action. Especially, I consider
that it is botanically impossible to
keep the Kiboga from growing
coffee during the three or four years
of experiment in as many
favourable localities. The

Kiboga of Karamba have for
30 years helped their

European neighbours to
grow coffee on land which

is - much of it -

physically indistinguishable

from the native land. We

cannot afford to limit

production of present.

Wed. 10.2.32.

Sec of State

(through Sir R. Kemtton)

Jagjee.

Jagjee

M.H.

13.2.32

S.H.L.

090

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The re-examination desired by the Secretary of State can I think ^{only} be made in consultation with the Colonial Government and I now submit for consideration a draft despatch. In drafting I have kept in view the necessity of leaving the Secretary of State free to take a final decision on outstanding points when the Governor's further views are received.

(Action on the coffee despatch file (17220/31) must I think be kept)

H/T. Allen.
12/3. (sent 14/3)

W.C.S. 14.3.32.

7
Sec. of State (through Sir R. Hamilton)
Parliament draft

J.H.W.

15.3.32

Mitt

12.3.32

I have settled this
except para 9.
Wh. I wish to discuss
further -

PW

19/3

-8 - I attach a memo on existing legislation
on coffee, under which power to control
might exist.

J.H.W.
29/3/32

P.W.

The Secretary of State discussed this further with Sir C. Bottomley and myself, and directed that an alternative paragraph should be drafted suggesting to the Governor that it would be wise on the merits to make it plain that restriction applies to all to take power to control coffee growing in non-native areas in any case in which the Agricultural Department is satisfied that such control is in the public interest as an assurance against disease.

This was subject to the Governor not already having such power. Mr. Priestman has put up the attached memorandum on that point, from which it would appear that the Government does not already possess such a power. I have drafted a new paragraph, which ~~will be~~ ^{is the last} paragraph in the draft, as already amended. I have added a reference to maintaining the quality of the product as well as to the dissemination of disease, since the former point as well as the latter is made by the Governor at the end of paragraph 2 of his despatch in No. 4 on this file.

8

W.M.C.

30/3/32

W.M.C.
30.3.

B.H.K.
10.4.32

P.V.
1934

W.M.C.
19/4/32

9

To Gov. Conf. (H. Answer) Comd 19 AP. 1932

(See memo 1932 (p. 10))

LR 163/32

Extract from Agreement Kenya Legation
No. 1 2/30
Registered for records

N.T.B.
when reply
to 9 recd.
B.F. 15220/31

19/4/32

For attachment to 17094/31 - 6. minutes on 1902/32 Pigeon hole

Kenya Proclamations, Rules and Regulations, 1932

Kenya Supplement No. 57/32

INSTRUMENT NOTICE NO. 14.

THE CROP PRODUCTION AND LIVESTOCK ORDINANCE, 1926.

RULES.

IN EXERCISE of the powers conferred upon him by section 4 of the Crop Production and Livestock Ordinance, 1926, His Excellency the Governor in Council has been pleased to make the following Rules :—

1. These Rules may be cited as "the Wattle Bark Marketing (Amendment) Rules, 1931," and shall be read as one with the Wattle Bark Marketing Rules, 1930," hereinafter referred to as "the Principal Rules," and shall come into force on the 1st day of January, 1932.

2. The Principal Rules are hereby amended by the addition of the following Rules :—

" 9. No person shall purchase wattle bark in any Native Reserve unless in possession of a licence to purchase issued by the district officer in the form set out in the Schedule hereto.

10. Upon the conviction of a holder of a licence of any offence under these Rules the district officer may, in addition to any other penalty provided, order the cancellation of such licence."

By Command of His Excellency the Governor in Council.

Nairobi,

This 1st day of January, 1932.

JUXON BARTON,
Clerk to the Executive Council.

SCHEDULE.

District
Station
Date

A licence is hereby granted to.....
ofto purchase wattle bark in any
portion of the Reserve.

District Officer.

GOVERNMENT NOTICE NO. 15.

THE CRIMINAL PROCEDURE CODE

ORDER.

IN EXERCISE of the powers conferred upon me by section 81 of the Criminal Procedure Code, I hereby order that the powers vested in me by section 80 of the said Code may, for the time being, be exercised by—

Edward John Davies, Esq., Crown Counsel,

Charles Theodore Abbott, Esq., Crown Counsel.

Government Notice No. 589, dated the 15th day of October, 1930, is hereby revoked.

Given under my hand at Nairobi the 29th day of December, 1931.

T. D. H. BRUCE,
Acting Attorney General.

GOVERNMENT NOTICE NO. 16

THE CRIMINAL PROCEDURE CODE.

ORDER.

IN EXERCISE of the powers conferred upon me by section 81 of the Criminal Procedure Code, I hereby order that informations drawn up in pursuance of section 236 of the said Code may be signed in my name and on my behalf by—

Edward John Davies, Esq., Crown Counsel,

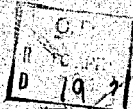
Charles Theodore Abbott, Esq., Crown Counsel.

Government Notice No. 585, dated the 15th day of October, 1930, is hereby revoked.

Given under my hand at Nairobi the 29th day of December, 1931.

T. D. H. BRUCE,
Acting Attorney General.

9 10
May 76



Downing Street.

19 April 1932

(Mr. Allen 12.3. + 30/3)

Mr. (see further minute
of draft 1 last para. 1931)

Mr. Parkinson

Mr. Tomlinson

Sir C. Boltonley 12.3.32 & 30/3

Sir J. Shuckburgh

Permt. U.S. of S. 15.3.32

Parly. U.S. of S. 17.3.32

Secretary of State.

Answered by Mr. ...
13/4

Sir,

S.S.

I have the honour to acknowledge

the receipt of your Confidential despatch
No.177 of the 25th November 1931 regarding
coffee growing by natives of Kenya.

2. I agree with you that on general
principles there is no valid reason why
natives should not be permitted to grow
coffee subject to proper safeguards.
Broadly speaking my view is that it is
indefensible to maintain administrative
restrictions on native coffee planting,
except in so far as they may be necessary
owing to the inability of the Government
to afford adequate supervision and that the
areas in which it is to be permitted should
be those in which the services of an

DRAFT.

Handwritten signature and date 13/4

KENYA.

CONFIDENTIAL.

Gov. Byrne.

Johnson. v. minutes.

agricultural officer are available for the purpose.

3. Hitherto there has been no absolute prohibition of the growing of coffee by natives, but, owing to native agriculture being in a somewhat rudimentary stage and the consequently serious danger of the dissemination of disease, it has been thought advisable to discourage rather than encourage the growth of coffee by natives and no registration licences for coffee plantations have been granted to natives.

4. The policy which you now propose is that coffee planting by natives should be permitted experimentally in suitable localities and that as an initial step an area or areas should be set aside for the purpose in the neighbourhood of Mera or Embu or both. Concurrently it is proposed to make it illegal, by rules under the Crop Production ^{and} Livestock Ordinance to grow coffee in native reserves except under permit from the Director of Agriculture.

5. While it is true that such a policy



may be objected to on the ground that it involves the imposition of a definite prohibition, discriminatory in character, I am unable to regard this objection as conclusive since I consider that it is legitimate for and indeed incumbent on the Government in adopting a new policy of encouraging native coffee growing to take all proper precautions against any risks of disaster to the existing industry which, as you point out, is vitally

important to the Colony. Consequently, the suggested restriction regarded as a foundation for building up a native coffee industry may fairly be represented as a step forward and not as a retrograde measure. It is obvious however that this view can only be maintained if the Government shows, as I am sure it is your intention, a genuine desire to foster the growth of a native industry as rapidly as the circumstances and the resources at the

In fact restriction is necessary in order to insure that the coffee plantations as a whole remain free and kept free from disease, and in a condition in which the natives employed there are as much interested as the owners - The measure of restriction as natives grow is necessarily conditioned by the staff available to provide the necessary supervision.

~~disposal of the Government permit.~~

5. Examining your proposal in the light of these remarks, I find myself in general agreement with the details of your despatch until I come to the passage in paragraph 4(c), where you remark that it is proposed to prevent coffee-growing outside the actual experimental areas "until the measure of success which is likely to attend the initial enterprises can be gauged with a reasonable degree of certainty". I should have felt more satisfied if the passage quoted had read "until it has been demonstrated that, with the special assistance that is to be rendered to the native growers by the Department of Agriculture, the coffee growing by natives) can be profitably established". The ^{phrasing} ~~phrasing~~ of your despatch might be interpreted as indicating that the Government has some doubts as to the ultimate success of the experiment, and if the Department of Agriculture acts out with this view, the "measure of success"

You would I am sure in any circumstance of policy make clear the ~~degree~~ ^{necessity for} ~~the~~ ^{consequences} need for a limited restriction of areas.

5. Take in 8

required before extension is authorised may not be attained. It would be preferable to indicate clearly from the beginning that the issue of permits elsewhere in the Reserves is contemplated when the initial tests which are to be made under the guidance of the Department of Agriculture have been made.

As regards the proposed rules I would suggest that it might be desirable to provide for "defined areas" e.g. by amending the early part of rule 3 to read "no person shall plant coffee within a Native Reserve except in defined areas and by virtue". This would enable it to be understood that the first course the Government would take would be to define the areas and then issue permits for cultivation within such areas. ^{You refer to} ~~the~~ ^{the} probability of applications from



the Kikuyu and under your proposals such applications would at any rate during the experimental period presumably be refused by the Director of Agriculture and the refusal be upheld by the Governor in Council, thus ^{leading to} ~~arousing~~ a feeling that the action of the Government is dictated solely by consideration for the interests of the European planters. It would therefore seem preferable to make the position clear to the Kikuyu ~~by~~ either by defining an area in their reserve or by definitely deciding not to define an area there but only at first in Meru or Embu as you propose.

5. I entirely agree with the view expressed in paragraph 5 of your despatch that haphazard planting by individual natives would be most dangerous ^{would} and not be in the interests of the native planters particularly in the neighbourhood of European

European plantations: but this danger would apparently be met by concentrating planting in selected and defined areas and providing the necessary skilled advisory services and supervision. The grading and inspection of coffee prior to export ~~in the course~~ would afford a further safeguard.

5-8 There are obvious ~~difficulties~~ difficulties in attempting to exclude the Kikuyu from growing coffee during the period of experiment seeing that the reasons given in paragraph 4 of your despatch for the selection of localities in Meru and Embu apply no less to Kikuyu except as regards proximity to European plantations. On that point I would observe that the Agricultural Conference held at Amani on the 5th February 1931, ~~discussed in your despatch~~ to which you refer expressed the view that there was little doubt that the fear of the extension of thefts from non-native estates was unfounded and that

such thefts could be dealt with by legislation which would provide for licensing dealers in coffee, following the lines adopted by other Colonies in respect of other tropical products. I should therefore be glad if you would reconsider the possibility of including areas in the Zikuyu Reserve as part of the initial experiment by defining specific blocks of limited area containing the issue of permits to specifically and defined blocks of limited area by providing adequate advice and supervision. I should be glad to be informed generally as to the extent to which the Government is in a position to provide staff to afford the necessary advice and supervision of native coffee growers, as this consideration is necessarily an important factor in determining, not only the number and locality of the areas to be selected for experimental purposes in the first instance, but also the scale on which extensions can safely be authorised.

I should feel justified in excluding the Kikuyu Reserve simply as the areas that the reserve has been used for in employment on existing plantations. I think you could only exclude the Zikuyu Reserve if it is impossible to provide the necessary supervision in that as well as the other areas for purposes to select. If limitations of staff make it necessary to choose between one area or another, then I agree that preference should be given to the areas where the roads of the reserve are poorest.

** For cases in which the above amendments are made*

While I am prepared to agree to the issue of the proposed Rules subject to the amendments indicated in paragraph above, I would suggest, for your consideration, that it would be a prudent measure - both on the merits of the case and in order to make it clear that restrictions designed for the protection of the industry will be applied to any area in which they are required - also to take power 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 assurance against the dissemination of disease, and in order to maintain the quality of the product.

Shaw

(Sgd.) P. CUNLIFFE-LISTER.

* For cause as
stipulated
minutes

87

While I am prepared to agree to the issue of the proposed Rules subject to the amendments indicated in paragraph above, I would suggest, for your consideration, that it would be a prudent measure - both on the merits of the case and in order to make it clear that restrictions designed for the protection of the industry will be applied to any area in which they are required - also to take power to control coffee planting in non-native areas in any case in which the Director of Agriculture is satisfied that it is in the best public interest to exercise such control as an insurance against the dissemination of disease, and in order to maintain the quality of the product.

Shawson

(Sgd.) P. OUNLIFFE-LISTER

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I should feel justified in excluding the Kikuyu Reserve simply on the ground that the natives there can find alternative employment on existing plantations. I think you should exclude the Kikuyu Reserve if it is impossible to provide the necessary supervision in that as well as the other areas you propose to select. If limitations of staff make it necessary to choose between one area or another, then I agree that preference should be given to the areas where the needs of the natives are greatest.

B.

(This is the original paragraph 9 for which the SFS drafted an alternative to the substitute)

1470
20/3

9. While I have already in paragraph 4 above expressed the view that the racial discrimination in the proposed rules is, in the circumstances not a conclusive objection, it would seem preferable if possible for the rules to be drawn so as to avoid such discrimination.

This ^{might} ~~would~~ be achieved if, for example, the restrictions on planting were made general: existing plantations irrespective of size ^{would be} ~~being~~ excluded, but

(1) ^{the} future planting of new areas, whether within or without the native reserves, ^{would} ~~to~~ be prohibited except under permit, and

(2) the permits ^{would} ~~to~~ be restricted to (a) areas of not less than say 50 acres wholly under coffee or (b) to smaller plots within areas to be defined as suggested in the preceding paragraphs.

MEMORANDUM

As regards the Secretary of State's enquiry whether the Governor of Kenya has power to control coffee growing in non-native areas in any case in which the Agricultural Department is satisfied that such control is in the public interest as an insurance against disease, the following is the Kenya legislation :-

(1) The Registration of Coffee Plantations and Coffee Dealers Ordinance, No. 10 of 1918, Chapter 152 of the Revised Laws, which requires the registration of plantations and the licensing of coffee dealers on payment of fees. There is, however, no power to refuse registration or to regulate plantations.

copy below

(2) The Diseases of Plants Prevention Ordinance No. 7 of 1910, Chapter 155, in the Revised Laws, gives the Governor-in-Council power to make rules for the following purposes :-

not attached

(a) Regulating the importation of any plant infected or liable to be infected, with disease.

(b) Preventing the introduction or spread of any insect pest or plant diseases to which plants are liable.

(c) The licensing and inspection of offices or other places in which plants are reared for purposes of sale or disposal.

The powers given by this Ordinance do not seem to be adequate to carry out the suggestions of the Secretary of State, although something might possibly be done under (b) for preventing the spread of disease.

I should be glad to have your observations on these suggestions, and in particular, to be informed how far they would be likely to act as a hindrance to European coffee growing, in view of the statement in paragraph 8 of your despatch that you regard the restriction of planting by Europeans to be impracticable.

have

Copy taken

(3) The Crop Production and Livestock Ordinance, No. 3 of 1926, gives the Governor-in-Council power to apply to specified areas rules for the following purposes :-

(a) Declaring the kind of crop which shall come under the operation of this Ordinance.

(b) Improving the cultural conditions of any crop, also the methods of its production and the prevention of its destruction or waste.

(c) Improving the quality of any agricultural produce.

(d) Specifying any particular kind of crop or plant as the kind or kinds which may or may not be grown.

.....

(g) The inspection of any crop or agricultural produce.

The above powers are very wide, particularly those given in (c).

It was under these rules that the Governor had proposed to control the growing of coffee in native areas by the issue of permits which would be restricted by the enclosure to No. 4 in 17094/31, and if such rule can be applied to native areas there seems to be no reason why it should not also be made to apply equally to non-native areas. Mr. Roberts Wray, with whom I have discussed the question is inclined, however, to think that it is doubtful whether the Governor-in-Council can delegate to the Director of Agriculture the power to control the planting of coffee as is proposed.

(note)

by Roberts Wray, tells me this does not look approved by Govt in any case he thinks the Director of Agriculture rule is not one that needs to be raised

There are no regulations under Cap. 152. Those issued under Chapter 155 are at 2 in 16181/30, but these do



do not assist in regard to the question under consideration.

Such rules as have been issued under the Crop Production and Livestock Ordinance do not apply to coffee.

Section 9 (4A) of the draft Bill (enclosed to 14 17220/31) which repeals Cap 152 gives his Excellency power to a district Commissioner to issue planter's licences, after having taken the opinion of a Board on which the top 5 planters therein will have 5 (possibly 6) nominees as against 3 official members. It may perhaps be considered undesirable to suggest the introduction of this Ordinance Bill, if proceeded in the, for the control of coffee planting - even though a district Commissioner is not presumably bound to act in the opinion of the Board.

Assuming \therefore that powers cannot be given to the Director of Agriculture to prohibit the planting of coffee in specific areas, under existing legislation, - and the Roberts' way should not be for any other - it seems desirable to suggest amendment of Cap 155 to give the requisite powers to D.A. This would then complement the rules in inspection of plantations where coffee is growing (para 8 of p 6)

Mr. Allen

Sof. spoke to me on this question during your absence from the office.

He asked to what extent native coffee-growing is controlled by Government in Uganda & T.T. I was not ready with the answer, which is to be found in the enclosure to 1 on 26087 E. Africa.

He wished the proposals in your minute re-examined from the ^{following} points of view:-

(a) how far will European coffee-growing be ~~prejudice~~ hindered by the proposed restriction on the area.

(b) how far has Government the staff necessary to ~~superintend~~ afford the necessary supervision to native coffee growing.

His general attitude was one of agreement that it would be indefensible to maintain administrative restrictions on native coffee planting, except in so far as it could be justified by the instability of forest-land.

affair proper supervision. Areas in which
it is to be permitted should be in
the first instance those for which an
Agricultural Officer is available. In
such areas, where ^{control} ~~control~~ effective
control, it is impossible to forbid the
native to plant.

B. B. B.
8/3

(See 131961/25
and 10132/27)

(No. 6 on
1506/2/29
11-2-26)

The position is that hitherto there has
been no absolute prohibition of the growing of coffee
by natives in Kenya, but that as native agriculture
is in a somewhat rudimentary stage and there ~~was~~
consequently a danger of dissemination of disease
it had been thought advisable to discourage rather than
encourage the growing of coffee by natives.

This discouragement has taken the form of
so hedging the growth of coffee restrictions as to
make it difficult for natives to undertake it; or
as it was put in the Native Affairs Department Report
for 1929:

"No general desire to grow this crop has been
manifested, and the safeguards imposed by the
Agricultural Commission, namely cultivation by
European methods on European scale; imposition of a
considerable licence fee; arrangements for curing;
inspection of bona fides and use of specified channels
of sale would render cultivation of this crop by individual
natives unlikely in the future."

This shows that although it may have been
felt impossible to have an actual prohibition on the
growing of coffee by natives the action the policy
has the effect of ~~would have~~ ^{would have} making the growing
of coffee by individual natives impossible.

The Secretary of State's despatch dealing
with the report of the Agricultural Commission, ^{sent the} ~~was~~
should be consulted as soon as possible regarding the
action proposed upon the question of native growing
of coffee went on to observe that experience in other
Colonies where native-grown crops are intermingled
with estate-grown crops, indicates that natives could
be encouraged to grow coffee in Kenya without risk to

estate cultivation if adequate provision is made for a plant protection service for such cultivations. ~~and~~ The proposals now put forward are directed to the encouragement rather than the discouragement of the growth of coffee by natives, but it will be seen that they involve a definite prohibition of the planting of coffee within the Native Reserves except under permit as a condition precedent to the regulation of coffee growing by natives. The restriction does not apply to European cultivation and is, therefore, a definite discrimination.

This discrimination would be avoided if Mr. Stockdale's proposals for a minimum area of cultivation were applied both within and without the Reserves and to both European and native cultivation. This would ^{presumably} create no difficulty as regards European coffee plantations themselves which would, if the minimum area were ^(say) 50 acres, not ~~be affected~~ ^{be affected}, but it might affect estates on which coffee is cultivated as a side line. Such a proposal would, no doubt, invoke protests from the European community. There is, however, another way of looking at the matter, and that is that the Government is now revising its policy with a view to encouraging native coffee, and, in doing so, it is bound to take every step to avoid any risks to the industry as it is at present, especially in view of the fact that the maintenance of a high grade quality is of first importance. It may, therefore, be argued that the restriction, although discriminatory, is necessary in the interests of the natives as well as the Europeans and is really a step forward and not a retrograde measure.

*Enslaving cultivation
below 50 acres would
be to be saved.*

NOTE

1. The following passage occurs in paragraph 13 of the Native Policy Memorandum:-

"As regards production His Majesty's Govt. consider that the natives must be allowed, subject to any necessary safeguards, in the Native Reserves or on land in ^{individual} native occupation, to grow such crops and to keep such stock as they think most profitable. Any proposal to prohibit the natives from engaging in any pursuit or ^{from} cultivating any kind of produce is of course to be deprecated, and if regulations are called for to safeguard stock or crops from ^{fire} these, such regulations should apply generally to all persons without any racial distinction.

2. In paragraph 105 of their report the Select Committee urge an early and sympathetic consideration by the Kenya Government of native representations on "the subject of the cultivation by natives of coffee and other export crops."

3. The subject was fully discussed at a meeting of Directors of Agriculture and others under the Chairmanship of Mr. Stockdale during his recent visit to East Africa - see record on 26087/31 - Part J, and the proposals now put forward seem to be, generally speaking, on the lines suggested as a result of that conference. The only question is whether the proposals are not too limited in scope. It is proposed to begin by allowing natives to grow coffee only on two areas of 100 acres each in the neighbourhood of Meru and Embu.

4. I am not clear whether natives will be allowed to grow arabica as well as robusta coffee.

5. It would seem desirable that a formal announcement of the Government's policy should be

made, and I would suggest that they should arrange for the member representing native interests to ask a question in the local Legislative Council.

6. The Governor proposes to restrict planting by means of Rules under the Crop Production and Livestock Ordinance, 1926. Under the proposed Rules no person would be able to plant coffee within a Native Reserve except by virtue of a permit granted by the Director of Agriculture or his agent, subject to an appeal to the Governor-in-Council. Such rules would be frankly discriminatory in character and would, therefore, be a little difficult to reconcile with the quotation in paragraph 1 of this note from the Native Policy Memorandum. However, it seems obvious that permits should be required and it would probably be unreasonable to require non-natives to obtain permits before growing coffee. Mr. Stockdale will advise whether this would, in fact, be the case. I would, therefore, suggest that the rules might be allowed, but at the same time the Governor's attention should be drawn to the sentence in the Native Policy Memorandum ^{to be drawn to} that the Secretary of State will be unable to agree to the continuance of such discrimination beyond an initial period of, say, two years.

7. (Incidentally, the Crop Production and Livestock Ordinance was not one of the Ordinances mentioned by the Governor in the long despatch regarding discriminatory legislation. The remarkable rule-making powers given under this Ordinance, however,

empower the Governor to carry out very considerable discrimination by administrative action.)

(In sanctioning the Ordinance the Secretary of State asked that copies of any rules made under the Ordinance should be forwarded to him and that any such rules specially affecting native areas should be submitted to him in draft.- see No.2 on 4475/26 (flag G.). Perhaps something should be said to the Governor as to the desirability of avoiding the issue of discriminatory rules generally under this Ordinance.)

8. If the proposals are approved we should perhaps ask for a report on progress in a year's time.

9. The Governor makes no suggestion as regards co-operative marketing. I am not sure whether this is a point which should be taken up or not.

Li. Brown was asked to look into the matter before he left but has not reported - I am still to write him about this.

*J. G. ...
8.1.32*

Ans

24
4

KENYA.

No. 177

CONFIDENTIAL.



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

25th November, 1951.

RECEIVED
22 DEC 1951
COL OFFICE

Sir,

I have the honour to refer to Lord Passfield's confidential despatch of the 4th March, 1951, on the subject of coffee growing by natives of Kenya. His Lordship was correct in assuming that the only coffee growing licence is the Shs.50/- per annum registration fee. No such licences were applied for or granted to Africans during 1950.

2. On general principles there is no valid reason why natives should not be permitted to grow coffee subject to certain safeguards. The whole question was thoroughly discussed by delegates to the Agricultural Conference at Amani on the 5th February, 1951, under the Chairmanship of Mr. F. A. Stockdale, C.B.E., and their recommendations in the matter may be summarised as follows :-

The initial steps in native coffee cultivation consist of

- (a) the prevention of haphazard planting and of the planting of inferior material:
- (b) the provision of services for the education of the growers in the most approved methods of cultivation and treatment of the tree, and

-(c) -

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.

Answered Conf-19 APR 1952

No. 1

See 2657/21 EA

2.

(c) subsequently the provision of services for the control of pests and diseases and for the proper collective curing and grading of the produce of cultivation in order to ensure a high quality product.

(a) and (b) require no comment and (c) is equally necessary in my opinion not only to meet the view frequently expressed that native grown coffee would be the cause of disseminating disease in European coffee plantations but also to ensure that no damage is inflicted upon the prestige of Kenya grown coffee which, as you are aware, has already secured a high reputation in the home markets.

5. The special provisions recommended by the delegates to give effect to these recommendations were:-

- (a) the limitation of plantations at the outset to specified areas in selected localities:
- (b) the limitation of planting to material grown in nurseries established under the inspection and supervision of Agricultural departments:
- (c) the taking of powers under legislation to control :-
- (i) the methods of cultivation;
 - (ii) the treatment of pests and disease;
 - (iii) the collection of ripe berries;
 - (iv) the preparation and grading of the produce in properly organised factories.

I have already mentioned the fear expressed regarding the possible spread of disease through native grown coffee and am in agreement with the opinion of the Conference that such fears are not based on any substantial grounds, provided the safeguards elaborated above are brought into being.

26
8.
4. On receipt of the Report of the Committee I examined the position in Kenya with particular regard to :-

- (a) the selection of suitable localities for initiating coffee growing by natives:
- (b) the provision of legislation:
- (c) additional agricultural services required with special reference to the financial aspect.

With regard to (a) I have been advised and agree that the most suitable localities for the initial enterprise are to be found near Meru and Embu townships, for the reasons that in each case :-

- (i) the soil, rainfall and general climatic conditions are favourable:
- (ii) owing to distance from any European coffee plantations there would be no danger in either instance of theft of berries. In this latter connection I would inform you that the possibility of such theft is a reason put forward by European coffee growers against the growing of this crop by natives:
- (iii) being near administrative headquarters the plantations would be readily accessible for supervision at all times:
- (iv) pulping stations could be erected at no great cost on streams in or near the Townships.

With regard to (b) the legislative powers required include powers of control and powers of prohibition and I am advised that all those that are necessary already exist under the Crop Production and Livestock Ordinance, 1926. This Ordinance provides for Rules by the Governor-in-Council for, inter alia, "improving the cultural conditions of any crop also the methods of its production and the prevention of its destruction or waste"; "improving the quality of an agricultural produce"; "the destruction of any diseased crop or agricultural produce with or without compensation to owner or owners thereof" and "the inspection of any

See report of Conference page 10

See 16/8/30

under the Diseases of Plants Prevention Rules, 1950, and the Coffee Rules, enabling an Inspector of the Agricultural Department to take any action necessary to control pests and diseases. Prohibitory powers are required for the purpose of preventing persons from planting coffee in other than selected and approved sites and I am advised that the Ordinance quoted above contains the requisite provisions by enabling the Governor-in-Council to formulate Rules "declaring the kind of crop or agricultural produce which shall come under its operation and specifying any particular kind of crop tree or plant or variety thereof as the kind or kinds which may or may not be grown": while the Ordinance itself wholly or in part may be applied by the Governor to any part or parts of the Colony.

It appears therefore that no difficulty would be experienced in making Rules requiring a permit from the Director of Agriculture to enable coffee to be grown in a native reserve, thus providing the "control" referred to as the permit issuer would necessarily satisfy himself as to suitability of the natural conditions and the availability of the requisite services while it would probably be advisable to embody a clause enabling appeal to the Governor from any applicant who may feel aggrieved by the refusal of a permit.

It is quite clear that the main danger to be avoided in the establishment of a native coffee industry, particularly in the early stages, is promiscuous and unregularised planting in small patches which could only lead to disaster and I believe that the proposals outlined above would meet the case. You are doubtless aware that the success attained by native coffee growing

5.

in Tanganyika Territory and Uganda has been largely due to the enforcement of rules of control, which had of necessity, in Tanganyika at least, to be the more rigorous and costly because of the large number of small, scattered individual plantings.

(c) The Director of Agriculture informs me that on arrival of the three Agricultural Officers whose appointments are expected early in 1952, he will be able from his existing staff to provide the necessary skilled advisory services and supervision for two 100-acre fields, and I therefore propose as an initial step to set aside an area or areas in the neighbourhood of Meru or Embu or both, within which natives will be given permission, if they so wish, to grow coffee under the supervision of, and in accordance with conditions imposed by, the Director of Agriculture. Concurrently I propose to prevent coffee growing by natives in other areas until the measure of success which is likely to attend the initial enterprises can be judged with a reasonable degree of certainty. You will agree that the coffee industry in Kenya is so vitally important to the Colony that no innovations by which it may be affected should be undertaken without the fullest appreciation of the probable consequences.

5. It is probable that in the near future there may be a considerable demand from Kikuyu of Fort Hall and Kyambu for permission to grow coffee. Two natives of the former district have recently deposited with the District Commissioner Shs.30/- each as registration fees for coffee plantations and the District Commissioner anticipates that if registration is permitted there will be a large number of similar demands. I am convinced

-that

See 17192/1951 X
? areas ~~being~~ including in each 100 acres of native from coffee

But cannot have
with selected
defined areas.
P. 10/10/10

that haphazard planting by individual natives would be most dangerous and would not be in the interests of the native planters, particularly in the neighbourhood of European plantations. Disaster to the latter would mean disaster to the native population which depends on them largely for its income. It is estimated that the natives of Fort Hall and Kyambu districts derive in wages from the neighbouring coffee farmers not less than £250,000 p.a., the wealth of these two districts has in consequence increased with great rapidity and it is patent that the prosperity of the coffee farms and the Native Reserves is interdependent.

There is unemployment
at present

Quite apart from any consideration of damage to existing plantations from the spread of disease and from theft I feel that the sudden diversion of labour earning wages on the farms to coffee cultivation in the Reserves would not necessarily mean financial gain to the labourers. It may be argued that it must be more profitable for a man to grow coffee for himself than for some one else. But coffee is an uncertain crop and a native coffee grower could not rely on a regular income from profits of the crop as he can now rely on the receipt of regular wages. He has not the capital to tide over bad years or the business acumen to set aside profits against future losses. Moreover, it would be an assumption to which few would subscribe that a native would grow coffee as well for himself as he does when closely supervised by a European employer equipped with scientific knowledge.

Can be?

6. I, therefore, having given the matter the most careful consideration and taken the advice of my Executive Council, have decided, subject to your consent, to make it illegal to grow coffee in a Native Reserve save under permit from the Director of Agriculture.

7. I enclose draft Rules for your approval.

8. In making these recommendations I am not unmindful of Lord Passfield's confidential despatch of the 17th August, 1931, on the subject of a proposal to restrict the area under coffee in all coffee producing countries but I am of opinion that to restrict planting by Europeans in this country is impracticable and that the amount likely to be produced in the immediate future by native planters under the strict control contemplated will be so inconsiderable that the situation will not thereby be affected.

9. With reference to my 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 it will be appreciated that native owned coffee plantations will be subject, equally with those owned by non-natives, to any increase in the cost of a coffee planters' license or for payment of any cess that may be imposed for the benefit of the industry, which may result from that or any other legislation.

I have the honour to be,

Sir,

Your most obedient, humble servant,


BRIGADIER-GENERAL.
GOVERNOR.

No 22 on
P0973/31. Genl

No. 1 on
17220/31.
Kato

COFFEE PLANTING RESTRICTION RULES, 193...

IN EXERCISE of the powers conferred upon ~~him~~ by the Crop Production and Livestock Ordinance, 1926, His Excellency the Governor in Council has been pleased to make the following Rules :-

1. These Rules may be cited as the Coffee Planting Restriction Rules, 193..., and shall apply to all Native Reserves.
2. In these Rules unless the context otherwise requires -
Coffee shall mean coffee seed, bush or plant.
3. No person shall plant coffee within a Native Reserve except by virtue of a permit granted by the Director of Agriculture or his duly authorised agent, subject to an appeal to the Governor in Council in the event of a refusal of such permit upon application thereof.

BY COMMAND of His Excellency the Governor in Council, at Nairobi, this day of193...

CLERK TO THE EXECUTIVE COUNCIL.

X. 17094/31

O. O.

- Mr.
- Mr.
- Mr.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Perms. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

Recd 28/7

[Place copy in 1500 by 29 w relevant subsequent file]

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|-----------|
| C. D. |
| R 2-11-31 |
| D 3-1-31 |

of Dec 9 31

DRAFT.

Recd 28/7
Conf.
S.N.

I have the honor to refer to the enclosed copy of a Question & Answer in the House of Commons as to the number of licences granted to Officers in Kenya during the year 1930 for the grading of coffee. I assume that the only licences of this kind at present in force is the

No 1 in file 17094/31

coffee planter's registration
licence, which, according
to the Blue Book, is 30/-
per annum. I shall be glad
to know whether this is
the case, and at the
same time to be supplied
with the info asked for
in the Question.

(2) In this connection I wd
refer ~~you to~~ para 13
of the Memorandum on
Rural Policy in E. Africa
(Cmd 3573), & also
to para 6 of my conf.
resp. of 10. April
1930, ~~attached to~~
~~which has not yet~~
~~been received.~~

so far
as it
relates
to the
growing of
coffee
by natives.

6
in
15856/29
sub. 1218

I trust that I shall receive from
you very shortly your recommendations
on this important subject.

O. O.

X-17094131 Kenya

- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

Recd 28/2

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| R 2-11-31 |
| D 3-11-31 |

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DRAFT.

Kenya ~~to~~ Conf.

J.N.

1 h. the 2. to the
 by the enclosed
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 I assume that
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 present in
 force in the

No 1 in file 17094131

coffee planter's registration
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des. of the 10th April
1930, ~~which has not yet~~
~~been received.~~

So far
as it
relates
to the
granting of
coffee
licenses
to natives.

I trust that I shall receive from
you very shortly your recommendations
on this important subject.

6
in
15256/29
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