

KENYA

X-1075
30 JAN 1955

Date

9th January 1955

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Handwritten notes:
The
out
in
1955
Handley

LOCALLY CONVICTED EUROPEAN PRISONERS

Refers to Section 3(2) of the Colonial Prisoners Removal Act and suggests that it should be amended so as to deprive a prisoner removed under the Act, of the right of a free passage back to the dependency where he was convicted, on the expiration of his sentence.

of S.

Handwritten signature: Strickland

of S.

/ State

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MINUTES

AC 10/10
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Sir John Risley's minute on 9252/EO shows that it is not possible for the local government to deal with this question under local law, since any such action would be invalid as repugnant to the Colonial Prisoners Removal Act. Therefore, the wishes of the Colonial Government can apparently only be met by an amendment of the Imperial Act: but the amendment of the Imperial Act of general application can hardly be taken up merely on a demand from a single Colony.

Can you say whether any similar proposals have previously been received and considered? It will, of course, be necessary to consult the Dominions Office. *J. H. Allen*

10/2/55

sequent Page

This has come to me in work to the Gen Dept and I may, take the opportunity of saying that I do not myself remember any previous proposal of this kind.

Moreover, I think it wd be useless to put
the suggestion to the H.C. since it would
or might result in the dumping on this
country of a certain number of "ex-convict
prisoners" who would, under the amendment,
be debared or discharge from return
to the Colony or Prots from which they
had been removed.

Even if one Home Sec wd be found to
accept the proposal and to induce Parliament
to amend the Act accordingly, the
provision wd be rendered nugatory by
any subsequent Home Sec simply
by refusing accommodation in an
English prison to any colonial
prisoners who wd be debared
from return (as above) and
thereby preventing their removal
to their country.

J.S.R.

No trace can be found in Gen Dept of any previous
suggestion on the lines of that in the last few pages
despatch. The principle that Europeans should not
be imprisoned for long terms in colonial prisons is, I
believe, generally accepted but I am not aware of any
ruling on this point.

J.S.R.

The amendment could be limited to ~~the~~
prisoners to which return has to be
made of those who were to be held and would
be regarded as ~~provisional~~ ~~in~~ ~~the~~ ~~case~~ ~~of~~ ~~those~~ ~~who~~ ~~were~~ ~~to~~ ~~be~~ ~~held~~ ~~and~~ ~~would~~
be regarded as ~~provisional~~ ~~in~~ ~~the~~ ~~case~~ ~~of~~ ~~those~~ ~~who~~ ~~were~~ ~~to~~ ~~be~~ ~~held~~ ~~and~~ ~~would~~
it seems useless to oppose it, or an
inutile application.

Abolition from both countries.

can not say that there is much
ground objection to local imprisonment -
the white man's prestige will not
necessarily suffer through white Croymore
having no special treatment and the
personal indignity may be a useful
deterrent.

? Mr. [unclear] says that no written
application has been made by a Colonial
Government in the 42 years of the Act's
existence, and says that the S. A. fears
that he would not be justified in
raising the question of its amendment
on the strength of an isolated case

W. S. [unclear] 15. 2. 26
A. W. P.

I do not see why ex-colonial prisoners
should be dumped in this country
and I agree with Mr. Bottomley
in thinking that there is not on the
whole such great objection to
local imprisonment as appears
at first sight.

If we reply that the Sec of State
would not be justified in [P.T.O.]

raising the question on the strength
of one isolated case, Sir E. Fry
will probably get other judges
to make representations in the
matter.

Knowing nothing that the question is
not one that affects Kenya alone
and that on the facts before
him the Sec of State does not
feel that he would be justified
in recommending propounding
any change in the existing
legislation.

S.H.G.
atance

27.2.86.

When the proposed reply refers to the
supposed intention of the law, and that
the "written rule" of law, by which
business done by state is covered out-
- in a form is it covered to the fact?

27.2.86

KENYA.

No. 38



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

X. 10759
30 JAN 1926

January, 1926.

Sir,

I have the honour to inform you that the position of European prisoners in this country has for some time been engaging my attention. I am informed that it has in the past been an unwritten rule that Europeans sentenced to terms of imprisonment of 2 years or more should be sent to England to serve their terms. It will however be within your recollection that in the recent case of Jasper Abraham this practice was not followed.

2. I am sure you will agree with me that from every point of view it is preferable that locally convicted Europeans should not be imprisoned in this country, save for short sentences, not only because of the difficulty in securing that standard of discipline and treatment which is necessary and desirable, but also because of the paramount importance of preventing the continued residence in this country of Europeans who have been guilty of serious crimes. European prisoners have to be confined in the same prisons as African natives and be guarded by African warders. The Chief Justice and the Commissioner of Prisons are of the opinion, with which I agree, that sentences of one year and upwards should be served in Home Prisons.

3.

RIGHT HONOURABLE
LIEUTENANT COLONEL L. C. M. S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

3. It appears, however, that under Section 3(2) of the Colonial Prisoners Removal Act a prisoner so removed is entitled on the expiration of his sentence to be returned, free of cost to himself, to the British possession from which he was removed even though he may be a prohibited immigrant as far as that possession is concerned. In this connection I would refer to the correspondence on the Pelham Fooks' case terminated with the late Viscount Milner's despatch No.610 of the 5th May, 1920.

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4. I would suggest for your consideration the desirability of amending the statute so as to deprive a prisoner removed under the Act of the right of returning to such a dependency as this Colony at the expiration of his sentence unless he had been immediately prior to his conviction either domiciled there or ordinarily resident there for a period of not less than five years.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Edward Gigg

G O V E R N O R .

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8. March 1926

AFT.

261.

General Grigg

Sir

I have to acknowledge
the receipt of your
despatch No: 33 of the
9th of January, in which
you suggest the
desirability of amending
the Colonial Prisoners
Removal Act so as
to deprive a prisoner
removed under the Act
of the right of returning
to such a Dependency.

later

7. will this be X

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for

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8. March 1926

Sir

I have to acknowledge the receipt of your despatch No: 33 of the 9th of January, in which you suggest the desirability of amending the Colonial Prisons Removal Act so as to deprive a prisoner removed under the Act of the right of returning to such a Dependency as

AFT.

261.

General Grigg

later

7. will suit best X

Kenya unless certain
conditions as to ~~conditions~~
previous domicile in the Dependency
are fulfilled

2. ~~I would just say that~~

This question is not
one that affects Kenya
alone, and I do
not feel justified, on
the facts before me, in
proposing any change in
the existing legislation.

after careful consideration
I regret that

(Signed) L. S. AMERY

Kenya unless certain
previous domicile in the Dependency
conditions as to ~~residence~~
are fulfilled

2. ~~I would point out that~~

This question is not
one that affects Kenya
alone, and I do
not feel justified, on
the facts before me, in
proposing any change in
the existing legislation.

after careful consideration
I report that

(Signed) L. S. AMERY

DOWLING STREET,

8 March, 1926.

Sir,

I have the honour to acknowledge the receipt of your despatch no. 33 of the 9th of January, in which you suggest the desirability of amending the Colonial Prisoners Removal Act so as to deprive a prisoner removed under the Act of the right of returning to a Dependency such as Kenya unless certain conditions as to previous domicile in the Dependency are fulfilled.

2. This question is not one that affects Kenya alone, and after careful consideration I regret that I do not feel justified, on the facts before me, in proposing any change in the existing legislation.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(Signed)

MAJORITY COLONEL,
SIR E. W. M. CHICO, K.C.V.O., C.M.G., D.S.O.,
etc. etc. etc.