

1937

38088

CO 533/480-
KENYA

38088

NATIVE HUT AND POLL TAX.

(including legislation.)

Previous

1936

1937

R. 297
R. 309
M. 297
K. 297
K. 297

8/12
8/12
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9 1/12
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3.7

5

5

5

7/3

9/3

11/3

13/3

15/3

17/3

19/3

21/3

23/3

25/3

1. A/GOV.DEP.NO.56. 12.1.37.
Trs. copies of Ordinance No.46 together with Legal Report.
(Spares sent to Library).
2. ACTING GOV.,KENYA.....90.....6.2.37.
Trs. copy of a Bill to amend the Native Hut and Poll Tax Ordce., 1934 and comments at some length thereon requesting approval by telegram.

No. 1. The amendment of Sec. 4 of the Principal Ord., wh. is made by Sec. 3 of this Ord. is slightly different from the 3rd. submitted in No. 1 on 4/35, & approved in No 2 thereon; but the changes in wording seem to be improvements.
The amendment to Sec. 6 seems to be in accordance with the proposal approved in No. 2 on -/36.

Subject to any legal observations
? Sanction 9.3.

No 2. It is curious that in submitting these proposals for giving effect (with modifications) to the ^{recommendations} ~~proposals~~ in a report on Native Taxation, by the Treas. & the C.N.C., the O.A.G. still has nothing to say officially either about that report (No. 5 on 38173/5/36) or the above report (No. 18 on 38088/36) generally.

The probable reason is that, as Mr. Wade has not agreed that the matter is being overruled, he is leaving the whole matter over for consideration by the next Gov. However that is no reason why these two proposals shd. not be dealt with.

as regards the proposal to make legislative provision for the payment of tax by means of stamps, there can be no possible objection, especially as it is proposed to make it permissive. In this connection, however, it seems doubtful whether the wording of the proposed new clause 6 B(1) does in fact carry out the intention, declared in para 5 of the despatch, of excluding any element of compulsion.

It seems to me that, as this clause is drafted, it wd. be open to the employer at his own sole option, & regardless of the wishes of the native, to stop at a week from the native's wages for the purpose of purchasing stamps. This seems to be contrary to the intention of para 5 of the despatch, & it wd. seem desirable that this clause shd. be amended to make it clear that the consent of the native shd. be required.

As regards the new clause 6 D(1) providing for an automatic penalty of 2/- if the tax is still unpaid on the 31st of August, it will be observed that it is justified ~~as~~ as being in accordance with the practice in certain other Territories.

It will however be seen from Table III on p. 54 of the Report that

(No 5 - 38173/5/36)

and in the Northern Districts of Kenya

which automatic penalties are imposed in N. Rhodesia, Nyasaland, S. Rhodesia, Tanganyika or Uganda.

Para 155 of the Report contains no arguments in support of the recommendation, apart from this, & I shd. be inclined to suggest that this particular proposal shd. be deferred pending a review of the whole of the arrangements for the collection of the tax, in the light of the Report of the ^{author} ~~author~~.

(No. 18 or 38088/36)

J. J. Cassin
3/3.

No. 18 on 1.

As to 2, I agree with the Pasha's interpretation of Cl. 6 B. What is the necessity for sub-s(2) of this clause? No employer is likely to go on getting kodi stamps after the native has produced a receipt for the tax under sub-s(1).

I am not clear about clause 6 D. Sub-s(2) says the penalty is to be counted tax for the purpose of s 6(2). But supposing the native pays all his tax during (say) Sept. but refuses to pay the penalty, is he subject to proceedings for it under s. 6(1)? It certainly shd. be made subject to under s. 6(3).

(W.D.)

3.3.

It is very odd that we have not had anything whatever from Kenya in regard to either the joint report by Mr. Walsh and Mr. Montgomery or the Report of the Commission into Abuses of Tax Collection. The explanation is no doubt twofold: on the one hand they have been very busy with the debates on the budget which have been involved with the question of native taxation and on the other Mr. Wade probably thinks that the views of the new Governor will be expected. There is also the fact that Mr. Wade, in common with most of the central officials, takes the view that the native population is not oppressively taxed. In this they appear to differ from Sir Alan Pim and Lord Moyne and from the District Officers who have to look after the natives, though it is interesting to note that the Provincial Commissioners have agreed with Messrs. Walsh and Montgomery in their recommendations.

The Ordinance enclosed in No.1 on this file may be approved but with regard to the draft in No.2 there are one or two funny things. The payment of tax by stamps is referred to in the report by Messrs. Walsh and Montgomery. The recommendations on this point are contained in paragraphs 155-158. The stamp card is issued in the last quarter of the year preceding that in which the tax becomes due and the idea is that natives can buy stamps and stick them on the card towards

payment of tax. The two Commissioners recommended that there should be an automatic penalty in the shape of an addition of 2/- if the tax ^{is} was unpaid by the 31st of July in each year and they also recommend giving the Governor powers to remit the penalty in any area he chooses. This is provided by Kenya's beloved habit of reference, in saying that the penalty is deemed to form part of the tax for the purposes of Sections 6, 7, 8 and 9 of the Ordinance. Section 9 of the Ordinance gives the Governor power to exempt any person or class of persons or area from the whole or any portion of the tax, so that part of it is all right.

But the original Ordinance prescribes that the tax becomes due on the 1st of January in each year and that proceedings by distress may be taken if the tax is not paid by the 31st of January. The position then of a native who, being wishful to pay in stamps, starts off on the 1st of January is not too easy. He is proceeding to pay by instalments, has every intention of so doing, and yet if he does not pay by the 31st of January he is liable to have proceedings taken. I think there is a mistake here which should be pointed out. I have not been able to trace any amendment to Clause 6 in the Principal Ordinance.

I agree that the proposed Clause 6(b) needs amendment and that employers should not have the sole right to decide whether they will pay a man his wages partly in stamps or not. Some sort of words implying the consent of the native employee appear

to be wanted.

With regard to 6(b)(ii) what they want to get at is the case of the employer who tries to pay a native all his wages in stamps. An employer might have a stock of stamps and might work them off on the natives instead of paying cash and that proceeding has to be frowned upon. With the thing as it stands an employer cannot produce more than 12/- worth of stamps for each native in any one year. So I think it ought to be remedied.

With regard to the automatic penalty I agree with Mr. Paskin that there is a good deal to be said for not imposing it. Messrs. Walsh and Montgomery take the view that in the case of the natives of Kenya there is a lot of willful nonpayment of taxes by people who could quite well afford to do it. This is perfectly obvious from their memorandum, which is to be found at No. 2 in 38173/5/36. I must say I am not happy about this. It is very easy to say that people can pay and won't and it is very easy to blame "agitators". I don't like this policy of raising revenue by direct native taxation in the case of natives like those in Kenya who are pretty low down in the social scale, though I recognise that it has to be adopted. But I do think that we need a new outlook on the question and instead of trying to get as much as possible the aim should rather be to see how little in the way

of

of native direct taxation Government can get on with. I would not repeal it altogether, but my own inclination would be to keep it very low until there is a much greater level of general prosperity among the black men than I am given to understand is the case in Kenya. Draft despatch herewith.

J. S. Flood

5.3.37.

Sir J. Maffey.

All these questions of native hut and poll tax in Kenya are of importance.

Paragraph 1 of Mr. Flood's draft despatch relates to the raising of the taxpaying age to 18. That was one of the proposals put to the Government of Kenya on Sir A. Pim's Report for immediate application. The other - the taxation of multiple huts - was not accepted in the compromise over the Budget and it will have to wait for fuller consideration.

As regards the new Bill proposed in No. 2, I entirely agree that this arrangement for paying tax by stamps is a good one. The draft points out various matters of doubt which should be cleared up but after discussing with Mr. Flood I have omitted Mr. Dale's proposed paragraph 7. We see no reason for limiting as he proposes the application of Section 6(B)(2).

As Mr. Flood points out in paragraphs 2 and 3 of the draft, there are two Reports which will

need

need careful consideration when we have the views of the Kenya Government. Since Mr. Flood dictated I understand that a letter has been received from Mr. Wade explaining that both reports are now being considered by the Executive Council.

? The drafts may issue.

Wade

8.3.37.

*Ham 9/3
Wade 11.3.37*

To Governor tel 54 - 2nd - 11.3.37.

DESTROYED UNDER STATUTE

air mail 18/3 of Do Kenya - 238 - (1 amended) 18/3/37

Mr Montgomery called: he is anxious about the reply to 4 which is on the way. He says that

- 1) They have decided to drop the automatic penalty,*
- 2) The not allowing the natives the option to receive all his pay in cash & no stamps was deliberate. It is aimed at the casual worker who goes from farm to farm & dodges any tax payment. Employers will co-operate in most cases & the natives will thus willy-nilly pay his tax when he can afford it.*

The reply will make it all clear.

Wait

S. S. K. S.

S. S. K. S.

5

Gov 234

24-4-37

Submits observations on para raised in 4

As recorded in my minute below No. 4, Mr. Montgomery is very anxious about this despatch. Paragraphs 4 and 5 are simple. It is pointed out that the date on which prosecutions may be instituted was always discretionary, and there is no reason why it should not continue to be so. Further, the automatic penalty will be deferred, and Mr. Montgomery told me that they proposed to drop it altogether. A despatch about the abuses has been received and answered, but the report on native taxation will require much more consideration when it comes. As to that, the Governor thinks that there has already been quite enough inquiry into taxation in Kenya, and that it is difficult to see what more can be done. Sir Alan Pim, however, did definitely say that the structure of native taxation should be investigated, and what they really should do is to sit down and think a bit. If they do any inquiring, they would inquire into taxation as it exists, and what Sir Alan wants, and has advised, is to substitute something better if it can be found. My own view is that it is very bad practice to impose heavy direct taxation on people in the state of society in which the Kenya native lives. A small tax in the neighbourhood of 6d. a year, such as is levied on some of the Nigerian pagan tribes, would be much nearer the mark than the present rate of 12/- for some of them. But they can pay the 12/- and the local people say it is not excessive. Be that as it may, we shall hear about it further, and the main thing in this despatch is directed to our suggestion that the native should be allowed an option of receiving his wages in

cash

cash instead of getting 2/- ^{per} in the shape of a stamp. Mr. Montgomery, in conversation, said that the proposal put in the draft Ordinance was deliberate and was of the essence of the thing. The idea would be that when an employer has casual labour working from month to month, he will be invited by the Administration to use his option of paying 2/- a month by stamp. The native then, if he goes on being casually employed, will at the end of six months have paid his full tax, whereas, in the present state of things, he dodges successfully by living from place to place, doing a month's work here and a month's work there. He can, of course, be traced through his various documents of identity, but this is no easy job and dodging in this way is fairly common. That is according to Mr. Montgomery.

Assuming that that is so, I think we can accept the arguments in paragraphs 2 and 3 of the despatch. It may seem hard on the black man to be compelled to take part of his wages in a 2/- stamp, but the hardship is not really very great, and I presume that if he was a regular employee his employer would arrange to buy the stamp back and give him 2/- for it if he was really hard up. So I think we may telegraph as per draft herewith as requested.

I agree. The fact still remains that the compulsion is one-sided. The employer is not compelled to pay the 2s. by stamp & if he is too lazy to buy stamps the

labourer will get into trouble over his tax. But that is not the point we raised.

As proposed in the 5th

*L.C.S. 1.5.37
J.M. 7/5
W.S. 8.5.37*

Det. Lt. Kenyon, No 110 - 8th May, 1937.

DESTROYED UNDER STATUTE

AIR MAIL 1/5
20 Keny, a - 389 - (5 Encl) — 11/5/37

S. GOV'S DEPUTY.....280.....19.5.37.
Trs. obssn. on Report on Native Taxation by Treas. & Chief Native Comar. and encls. memo. showing action taken or contemplated on recommendations therein.

P.G. BY MR. BARKFIELD FOR ORAL REPLY ON 7th JULY

(REG. NO. 104 ON R.O. FILE)

DESTROYED UNDER STATUTE

Recive for (8)

20/9
To. Kenyon 564 (supc Q & A of 7 July) cons. 20 JUL 1937

N 08

The report is flagged in 38173/5/36. The result of this is that most of the recommendations are deferred until the ^{full} next committee reports investigation advised by Sir A. Pim is over. That will take time; but most of the recommendations were against adopting some change (2, 3, 4, 5, 6, 7, 8, 9, 12, 19 20) and therefore are to the good in a way.

The payment on extra hats is being reviewed by a Committee. I am sure that reduction will have to be made as recommended by Sir A. Pim, and I hope Kenyon will see how necessary it is. They can't go on in face of repeated advice to reduce.

As regards the general investigation they will wait for Lord Hailey. I don't expect him to do much to help but he may.

I would

? Act. next. I say the S. of S. is glad to learn that the question of plural huts is being considered afresh. Agree that the other recommendations, which were mainly against the introduction of new expedients can be deferred but say that the matter of native taxation is, as the Gov. will realize, one of the most important questions in Kenya especially in relation to public opinion here.

S.S. & K.D.
26.7.

So proceed. When action has been taken I think it would be well to look up what T.T. has done in the matter of plural hut taxation. My recollection is that this point has come up recently.

W.D. 27.7.37

10 20 Kenya - G.S. (8 para) - 12/10/37

Review for action as at X above.

Nov. 23 & 25 dated 18.5.37 + 22.6.37.

12. Kenya. 3 para. 14.8.37 (on 30034/1/37)
In: 12 copies of Report of Select Committee of Leg. C. appointed to consider the Native Hut & Poll Tax (Amnd.) Bill. (Aparas to library)

action as at X on previous sheet.

13. Epw's dep. 497. 27.8.37
Ref 9 - two copies of relevant corres. showing that allegations are not true.

14. Epw's dep. 513. 6.9.37
In: two auth. copies of Order 27 of 1937 entitled - The Native Hut & Poll Tax (Amnd.) Order 1937 with legal report (Aparas to library)

15. of Col. Sec. 3 para. 7.9.37
In: 12 printed copies of Order 27 of 1937 (Aparas to library)

No. 13. This arises from the question of Mr. Banfield in the House of Commons on the 8th of July, (see No. 1 on P.Q. file), in which he asked if the S. of S. had considered the complaint from the North Kavirondo Central Association regarding the hardship inflicted on old and decrepit native men and women by the action of District Officers in compelling them to pay native hut and poll tax.

The complaint in question was addressed to "The Honourable the Commons of the United Kingdom of Great Britain, and Northern Ireland in Parliament Assembled", and a copy was sent to the Governor. If the Association choose this method of ventilating their grievances, instead of petitioning the Governor or the S. of S., they must follow the rules. The procedure has been explained to the Association on previous

Rules.
Copy in
3167/33

previous occasions (see 38203/37 and previous papers).

There is in fact nothing in the Association's complaint. While it is true that applications for exemption from tax are being closely scrutinised, District Officers are exercising their power of total or partial exemption fairly and with sympathy.

The S. of S. in his replies to the supplementary questions on the 8th of July did not promise to communicate further with Mr. Banfield, but it might be desirable to tell him that the N.K.C.A. did not address a petition to the Governor or to the S. of S. on this particular matter, but that they merely sent to the Governor a copy of a letter addressed to "The Honourable the Commons of the United Kingdom and Great Britain, and Northern Ireland in Parliament Assembled" dated the 10th of June. Add that the alleged grievance has been investigated and the S. of S. is satisfied that the District Officers are exercising their power of total or partial exemption fairly and with sympathy.

No. 14. The terms of the Ordinance were approved in principle in No. 7 on the file. The Ordinance as passed is a great improvement on the Bill submitted to Leg. C'cil. There is now no compulsion on a native to accept Kodi stamps as part

part payment of wages.

Subject to legal objections ? sanction G.3.

C.R. Wasmuth
16.9.37.

No 13.

I see no reason why the S. of S. should say anything more to Mr Banfield. If he returns to the charge with another P.A., this Dept. will make a suitable reply to be prepared.

No 14.

This is interesting. In para 4 of No 4, it was suggested that the native should be given the option of receiving part of his wages in Kodi stamps, but in No 5 the Gov. urged that it should be made compulsory. This view was also urged orally here by Mr. Dooling. Now it has been made optional in deference to the views of the Leg. Co. ? as proposed.

J.P. Brown
18/9

No. 6/1000

W. J. J.

28.

Interesting: the unaffiliated took our view. I believe they said they weren't tax collectors.

G. 3

J.E.V. Hunt

28.9.37

19. Major Scupham (5%) ————— 10.11.37.
Comments on points raised in (18) & states that he
will call at C.O. during week commencing 15th Nov.

Mr. Paskin

Mr. Flood has seen 19. I will let you
know when Mr. Scupham calls and will
make a note & send information as he
gives concerning 'plural tax' - Tanganyika.

? Will

P. Lee

10.11.37.

J. J. Paskin

16/11

at work

Mr. Paskin.

Please see note attached to the file
of my talk with Major Scupham, yesterday.

I am sorry that I forgot to let you
know that Major Scupham was here. He is,
however, calling on Sir George Tomlinson on
Monday afternoon (22nd November) and if you
or Mr. Flood would wish to have a talk with him,
I feel sure that you would be able to arrange
one then.

(A copy of my note is being put on
the Tanganyika papers about Native Taxation).

P. Lee

14/11/37.

I think we might now write to Kenya
(with reference to No. 10) saying that the
Secretary of State understands that the
Government of Tanganyika have decided to
abolish

abolish the Plural Wives Tax in the Southern
Highlands Province in 1938, and have had under
consideration for some time the question of the
policy of introducing some form of graduated
communal tax in place of a flat rate tax, and
that it is hoped to make a start with the new form
of taxation in the Lake Province in 1939; and
suggest that the Government of Kenya should obtain
particulars of these proposals from the Government
of Tanganyika.

J. J. Paskin
25.11.37.

Mr. Lee's account of the interview with
Major Scupham is most interesting. It will clearly
be very awkward if Kenya proposes to retain the tax
on plural wives after its modification or abolition
had been recommended by various people. In his
report Sir Alan Pim drew attention to the fact that
the Government of Tanganyika was making provision
for a graduated personal tax and had under
consideration the abolition of the additional tax
on extra huts (paragraph 85). In paragraph 75 he
says, "So far as real hardship is concerned, it
appears to be a much more urgent matter to deal with
the question of the additional payment of a full
tax on each extra hut". In general, he recommended
the evolution of a new system of taxation better
suited to the conditions of to-day.

In consideration of the Pim report the
Secretary of State urged on the Government of Kenya
the adoption of his two main proposals as regards
native taxation, i.e. the raising of the lower age
limit

limit from 16 to 18 and the reduction or abolition of the plural hut tax. Kenya accepted the first, under protest, but said they could not afford the second, and we know that they are now busy investigating it.

The system of direct taxation sketched out by Major Scupham is very much on the lines of what is done in Nigeria where a general assessment is reached and the proportion to be raised by each village is hammered out by the administrative officers and the village authorities.

It is clearly advisable to call Kenya's attention to what Tanganyika is doing and I produce a short draft for consideration.

J. E. G. Kent

26.11.37.

Edmond
27.11.37

Sir C. Parkinson

Whatever it was that I thought I remembered when I wrote my minute of 27 July, the object is satisfactory in producing this very interesting work of T.T.'s ideas.

The T.T. Kenya mission? And I am doubtful whether Kenya's native administrative has reached a stage where they can be treated with the individual & communal tax.

S.P.S.
You will be interested to see the note of Wheeler's talk with M. Scupham.

As to the draft despatch, it seems to me rather awkward for you to send an official despatch based on conversations with T.T. officials, as you cannot make definite assertions. In the circumstances I suggest that this should be converted into a *spo* letter which Sir C. Parkinson could send to the Governor.

28.11.37

I agree with Sir C. Parkinson as to procedure in bringing to the attention of Kenya. If T.T. can work the system it will make a very welcome and real advance.

W.S. 30.11.37

20. To. Sir. R. B. Popham. ~~~~~ S.D. ~~~~~ 8.12.37.

21. Extract from Kenya Gazette N° 444 of 21.9.37.

No 21 2 Puby Cloney White 8/12

J.J. Parnin
9/12

Library to see 19 a & 20 (v. marginal
note on off. insp. above '9a').

J.H. Parnin
12.1.38

Librarian



FORM C

DECLARATION OF ENLISTMENT

To the Commander, Commanding the Kenya Royal Naval Volunteer Reserve

In consideration of your enrolling me a member of the Kenya Royal Naval Volunteer Reserve I undertake and bind myself:—

- (i) To serve at least three years from the date hereof (unless previously discharged) being subject to the Naval Forces Act, 1903, and the Acts incorporated therein, to the rules of the unit for the time being, and to the customs and usages of His Majesty's Naval Service.
- (ii) Except when on active service or when warned for active service I understand that my discharge from the Reserve may be obtained by my giving the Commander three months' notice in writing and by surrendering in good order any property of the Reserve in my possession, and by paying the sum prescribed by the Regulations.
- (iii) Whenever the Government calls out the Kenya Royal Naval Volunteer Reserve I understand I shall be liable to serve either ashore or afloat, as may be directed by the Government, and that my services may be placed at the disposal of the Admiralty if local commitments are already satisfied.
- (iv) When called out and serving either ashore or afloat I shall be liable to do any duty applicable to my rating for which I may be found competent and which is required by the Commander of the ship or force to which I am attached and I shall be subject to the Naval Discipline Act.

Date

(Signature of Volunteer)

GOVERNMENT NOTICE No. 726

THE NATIVE HUT AND POLL TAX ORDINANCE, 1934

NOTICE

IN EXERCISE of the powers conferred upon him by section 3 of the Native Hut and Poll Tax Ordinance, 1934, and all other powers thereunto enabling him, His Excellency the Governor has been pleased to prescribe that the rate of hut and poll tax payable for the year 1938 under the provisions of the said Ordinance shall be Sh. 12:

FORM B
MEDICAL REPORT

Name of Volunteer.....

Standard of Physical Fitness

*Medical Officer's
remarks*

(a) Vision—
Normal colour vision
Absence of squint or deformity—
Best eye 6/9ths.
Other 6/18ths.

(b) Hearing—To hear ordinary conversation
with either ear

(c) Teeth—No specified number required,
but a sufficiency of opposing incisors
and molars on both sides

(d) Height and Chest—
Under 20 years, height 5 ft. 1 in. chest,
32 in.
Over 20 years, height 5 ft. 2 in. chest,
33 in.
Every additional 2 in. of height to re-
quire one additional inch in chest
measurement.

Special eye test for candidates for commis-
sioned rank—

Executive—Best eye 6/6ths, other
6/12ths.

Engineer—Best eye 6/9ths, other
6/12ths.

Special Branch as necessary
Medical, Accountant and Accountant (c),
Chaplain—Not less than 6/60 each
eye correcting to 6/6 each eye with
glasses

Certificate of Medical Officer.

Date.....

.....
Signature of Medical Officer

Age member of the tribe of	Provided that— Habitually residing in, or whose name appears on the Hut and Poll Tax census roll of	Shall pay at the rate of
		Sh. 8
Meru and Tharaka	Meru District	8
Emberre	Emberre Location, Embu District	8
		9
Kamba	Kilifi District	9
Kamba	Kikambulu Location, Machakos District	10
	Kilifi and Digo Districts	6
Kamba	Baringo District	10
North Kamasia	Baringo District	10
South Kamasia	Baringo District	10
East Suk	Baringo District	10
Njemps	Elgeyo-Marakwet District	8
Elgeyo	Elgeyo-Marakwet District	8
Marakwet	Digo District	6
Duruma	Digo District	10
Digo		
Giriama	(a) Bamba, Chakama, Shakahola, Sameta, Koromi, Kesikicha, Mzungu, Adu Giriama, Adu Wasanyo, Marikano, and Mangania Locations, Kilifi District	8
	(b) Chonyi, Jibana, Kambe, Ribe, Mariakani (Kambaba), Mariakani (Giriama), Kaya, Fungo, Kaloleni, Ganzi, Sokoke, Kauma and Dagamba Locations, Kilifi District	10
Galla, Pokomo, Boni, Nyika, Shambara	Tana River District	10
Galla, Boni, Sanye, Kore, Shambara	Lamu District	10
Turkana	Turkana District	3
West Suk	Turkana District	8
Ndigiiri, Mukogodo, Ii Mwezi	North Nyeri District	8
Korokoro, Malakote, Maluhulu, Galla and Boni	Gariisa Area, Northern Frontier District	8

This Notice shall come into force on the first day of January, 1938.

By Command of His Excellency the Governor.

Nairobi,

This 16th day of September, 1937.

H. G. PILLING,
Acting Colonial Secretary.

GOVERNMENT NOTICE No. 727

THE TOWNSHIP ORDINANCE, 1930

RULES

IN EXERCISE of the powers conferred upon him by section 33 of the Township Ordinance, 1930, His Excellency the Governor has been pleased to make the following Rules:—

1. These Rules may be cited as the Malindi Township (Definition of Non-Business Areas) Rules, 1937, and shall apply to the Township of Malindi.

2. For the purpose of these Rules the word "factory" shall not include a garage.

3. No person shall erect any shop, warehouse, factory, garage or business premises within the area described in Schedule I of these Rules.

4. No person shall within the area described in Schedule II of these Rules establish or carry on any business or trade connected with a native eating house or a native lodging house, or any business for which he requires a licence under the Native Liquor Ordinance, Ordinance No. XXXVI of 1930.

5. No person except with the written permission of the District Commissioner, shall erect any factory save within the area described in Schedule III of these Rules.

6. No person, except with the written permission of the District Commissioner, shall erect a factory for the purpose of carrying on any of the trades specified in Schedule V of these Rules, save within the area described in Schedule IV thereof.

7. No person, except with the written permission of the District Commissioner, shall carry on any of the trades specified in Schedule V of these Rules save within the area described in Schedule IV thereof.

8. Nothing in these Rules shall affect any existing factories, aeroplane hangars and aeroplane workshops, or such extensions and additions thereto as shall be approved in writing by the District Commissioner.

By Command of His Excellency the Governor.

Nairobi,

This 13th day of September, 1937.

H. G. PILLING,
Acting Colonial Secretary.

C. O.

38082/37

20

Mr. Parnin
Mr. Flood
Mr.
Sir H. Moore.



Sir G. Tomlinson.

X Sir C. Bottomley. 2.12

Sir J. Shuckburgh.

Parms. U.S. of S.

Parly. U.S. of S.

Secretary of State.

For Sir C. Bottomley's sig.

8.12.37

My dear Brooks-Popham.

In connection with
Pain's proposals for a
comprehensive investigation
into native taxation, & in
particular, as regards the
taxation of native huts, I
think you ought to know
that we have heard from
Stephen of
~~an officer in charge of~~
Tanganika, ^{who is on leave,} that the
Govt. there is contemplating
two measures, as first
steps in ^{their} programme
of breaking away from the
system of hut rate taxation
of natives.

In the first place, we
gather that they are
proposing, in 1938, to abolish

DRAFT.

Asst Chief Marshall
Sir Robert Brooks-Popham
S.C.V.O., K.C.B., C.M.S.,
D.S.O., A.P.C.

FURTHER ACTION.

The Plural Wives Tax in the Southern Highlands Province, etc. has been selected for the experiment on the ground that the incidence of polygamy is higher there than in the other provinces.

In the second place we understand that they are considering the possibility of introducing a form of graduated tax (on a communal basis) in a selected area (possibly in the Lake Province in 1939).

If you are not already aware of these proposals, ^{might it be} ~~we suggest~~ that you get particulars from the East of Tanganyika as well to consult Tanganyika and get full particulars. This may help in considering Kenya's taxation system.

Yours sincerely,

(Sgd) W. E. Bottomley.

C. O.

Mr. Flood. 26 11.37.

38088/37. Kenya.

Mr. Boyd 27/11/37

Mr.

Sir H. Moore.

Downing Street.

Sir G. Tomlinson.

November, 1937.

X Sir C. Bottomley. 27.

Sir J. Shuckburgh.

See minutes

+ Perms. U.S. of S. 26. 11.37

Parly. U.S. of S.

Sir,

Secretary of State.

DRAFT. for conson.

(10)

KENYA.

NO.

GOVERNOR.

I have the honour to refer to my despatch No. 645 of the 13th of August, and, in connection with the question of taxation in respect of extra huts, to suggest that, if you have not already done so, you should communicate with the Government of Tanganyika Territory in order to ascertain what that Government propose to do in this connection. I have been given to understand from conversations with officials of the Tanganyika Territory that the Government there has decided to abolish the plural wives tax in the Southern Highlands Province next year,

and

FURTHER ACTION.
Library to see in connexion with the preparation of their memo for the C. P. Admin in Nairobi. 27.11.37. E.W.

*See
Office*

and has also for some time had under consideration the question of introducing some form of graduated tax on a communal basis in place of a flat-rate tax in other areas. It is hoped to make a beginning with this new form of taxation in the Lake Province of Tanganyika in 1939.

I have, etc.

19.a

NOTE

Major Seapham called on the 18th November and gave me some interesting information about certain changes which the Tanganyika Government hopes to make shortly in connection with native taxation.

As regards the Plural Wives Tax, it can certainly be said that the whole of the District Administration in Tanganyika was anxious for its abolition as soon as possible. Although in Tanganyika the tax on the second wife is at only half the rate of the ordinary tax, it was felt that the incidence was, nevertheless, unjust, that it was (as Sir H. MacMichael has described it) a degrading tax for a Government to levy, while it had the very undesirable consequence of tending to break up native society, inasmuch as natives were, in many cases, no longer willing to become responsible for their deceased brother's wives, since this involved payment of additional taxation. The Plural Wives tax might have had some justification in the old days and among certain tribes - i.e. where the possession of an additional wife or wives betokened additional wealth, but it was doubtful whether that would hold good anywhere today, while, in any case, what was really needed in Africa was a break-away from the crude system of flat rate taxes to a form of taxation which would take into account variations of individual income.

The incidence of polygamy is by no means uniform in Tanganyika. Thus, there is comparatively little

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The incidence of polygamy is by no means uniform in Tanganyika. Thus, there is comparatively little

little among the tribes in the Lake Province. On the other hand, in the Southern Highlands Province (especially in the areas round Takuya) the incidence is very high - practically every man has two or more wives. It was naturally in the latter area that the demand for the abolition of the Plural Wives Tax had been most insistent, and accordingly it had been decided to abolish the tax in that province in 1938, the flat rate of tax being increased by 1/0d. to make up part of the loss of revenue. It was hoped that abolition in other provinces would follow at a later date.

Major Seupham was anxious to emphasise that this step should be regarded as only a first and comparatively unimportant advance in the Tanganyika Government's efforts to break away from the old system of flat-rate taxation. For some time they had been giving careful consideration to the possibility of introducing a form of graduated (communal) tax in a given area. The principle of this taxation had been accepted in the Consolidated Native Tax Ordinance which was enacted in 1934; but it was obviously necessary to make careful preparations before any such change could be introduced. It was, however, hoped to be able to make a start in the densely populated Lake Province in 1939. A broad outline of the arrangement proposed would be that a given area (say an Administrative District) would be assessed by Government for a given amount of taxation - i.e. corresponding roughly to the average of Hut Tax receipts received over a period of years from that district. The gross assessment would then be allocated between the

villages

Subin 8 7
Oms. 20/7/1934

villages according to their ability to pay - an ability which would obviously depend upon various factors such as geographical position, water supplies, population, richness of soil, etc. The Native Authorities would then allocate the village assessment between individuals (again according to capacity to pay) and would be responsible for collection.

The arrangement proposed is clearly one on the lines of the Land Settlement schemes of India, but much of the responsibility for the detailed operation of the scheme in Tanganyika will devolve on the Native Administrations and not on paid servants of the Central Government. Unless the Native Administrations can be used, it will be impossible to operate any such scheme owing to the large paid staff which would be required. Admittedly, the task of settling individual assessments (and assisting in the work of settling village assessments) is going to be a severe test for the Native Authorities; but Major Soupham (and Sir H. MacMichael) are confident that this is a task which the Native Authorities should, and can, shoulder successfully.

19

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Schunemann
14/11/37



THE ROYAL AUTOMOBILE
CLUB
LONDON



RECEIVED

13 NOV 1937

WHITEHALL 2345

G.O. REGY

19/11/37

THE ROYAL AUTOMOBILE CLUB,
LONDON, S. W. 1.

Dear Sir

10.11.37

18. Thanks for your note of the 8th

- I will call at the C.O. one day next week & pay my respects & will tell you all I can about plural wives tax there. The answers to your two specific questions are

- (a) ~~Swaga~~ The Southern Highlands Province (Tuluyga District)
- (b) By increasing the flat rate of tax from 9/- to 9/- . This means that bachelors - men with only one wife will pay more & the polygamous chop less.

This change is really only a step towards

that form of graduated tax referred
to in the Ordinance as communal
tax. We hope to bring in the
bill in certain selected areas in
1939. Will tell you more when

I see you.

Yours sincerely

W. H. Stephenson

18

ans (19)

8th November, 1937.

Dear Scupham,

I hope that you had a pleasant journey home and are enjoying your leave.

I don't want to pester you with work when you are on holiday, but I have been asked to write to you on one particular point concerning native taxation in Tanganyika which interests us a good deal.

In some comments which he made on Sir Alan Pim's Kenya report, Sir Harold MacMichael stated that the abolition in Tanganyika of the plural wife tax "would meet with general approval and is overdue". He added that it was proposed to abolish plural taxation in one province in 1938.

We have no further information about this intended change, and as the question of plural wife tax is naturally of interest to African Dependencies
other

MAJOR W.E.H. SCUPHAM, M.C.

other than Tanganyika, we should be grateful if you could let us know briefly: -

(a) in what province it is proposed to make the change in 1938:

(b) what arrangements are to be made to make up the loss in revenue which will be caused by the proposed change.

If you would rather come here and have a word about it I am at your disposal at any time.

Yours sincerely,

(Sgd.) F. G. Lee.

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Yours sincerely,

(Sgd.) F. G. Lee.

13 17

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Extract from Kenya Gazette Supplement No. 30
of 1937. (reprinted on 38 of 1937)
Part II

GOVERNMENT NOTICE No. 610

THE NATIVE HUT AND POLL TAX ORDINANCE, 1934

NOTICE

IN EXERCISE of the powers conferred upon him by section 3 of the Native Hut and Poll Tax Ordinance, 1934, and all other powers thereunto enabling him, His Excellency the Governor has been pleased to prescribe that the amount of hut and poll tax payable for the year 1937 under the provisions of the aforesaid Ordinance by members of the Galla and Boni tribes habitually residing in, or whose names appear on the Hut and Poll Tax census roll of the Garissa area, Northern Frontier District, shall be Sh. 8.

Government Notice No. 413 of the 11th day of May, 1937, is amended accordingly.

This Notice shall be deemed to have come into force on the first day of January, 1937.

Nairobi,

This 21st day of July, 1937.

A. DE V. WADE,
Colonial Secretary

24
15



THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
No.S
AND DATE

September, 1937.

F.ADM.9/1/1/111/165.

38084

the Acting Colonial Secretary of
the Colony and Protectorate of Kenya presents
his compliments to the Under Secretary of
State for the Colonies, and with reference to
114. Kenya despatch No.513 of the 6th September
has the honour to transmit twelve printed copies
of Ordinance No.XXVII entitled "An Ordinance
to Amend the Native Hut and Poll Tax Ordinance,
1934."



Colony and Protectorate of Kenya

IN THE FIRST YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE VI

HENRY ROBERT MOORE BROOKE-POPHAM
G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C. *Governor*

Assented to in His Majesty's
name this day of
1937. **28 AUG. 1937**

R. BROOKE-POPHAM

Governor

**AN ORDINANCE TO AMEND THE NATIVE HUT
AND POLL TAX ORDINANCE, 1934**

ORDINANCE No. XXVII of 1937

An Ordinance to Amend the Native Hut and Poll Tax Ordinance, 1934

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

1. The Ordinance may be cited as the Native Hut and Poll Tax (Amendment) Ordinance, 1937, and shall be read as one with the Native Hut and Poll Tax Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

Short title.
No. 40 of 1934.

2. Section 2 of the Principal Ordinance is hereby amended by inserting therein the following new definitions—
“kodi stamp’ means a revenue stamp of the value of one shilling issued by the Government of the Colony for the purpose of this Ordinance;

Amendment of section 2 of the Principal Ordinance.

‘thirty days’ contract’ has the meaning assigned to it in the Employment of Natives Ordinance or any Ordinance amending or replacing the same.”

Cap. 139.

3. The Principal Ordinance is hereby amended by inserting therein, between sections 6 and 7 thereof, the following new sections:—

Amendment of the Principal Ordinance.

“6A. (1) Any native, whether in the employment of a non-native or not, may purchase kodi stamps from time to time and when the value of such stamps is equivalent to the amount of tax due from such native, he shall, on surrendering such stamps to a collector, be issued with a receipt for his tax under section 7 of this Ordinance.

Payment of tax by means of kodi stamps

(2) Nothing in this section contained shall be deemed to prevent any native from paying his tax wholly in cash or partly in kodi stamps and partly in cash.

No. XXVII

Native Hut and Poll Tax

1937

Employers may pay wages partly in kodi stamps.

6B. Where a native is in the employment of a non-native, whether under a verbal or written contract of service for a period of one month or longer, or under a thirty days' contract, and the employer agrees to pay and the native agrees to receive part of the wages due to such native in kodi stamps, the employer may pay to such native the agreed rate of wages partly in cash and partly in kodi stamps in the proportion agreed upon between such employer and such native.

Kodi stamps to be taken into account as part payment of tax.

6C. Any kodi stamps shall, on surrender to the court or to a collector, as the case may be, be taken into account as part payment of the tax due from such native in any proceedings instituted for the recovery of tax under section 6 of this Ordinance, or for the purpose of assessing the amount due from any native when he pays, or is called upon to pay, his tax."

Passed in the Legislative Council the eleventh day of August, in the year of our Lord one thousand nine hundred and thirty-seven.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

R. W. BAKER-BEALL
Acting Clerk to the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

AIR MAIL

KENYA
No. 513



GOVERNMENT HOUSE
NAIROBI
KENYA

6 September, 1937.

13 SEP 1937
C. O. I

Sir,

38088
7.
With reference to your despatch No.389 of the 11th May, I have the honour to forward two authenticated copies of Ordinance No.XXVII of 1937 entitled "An Ordinance to Amend the Native Hut and Poll Tax Ordinance, 1934", together with a Legal Report thereon by the Acting Attorney General.

2. This Ordinance passed its third reading in the Legislative Council on the 11th August, and the Governor assented to it in His Majesty's name on the 28th August.

Twelve printed copies of the Ordinance are being forwarded by sea mail.

3. It will be observed that after further consideration the suggestion made in paragraph 4 of your despatch No.238 of the 18th March has been adopted in section 3 of the Ordinance, which now provides that the part payment of wages in Kodi Stamps shall be subject to the agreement of both the employer and the native, and that the proportion agreed to be so payable is not now limited to two shillings.

I have the honour to be,

Sir,

Your most obedient, humble servant

[Signature]
GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE
W. ORMSBY-GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON S.W.

LEGAL REPORT

THE NATIVE HUT AND POLL TAX (AMENDMENT) BILL,
1937

This Bill was approved for introduction into the Legislative Council by the Secretary of State in his Despatch Kenya No. 389 of the 11th May, 1937.

In view of the general desire of the Members of the Select Committee of the Legislative Council appointed to consider the provisions of the Bill that there should be no compulsion on a native to accept from his employer Kodi stamps as part payment of the wages, the new section 6B in Clause 3 has been amended so that natives shall only be required to receive part of their wages in Kodi stamps if they consent to do so. Since the payment of Kodi stamps is to be with the consent of both parties, the restrictive provision as to the amount of Kodi stamps which can be paid and received as part of the wages has been deleted. The new section 6B has been further amended so as to apply to contracts for a period of one month or longer. The new section 6C has been amended so as to make it clear that any Kodi stamps received by a native can be utilised for the payment of his tax.

No Comparative Table accompanies the Bill since the amendments contained therein are not modelled on any Colonial Ordinance or Imperial Act. A copy of the Bill, however, showing the amendments made since the Bill was approved by the Secretary of State is enclosed herewith for submission to the Secretary of State.

As the Bill was in principle approved by the Secretary of State, I am of opinion that His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
12th August, 1937

H. W. Williams
ACTING ATTORNEY GENERAL

C O P Y
O F
THE NATIVE HUT AND POLL TAX (AMENDMENT) BILL,
1937, SHOWING THE AMENDMENTS MADE SINCE THE
BILL WAS APPROVED BY THE SECRETARY OF STATE
IN HIS DESPATCH KENYA NO.389 OF THE 11TH
MAY, 1937

Colony and Protectorate of Kenya

Government Notice No. 434

His Excellency the Governor in Council has approved of the following Bill being introduced into the Legislative Council.

R. W. BAKER-BEALL,
Acting Clerk to the Legislative Council.

A Bill to Amend the Native Hut and Poll Tax Ordinance, 1934

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

1. The Ordinance may be cited as the Native Hut and Poll Tax (Amendment) Ordinance, 1937, and shall be read as one with the Native Hut and Poll Tax Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by inserting therein the following new definitions—

“kodi stamp” means a revenue stamp of the value of one shilling issued by the Government of the Colony for the purpose of this Ordinance;

“thirty days’ contract” has the meaning assigned to it in the Employment of Natives Ordinance or any Ordinance amending or replacing the same.”

3. The Principal Ordinance is hereby amended by inserting therein, between sections 6 and 7 thereof, the following new sections:—

“6A. (1) Any native, whether in the employment of a non-native or not, may purchase kodi stamps from time to time and when the value of such stamps is equivalent to the amount of tax due from such native, he shall, on surrendering such stamps to a collector, be issued with a receipt for his tax under section 7 of this Ordinance.

(2) Nothing in this section contained shall be deemed to prevent any native from paying his tax wholly in cash or partly in kodi stamps and partly in cash.

~~6B. (1) Where a native is in the employment of a non-native, whether under a verbal or written contract~~

6B. Where a native is in the employment of a non-native, whether under a verbal or written contract of service for a period of one month or longer, or under a thirty days’ contract, and the employer agrees to pay and the native agrees to receive part of the wages due to such native in Kodi stamps, the employer may pay to such native the agreed rate of wages partly in cash and partly in Kodi stamps in the proportion agreed upon between such

Section 2 of the Principal Ordinance which it is proposed to amend:—

2. In this Ordinance, unless inconsistent with the context—

“adult male native” means a male native of the apparent age of eighteen years or over;

“collector” means a district officer and any person appointed by a district officer to assist in the collection of taxes leviable under this Ordinance;

“headman” includes a sub-headman, and a head of a section, clan, village or manyatta;

“hut” means a hut constructed according to native custom or any building used by a native as a dwelling other than those erected and maintained by his employer;

“native” means a native of Africa not of European or Asiatic extraction, and includes a Swahili;

“poll tax” means a payment equivalent to the tax by this Ordinance leviable on huts to be made in any year by an adult male native who has not in respect of such year been liable to hut tax;

“wife” means a wife by marriage or by native law and custom and includes a concubine.

Interpretation.

Short title.

No. 40 of 1934.

Amendment of section 2 of the Principal Ordinance.

Cap. 139.

Amendment of the Principal Ordinance.

Payment of tax by means of kodi stamps.

Employers may pay wages partly in kodi stamps.

~~of service for a month, or under a thirty days' contract,~~
the employer may, when he pays such native any wages
due under such contract, pay to such native the agreed
rate of wages in cash less two shillings which he shall
pay in kodi stamps:

Provided that before paying any part of such wages
in kodi stamps, the employer shall inquire from such
native whether such native has paid his tax for the
current year and if such native has paid the tax and
produces a receipt therefor the employer shall not pay
any further part of the wages due to such native in
kodi stamps.

(2) Any employer who pays to any native any kodi
stamps in excess of the amount of tax payable by such
native, shall, on conviction, be liable to a fine not exceed-
ing five pounds or to imprisonment for one month or to
~~both such fine and such imprisonment.~~

6c. Any kodi stamps ~~purchased by any native or~~
~~received by him from his employer in part payment of~~
wages, shall, on surrender to the court or to a collector,
as the case may be, be taken into account as part pay-
ment of the tax due from such native in any proceedings
instituted for the recovery of tax under section 6 of this
Ordinance, or for the purpose of assessing the amount
due from any native when he pays, or is called upon to
pay, his tax.

Kodi stamps
purchased to be
taken into
account as
part payment
of tax.

OBJECTS AND REASONS

~~The object of this Bill is to give effect to the recom-~~
mendations contained in the Report on Native Taxation.
The kodi stamp system has proved successful and it is pro-
posed to extend the system by making it permissive for em-
ployers of natives to pay a portion of the wages due in kodi
stamps.

No expenditure of public moneys will be involved if the
~~provisions of this Bill become law.~~

AIR MAIL

KENYA

No. 497



RECEIVED
1 SEP 1937
C 2 PEGY

13³²
GOVERNMENT HOUSE
NAIROBI
KENYA

27 August, 1937.

Sir,

38088/27
9

With reference to your despatch No. 564 of the 20th July, on the subject of Questions and Answers in Parliament on the 8th of July, relating to an alleged complaint in regard to the collection of hut and poll tax in the North Kavirondo District, I have the honour to transmit a copy of a letter from the President of the North Kavirondo Central Association, dated the 10th June, addressed to the "Honourable the Commons of the United Kingdom of Great Britain and Northern Ireland in Parliament Assembled". This communication would appear to be the complaint referred to by Mr. Banfield in his first Question.

2. The matters raised by the North Kavirondo Central Association and by Mr. Banfield, have been referred to the District Commissioner, North Kavirondo, and a copy of his reply is enclosed, from which it will be seen that there is no truth in the allegation that the collection of hut and poll tax in this district has been undertaken in such a manner as to cause hardship to natives who are without sufficient means to pay. In particular, I would emphasize that age and infirmity are not in themselves sufficient grounds, either in law or in equity, for exemption from the payment of tax.

3. Between the years 1931 and 1936, the collection of hut and poll tax in the North Kavirondo

District ...

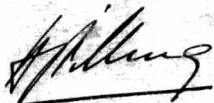
THE RIGHT HONOURABLE
W. ORMSBY GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

District declined from £66,264 to £58,391, in spite of the fact that during the same period the wealth of the natives grew very considerably, partly as a result of the increased production of economic crops, and also from wages earned at the mines. From enquiries made by the Provincial Commissioner in 1936, it appeared that the powers of exemption from the payment of tax were being exercised too freely, and instructions were therefore issued that applications for exemption should be closely scrutinized. The Provincial Commissioner considers, and I agree, that District Officers in the North Kavirondo District, while following out these instructions, have exercised their power of total or partial exemption fairly and with sympathy.

I have the honour to be,

Sir,

Your most obedient, humble servant,



GOVERNOR'S DEPUTY.

June 10th 1937.

North Kavirondo Central Association,

ABALUHYA.

P. O. Box 80,

Kisumu,

Kenya Colony.

To The Honourable the Commons of the United Kingdom of Great Britain,
And Northern Ireland in Parliament Assembled.

Sir,

This Association most humbly and respectfully beg to approach your Honour with a view to inquire into the following matters which, we hope will receive prompt attention and favourable reply:-

1. During 1924 there were a meeting at Marama which attended by the Hon. Chief Native Commissioner, the Hon. Provincial Commissioner, with Captain J.H.Clive District Officer, with another Members of the Mission, regarding the Hut or Poll Tax of the over age men, women, Lame, and blind poor, and that was kindly accepted and were avoided from the tax. but during 1936-37 on Mr. Clive arrival at the North Kavirondo he revoked and the same trouble happened against the poor old men and women.
2. When the tax is collected, the Hon. District Commissioner will collect from the Shs.12/- per head or per hut. And while Mamsahib held her own table collecting from women 6/- to 3/- to 2/- per head or hut, and his seems to be very difficult for a poor people like us. So hope that that you will consider of them. We there for Sir beg to ask your indulgence and to attend the matter, and hope that you will feel of the Old and women grievance to avoid from paying the Tax, as that seems to be a heavy burden on them.
3. ENFORCEMENT. No justifiable a white man to hold a Native Council and Custom, in North Kavirondo District, instead of Native.
4. The Oldmen Picture forward herewith.

(sgd) Andrew Jumba.

President.

North Kavirondo Central Association.

Copy :-

To His Excellence the Governor of Kenya.

ADM.1/81/1

15TH AUGUST,

7.

Sir,

YOUR ADM.18/5 OF 9.8.37.

NATIVE HUT AND POLL TAX - EXEMPTION.

It is a fact that, knowing that it was the policy of Government to receive part payments where previously total exemption had been given for no apparent reason (receipts in triplicate were issued by the Government Printer for this purpose), a serious attempt was made in 1936, to check the fall in receipts from Hut Tax, which fall has persisted since 1930 in North Kavirondo District.

2. Despite this effort the attempt has so far proved unsuccessful (vide your monthly reports on the tax position in the Province).

3. Age and decrepitude are themselves no good reasons for exemption. Many of the infirm are wealthy, and succeed in buying young wives to the detriment of youths who are impesunious.

4. No woman has been imprisoned at Kakamega in 1936 or 1937 for non-payment of Hut Tax, although the numbers of exemptions granted to "widows" have been commented on adversely.

5. In my opinion, for what it is worth, District Officers not only make sympathetic use of their discretionary power, but have in this District been so lenient that the Revenue from the Hut and Poll Tax source has dropped by some £10,000 a year in 7 years: Hence the effort mentioned in para: 1.

6. It has been customary to invite a member of the Association, which has now submitted this Petition, to be present when the revision of exemptions has been undertaken.

7. The allegations made against my wife are untrue.

8. Should you, Sir, wish to emphasize the statistical, as opposed to the moral, side of the argument, you are in possession of the relative figures. Please let me know if there is any further information which I can send you on the subject.

I have the honour to be,

Sir,

Your obedient servant,

Oliver

DISTRICT COMMISSIONER,
NORTH KAVIRONDO.

THE HON. PROVINCIAL COMMISSIONER,
NYANZA PROVINCE,
KISUMU.

JHC/CAN.

R E P O R T
O F

THE SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT UPON THE
PROVISIONS OF A BILL TO AMEND THE
NATIVE HUT AND POLL TAX
ORDINANCE, 1934.

12.

C

Your Excellency, 38088/37

On the 30th day of July, 1937, we were appointed a Select Committee to consider and report upon a Bill to amend the Native Hut and Poll Tax Ordinance, 1934.

2. We held one meeting on the 31st day of July, 1937, and the amendments which we recommend are set out in the annexed Schedule.

3. In view of the general desire amongst the European Elected Members, the Members representing native interests and the Indian Members that there should be no compulsion on a native to accept from his employer Kodi stamps as part payment of the wages, the Government Members of this Committee do not object to the Bill being amended to meet that general desire. Therefore we recommend that sub-section (1) of new section 6B in Clause 3 should be amended so that natives shall only be required to receive part of their wages in Kodi stamps if they consent to do so.

4. Since it is recommended that the payment of Kodi stamps is to be with the consent of both parties, i.e. the employers and the natives, we see no reason -

(a) why there should be any restriction as to the amount of Kodi stamps which can be paid and received as part of the wages;

(b) for the retention of the proviso to sub-section

sub-section (1) of new section 6B and sub-section (2) of new section 6B.

5. We further recommend that sub-section (1) of new section 6B should be amended to apply to contracts for a period of one month or longer and that new section 6C be amended so that any Kodi stamps received by a native can be utilised for the payment of his tax.

We have the honour to be,

Your Excellency's obedient servants,

- H.C.Willan (CHAIRMAN)
- H.R.Montgomery (MEMBER)
- S.H.LA Fontaine (MEMBER)
- F.Cavendish-Bentinck (MEMBER)
- Robert de V.Shaw (MEMBER)
- Geo Burns (MEMBER)
- A.C.L.de Souza (MEMBER)

Nairobi,

3rd. August, 1937.

SCHEDULE

1. That new section 6B in Clause 3 be deleted and the following substituted therefor -

Employers may pay wages partly in Kodi stamps.

6B. Where a native is in the employment of a non-native, whether under a verbal or written contract of service for a period of one month or longer, or under a thirty days' contract, and the employer agrees to pay and the native agrees to receive part of the wages due to such native in Kodi stamps, the employer

employer may pay to such native the agreed rate of wages partly in cash and partly in Kodi stamps in the proportion agreed upon between such employer and such native."

2. That new section 6C in Clause 3 be amended -

- (a) by deleting the word "purchased" from the marginal note thereto; and
- (b) by deleting the words and comma "purchased by any native or received by him from his employer in part payment of wages," from the first, second and third lines thereof.

GOVERNMENT NOTICE No. 413

See over.

THE NATIVE HUT AND POLL TAX ORDINANCE,
1934

NOTICE

IN EXERCISE of the powers conferred upon him by section 3 of the Native Hut and Poll Tax Ordinance, 1934, and all other powers thereunto enabling him, His Excellency the Governor has been pleased to prescribe that the rate of hut and poll tax payable for the year 1937 under the provisions of the said Ordinance shall be Sh. 12:

Provided that—

Any member of the tribe of	Habitually residing in, or whose name appears on the Hut and Poll Tax census roll of	Shall pay at the rate of
		Sh.
Meru and Tharaka	The Meru District	8
Emberre	Emberre Location Embu District	8
Kamba	The Kitui District	9
Massi	The Masai District	10
North Kamasia	The Baringo District	6
South Kamasia	ditto	6
East Suk	ditto	10
Njempha	ditto	10
Elgeyo	The Elgeyo Marakwet District	8
Marakwet	ditto	8
Duruma	The Digo District	6
Digo	ditto	10
Giriama	(a) Bamba, Chakama, Shaka-bola, Sam-ta, Koromi, Kesikieha, Mzungu, Adu Giriama, Aduwasanye, Daganara, Marikaano and Mangan Locations, Kilifi District	8
	(b) Elsewhere in Kilifi District	10
Galla, Pokomo, Boni, Nyika, Shambara	The Tana River District	10
Galla, Boni, Sanye, Kore, Shambara	The Lamu District	10
Turkana	The Turkana District	3
West Suk	ditto	8
Kamba	Kikumbuliu Location, Machakos District	9
Ndigiri Mukogodo II Mwesi	North Nyeri District	8
Korokoro, Malakote and Malululu	Gariisa Area, Northern Frontier District	8

continued
overleaf

GOVERNMENT NOTICE No. 533

THE NATIVE HUT AND POLL TAX ORDINANCE, 1934
NOTICE

IN EXERCISE of the powers conferred upon him by section 3 of the Native Hut and Poll Tax Ordinance, 1934, and all other powers thereunto enabling him, His Excellency the Governor has been pleased to prescribe that the amount of hut and poll tax payable for the year 1937 under the provisions of the aforesaid Ordinance by members of the Kamba tribe habitually residing in, or whose names appear on the Hut and Poll Tax census roll of, the Kilifi and Digo districts, shall be Sh. 10.

Government Notice No. 413 of the 11th day of May, 1937, is hereby amended accordingly.

This Notice shall be deemed to have come into force on the first day of January, 1937.

By Command of His Excellency the Governor.

Nairobi.

This 16th day of June, 1937.

A. DE V. WADE,
Colonial Secretary.

10 *SH*

38088/37

C. O.

- Mr. Flood. 78 *JS*
- Mr.
- Mr.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bolton.
- Sir J. Shackburgh.
- Perm. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.



DOWNING STREET.

13 August, 1937.

Sir,

I have etc. to acknowledge

(8) the receipt of your despatch No.280 of the 19th of May regarding the report on Native Taxation by the Treasurer and the Chief Native Commissioner. I have read with interest the memorandum enclosed in your despatch and I note that it is desired to defer consideration of Recommendations II - IX, XII, and XX, pending the comprehensive investigation into native taxation which has been advised by Sir Alan Pim. I understand that on this matter it is proposed to await the publication of Lord Hailey's report, in the hope that some assistance may be derived therefrom. Inasmuch as the recommendations referred to are mainly against the

introduction

DRAFT.

KENYA

NO. *645*
GOVERNOR

FURTHER ACTION.

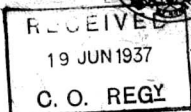
introduction of new expedients, it is the less necessary to take action upon them at present.

2. I am particularly glad to learn that the vexed question of ~~the~~ taxation in respect of extra huts is being considered afresh by a strong Committee which you have appointed, and I agree that action as regards Recommendations X and XI may properly be deferred pending this Committee's report. It is hardly necessary for me to point out that this matter of the taxation of plural huts has been the subject of recommendations from many quarters and it is a matter in which careful consideration is necessary. In regard to native taxation generally you are well aware of the interest which is taken in it, and I am confident that any proposals put forward will be well weighed and such ^{as} ~~as~~ considered equitable.

I have, etc.

(Signed) W. ORMSEY GORE.

KENYA
No. 280



4
8.
GOVERNMENT HOUSE,
NAIROBI,
KENYA.
19 May, 1937.

Sir,

5.
With reference to paragraph 7 of the Governor's despatch No. 234 of the 24th April, on the subject of the Native Hut and Poll Tax (Amendment) Bill, I have the honour to make the following observations on the Report on Native Taxation by the Treasurer and the Chief Native Commissioner, copies of which were transmitted to you with Kenya third personal note No. D/Leg. Co. 26/3/7/57 of the 24th November 1936.

(?) (2) on 38173/5/36
2. I enclose for your information a memorandum showing the action taken or contemplated on the recommendations as summarised in pages 50 to 52 of the Report. The Provincial Commissioners at their meeting held in October, 1936, examined the report in detail and endorsed the recommendations made, subject to certain reservations in connection with Recommendation 1, reference to which is made in the memorandum.

3. The Report has also been considered in Executive Council, and the action which had already been taken in regard to Recommendations XIV, XVI, XVII, XVIII and XIX was endorsed. It was decided to record no expression of opinion at the present stage on Recommendations II to IX, XII and XX, pending the comprehensive investigation into native taxation recommended by Sir Alan Pim.

4. In regard to Recommendations X and XI, a

Committee ...

THE RIGHT HONOURABLE
W. CROMBIE GORE, F.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

Committee has been appointed consisting of the Chief Native Commissioner, the Acting Treasurer, the Hon. Conway Harvey and the Rev. R. G. M. Calderwood, with terms of reference:

"To review and report upon the conditions which led to Sir Alan Pim's recommendation in paragraph 408 I of his Report for 'the reduction of the payment on account of extra huts', and to advise as to the adoption of this recommendation in the manner indicated in paragraph 76 of that Report, or in any modified form; due regard being paid to that part of paragraph 110 of the Walsh/Montgomery Report on Native Taxation which refers to the status of women as taxpayers".

Further action on these two Recommendations will be deferred pending the Report of this Committee.

I have the honour to be,

Sir,

Your most obedient, humble servant,



GOVERNOR'S DEPUTY.

MEMORANDUM ON THE REPORT ON NATIVE TAXATION
BY G. WALSH, C.B.E., TREASURER, AND H. R. MONTGOMERY,
C.M.G., CHIEF NATIVE COMMISSIONER.

The following notes refer to the recommendations summarised in pages 50 to 52 of the Report.

2. RECOMMENDATION I. Two Provincial Commissioners considered this figure of £550,000 to be on the high side. In view of Sir Alan Pim's recommendation, which has been put into effect, that natives under the age of 18 years should not be required to pay poll tax, the amount must be reduced by £25,000 to £525,000. Acceptance of the further proposals for the reduction of the plural hut assessment would also affect the position. It will be observed that the reduced sum of £525,000 is suggested as representing a fair annual contribution, and not as an estimate of the amount to be collected in 1937 or subsequent years.

3. RECOMMENDATIONS II, III, IV, V, VI, VII, VIII, IX, XII AND XX. Consideration has been deferred pending a comprehensive investigation of native taxation as recommended by Sir Alan Pim.

4. RECOMMENDATIONS X AND XI. Vide paragraph 4 of the covering despatch.

5. RECOMMENDATION XIII. The present system of native direct taxation by means of a hut and poll tax will be retained pending the comprehensive investigation into native taxation referred to above.

6. RECOMMENDATIONS XIV AND XVII. In this connection reference is invited to correspondence terminating with the Secretary of State's telegram No. 110 of the 8th May, on the subject of the Native Hut and Poll Tax (Amendment) Bill, 1937. The question of improving the design for the stamp collecting card will receive consideration in connection with the 1938 tax, and it

is proposed to retain the monthly circulars of stamp issues, sales and cancellations.

7. RECOMMENDATION XV. No objection is seen to the proposals made in this recommendation and administrative action to put them into effect is being taken.

8. RECOMMENDATION XVI. This proposal was also suggested by Sir Alan Pim, and has been accepted by Government, provision having been made in the 1937 Estimates for the appointment of two district Revenue Officers. The desirability of extending the principle of tax collection by revenue officers in 1938 is receiving consideration at the present time, as the result of recommendations made by a Committee appointed to consider the recommendations of Sir Alan Pim for provincial and district reorganisation.

9. RECOMMENDATION XVIIII. It will be recollected that the appointment of local ad hoc exemption courts to deal with applications for remission of tax in individual cases was also recommended by the Commission appointed to enquire into abuses in the collection of native hut and poll tax. District Officers have been instructed that this procedure should be adopted in all cases, subject to any variation which may be necessary to meet local conditions.

10. RECOMMENDATION XIX. Instructions have been issued that this recommendation should be followed.

11. RECOMMENDATION XXI. This proposal has not been accepted by Government in view of the recommendation of Sir Alan Pim, which has been put into effect by the Native Hut and Poll Tax (Amendment) Ordinance No. 46 of 1936, that natives under the age of 18 years should not be required to pay poll tax.

308
L W

38088/37.

7

C. O.

Mr. Flood. 6.5

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomkinson.

X Sir C. Bottomley 6.5

Sir J. Shuckburgh.

Permt. U.S. of S. 7/5

Party, U.S. of S.

X Secretary of State. 6/8.5.37

C.D.
R 10MAY
10

AIR MAIL.

11 May, 1937.

DRAFT.

Sir,

KENYA.

NO. 389

Governor.

I have etc. to acknowledge

the receipt of your despatch No.234

of the 24th of April on the subject of

the Native Hut and Poll Tax (Amendment)

Bill, 1937, and to confirm my telegram

of the 14th ^{of} ~~May~~ in which I informed

you that I agreed to the introduction of

the Bill as proposed by you.

2. ^{while it may} ~~It does~~ appear anomalous

that a native employee should not have

the right to receive his wages ^{in full} in cash

but should be compelled to accept part

of them in the form of a "kodi" stamp.

~~But~~ I recognise the force of the argument

adduced and I note that the intention

of

FURTHER ACTION.

of the proposal is to stop a prevalent method of tax evasion. I accordingly agree that the provision may remain as drafted.

3. I note that the date on which proceedings are taken for the recovery of tax is left to the discretion of the District Officers concerned, and I am satisfied that this should be so.

^{also} I note that further consideration will be given to the imposition of an automatic penalty for late payment [and Mr. Montgomery has stated in conversation that he understands that it is likely that the suggestion will be dropped altogether.]

I have, etc.

(Signed) W. ORMSBY GORE.

? Omit. I don't suppose we should be making trouble for Mr. M., but one never knows.
I agree. WOG
Chit
Jm
#

AIR MAIL

KENYA
No. 234

RECEIVED
3 MAY 1937
C. O. REGY.



GOVERNMENT HOUSE
NAIROBI
KENYA

24 April, 1937.

Sir,

With reference to your despatch No. 238 of the 18th March, on the subject of native taxation, I have the honour to make the following observations on the points raised by you in connection with the Native Hut and Poll Tax (Amendment) Bill, 1937.

2. Your suggestion that the native employee should be given the option of receiving all his wages in cash should he so desire, would, if adopted, tend to nullify the Bill. Clause 6 B is designed to ensure that all natives in employment shall pay the tax by a certain date. The kodi stamp system has, during the year in which it has been in operation, proved an unqualified success; it has been welcomed by employers and by the natives, and a measure of its popularity is the fact that during 1936 no less than 1,560,654 stamps were sold, while during the first two months of this year, sales amounted to 331,662 stamps. In so far as the majority of natives in regular employment is concerned, the monthly payment of a small part of their wages in stamps would be effected without difficulty, pressure or hardship. It is of assistance to the native accumulating his tax, and the system does in fact operate by mutual agreement at the present time without legislation.

3. ...

THE RIGHT HONOURABLE
W. ORMSBY GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

Amal - (7)

38 576

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3. In the case of employed natives who deliberately attempt to evade their obligations and who frequently change their place of employment in order to escape taxation, the same considerations do not apply; if these are given the option of refusing part payment of wages in stamps they will naturally do so, thereby entirely defeating the object of the bill which is to prevent tax evasion, and not in any sense to impose onerous conditions on the willing taxpayer. Moreover, it is surely preferable that a certain degree of compulsion should be exerted in the case of a native who is either anxious to avoid payment, or who has neither the will to accumulate money for tax, nor the means to pay in a lump sum, rather than that proceedings for recovery of tax should be instituted later in the year, with the almost inevitable sequel of a term of imprisonment or detention. There can be no doubt which course is the more desirable: the one tends to inculcate habits of thrift and responsibility by helping the native to save money for his tax in a form that cannot be squandered, while the other encourages improvidence and the shirking of obligations. These remarks on the element of compulsion in Clause 6 B of the bill do not apply to the majority of taxpayers, but unfortunately it is very necessary in this case to legislate for the minority although, as I have attempted to show, this can be done without affecting the native who is prepared to meet his liabilities.

4. Turning now to the question of the date after which tax is recoverable by distress, it is not the intention that any native, in employment or otherwise, ...

49

thus secure immunity from prosecution until September. Equally, it would be most unfair that a native living in an area where tax is paid in October or November should be liable to proceedings in September, even though he might have purchased ten kodi stamps. Admittedly these are extreme cases, but they are by no means improbable, and will serve to illustrate the difficulties inherent in any attempt to limit the powers of discretion given to District Officers in the matter.

6. I agree that further consideration as to the imposition of an automatic penalty for late payment should be postponed until a later date, but in view of the considerations set out in this despatch I hope you will agree to the introduction of the remainder of the Bill without amendment. It would be desirable to proceed in the matter as early as possible, and I shall be glad therefore to receive your approval by telegram.

7. The Report on the alleged abuses connected with the collection of hut and poll tax was dealt with in Mr. Wade's despatch No. 91 of the 6th February, and a further communication will be addressed to you in due course on the subject of the Report on Native Taxation by the Treasurer and the Chief Native Commissioner.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R Brooke-Popham

AIR CHIEF MARSHAL.

G O V E R N O R.

38088/1/37

38088/1/27

See (8)

4

C. O.

Mr. Flood 5/3/37

Mr. Dale S.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

X Sir C. Bottomley. 8/3

Sir J. Shuckburgh.

Permt. U.S. of S. 9/3

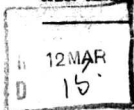
Parly. U.S. of S.

X Secretary of State.

Any done?
on 11-3-37

Ans 5

AIR MAIL



Downing Street,
18 March, 1937.

Sir,

DRAFT.

N^o 1

KENYA.

NO. 238

C.A.G.

I have etc. to acknowledge the receipt of your despatch No.36 of the 12th of January forwarding copies of Ordinance No.46 of 1936 entitled "An Ordinance to amend the Native Hut and Poll Tax Ordinance, 1934" and to inform you that His Majesty will not be advised to exercise his power of disallowance in respect thereof.

2. I also have to acknowledge the receipt of your despatch No.90 of the 6th of February forwarding copies of a Bill which you propose to introduce into the Legislative Council with a view to giving effect to some of the recommendations in the Report on Native

N^o 2

FURTHER ACTION.

Taxation

Taxation which was prepared by the Treasurer and the Chief Native Commissioner.

3. Copies of the Report in question have been received in this Office but so far I have not received any comment ^{upon it} from Govt. ~~on the~~ Report. No doubt you wish to await the arrival of the new Governor and further comment would, in any case, have been difficult while the discussions concerning Kenya's finances were taking place at the end of last year. I shall expect, however, to receive in due course the observations of Government upon that report as well as upon the report on the alleged abuses connected with the collection of Hut and Poll Tax.

4. In regard to the Bill I wish to make a few comments. I have no objection to the adoption of the system of 'Kodi' stamps as proposed in the Bill, but I suggest that it would be desirable to give the native employee the option of receiving payment partly in stamps. As the Bill stands the employer has the option of paying 2/- a month in stamps and the remainder in cash, but the employee

C. O.

- Mr.
- Mr.
- Mr.
- Sir C. Parkinson.
- Sir G. Tomlinson. ~~AA24~~
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Perm. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.

has not got the option of receiving all his wages in cash should he so desire. I think you will recognise that this requires ^{further} consideration.

5. Further, it appears that under Section 6(1) of the Principal Ordinance tax becomes due on the 1st of January in each year and is recoverable by distress if not paid before the 31st of January. Apparently it is now proposed to allow the taxpayers up to the 31st of August, though without any alteration of Section 6(1). I presume that it is not intended that any native employee who is engaged in paying off his tax by 'Kodi' stamps shall be liable to proceedings for non-payment at the end of January and no doubt arrangements can be made accordingly, but the law would appear to require amendment.

AIR MAIL
KENYA
No. 90

RECEIVED
17 FEB 1937
C. O. RECY



GOVERNMENT HOUSE
NAIROBI
KENYA

6 February 1937.

Sir,

(1) on 38033/37

With reference to Mr. Pilling's despatch No. 36 of the 12th January, I have the honour to transmit a copy of a Bill to amend the Native Hut and Poll Tax Ordinance, 1934, for your consideration and approval, with a view to its introduction into the Legislative Council.

(8) on 38072/36

2. It will be observed that the object of this Bill is to give effect, with modifications, to certain of the recommendations contained in the Report on Native Taxation by the Treasurer and the Chief Native Commissioner, copies of which were forwarded to you with Kenya third personal note No. D/Leg.Co. 26/3/7/57 of the 24th November 1936. The Report has been considered by the Provincial Commissioners who have advised that the recommendations made should be approved in principle.

3. It was recommended in paragraph 137 of the Report that legislation should be introduced making it mandatory on employers to provide, and on employees to purchase, two Sh. 1/- kodi stamps in respect of each month of the first six months of the year, in lieu of the cash equivalent of the monthly salary; furthermore, that the legal responsibility for affixing these stamps to the collecting card should attach to both parties.

4. It was argued by the Treasurer and the Chief Native Commissioner, with whose views I am in agreement, that by this means a sixth part of the total native hut and Poll tax of the Colony would be paid at the end of

June' ...

THE RIGHT HONOURABLE
W. GRIMSBY GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

June in each year, without any expenses of collection, and without any risk of keeping more than one-sixth of the total sum estimated to be paid each year by natives in permanent employment, out of circulation at any given time. Furthermore, a native would pay his tax almost imperceptibly and the employer would be free from any anxiety on the ground that he might suddenly be deprived of a large number of his labourers owing to their being prosecuted for tax default.

5. On consideration of this recommendation in detail, however, and after consultation with the Provincial Commissioners, it did not appear desirable or politic to introduce any element of compulsion. Sub-Clauses 6 D (1) and (2) of Clause 3 of the Bill therefore incorporate this recommendation in a modified form by making the transaction permissive, with a proviso designed to prevent the part-payment of wages in kodi stamps either in excess of the amount of tax payable by the native or when the native has paid his tax for the current year.

6. The second recommendation made by the Treasurer and the Chief Native Commissioner, and embodied in the Bill, is referred to in paragraph 155 of the Report, dealing with the imposition of an automatic penalty of Shs. 2/- in respect of each tax unpaid by the 31st July of any year.

For the reasons given by the writers of the report, I agree that the imposition of an automatic penalty of Shs. 2/- is justified in principle. Sub-Clause 6 D (1) of Clause 3 has been drafted accordingly. The justification for this is explained in paragraph 155 of the Report, which reads:-

"The imposition of an automatic penalty or fine conforms not only with the procedure followed in respect of default in local non-native taxation, but it is also in accordance with the practice in respect of direct native taxes in certain other territories

In this Clause the recommendation of the Committee has been modified in that the date after which liability for penalty arises has been extended to the 31st August. The reason for this is that under Section 3 (2) of the Employment of Natives Ordinance, Cap. 139, Laws of Kenya, a native is allowed forty-two days in which to complete a thirty-days contract. It is possible therefore, that a series of six contracts of thirty days each commencing on the 1st January might not be completed until approximately the 9th September, during which period twelve Sh. 1/- kodi stamps would be paid, equivalent to the normal rate of tax. While it is unlikely that the full time would, in practice, be taken, I consider that it is desirable to extend the period of grace from the 31st July to the 31st August.

7. Sub-Clause 6 D (2) of Clause 3 in effect prescribes, inter alia,

(a) that the penalty for late payment shall be deemed to form part of the tax in proceedings for the recovery of such tax;

(b) that the Governor may exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the penalty, as is the case in respect of tax, under Section 9 of the Principal Ordinance;

(c) that a District Officer may remit the penalty in the circumstances of Section 8 of the Principal Ordinance.

It is necessary that the Governor's powers under Section 9 of the Principal Ordinance should be extended to include the penalty, in order to obviate the anomaly of a native belonging to a tribe paying a reduced rate of tax, being saddled with a disproportionate penalty.

8. Sub-Clauses 6 A (1) and (2) of Clause 3 merely give legal sanction to the existing system of the payment

of tax by means of kodi stamps, the details of which are described in paragraph 132 of the Report on native taxation.

9. The Bill has been considered in Executive Council, and approved for introduction into the Legislative Council, subject to your prior sanction having been obtained. It is desired to proceed with the Bill as early as possible, and I shall be glad to receive your approval by telegram.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Adilwade

ACTING GOVERNOR.

A BILL TO AMEND THE NATIVE HUT AND POLL TAX ORDINANCE,
1934.

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

Short title.

1. This Ordinance may be cited as the Native Hut and Poll Tax (Amendment) Ordinance, 1937, and shall be read as one with the Native Hut and Poll Tax Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

No.40 of 1934.

Amendment of Section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by inserting therein the following new definitions:

" 'kodi stamp' means a revenue stamp of the value of one shilling issued by the Government of the Colony for the purpose of this Ordinance;
'thirty days' contract' has the meaning assigned to it in the Employment of Natives Ordinance or any Ordinance amending or replacing the same."

Cap.139.

Amendment of the Principal Ordinance.

3. The Principal Ordinance is hereby amended by inserting therein, between sections 6 and 7 thereof, the following new sections:

"6A. (1) ~~Nothing in this Ordinance shall prevent any native from paying his tax wholly in ...~~
Any native, whether in the employment of a non-native or not, may purchase kodi stamps from time to time and when the value of such stamps is equivalent to the amount of tax due from such native, he shall, on surrendering such stamps to a collector, be issued with a receipt for his tax under section 7 of this Ordinance.

(2) Nothing in this section contained shall be deemed to prevent any native from paying his tax wholly in ...

in cash or partly in kodi stamps and partly in cash.

6B.(1) Where a native is in the employment of a non-native, whether under a verbal or written contract of service for a month, or under a thirty days' contract, the employer may, when he pays such native any wages due under such contract, pay to such native the agreed rate of wages in cash less two shillings which he shall pay in kodi stamps:

Provided that before paying any part of such wages in kodi stamps, the employer shall enquire from such native whether such native has paid his tax for the current year and if such native has paid the tax and produces a receipt therefor the employer shall not pay any further part of the wages due to such native in kodi stamps.

(2) Any employer who pays to any native any kodi stamps in excess of the amount of tax payable by such native, shall, on conviction, be liable to a fine not exceeding five pounds or to imprisonment for one month or to both such fine and such imprisonment.

6C. Any kodi stamps purchased by any native or received by him from his employer in part payment of wages, shall, on surrender to the court or to a collector, as the case may be, be taken into account as part payment of the tax due from such native in any proceedings instituted for the recovery of tax under section 6 of this Ordinance, or for the purpose of assessing the amount due from any native when he pays, or is called upon to pay, his tax.

6D.(1) In addition, and without prejudice, to the provisions of section 6 of this Ordinance any native, who has failed to pay the tax due from him in any year by the thirty-first day of August in that year, shall if he pays his tax after that date be liable to pay a penalty of two shillings in addition to the tax due.

(2) The penalty prescribed under sub-section (1) of this section shall be deemed to form part of the tax for the purposes of sub-section (2) of Section 6 and for the purposes of Sections 7, 8 and 9 of this Ordinance."

OBJECTS AND REASONS.

The object of this Bill is to give effect to the recommendations contained in the Report on Native Taxation. The Kodi stamp system has proved successful and it is proposed to extend the system by making it permissive for employers of natives to pay a portion of the wages due in Kodi stamps. With a view to accelerating the payment of tax it is also proposed to impose an automatic penalty if the tax is not paid by the 31st August of any year.

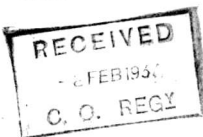
No expenditure of public moneys will be involved if the provisions of this Bill become law.

KENYA.

No. 36



GOVERNMENT HOUSE,
NAIROBI,
KENYA.



12 January 1937.

Sir,

I have the honour to forward two authenticated and twelve printed copies of Ordinance No. XLVI of 1936, entitled An Ordinance to Amend the Native Hut and Poll Tax Ordinance, 1934, together with a Legal Report thereon by the Attorney General.

2. This Ordinance passed its third reading in the Legislative Council on the 30th December 1936, and the Acting Governor assented to it in His Majesty's name on the 31st December 1936.

I have the honour to be,

Sir,

Your most obedient, humble servant,

ACTING GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE
W. ORMSEY GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

Amal - (4)

LEGAL REPORT

THE NATIVE HUT AND POLL TAX (AMENDMENT)
BILL, 1936

Clause 2 of the Bill is designed to give effect to the recommendation contained in the Report of the Special Commissioner, Sir Alan Pim, that natives under the age of eighteen years should not be required to pay poll tax.

Clauses 3 and 4 of the Bill give effect to the suggestions of the Secretary of State contained in his Despatches No. 966 of the 20th November, 1934, and No. 149 of the 3rd March, 1936.

No. 17 on 23040/34
No 2 on 38068/36

No Comparative Table accompanies the Bill since the amendments contained therein are not modelled on any Colonial Ordinance or Imperial Act. A copy of the Bill, however, showing the sections of the Principal Ordinance which it is proposed to be amended or replaced is enclosed for transmission to the Secretary of State.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
30th December, 1936

W. H. G. -
ATTORNEY GENERAL

C O P Y
O F
THE NATIVE HUT AND POLL TAX (AMENDMENT) BILL,
1936 SHOWING THE SECTIONS OF THE NATIVE HUT
AND POLL TAX ORDINANCE, 1934 WHICH ARE PROPOSED
TO BE AMENDED OR REPLACED

COLONY AND PROTECTORATE OF KENYA



A BILL TO AMEND THE NATIVE
HUT AND POLL TAX ORDINANCE, 1934

1585-75c. C.C.—29-13-36

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

The definition of "adult male native" in section 2 of the Principal Ordinance which it is proposed to amend—

2. In this Ordinance, unless inconsistent with the context—

"adult male native" means a male native of the apparent age of sixteen years or over;

Section 4 of the Principal Ordinance which it is proposed to replace.

4. (1) Every native being the owner or occupier of a hut in any district in the Colony shall pay a tax (hereinafter referred to as "the hut tax") for each year at the rate prescribed under section 3 of this Ordinance in respect of each hut owned or occupied by him or her in such district during any portion of that year:

Provided that every male native shall be liable for tax in respect of any hut or huts owned or occupied by his wife or wives.

(2) If a native has one wife he shall pay one tax, if he has more than one wife he shall be deemed to be the owner of a separate hut in respect of each wife.

Hut Tax.

A Bill to Amend the Native Hut and Poll Tax Ordinance, 1934.

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 Native Hut and Poll Tax (Amendment) Ordinance, 1936, and shall be read as one with the Native Hut and Poll Tax Ordinance, 1934, hereinafter referred to as the Principal Ordinance and shall come into operation on the first day of January, 1937.

Short title and commencement.
No. 40 of 1934.

2. Section 2 of the Principal Ordinance is hereby amended by substituting the word "eighteen" for the word "sixteen" which occurs therein in the definition of "adult male native".

Amendment of section 2 of the Principal Ordinance.

3. Section 4 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 4 of the Principal Ordinance.

"4. (1) Every native being the owner or occupier of one or more huts in any district in the Colony shall pay a tax (in this Ordinance referred to as "hut tax") for each year at the rates prescribed under section 3 of this Ordinance in respect of each hut owned or occupied by him or her in such district during any portion of that year:

Hut Tax.

Provided that if a male native has more wives than huts he shall be deemed to be the owner of a separate hut in respect of each wife.

(2) Every male native shall be liable for the hut tax in respect of any hut or huts owned or occupied by his wife or wives."

Section 6 of the Principal Ordinance which it is proposed to amend.

Taxes when payable.

6. (1) The amount due from each native for hut tax or poll tax shall become due and payable on the first day of January in each year, and shall, if not paid on or before the thirty-first day of January in that year on conviction be recoverable by distress at any time after the latter date, and in default of distress the Court may order imprisonment or detention for any period not exceeding three months:

Provided that if on conviction the Court is unable to ascertain the whereabouts of any property of the person so convicted the Court may, if it thinks fit, instead of issuing a warrant of distress, commit such person to prison or to detention in a detention camp for any period not exceeding three months unless the hut or poll tax, as the case may be, is paid immediately or within such period as the Court may order:

And provided further that any hut or huts in respect of which the tax has not been paid or recovered by distress on or before the thirtieth day of September in the year next following that in which the tax became due shall be liable to be forfeited to the Government of the Colony.

(2) Whenever proceedings are taken for the recovery of any tax under this Ordinance, it shall be lawful for the court to order the person in default to pay such sum in respect of court costs, not exceeding in any case six shillings, as the court in its discretion may determine.

4. Section 6 of the Principal Ordinance is hereby amended by the addition thereto of the following new sub-section:—

Amendment of section 6 of the Principal Ordinance.

“(3) Notwithstanding the provisions of sub-section (1) of this section whenever in proceedings for the recovery of tax under this Ordinance any person liable to pay such tax proves to the satisfaction of the Court that he is without sufficient means to pay the whole amount of such tax the Court may make an order remitting the whole or a portion of such tax as the case may require and the person in respect of whom such order is made shall be relieved from liability to pay such portion of the tax and for the period specified in such order.”

OBJECTS AND REASONS

Clause 2 of the Bill is designed to give effect to the recommendation contained in the Report of the Special Commissioner, Sir Alan Pim, that natives under the age of 18 years should not be required to pay hut or poll tax, and that doubts have arisen as to the interpretation of section 4 of the Principal Ordinance, and the object of Clause 3 of this Bill is to replace that section and to make it clear that, if a native has more wives than huts, he must pay a tax in respect of each wife and if he has more huts than wives, he must pay a tax in respect of each hut.

Clause 4 is designed to give to the Court power to remit the whole or any portion of the tax due if the defaulter proves that he is without sufficient means to pay.

If the provisions of this Bill and of the Northern Frontier Province Poll Tax (Amendment) Bill become law there will be a loss of approximately £25,000 per annum.