

38054

1938

CO 533/490
KENYA

38054

INCOME TAX

(POLICY)

CLOSED
UNTIL

1970

Previous			
		R 297	
		M: Parnell	26/11
		M: Freston	25
		Th. Gregory	1/12
1937		297	8/12
	also see 380524/4/37	309	26/12
Subsequent		Mr. Parkin	1
		P98	12/1
		P89	12/1
		Mr. Freston	25
297	17/38	Mr. Dore	18
Mr. Parkin		Sir J. Shuckling	12/1/38
	297	S.S.	21
309	29/4	Mr. Freston	25
Mr. Parkin	29	C.D.	23/1
Sir C. Bostonly	2/5	R 299	23/1
Mr. Gregory	2/5	Mr. Dore	25-1
Sir C. Bostonly	3/5	98	
R 297	24/9		
309	24/9		
Mr. Parkin	26/9		
297	24/9		
Mr. Lawson	24/9		
Sir J. Campbell	24/9		
1938			

1. Extract from letter from Sir Robert Brooks-Popham to S. of S
dated 19.2.38

2. To Sir R Brooks-Popham (read) (EXTRACT) 10.3.38

ML

3. Extract from the Times - 27.11.38

One of the first acts of the unfortunals in the
new Leg. Co. is to set the Income Tax ball rolling
- one more! Doubtless we shall hear more
of this shortly. ? Put by.

Clothes while
29/4

to Sir Popham

The S. of S. may
care to see this

J.P. Popham
29/4

Under the plan set out in
38054/4/37, I.T. was to have two of last
three years back, and it may be significant
that of the two authors of the plan Lord
Scott is not with the King & King

Program is not now on the Council
But I think all they want is that
the progress of I.T. shall be watched
carefully, and the only difference between
them & the Govt (see para: 4 of no: 1
in the same sub-file) is whether there
should be an ad hoc Committee or
the Standing Finance Comtee or
the watching. I do not suppose there
will be any difficulty in persuading
Members that the latter is good
enough.

W.P.D. 2/5/38
Rev W.P. 2.5.38

ML

Has 12 copies of Report on the Operation of the Income Tax Ordinance 1937. (Spares to Library)

This report by the Comm^r of Income Tax is most interesting. The operation of the Tax has exceeded all expectations, both as regards yield and as regards the number of persons liable to the Tax. When the Ordinance was passed it was expected to bring in £43,500 paid by 900 individuals & 400 companies. Already approximately 4000 persons are already contributing to the Colony's revenue through the Tax, and the total yield to 30th June 1938 is £103,425.

Of this total £40,023 or 38.6% was assessed on non-residents. There are still a number of liabilities which remain undiscovered, and it is estimated that the final yield in respect of the assessment years 1937 will be £105,000
38 110,000
39 115,000

Cash already received on account of the 1937 assessment amounted to £58,862 at the 30th of June, and of which only £18,163 was received during 1937. The estimated cash yield in the calendar years 1938 & 39 is £102,500 and £134,500 respectively.

The tax has been paid with promptitude, & its cost of collection for 1938 is estimated at £7,927 or 7.5% of the yield.

There is no evidence of attempts being made to avoid the tax by transferring businesses to the neighbouring territories.

? Mr Clouston } to see, & put by.
Sir J Campbell }

Clothe, Mule 20/1

The tables showing the incidence of the tax on the main trade groups are very interesting.

J. G. Brown 26/9 above

Interesting & not unexpected. I always thought that the opposition to income tax was just blind.

I ought, however, to call attention to one point. As the Comm^r emphasizes the calculations of yield in future years set out above are based on the assumption that the general economic condition of the country remains steady. It is true that 1937 was a boom year & unlikely to be repeated for some years to come. Yields for 1938, 1939 etc. are therefore likely to be below those estimated above, but I shall hate to say how much below.

G. L. A. Clouston 29/1/38

think: next including.

20/1/38

5. A. S. L. Young. 16/11/38 4
The further letter from manager of Swift Rutherford and Co.
showing a state of dissatisfaction among Kenya settlers.
✓ To A. S. L. Young. - (5 ackd.) 17/11/38
~~Mr. [unclear]~~

DESTROYED UNDER STATUTE

attach a further letter from Mr A.S.L. Young, M.P., regarding income tax in Kenya. His previous letter about Mr George Warren's complaint was, if I remember aright, referred to the Governor for advice as to the reply.

I do not know what we are expected to do with the present letter from Mr Rutherford, but you should see, and perhaps you would let me know what further reply Mr MacDonald should send?

J. Casey

17.11. '38

✓ 297.
This all the placed on the Income Tax policy, & minutes to me.

J. J. Carson
7/11

As Mr. Rutherford is a member of the Taxpayers' Protection League, it is natural that he should hold the views expressed in this letter, but I very much doubt whether they can be regarded as indicating ^{such} a general state of dissatisfaction amongst the settlers of Kenya on the subject of income tax, ^{as is suggested.} In the cuttings from the 'East African Standard', which are enclosed, the tax is now attacked as "a tax on capital", and ^{this argument} is developed in connection with the campaign for further financial assistance by the Government for the agricultural industry.

I suppose the argument is that, in the absence of cheap credit facilities, the settlers ought to be allowed to retain as much as possible of their profits (instead of having to pay them out as income tax) in order to put back into their business.

The printed manifesto of the Taxpayers' Protection League trots out the old allegations that the assurances which were given to the Elected Members, as an inducement to getting them to acquiesce in the imposition of income tax, have not been fulfilled. This was the line taken by Lord Francis Scott when he was here in the summer of 1937 and, as pointed out in my minutes on 38054/37, completely ignores the fact that the assurances given were not the same as those asked for. It also includes a reference to the "Moyné Formula" which, as pointed out in these minutes, meant something entirely different from what was alleged by the Elected Members.

We have not yet received the report of the Committee which was appointed to review the operation of income tax, but we have heard semi-officially that practically no advantage was taken of the invitation to dissentients to express their views before the Committee. This in itself is an indication that the objections to income tax are not so widely held as is alleged in this letter.

I do not think that any long reply is called for, but Mr. Creasy might now perhaps return the enclosures to Mr. Young's letter (retaining a copy of Mr. Rutherford's letter), saying that the Secretary of State has read it and the enclosed newspaper cuttings with interest, but that pending the receipt of the report of the Committee which has recently been reviewing

reviewing the operation of income tax in Kenya, the Secretary of State is unable to accept the view that there is such general widespread opposition to this tax as is alleged.

J.J. Pascoe
26.11.38

W. Hunt
2

To A.S.L. Young - (Young's letter to S) - Summary - 30.11.38.
DESTROYED UNDER STATUTE
2X

Governor 688

30/11/38
Encs two press cuttings on subject of Income Tax and points out two statements made by Major Grogan which he would like to be able to refute or confirm, should necessity arise

All of the many papers relating to this question are not available. The material set out below would, however, appear to be sufficient on which to base a reply to the Governor's despatch.

Major Grogan's first statement is that Lord Harlech undertook "that if income tax is to persist in Kenya, the proper commercial interests of Kenya shall be protected by its similar application to Uganda and Tanganyika."

Prior to the introduction of income tax in Kenya an assurance was given to the Unofficials, in a letter from Mr. Pilling to Lord Francis Scott of the 30th December, 1936, in the following terms:-

Encl. to 18 on 36008/2/36: see 3rd page of first minute on 36054/37.

"The Secretary of State will not fail to give weight to the Elected Members' views that income tax in Kenya should be followed by income tax in the adjoining territories. No change, however, can now be made which would affect the budgets of those territories in 1937: moreover, the enactment of income tax in those territories must depend on local conditions. Their Governments have undertaken to take such steps as may be necessary to prevent evasion of Kenya income tax."

Lord Harlech made plain on many occasions that he regarded the imposition of income tax in Uganda and Tanganyika (as well as in other colonies) as the most desirable and equitable form of taxation; but he was not prepared to force its imposition against the opinions of the Governments concerned. So far, it has not been found practicable to introduce the tax in either Tanganyika or Uganda. (See ~~3 on 46590/38~~). It has, however, been understood all along that, if evasion takes place in Kenya, the necessary legislative steps will be taken in Uganda to stop it.

On several occasions in the past there have been signs that the Unofficials in Kenya would like to give a wider construction to this assurance than it will bear. The suggestion has been made that a definite undertaking has been given that income tax will be introduced in Tanganyika and Uganda. The following extracts are taken from letters in which the correct position has been laid down.

In

In a letter of the 22nd February, 1937 the Secretary of State wrote to Lord Francis Scott:-

"I have said in public that I think income tax is a sound and equitable form of taxation. I still think so, and I think it is one which can quite well be applied in East Africa. (It by no means follows that the rates of taxation, or the allowances, or such points of detail ought to be the same as in this country, or even as proposed in the Bill published in Kenya last October)"

At No. 7 on 46590/37 is registered the letter from Lord Harlech to the Governor of the 31/8/37, from which the first of the two extracts quoted in this despatch is taken. On 5/9/37 Sir Cosmo Parkinson wrote to Lord Francis Scott:-

"As to income tax, I know of no undertaking at all that if there is income tax in Kenya there must be a similar tax in Uganda and Tanganyika. I know that the Secretary of State regards income tax in principle as entirely sound, but, as with so many things in colonial administration, it is not to be assumed that what fits colony X will necessarily fit colony Y. An undertaking which I do know of is that if, owing to the absence of similar legislation in Uganda and Tanganyika, evasion takes place in Kenya, the neighbouring Governments will certainly take steps to remedy that."

Finally, on the 9th October 1937 Sir Cosmo Parkinson wrote a letter to the Governor from which the second extract in the despatch is taken. A copy of the relevant part of that letter is to be found at 5 on 38054/37.

? These extracts should be included in a despatch in which the Governor is authorised to quote any or all of them as he thinks fit.

Copy on 38008/2/37: See minute of 22/9/37 on 38054/37, flagged.

Original on 38008/37. Relevant extract at 2 on 38054/37.

See, respectively,
2 on 46590/38 and
3 on 46590/37

* is not "will be applied"

Major Grogan's second statement is that Lord Harlech "left it on record for his successor that he had given me an assurance that the issue should receive de novo consideration. We discussed at considerable length what form of Court should be set up to adjudicate upon the issue." Lord Harlech's record of this discussion with Major Grogan is at 3 on 38054/4/37. On the second page of that record there appears the first of the two passages, quoted in the despatch, from Lord Harlech's letter to the Governor (at 4 on that file), informing the Governor of what was said at that discussion. In the record of the discussion, however, the word "absolutely" appears before the phrase "impartial outside enquiry;" this word was not included in the letter. Beyond ~~the~~ phrase "absolutely impartial outside enquiry" there is no mention of how the enquiring body should be constituted: it seems that the term "Court of Adjudication" has been invented by Major Grogan.

(if it can correctly be so called)
The assurance given by Lord Harlech was that the enquiry should take place after income tax "had been given a fair trial." In the sixth paragraph of 1 on 38054/4/37, the Governor states that he would want the facts and figures of two or even three years working of the income tax, before he could come to a conclusion as to the desirability of its continuance. In the letter to the Governor at 4 on that file the Secretary of State wrote:-
(last paragraph but two) "to examine the question again by an impartial authority after the tax has been allowed to work for a few years could hardly invoke adverse comment." From this it would seem that a "fair trial" has been agreed to

mean

mean a period long enough for the figures of at least two years working to be available.

? Inform the Governor accordingly.

Clough, H. H. L.

28. 12. 38.

9 Governor 4 _____ 5/1/39
Requests early reply to Nos. Draws attention to statement published in East African Standard regarding Question and Answer in House of Commons, and requests information as to exact position

[I understand that this file, which was sent on on 28/12/38, got mislaid in the move: the Registry has now reattached the relevant files]

The ~~file~~ referred to is at (1) in the file: a copy of the Question and Answer has already been given to Kenya Lt.

The Gov is no doubt anxious to be quite clear as to whether he or the Sops is to authorise any future enquiry into the income tax enquiry - the suggestion which was made in 1937, & turned down by Lord Harlech (4 on 38054/4/37) that the decision as to the continuance or abolition of the income tax after it had received its "fair trial" should be left in the

the hands of the Gov. His suggestion
having been turned down the Gov is, it seems,
particularly desirous of being quite sure of
his ground when meeting requests in leg
to a elsewhere for further ~~enquiry~~
of the enquires into the subject.

As is seen from the quotation at X/ in
the previous minute, the Gov was informed
by D Havel that he (D Havel) was not adverse
to allowing the Kenya income tax to be
examined by an impartial enquiry after it
had had its fair trial. But this scarcely
amounts to an authorisation to the Gov
to appoint such a ~~committee~~ of enquiry entirely
of his own bat and without any word
of warning to the Sops. If the Gov
decides that an enquiry was desirable
it would normally be expected that he
would consult with the Sops, who, in
his turn, would of course give every
consideration to the Gov's views.

The Gov of Kenya is scarcely in a
position to authorise an enquiry into
the desirability of imposing ~~the~~ the
tax in the neighbouring territories: that
would have to be discussed with the
Govs concerned and with the Sops.

The wording of the Parliamentary Reply
was so chosen because the question
asked if the Sops would authorise an
enquiry; so the ^{Sops} answered that he ~~was~~
not.

8
not in a position to consider whether an
enquiry was desirable. There was no
question of the Reply being drafted so as to
imply that if he was in a position to make
a decision on the question he would do so over
the head of the Gov & without consulting him.
This? should be explained to the Gov in the
reply, which should also state that, as
regards the future enquiry in Kenya, the
Sops does not wish to lay down any ruling
in the matter, but will wish to see how
the discussion takes shape, & expects that
if a time comes when an enquiry seems
necessary there will be opportunity for the usual
consultation with the Gov before a public
announcement is made.

Clotley White

12/1

Draft reply to Sops submitted

Freeston
13

Sir John Shuckburgh.

I think that the Secretary of State would
wish to see this.

The proposed reply has been drafted by
Mr. Freeston, who of course is in a good position to
judge Kenya opinion on this question. In the last
paragraph it gives a fairly strong lead to the
Governor in the direction of not appointing a Local
Committee: and I think that this is obviously sound.
Income tax in Kenya has undoubtedly come to stay,

and

and there is no point in resuscitating a
fruitless controversy.

WJW

18.1.39.

WJW

20/1/39

WJW

20.1.39

10. 1. Kanga + 5. 8. + 9. 20. 1. 39

~~WJW~~

38054/38

10
9
23/1/39

C. O.

Mr. Freeston 13 /1/39

Mr.

Mr.

X Mr. A. J. Dawe. 18.1

Sir H. Moore.

Sir G. Tomlinson.

Sir J. Shackburgh. 20/1/39

Permt. U.S. of S.

Parly. U.S. of S.

X Secretary of State. 20.1.39

S. 4

DOWNING STREET.

25, January, 1939.

DRAFT. *contin*

KENYA

NO. 45

GOVERNOR

Sir,

I have etc. to acknowledge

(8) the receipt of your despatches No. 688
1938,
(9) of the 30th of November, and No. 4 of the
5th January on the subject of income
tax and to convey to you the following
observations on the various matters
raised.

2. In reply to the enquiry in the
second paragraph of your earlier despatch
you have my authority for stating
publicly, if and when occasion demands,
that no undertaking was given by
Lord Harlech that the introduction of
income tax into Kenya would necessarily
be followed by its introduction into
Tanganyika and Uganda.

S at 2 m
38054/37

FURTHER ACTION.

3. As regards Major Grogan's statement to which you draw my attention in the fourth and fifth paragraphs of your despatch, ^{it is clear} from Lord Harlech's record of the interview which he accorded to Major Grogan on the 13th of December, 1937, ~~it is clear~~ that no assurance was given "that the issue should receive de novo consideration". The relevant portion of the record, which you are at liberty to quote, reads as follows:-

"I said I was quite prepared to have the working of income tax in Kenya examined by an absolutely impartial outside enquiry after the experiment had been given a fair trial, but that no Secretary of State could bind himself beforehand to accept all and every recommendation".

3 n 28.04/4/37

4. In your despatch of the 5th of January you refer to the reply which I gave to a Question from Mr. R. H. Morgan, M.P. on December 14th, 1938. From the terms

of

C. O.

- Mr.
- Mr.
- Mr.
- Mr. A. J. Dawe.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

46590/38

of the Question it appeared that Mr. Morgan intended to suggest the setting up of an impartial outside enquiry and my answer was framed on the assumption that such indeed was his intention. You will, I am sure, recognise that the appointment of a tribunal to conduct such an enquiry would be a matter outside the Governor's ~~confidence~~ ^{competence} even though its scope should be limited to Kenya.

DRAFT.

5. If you are of the opinion that any useful purpose would be served by the appointment of a purely local committee to reduplicate the enquiries which, I understand, have already been conducted by the Standing Finance Committee of the Legislative Council, it will of course be ~~entirely~~ within your powers to appoint it, though the responsibility for any decision

FURTHER ACTION.

resulting

resulting from its report would naturally rest with me. Before deciding on any such step, however, you will no doubt reflect whether action of this nature would not encroach upon the constitutional position of the Standing Finance Committee and tend to undermine public confidence in its ability to discharge its functions; and whether, in present circumstances, it is wise to give any encouragement to the re-opening of political controversies at a time when the colony's energies should be devoted to more ^{practical} ~~serious~~ issues.

I have, etc.

(Signed) MALCOLM MacDONALD.



9"
5 January, 1959.

Sir,

I have the honour to draw attention
8: to my despatch No.688 of the 30th of November, 1958,
on the subject of a letter from Major Grogan
published in the "East African Standard". In view
of the fact that the income tax question is likely
to be raised again in this country in the near
future, I should be grateful if an early reply
could be sent in order that I may be in a position
to make an authoritative statement on the matter.

2. In the "East African Standard" of the
24th December, 1958, a statement was published
regarding a Question and Answer in the House of
Commons on December 14th in regard to income tax
in Kenya. The question was asked by Mr. R.H. Morgan
and your reply was stated to be as follows:-

"I have not yet received a report of the
results of the Standing Finance Committee's
investigations into the question of Income Tax
in Kenya. When this report, and the Governor's
views thereon, have been received I shall be in
a position to consider whether any further
enquiry into the question is desirable. On
present information, I can only regard the
proposal as premature".

I am somewhat puzzled as to the exact position and
shall be glad if further information can be given.
It would appear from the reply that the decision as
to whether further enquiry into income tax is or is
not to be made rests with you; but am I right in
presuming that this would only refer to some enquiry
in.....

THE RIGHT HONOURABLE,
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

in regard to income tax in the whole of East Africa?
Further, as you may be aware, several requests have
been made in the Kenya Legislative Council for the
appointment of an ad hoc committee consisting of
unbiased persons to investigate the matter as
applied to Kenya: am I again right in presuming
that the answer is not meant to preclude me from
deciding whether or not to appoint such a committee?

I have the honour to be,

Sir,

Your most obedient humble servant,

Conlon

CHIEF SECRETARY. *for signature*

(Drafted by Sir Robert Brooke-Popham).

KENYA
No. 688



GOVERNMENT HOUSE
NAIROBI
KENYA

5th November, 1958.

Sir, C. O.

I have the honour to invite your attention to the enclosed two cuttings from the East African Standard, one of which is a letter from Major Grogan and the other a leading article on the letter, on the subject of Income Tax. The article is merely of interest as indicating the views of a certain section of people in Kenya; the letter is, in my opinion, the more important.

2. The letter makes two statements which I should be glad to be able to refute or confirm, should necessity arise. The first statement is that your predecessor undertook "that if income tax is to persist in Kenya, the proper commercial interests of Kenya shall be protected by its similar application to Uganda and Tanganyika Territory". In regard to this matter I had some personal correspondence with your predecessor and in a letter of his which is undated but which was in answer to a letter of mine of the 17th August, 1957, he states:-

"There....."

X of 31/8/57: 7a
46590/57
6a 46590/37

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

"There is not, so far as I know, any justification for the suggestion that income tax was being introduced in Kenya preparatory to its introduction in the neighbouring Territories, if, as I gather from your letter, the idea is that Uganda and Tanganyika must follow suit, or that there is any implied undertaking to that effect".

Again, a letter from Sir Cosmo Parkinson, dated the 9th October, 1957, says:-

See 5 m
38064/37

"As regards income tax generally, I have confirmed from Mr. Ormsby-Gore that he gave no undertaking that income tax would be introduced into Uganda and Tanganyika".

3. It would appear, therefore, that Major Grogan's first statement is incorrect, but as I cannot quote private correspondence officially, I should be grateful if a definite statement could be made in official correspondence which I could quote if necessary.

1 on 38054/4/37

4. The second statement concerns interviews that Major Grogan had with me and later with your predecessor in December, 1957. Major Grogan refers to a letter which I gave him for Mr. Ormsby-Gore after his interview with me. In that letter I told Mr. Ormsby-Gore of a suggestion that had been made by Lord Francis Scott and Major Grogan to the effect that the Secretary of State should leave the decision regarding the continuance or abolition of income tax in Kenya in my hands and that the Secretary of State should make an announcement to this effect. I also informed the Secretary of State that I had told Lord Francis and Major Grogan that "I would not be prepared to come to any conclusion as a result of one year's working and I should at any rate have to have two years' facts and figures in front of me".

5. According to Major Grogan your predecessor "left it on record for his successor that he had given me an assurance that the issue should receive de novo consideration". In his private and personal letter to me of the 20th December, 1937, regarding his interview with Major Grogan, Mr. Ormsby-Gore points out the reasons why it was impossible for him as Secretary of State to delegate the ultimate responsibility to a Governor or to a Committee of Enquiry, however composed, and that no such pronouncement as suggested could be made. He then gives a summary of his interview with Major Grogan:-

No 4
38054/137

"I told him that I was quite prepared to have the working of income tax in Kenya examined by an impartial outside enquiry after it had been given a fair trial".

And again:-

"As I have said, I should have no objection to an enquiry and would give the most careful consideration not only to the result of that enquiry but also to your own opinion".

6. If Major Grogan's statement regarding the "assurance" of de novo consideration is substantially incorrect, it seems to me that it should be officially contradicted at a suitable opportunity. If, however, it is substantially correct, I should be glad to have an official record of the terms and intention of the undertaking actually given.

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 .

INCOME TAX INQUIRY

A Pledge in Danger of Being Forgotten

The Standing Finance Committee of the Kenya Legislative Council has been examining the controversial question of Income Tax as it was presented to the Colony in a departmental analysis of the experiences of the first year. In conformity with a Government promise made to the Elected Members, the analysis was prepared by the Commissioner of Income Tax and was published a few months ago. The Finance Committee has also taken some evidence from members of the public and the range of discussion has been wide.

In order, therefore, that there may be no mistake, doubt, error, assumption or misapprehension whatsoever regarding the real scope and status of the Finance Committee's examination of a few figures, the East African Standard desires to remind the Finance Committee, and the Government and people of Kenya generally, that the Secretary of State for the Colonies has given an important pledge on this subject. The circumstances in which it was given to an emissary of the Elected Members of the Legislature are set out clearly and unequivocally in a letter addressed to us to-day by the man to whom it was given, Major E. S. Grogan.

In April last all the Elected Members supported in the Legislative Council a motion which asked for the appointment of an ad hoc Committee to enquire fully into every aspect of Income Tax. The Government refused to accept the proposal, preferring an earlier suggestion that the figures should be referred to the Finance Committee. But the Financial Secretary made it quite clear that while the Finance Committee would report upon the conclusions to be drawn from the departmental analysis, "if any member of that Committee draws the conclusion that some further enquiry is necessary he can so record and make his recommendations on the subject and they will be considered by the Government." The Financial Secretary indeed described the Income Tax Commissioner's

an ad hoc Committee of Enquiry as recently as April. The only course they, and especially their members on the Finance Committee, can follow—and indeed must logically and inescapably follow—is to make it clear that the Finance Committee's Report cannot be signed as representing the last word, and that an ad hoc Committee must be appointed to give the whole question the de novo consideration officially promised to this country by His Majesty's Secretary of State.

We say that because the whole manner and method of the introduction, application and exploitation of Income Tax has left a sense of frustration and no little bitterness. The feeling has been strengthened by the revelation of the grossly unreliable nature of the estimates produced, by Government and accepted by the Colony as an inducement to "compromise." In case the figures are forgotten, they were—an original estimate of £43,000, an actual collection of three times that amount, and an estimate for 1939 of £134,000. As a consequence the revenue structure of the Budget is being steadily distorted. Very rapidly the Government is placing unacknowledged reliance on a form of taxation which was only reluctantly accepted practically as a nominal or token contribution in the name of political peace, that the whole issue will soon be completely prejudiced by the change in the Budget.

But apart from that and many other points, the East African Standard wishes to remind the Government that it has inherited a legacy of suspicion from the history of this controversy. Any attempt or desire now to secure the full satisfaction of the Secretary of State's clear pledge to the people will be at once, and justifiably, regarded as unhappy confirmation of the regrettable public mistrust of official honesty and fair and impartial dealing to which the

Income Tax

A COLONIAL OFFICE PLEDGE

To the Editor, "E. A. Standard."

Sir.—The late Secretary of State for the Colonies Lord Harlech (then Mr. Ormsby Gore) undertook that if Income Tax is to persist in Kenya, the proper commercial interest of Kenya shall be protected by its similar application to Uganda and Tanganyika Territory.

Last December His Excellency the Governor, following an interview granted to Lord Francis Scott and myself in the course of which we pointed out that the issue of the suitability of the Tax would be preferably considered judicially rather than by an electoral dog fight, entrusted me with a letter to the Secretary of State (Lord Harlech).

The Secretary of State gave me a full opportunity to point out the manifold objections to the particular tax under East African conditions and left it on record for his successor that he had given me an assurance that the issue should receive de novo consideration. We discussed at considerable length what form of Court could be set up to adjudicate upon the issue.

Income Tax has not been applied to Uganda or Tanganyika Territory so we must presume that the Colonial Office is waiting for a suggestion as to what form such Court of Adjudication should take. The Standing Finance Committee is holding some sort of enquiry into the matter, but it is improbable that Uganda and Tanganyika Territory would knowingly entrust their fiscal policy to the ipse dixit of this Body.

The double assurance of the Secretary of State (1) that if Kenya has its Uganda and Tanganyika Territory should have it and (2) that the issue shall be the subject of de novo consideration can obviously only be implemented by the appointment of an ad hoc Committee of the three Territories, and that before the whole issue is irremediably prejudiced by the trend of Kenya budgeting.

Yours etc.

EWART S. GROGAN.

Nairobi, November 14, 1938.



INCOME TAX INQUIRY A Pledge in Danger of Being Forgotten

The Standing Finance Committee of the Kenya Legislative Council has been examining the controversial question of Income Tax as it was presented to this Colony in a departmental analysis of the experience of the first year. In conformity with a Government promise made to the Elected Members, the analysis was prepared by the Commissioner of Income Tax and was published a few months ago. The Finance Committee has also taken some evidence from members of the public and the range of discussion has been wide.

In order, therefore, that there may be no mistake, doubt, error, assumption or misapprehension whatsoever regarding the real scope and status of the Finance Committee's examination of a few figures, the *East African Standard* desires to remind the Finance Committee, and the Government and people of Kenya generally, that the Secretary of State for the Colonies has given an important pledge on this subject. The circumstances in which it was given to an emissary of the Elected Members of the Legislature are set out clearly and unequivocally in a letter addressed to us to-day by the man to whom it was given, Major E. S. Grogan.

In April last all the Elected Members supported in the Legislative Council a motion which asked for the appointment of an ad hoc Committee to enquire fully into every aspect of Income Tax. The Government refused to accept the proposal, preferring an earlier suggestion that the figures should be referred to the Finance Committee. But the Financial Secretary made it quite clear that while the Finance Committee would report upon the conclusions to be drawn from the departmental analysis, "if any member of this Committee draws the conclusion that some further enquiry is necessary he can so record and make his recommendations on the subject and they will be considered by the Government." The Financial Secretary indeed described the Income Tax Commissioner's analysis as being for "preliminary purposes" only. Later in the same debate, the Chief Secretary, on behalf of Government made the position clearer still. He said that the Finance Committee would, of course, have every right in submitting its report to the Governor "to propose. It thinks fit that the whole question shall be referred to a committee of impartial experts . . . we are doing nothing to bar the appointment of such a committee."

It is of great importance to Kenya to make the position clear in case the Finance Committee or the Government—or indeed the country—should believe for a moment that the examination by the Finance Committee of preliminary and tentative figures represents satisfaction of the pledge given to this country by the Secretary of State. It does not. The pledge is "de novo consideration." The Finance Committee in preparing their report, and His Excellency in considering it, must be constantly mindful of that undertaking. The whole body of Elected Members are aware of it because they voted

Income Tax

A COLONIAL OFFICE PLEDGE

To the Editor: "E. A. Standard,"
I have just been introduced into the Colonies Lord Harelech (then Mr. Ormsby Gore) undertook that if Income Tax is to persist in Kenya, the proper commercial interest of Kenya shall be protected by its similar application to Uganda and Tanganyika Territory. His Excellency the Governor, following an interview granted to Lord Francis Scott and myself in the course of which we pointed out that the issue of the suitability of the Tax would be preferably considered judicially rather than by an ad hoc committee, the Secretary of State (Lord Harelech) has the opportunity to point out the manifold objections to the particular tax under East African conditions and left it on record for his successors that the issue should receive *de novo* consideration. We discussed at considerable length what form of Court could be set up to adjudicate upon the issue.

Income Tax has not been applied to Uganda or Tanganyika Territory. The Colonial Office is waiting for a suggestion as to what form such Court of Adjudication should take. The Standing Finance Committee is holding some sort of enquiry into the matter, but it is improbable that Uganda and Tanganyika Territory will be included in the scope of their policy to the right of this Body.

The double assurance of the Secretary of State (1) that if Kenya has to have it and (2) that the issue should have it and (3) that the issue shall be the subject of *de novo* consideration can obviously only be implemented by the appointment of a Committee to consider the whole issue in that before the whole trend of Kenya budgeting.

Yours etc.,
EWART S. GROGAN.

Nairobi.
November 14, 1938.

course they, and especially their members on the Finance Committee, can follow—and indeed must logically and inescapably follow—is to make it clear that the Finance Committee's Report cannot be signed as representing the last word, and that an ad hoc Committee must be appointed to give the whole question the *de novo* consideration officially promised to this country by His Majesty's Secretary of State.

We say that because the whole manner and method of introduction, application and exploitation of Income Tax has left a sense of frustration and no little bitterness. The feeling has been strengthened by the revelation of the grossly unreliable nature of the estimates produced by Government and accepted by the Colony as an inducement to "compromise." In case the figures are forgotten, they were—an original estimate of £43,000, an actual collection of three times that amount, and an estimate for 1939 of £134,000. As a consequence the revenue structure of the Budget is being steadily distorted. Very rapidly the Government is placing such an acknowledged reliance on a form of taxation which was only reluctantly accepted practically as a nominal or token contribution in the name of political peace, that the whole issue will soon be completely prejudiced by the change in the Budget.

But apart from that and many other points, the East African Standard wishes to remind the Government that it has inherited a legacy of suspicion from the history of this controversy. Any attempt or desire now to evade the full satisfaction of the Secretary of State's clear pledge to the people will be at once, and justifiably, regarded as unhappy confirmation of the regrettable public mistrust of official honesty and fair and impartial dealing to which the whole miserable Income Tax story, with all its transparent racial and political implications, has given rise. Nobody, whether protagonist or antagonist, can object to a comprehensive enquiry.

Nor must it be forgotten in Kenya, because the point is of great importance, that the Secretary of State has been necessarily considering in the past year his attitude to the introduction of this tax in Uganda and Tanganyika, and these Territories have a clear right to be fully protected against the possible consequences of a half-baked examination by such a body as the Finance Committee of Kenya, an enquiry which in obvious circumstances might well gravely prejudice their interests and their freedom. The people of Kenya, as the record shows, were fully aware of the interlocked character of relations when the tax was introduced, and they cannot be forgotten how.

19 Cowley St.
SW11

16th Nov 1938

Dear MacDonald,

You will recollect that I wrote you on 8th Oct regarding a Mr George Waman who had asked me to make representations on the subject of Income Tax in Kenya.

I now enclose a letter, presumably from the manager of his company, which seems to disclose a state of ~~great~~ dissatisfaction amongst the settlers in the Colony.

Yours sincerely
A. L. Long

COPY.

Punda Milia,

P.O. Makuyu,

Kenya Colony.

4th November, 1938.

Dear Mr. Young,

Mr. George Warren has told me that you gave him an interview on the subject of Kenya Colony and to a special extent with regard to the application of Income Tax to the Colony. In 1921 Income Tax was imposed against the wishes of the country and was taken off when quickly found unsuitable.

In 1933 an attempt was again made to force it on the Colony but after protests from the whole country, the Secretary of State ceased to press it.

After these two abortive attempts to force the tax an attempt was made in 1936 in spite of the unanimous protests of the European Elected Members.

Then some of the Elected Members capitulated and some others followed in spite of their election promises to the contrary.

The tax itself is a levy on working capital, as the leading article in the East African Standard dated October 28th last so aptly puts it, since the country under the present regime is not attractive to outside capital.

The Act and the administration of it is unjust. Some of the loans in the provisions of their issue were expressly exempted from Kenya Income Tax, but others were not.

When this was noticed the Governor by proclamation published in the Gazette, promptly exempted them in spite of the fact that income earned in, and accruing in Kenya, was specified for income tax with interest actually mentioned. Interest on private loans held by people outside the country is taxed, but not on public loans.

To

To come to our own particular case of income tax, my Company made no profit for the period 1930-1936. In 1936 we made a profit of some £6,000, which was used largely to pay off previous debts and long needed equipment.

We applied to the Governor-in-Council under Section 90 of the Act for exemption of payment of tax as being a case of hardship. This was refused and no reasons given.

When asked for reasons we were told it was not the custom of the Governor-in-Council to give reasons.

When asked for a postponement of the date of payment - 23rd September last - the Commissioner of Income Tax replied "Unless it was paid by that date 20% would be added". thus depriving us of our right to appeal to the Committee under Section 69.

I might add that I am on the Committee of the Taxpayers' Protection League, which I think does not add to my popularity.

The real trouble is the Government Overheads are too high for such a little country. Personal Government emoluments alone were in 1936 £1,184,653. (Government Blue Book, 1936, p. 155). This in a country with a population of some 13,000 Europeans and 27,000 Indians. To this must be added many allowances. Pensions in 1937 were £192,500.

In 1936 the Pim Commission recommended meagre savings of £60,000, but the 1937 estimates sanctioned an increase in expenditure of £119,122.

I believe the expenditure this year is still further increased.

My feeling and the feeling of others is that the safeguarding of Government salaries is the chief object of the Government.

When South Africa attained self government, large reductions

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reductions were made in Government staff, and I think this is feared by this Government if the white settlers had any control of the expenditure of their own money.

At present the Elected Members are a small minority with no control and many good men will not put up for Legislative Council to become merely ciphers.

Certain Labour Members and others are fond of contending that the relations between the settlers and natives are bad and that we exploit the natives.

Sir Edward Grigg, always a good friend of ours, and fairminded, said just on departure that he had been in many countries, but he had not been in one where mixed races got on better together.

No native need work for a white man unless he wishes. Any native can leave at the end of his month unless he has a contract, which contract is quite voluntary. The bad employer cannot get labour.

I live in the principal sisal-producing district, containing about a dozen plantations, each employing about 500 men. My house is about 15 miles from the nearest Police Station. We do not lock our doors and windows at night. We have very few sort of Police cases, and as far as I know, conditions on the other estates are similar.

We have had many Commissions in recent years, but they are useless, because their recommendations, even when good, are not acted upon.

About nine years ago the country had the advantage of the advice of Sir Daniel Hall, especially with regard to the treatment of erosion in the Wakamba Reserve. His advice was neglected until recently in spite of continued pressure by the settlers. Lately destocking of the Reserve was started

started by the Government, but it was done in such a manner as to create trouble and resentment in this quiet docile tribe culminating in a sit down strike of some 3,000 of them just outside Nairobi.

The settlers in their district, who know them well, consider they had justification. The Government has had to reverse their policy, which is only better than continued injustice. The Government of the country seems to me to be a complete anomaly. We, who have considerable experience and knowledge of the country, have no control of taxation or expenditure. In fact we live under a complete dictatorship. We are said to be governed by Parliament, but are actually governed by the Colonial Office and a few senior officials here. These senior officials are frequently changing, as they usually attain these positions not long before retirement or promotion. This results in most unfortunate consequences to the country.

Though I do not possess any knowledge of Jamaica, the troubles there cause me no surprise.

I have now taken the liberty of writing you a very long letter. My excuse is the unusual fact of a Member of Parliament taking a kindly interest in this country and the fact that after thirty-four years' work and experience of the country I have never felt so depressed about its conditions.

With many thanks for your interest.

Yours faithfully,

(Sgd.) E.D. RUTHERFOORD.

I am enclosing some recent leading articles from the East African, which, I think, reflect thoughtful opinion in this country.

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REPORT ON THE OPERATION OF THE INCOME TAX ORDINANCE 1937

On the 22nd November, 1937, the Hon. Colonial Secretary gave an assurance in Legislative Council that when Income Tax statistics relative to the yield, incidence and the cost of collection of the tax, etc., were available, they should be referred to the Standing Finance Committee for consideration.

SCOPE

1. The report deals with all facts relating to the assessments raised for the year 1937 up to 30th June, 1938. It should be clearly understood that the assessments for 1937 are not yet completed but the report may be taken to cover about 90 per cent of the liabilities.

OBJECT

2. The lengthy debates in Legislative Council, letters in the Press, and discussion in various Chambers of Commerce and Trade have brought forth many objections to the tax, although little evidence has been available to show upon what facts these objections can be sustained. This report will set out the facts relating to the assessment and collection of duty, and any opinions which have been formed from a close contact with the operation of the Ordinance and with persons actually paying the tax during the past year. It will then suggest the conclusions which may be drawn from the facts and opinions for consideration by the Committee.

THE ORDINANCE—ESTIMATED YIELD

3. The Ordinance was drafted with the intention of raising a Revenue of £43,500 and it was estimated that the number of individual taxpayers would number approximately 900, of whom about fifty would be Asians, and in addition there would be about 400 companies. The yield from the companies was put at £24,000. It was estimated that the cost of collection to Government would add £3,000 to the expenditure of the Revenue Office although it was stated later that the cost would be higher in view of the amendments which were made in Select Committee.

4. The Ordinance charged all incomes accruing in, derived from or received in the Colony and it was anticipated that a proportion of the yield would come from non-residents who had previously made no contribution towards the revenue of the Colony.

INITIAL WORK

5. Owing to the delay in the passage of the Bill which took effect from the 1st January, 1937, no work was done until early in July when all forms had to be drafted, staff organized and a complete office system inaugurated. The initial issue of Return Forms was made on the 18th August, 1937, but it was not until the 20th September that the first assessment was made. The work has been productive for just over nine months up to the 30th June, 1938, and it will be appreciated that it should have commenced about eight months earlier.

ISSUE OF RETURN FORMS

6. Return Forms were issued after an examination of the Graduated Poll Tax records available in the Revenue Office from which lists were prepared of all persons liable or possibly liable to pay the tax. As the basis upon which Income Tax is charged differed in a number of ways from that of Graduated Poll Tax a large number of Returns which were issued were bound to show no liability. Owing to the extreme pressure of work at that time no exact records of the number of forms issued and returned were kept but reasonably accurate figures are:—

Issued to individuals	6,370
Issued to companies, etc.	1,100
Total	7,470

Except in cases where correspondence is still taking place all Return Forms have been returned with the exception of 482 in which special action is being taken in connexion with the current year's work to ensure that any liability is dealt with and already over eighty cases in the list have been cleared.

7. Of the Returns which have been received approximately 1,500 have been marked as clearly exempt from tax, leaving:—

Individuals	4,874
Companies, etc.	1,021

5,895 registered as persons who are or may be liable in future years. Steps will be taken to restrict the issue of Return Forms in cases where there is sufficient margin between the declared income and the allowances due to a three-yearly one so that the number of forms which will be issued regularly in future years should be about 4,000. There is, however, evidence that a number of liabilities remain to be discovered, particularly among non-residents who are drawing rents or loan interest from the Colony and of whom no information has yet been obtained.

ASSESSMENTS MADE

8. Upon examination of the completed Return Forms any appreciable differences between the amount of the Return and the probable liability have been discussed with the taxpayer wherever possible with a view to reaching agreement as to the exact liability. Owing to the provisions under which four years' losses can be carried forward the amount of work involved has been considerable, particularly in the case of large limited companies, and there are still a number of cases in which there is clearly no liability up to date on this basis where no action has yet been taken. Where the liability has been agreed or the differences are small an assessment has been raised and a Notice of Assessment issued.

9. In the period up to the 30th June, 1938, the number of cases entered in the Assessment Book totalled 2,189. In addition there were 89 cases where there was a liability to tax but as the amount of tax suffered by deduction from dividends, etc., was in excess of the liability the names were not entered but they have been included for the purpose of this report. The total number of cases, therefore, which can be regarded as liable to assessment is 2,278. In addition there are a large number of non-resident individuals in receipt of dividends from companies who pay directly to the revenue, the estimated number being 1,800. It will be seen, therefore, that approximately 4,000 persons are contributing to the revenue of the Colony through the medium of Income Tax.

NOTICES OF OBJECTION

10. Against the Assessments raised Notices of Objection have been given in 191 cases, of which 153 have been settled by agreement and 38 were outstanding at the 30th June, 1938. A rough analysis of the grounds of objection has been made to show:—

CAUSE OF OBJECTION	Number	Settled	Out-standing
1. ASSESSMENT EXCESSIVE, DUE TO—			
(a) Provisional Assessment	19	1	18
(b) Error in Taxpayer's Return	64	62	2
(c) Error in Office	17	16	1
(d) Determination of Annual Value of Residence only	20	20	—
(e) Other Causes	63	47	16
2.—UNDER ASSESSMENT	8	7	1
	191	153	38

11. Where a Notice of Objection is not allowed the Commissioner is required to give Notice of Refusal to amend the Assessment and the taxpayer has the right to appeal to a Local Committee or Judge. Up to the 30th June, 1938, such a Notice has been issued in one case and one other case only is known in which such procedure may be necessary.

ANALYSIS OF ASSESSMENTS AND YIELD

12. A statistical system was put into operation from the start, not for the purpose of this Report but to provide reliable data from which Budget Estimates and the cost of the personal allowances, etc., could be ascertained for use in future years. The method adopted is to classify each taxpayer by reference to:

- Race—European, Asian or Other
- Resident or Non-resident.
- Status—Individual, Company or Other (Associations, Clubs, etc.).
- Trade Group (Manufacture, Distribution, Government Officials, Agriculture, etc.).

No difficulty arises in the classification (c), but in (a) and (b) an exact division is not always possible in the case of companies. Where a company has mixed races it has been classed as European. Generally speaking companies incorporated in the Colony have been treated as resident except where it is known that more than 90 per cent of the shareholding is held abroad when it has been included as non-resident. In class (d) many persons have income within several groups. The principle adopted has been to classify by reference to the principal trade or occupation of the person, not necessarily by reference to the source from which the largest amount of income is derived. For example, a coffee planter making little or no profit but with an investment income of £1,000 a year has been classified under Agriculture—Coffee, but an employee with a salary of £1,000 a year who has a small coffee plantation in which he does not take an active interest has been classified as an Employee.

13. Having completed the above classification the individual income of each person has been further sub-divided into the following groups:—

- Agriculture.
- Employments.
- Trades, Professions, etc.
- Rents.
- Annual Value of Property Occupied.
- Dividends and Interest.
- Other Income.
- Income from Abroad.

The amounts allowed as deductions for Losses, Interest, Personal Allowances, have been similarly extracted together with the details of the amounts of the income charged at the various rates and the set off in respect of tax paid at source on dividends, etc.

14. From these two classifications it has been possible to bring out in summary form complete statements of the incidence of the tax upon races, residents or non-residents, companies or individuals, and allocate the burden to each industry or occupation with reasonable accuracy. For instance, where a coffee planter derives £500 a year from his plantation and has £500 from another source the tax he pays can be divided equally between the two sources. In this way the tax borne by coffee planters on their total incomes can be computed and secondly the approximate amount which can be regarded as paid out of coffee profits alone. All the statements must be qualified in the following respects:—

- A number of the assessments are not yet finally agreed and may be adjusted on appeal.
- The whole of the duty assessed is not yet due for payment.
- Further assessments will probably increase the yield by several thousand pounds after allowing for reductions on appeals.
- The allocation between races and residents and non-residents is not exact in the case of companies but the total allocated to Asians and non-residents represents the minimum only.
- No adjustment has been made for the set off in respect of Poll-Tax paid by individuals amounting to approximately £2,500. This allowance is granted upon payment of the duty and is not incorporated in the assessments.

15. *Schedules are attached as follows:—

1A, which sets out in full detail the various sources of income, deductions for Interest, Losses, Personal Allowances and the amounts charged at the various rates. It has been arranged to show separate totals for the tax paid by:—

- All persons.
- Residents and non-residents;
- Europeans, Asians and Others;
- Individuals, Clubs, Associations, etc.; and Companies.

1B, divides the assessments into residence and status and shows the average income, tax, and rate per cent for each. The figures are shown separately for Europeans and for Asians and Others.

2A, sets out the same details appearing in 1A, but has been rearranged to show the totals for all persons classified in each trade group.

2B, is a more convenient summary of the trade groups with the addition of averages for income, and tax paid, and an approximate allocation of the tax paid in each trade group to the actual trade profits returned by the persons classified in that group.

3, sets out an analysis of incomes within particular limits by reference to residence and status and is divided into races. It also shows the distribution of incomes throughout the Colony.

*Note.—The Schedules published show main trade classifications only, in order to maintain secrecy.

16. From these Schedules the burden borne by the various industries, races, etc., can be ascertained without difficulty and it will be possible to determine, if necessary, the cost of granting Personal Allowances, and Relief in respect of Losses.

TAX DEDUCTED FROM INTEREST

17. A person paying mortgage interest to a non-resident or a company paying any mortgage or debenture interest is required to deduct tax and account for it to the revenue. Tax amounting to £2,280 has been deducted from 992 such payments for 1937 and the cash paid over and brought to account. As it has not been possible to allocate this small amount to the various classes it has been added in in one total in ascertaining the yield.

SUMMARY OF ASSESSMENTS AND YIELD

18. A general summary is as follows:—

TOTAL INCOMES ASSESSED		£	2,419,698
Less ALLOWANCES FOR:—			
Personal	835,483		
Wife	181,168		
Children	90,350		
Dependents	22,855		
Life Assurance	61,123		
Pension Funds, etc.	12,587		
		£	1,003,566
CHARGEABLE INCOME		£	1,416,132
Charged at Sh. 1	£298,418		24,921
" Sh. 1/50	£70,929		5,304
" Sh. 2	£823,727		82,373
" Sh. 2/50	£23,258		2,907
Total Duty Charged			115,505
Set Off for Tax Paid at Source			9,562
Net Amount Assessed			105,943
Less Repayments			2,298
			103,645
Less Poll Tax Set Off, Approximately			2,500
			101,145
Add Tax Deducted from Interest			2,280
			103,425
TOTAL YIELD TO 30th JUNE, 1938			

19. Tax assessed on Races, including Poll Tax:—

	£	Percentage
Europeans £96,129 Less Repayments 2,186	93,943	90.6
Asians £9,134	9,022	8.7
Others £680	680	0.7
	£ 103,645	100

20. Tax assessed on residents and non-residents, including Poll Tax:—

	£	Percentage
Residents £64,987 Less Repayments 11,365	53,622	61.4
Non-residents £49,956	40,023	38.6
	£ 103,645	100

REPAYMENTS

21. Out of the total yield recovered by assessment there falls to be deducted the amounts repaid for tax deducted from mortgage and debenture interest and dividends representing the excessive tax suffered by an individual over and above his actual liability to revenue. As the amounts involved are comparatively small, little would be gained by a classification to Trade Groups.

ANALYSIS OF REPAYMENTS

22. The repayment claims dealt with in the period to 30th June, 1938, were as follows:

	Europeans		Asians, etc.	
	£	£	£	£
REPAID TO RESIDENTS				
Individuals Repaid in Full				
Income under £350	232	7		
Income £351 to £500	59	8		
Income £501 and Over	318	78		
Repaid at Sh. 1 Rate	411	2		
Repaid at Cents 50 Rate	43			
Set Off of Poll Tax	184	14		
Reductions in Assessments	22			
	1,249	109	1,358	
Companies	2		2	
	1,251	109	1,360	1,360
Non-residents Repaid at Sh. 1 Rate				
Individuals	658	2	660	
Companies	272	4	273	
	930	3	933	933
Repaid—Charity Relief	5		5	5
Total (Rupees)	2,186	112	2,298	
Overpayments and Payments in Error (not Affecting Yield)			80	
			£ 2,378	

PAYMENT OF THE TAX

23. The Ordinance allows a period of three months before the duty becomes due for payment, after which penalty of 20 per cent is automatically added, although provision is made for the remission of all or part of the penalty in cases of hardship or where there is reasonable cause for non-payment. As a matter of courtesy reminders are issued a few days before the due dates with the object of saving the taxpayer the annoyance he would naturally feel if the liability had been overlooked after a period of nearly three months. Payments have been made with remarkable promptitude. Up to date penalties have been incurred in only twenty-seven cases and against this many assessments have been paid well in advance of the due date. It was appreciated quite early that the imposition of the full 20 per cent penalty would be inequitable and 15 per cent of it has been remitted automatically where payment has been made within fourteen days of the service of a demand note. Only two cases have arisen in which there was any element of hardship and in these ample time has been allowed for payment without penalty.

24. At the 30th of June, 1938, nineteen cases carrying duty of £233 which were due and payable were unpaid, the reasons for non-payment being:—

	Number	Amount
Demand Notes Issued	3	32
Taxpayer Removed—Address Unknown	1	10
Persons Out of the Colony on Leave	12	151
Deceased Persons—Awaiting Probate	2	26
Financial Difficulty—Collection Held Over	1	14
	19	£233

CASH POSITION

25. It has been explained that the report is based on the tax assessed up to the 30th June, 1938, and as three months are allowed for payment there is a lag between the time of assessment and the time of payment. For the information of the Committee, the cash yield to the 30th June, 1938, was:—

YEAR OF ASSESSMENT, 1937		£
Cash Paid in Respect of Tax Assessed		58,880
Cash Paid in Respect of Tax Deducted from Mortgage and Debenture Interest		2,280
Less Repayment Vouchers Issued		61,160
Cash on Account of 1937 Assessment	£	2,298
		58,862

All payments on account of 1938 year of assessment have been omitted.

ESTIMATED FUTURE YIELDS

26. The statistics which have been prepared provide valuable information for Budget Estimates in future. The yield for 1937 is divided into Trade Groups and it is possible to ascertain the general trend of profits within each group considerably in advance of the receipt of returns from individual taxpayers. A brief survey of the position for the year of assessment 1938 has already been made by inviting representative businesses within the various groups to submit advance estimates of their profits made within the year to 31st March, 1938, and which will become liable to assessment in 1938. By a comparison of these estimates with the actual liabilities of 1937 a percentage increase or decrease in the profits of each group can be computed and applying these percentages to the actual results of 1937 a guide is given to the probable yield for 1938. From the information at present available it is estimated that there will be an increased revenue in 1938 as compared with 1937 and assuming conditions in the Colony are no worse than they are today the tax may be expected to yield in:

Year of assessment 1937	£105,000
Year of assessment 1938	£110,000
Year of assessment 1939	£115,000

27. The cash yield within the financial year will differ from these figures for two reasons:—

- The collection of the tax is in arrear and as already published the cash received in 1937 was £18,163 only.
- The tax is now payable in two instalments.

28. Special reference is made to the instalment system. Apart from the relief to taxpayers the amount of the tax due for payment on the 31st March will be known in the year previous and at the time the Budget Estimate is made. In the event of trade fluctuations an average of two years' profits will provide the tax for the financial year.

29. The cash yield for the calendar years 1938 and 1939 may be estimated at:—

	1938	1939
Tax Assessed for the Year of Assessment 1937	£ 105,000	£ (1938) 110,000
Less Paid in 1937	17,000	(1938) 15,000
	88,000	95,000
First Instalment of Year of Assessment 1938 (for assessments which can be completed by the 30th September)	15,000	(1939) 40,000
	103,000	135,000
Add Tax Deducted from Mortgage Interest, etc.	3,500	3,000
	106,500	138,000
Less Repayments and Poll Tax	4,000	4,000
ESTIMATED CASH YIELD	£ 102,500	£ 134,000

The first instalment figures depend on the number of assessments which can be dealt with in the office before the 30th September so as to become due for payment before the 31st December.

COST OF COLLECTION—ADMINISTRATION

30. The costs involved must be divided into the cost to the Government in administration and the cost to the taxpayer in the preparation of his returns.

31. The tax is administered by a Section of the Inland Revenue Office in which the whole of the staff are employed full time with the exception of the Deputy Commissioner who also takes charge of the other revenues and duties controlled or collected by the office. It is, therefore, possible to give actual costs with reasonable accuracy. For this purpose the salaries and other emoluments payable for the year 1938 have been given as they take into account increments during the year and give a full year's costs to be taken against the nine-months full working of the Ordinance. In order that the maximum cost may be determined, particulars are given of all hidden emoluments, in addition to the particulars which appear in the Colony's Financial Statements. The figures are:—

Personal Emoluments		£
Boys and Miscellaneous Charges		6,520
		192
	(a) Total	6,702
(b) House Allowances		222
(c) Passages		490
(d) Pensions		100
(e) Provident Fund		175
	Total	7,689
(f) Printing and Stationery		238
	TOTAL	7,927

(a), (b), (d) and (e) represent the estimated expenditure for 1938. (c) is the average for four years 1938-1941. (f) has been estimated by the Government Printer and it includes considerable initial expenditure on files of a semi-permanent nature. The figure is a maximum one.

32. Nothing has been included for the rent, etc., of the offices, for which no reliable figures can be obtained and if the tax were abolished little saving would be apparent.

33. On the basis of the yield shown in this report the maximum cost of administration may be taken at 7.5 per cent of the revenue obtained.

34. In considering the cost of collection it is necessary to bear in mind what would be the cost of some other form of taxation which would replace the substantial revenue gained from this tax.

35. As regards future years, there is no reason to anticipate any substantial increase. It must be borne in mind, however, that a high proportion of the staff are employed almost at the minimum of their salary scale and that increments will be due year by year. The staff requirements were based on the original estimate of liable persons and as these have proved to be much greater the volume of work has increased in proportion. The office work is at present about six months in arrear and a considerable amount of investigation will be required to trace up liabilities at present unknown. Every effort will be made to plan the work so that arrears may be overtaken gradually over the period of the next two or three years in order to keep expenditure down, but it is evident that a small additional expenditure will be required to improve the grading rather than the number of staff. This should be fully repaid by increased revenue.

COST OF COLLECTION TAXPAYERS

36. While no facts are available to show the cost to individual taxpayers, reference is made at this stage of the report to the opinion gained from discussions with taxpayers and the examination of their returns. No appreciable cost is involved except in the case of traders and professional men where accounts are required for the purpose of computing the liability. The number of accounts which have been submitted has exceeded all expectations and there is a considerable weight of evidence to show that the introduction of Income Tax has not necessitated any substantial increase in the number of accounts which are made up annually. While every effort has been made to limit the amount of evidence required from individual taxpayers, especially where there is good reason to assume that no liability arises, there has been a number of cases where the preparation of the figures has involved a considerable amount of time and expense, particularly where loss claims arise. The number of trades and professions liable to the tax is 638 and if the additional cost amounted to as much as an average of £5 per annum, a figure which is probably on the high side, the total cost would be £3,190. On the other hand, it must be remembered that the work involved in the initial year is considerably more than it will be in future years when the calculation of the liability will be a much simpler proceeding. Further, it is considered that taxpayers who have not previously kept satisfactory accounts, will appreciate their value in the conduct of the trade or business whether they have to submit them for Income Tax purposes or not.

THE ORDINANCE IN PRACTICE

37. A brief reference is necessary regarding the practical working of the Ordinance. The Ordinance was based on the Model for the Crown Colonies and is descended from the original 1921 Ordinance after being subjected to severe criticisms and passing through the hands of Select Committees. Before it was put into operation considerable doubts were expressed as to whether it would be workable. Actual experience has shown that its provisions have been quite well chosen and what might be regarded its special sections, such as those referring to farming and permanent and semi-permanent crops, can be interpreted to provide a very fair means of ascertaining the particular profits which are liable to assessment.

38. There is no doubt that a number of amendments will be necessary later on in the light of the experience which has been gained, especially to relieve any hardship or inequality which was not anticipated when the tax was introduced. No special recommendations are made on this subject for the time being. After the Committee has had full opportunity of hearing whatever evidence it requires, steps can be taken to put forward suitable amendments in due course. It will also be possible to decide to what extent any objections which may arise can be remedied by an amendment of the law.

RELATIONS WITH THE PUBLIC

39. The Committee may wish to consider to what extent the tax can be administered without friction between officials and the public. There is no doubt that if harsh and inquisitorial methods were required they would want to take this into consideration. A smooth and efficient administration depends largely on the goodwill of the persons paying the tax and it is gratifying to record that on every side there has been a measure of co-operation which has exceeded expectations. In most cases the requirements of the Ordinance have been fulfilled promptly and efficiently, returns have been completed accurately and liabilities agreed with comparative ease. As more knowledge is acquired by the public the completion of returns should in many cases be reduced to a matter of routine.

SECRECY

40. Doubts were expressed during the discussion on the Bill as to the possibility of maintaining in complete secrecy the information supplied in returns. Every precaution has been taken to prevent any such leakage; the whole of the staff employed are sworn to secrecy and are forbidden to discuss any matter relating to Income Tax outside the office. All papers are kept under lock and key and there is no reason to suppose that any leakage whatsoever can take place.

YIELD VERSUS ESTIMATE

41. Some explanation is required of the large difference between the estimated revenue and the actual yield. To a large extent it is accounted for by the contribution made by companies of £72,226, against about £24,000 in the estimate. No reliable evidence of these profits was available when the Bill was drafted and with the amount of tax which has been paid by non-residents; the allowance in respect of losses; and the comparatively scanty information available in the Graduated Poll Tax returns, the ultimate result is not surprising.

CONCLUSIONS

42. The plain facts are that the Ordinance which was drafted with liberal allowances to individuals and low rates of tax to yield but £43,500, will produce a revenue of over £100,000, of which more than £40,000 will be borne ultimately by persons not resident in the Colony. £76,786 of the tax has been assessed on persons or companies with incomes more than £2,000 per annum. There has been no evidence of any great inconvenience being caused to the public and it is reasonable to suppose that a steady source of revenue is available which should form a substantial contribution to a stable financial structure within the Colony. Apart from the revenue derived from the non-resident it is a fact that the Income Tax is paid by persons best able to meet it. The cost of administration is not excessive although a reduction in the percentage is obviously desirable and might be achieved in time.

43. The amount contributed by Asians and others is substantially higher than was originally anticipated and while the greater burden falls on European shoulders the explanation seems to lie to a large extent in the distribution of wealth between the different races.

44. There are, of course, obvious disadvantages to an Income Tax. The deep-rooted objection to it cannot be denied and if it were possible to tap the same sources of revenue by any other means there would be grounds for getting rid of it but it is also obvious that if any such a tax is to be levied equitably it must have some reference to the wealth or the capacity of the individual to pay it and so involves a declaration of income.

45. Statements have been made in Legislative Council that the tax has prevented capital coming to the Colony and has also led to its withdrawal. No evidence is available in the Revenue Office on this matter and whatever may be the true facts the Committee may well consider any possible fall in incoming capital alongside a revenue of over £40,000 per annum from non-resident individuals, the bulk of which might otherwise be withdrawn from the Colony.

46. It has been suggested that to impose the tax in Kenya alone and not in the neighbouring Colonies creates a definite hardship. The taxation in existence in other Territories has no concern with this report, but it may be a matter for the authorities concerned to consider the results of the tax in Kenya. There is no evidence of any attempt to evade the tax by a transfer of business to the neighbouring territories.

47. As far as possible the report has been confined to a statement of facts and figures for the information of Standing Finance Committee. No personal opinion has been expressed as it is considered that at the present stage the officer administering the Ordinance should maintain an open mind on the whole question.

PERSONAL NOTE

48. In submitting this report may I place on record my appreciation of the work carried out by the staff of the Income Tax Section during the year. In the face of continual pressure of work they have had to acquire a knowledge of an intricate taxation system so as to be able to explain it clearly and patiently by correspondence or at interviews with numerous callers at the office. It is pleasing to be able to record that I have heard nothing but praise for the manner in which they have attended to the requirements of the public. The work is specialized even when it is of a routine nature and at times of pressure it becomes particularly onerous.

49. I should also like to pay a tribute to Mr. W. H. Moran, who has worked many hours of overtime to enable the statistics in this report to be prepared on the Hollerith system, without which much of the valuable information could not have been obtained in the short space of time available.

L. C. MUNDY,

Commissioner of Income Tax

Schedule No. 1A

Detailed Statement of all Assessments divided into Races, Residences and Status

	No. of Persons	INCOME FROM								Total Gross Income	Less Interest	Net Income	Less Losses	Net Assessment	ALLOWANCES FOR					Total Allowances			
		Agriculture	Employments	Trades	Rents	Property Occupied	Dividends Interest	Other Income	Income from Abroad						Resident or Non-resident	Wife	Child	Dependent	Life Assurance		Pension Fund, etc.		
		£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
TOTAL OF 1937 ASSESSMENTS TO 30TH JUNE, 1938	2,278	183,416	4,002,910	844,125	93,320	18,328	133,485	80,378	96,113	2,452,075	18,387	2,433,688	13,990	2,419,698	635,483	181,168	90,350	22,855	61,123	12,587	1,003,566		
RESIDENTS - ALL RACES:																							
European	1,875	136,925	986,591	372,852	43,105	15,218	62,377	74,764	94,530	1,786,362	17,373	1,768,989	13,492	1,755,497	597,388	167,763	74,355	20,501	36,297	12,587	28,886		
Asian	145	126	12,324	109,537	31,015	1,647	9,137	573	1,176	165,535	487	165,048	20	165,028	35,700	12,955	15,545	2,054	4,816		71,070		
Others	7	247	1,640		6,659	1,222	37	90		9,795		9,795		9,795	2,100	450	450	300	10		3,310		
TOTAL	2,027	137,298	1,000,465	482,389	80,779	18,087	71,551	75,427	95,706	1,961,692	17,860	1,943,832	13,512	1,930,320	635,183	181,168	90,350	22,855	61,123	12,587	1,003,266		
NON-RESIDENTS - ALL RACES:																							
European	187	45,953	1,752	341,348	6,582	241	60,985	4,951	407	462,194	140	462,054	478	461,576	300							300	
Asian	60	84	698	19,954	5,015		939			26,690	387	26,303		26,303									
Others	4	81		434	974		10			1,499		1,499		1,499									300
TOTAL	251	46,118	2,455	361,736	12,541	241	61,934	4,951	407	490,383	527	489,856	478	489,378	300								
TOTAL TAX PAID BY EACH RACE:																							
European	2,062	182,878	988,348	344,200	49,657	15,459	123,362	79,715	94,937	2,248,556	17,513	2,231,043	13,970	2,217,073	597,683	167,763	74,355	20,501	36,297	12,587	29,186		
Asian	205	210	13,022	129,401	36,030	1,647	10,076	573	1,176	192,225	874	191,351	20	191,331	35,700	12,955	15,545	2,054	4,816		71,070		
Others	11	328	1,540	434	7,633	1,222	47	90		11,294		11,294		11,294	2,100	450	450	300	10		3,310		
TOTAL TAX PAID BY EACH STATUS GROUP:																							
Individuals	1,983	70,305	1,002,910	228,247	90,285	18,328	95,152	80,378	96,113	1,681,718	18,387	1,663,331	13,829	1,649,502	635,483	181,168	90,350	22,855	61,123	12,587	1,003,566		
Clubs, etc.	4			228,247			1,642			3,881		3,881		3,881									
Companies	291	113,111		613,639	3,035		36,691			766,476		766,476		766,476									

Division of Assessments into Residence and Status Showing Averages

EUROPEANS	Resident	Non-	Resident	Non-	Clubs,	TOTAL
	Individuals	resident	Companies	resident	Associations, etc.	
	£	£	£	£	£	£
Gross Income	1,448,738	46,646	303,214	414,694	3,881	2,217,073
Total Allowances	928,886	300				929,186
Income Charged at Sh. 1	418,263	27,457	4		1,743	447,467
" " Sh. 1/50	55,357	3,186			1,000	59,543
" " Sh. 2	38,006	4,763	303,210	414,694	1,138	761,811
" " Sh. 2/50	8,226	10,840				19,066
Total Income Charged	519,852	46,246	303,214	414,694	3,881	1,287,887
Total Tax Charged	29,894	3,443	30,321	41,469	276	105,403
Number of Persons Charged	1,713	110	159	76	4	2,062
Average Gross Income	845	423	1,907	5,456	970	1,075
Average Tax	£17/9	£31/6	£190/13	£545/12	£69	£51/2
Average Rate of Tax Per Cent on Gross Income	2.06%	7.40%	16%	10%	7.10%	4.75%
ASIANS AND OTHERS						
Gross Income	133,180	21,038	41,643	6,764		202,625
Total Allowances	74,380					74,380
Income Charged at Sh. 1	33,386	17,078		487		50,951
" " Sh. 1/50	8,385	2,901				11,186
" " Sh. 2	12,937	1,059	41,643	6,277		61,916
" " Sh. 2/50	4,192					4,192
Total Income Charged	58,800	21,038	41,643	6,764		128,245
Total Tax Charged	4,108	1,178	4,164	652		6,002
Number of Persons Charged	107	53	45	11		216
Average Gross Income	1,244	396	925	615		938
Average Tax	£38/7	£22/4	£92/10	£59/5		£46/15
Average Rate of Tax Per Cent on Gross Income	3.08%	5.60%	10%	9.64%		4.98%

Schedule 2 A

Assessments Analysed into Main Trade, etc., Groups

	No. of Persons	INCOME FROM										ASSESSMENTS										
		Agriculture	Employments	Trades	Rents	Property Occupied	Dividends Interest	Other Income	Income from Abroad	Total Gross Income	Less Interest	Net Income	Less Taxation	Net Assessable Income	Business Profits	Wages	Salaries	Profits	Dividends	Interest	Other	
		£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	
MANUFACTURE: Gold Mining, Building and Allied Trades, Metal and Engineering	34	300	784	125,961	3,128	134	40			130,347				130,347	3,150	1,050	1,005	137			87	
MERCHANTING: General Wholesale Merchants, Timber, Oil, etc.	60		1,799	185,176	1,090	177	1,921	174	98	191,035				191,035	4,200	1,550	1,605	748			855	
DISTRIBUTION: General Retail, Garages, Hotels, Manufacturers' Agents, etc.	198	180	8,021	183,945	15,018	1,412	3,652	905	260	213,394	4,847	208,547	172	208,375	39,800	9,955	8,850	1,855			2,751	
TRANSPORT: Shipping and Allied Trades, Bus and Goods Services, etc.	17			113,497	72	40	35,998			150,304				150,304	350	150						
FINANCE: Insurance, Money Lending, Investment Companies, Banking and Stock-broking	69	66		76,876	2,797		847			80,586				80,586	363	80,223	159	80,064	1,050	150		269
AGRICULTURE, ETC.: Tea, Coffee, Sugar, Stock and Dairy, and Allied Trades: Mining, Curing, etc.	150	175,011	8,520	46,749	3,097	203	3,431	2,794	14,481	257,886	1,156	256,730	2,914	253,816	32,900	9,000	1,665	83			1,212	
EMPLOYMENTS: Agricultural	107	496	60,509	2,659	112	70	4,152	9,022	2,906	75,346	546	74,800	352	74,448	30,750	9,199	3,315	201			2,888	
All Others	641	1,917	438,825	10,211	8,064	6,453	27,807	27,714	8,129	529,780	6,807	522,973	1,100	521,873	22,750	62,717	26,685	8,118			25,173	
GOVERNMENT OFFICIALS AND PENSIONERS	671	2,485	470,100	1,107	3,605	3,544	5,484	32,189	11,392	533,272	1,555	531,717	1,607	530,110	233,400	68,100	32,505	7,328			24,578	
DIVIDENDS AND INTEREST	129	331	1,825	1,980	1,467	1,297	37,590	10,965	49,160	104,615	577	104,038	2,218	101,820	26,990	7,187	1,845	504			716	
PROPERTY OWNERS (Houses)	92	443	1,747	687	50,122	2,600	6,429	505	605	63,138	125	62,913	52	62,861	11,900	3,150	2,160	732			1,284	
PROFESSIONS: Law, Medicine, Surgery, Dentists, Accountants, Chartered Surveyors	78	581	7,944	70,587	2,062	2,056	5,220	1,100	4,228	94,078	1,875	92,203	785	91,418	25,483	8,409	5,215	1,500			3,478	
MISCELLANEOUS	27	6	2,145	19,515	586	342	854	109	30	23,587	37	23,550	251	23,299	6,530	1,800	965	276			689	
EDUCATION: Schools, Business Colleges, Dancing, etc.	6		165	4,475						4,707				4,707	300						90	
TOTAL	2,278	183,416	1,992,910	844,125	93,320	18,328	133,485	80,378	96,113	2,452,075	18,587	2,433,488	13,390	2,420,098	635,485	186,688	90,350	22,835			61,123	

Assessments Analyzed into Main Trade, etc., Groups

1 Folio No.	2 Locality	3 No. of Dw.	4 No. of Dw.	5 No. Assess- ment	6 Income (£ Net of 10%)	ALLOWANCES FOR						12 Charge able Income	CHARGED AT No. 1		CHARGED AT No. 1.50		CHARGED AT No. 2		CHARGED AT No. 2.50		17 Total Tax Gross	18 Less Tax Paid at Source	19 TOTAL TAX PAYABLE		
						7 Wid.	8 Old	9 Dependent	10 Life Assurance	11 Pension Fund, etc.	Total Allowances		Income	Tax	Income	Tax	Income	Tax	Income	Tax					
130	317		130	317	3,150	1,050	1,095	137	87		5,519	124,828	2,895	145	1,000	75	199,631	11,962	1,302	163	12,345		12,345		
191	035		191	035	4,200	1,650	1,695	548	855		8,858	182,177	6,397	320	3,123	234	172,193	17,220	464	58	17,832		17,832		
243	304	1817	243	304	9,505	3,850	4,895	1,895	2,754	89	53,803	154,572	41,675	2,084	9,798	745	99,444	9,944	3,655	457	13,220	214	13,006		
150	304		150	304	350	150					500	149,804	527	26			149,277	14,928			14,954	3,546	11,408		
80	586	363	80	223	1,450	450	505		269		3,174	77,590	1,408	70		76,182	7,618			7,685	543	7,145			
237	886	1,156	237	886	32,000	9,000	1,095	830	1,242	47	48,074	205,142	35,821	1,766	6,793	507	159,878	15,989	3,189	39	18,659	302	18,357		
75	346	446	75	346	30,750	9,199	3,045	831	2,885	727	44,220	20,228	19,011	950	1,175	39					1,042	243	799		
529	780	6,807	529	973	221,290	62,757	26,685	8,458	2,173	2,352	323,285	174,248	146,904	7,345	17,411	1,306	3,781	978	149	13	9,648	1,773	7,875		
539	272	1,555	539	175	233,400	68,100	32,565	7,528	24,578	9,372	375,543	154,567	145,240	7,262	7,972	598	1,355	135			7,995	148	7,847		
104	615	677	104	938	26,000	5,487	1,845	504	716		35,182	66,498	39,343	1,967	6,541	491	9,668	967	10,946	1,368	4,793	2,350	2,443		
63	138	125	63	143	11,900	3,150	2,160	732	1,284		19,526	43,135	24,268	1,213	7,423	588	9,276	928	2,168	27	2,970	107	2,863		
94	078	1,875	94	294	91,418	26,483	8,409	5,295	1,506	3,478	44,162	47,256	28,624	1,431	7,980	598	9,258	926	1,394	171	3,129	306	2,823		
23	587	37	23	590	23,299	6,950	1,800	965	276	689	10,380	12,919	5,731	287	1,040	78	6,148	645			980	30	950		
4	764	99	4	768	1,698	1,050			90		1,440	3,168	1,074	54	500	37	1,594	159			250		250		
2,432	075	18,747	2,433	688	13,990	2,419,698	635,483	181,168	90,350	22,855	61,723	12,537	1,003,566	1,416,132	498,418	24,920	70,724	6,305	823,727	82,373	93,258	2,907	119,505	9,582	105,943

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