

EAST AFR. PROT.

37142



Governor	510
Belfield	

## PASSPORTS FOR SECOND CLASS OFFICERS

1915

22nd June

Enclose copy of letter received from C.A. stating allowance of 13/- is to be granted. Requests confirmation and asks if similar allowance is to be made to 2nd class officers for homeward journey.

Last previous Page

NO  
1915/4

for *Belfield*

This is only reasonable

to do.

Reply in the affirmative?

Yours  
16/8/15

and send copy of Yes. 16.8.15  
 (under  
 hand) & on reply to  
 the question I have for you  
 & your answer is.

about 60  
 copies sent to Mr. 257/1915/4

Next subsequent Page

16/8/15

3. The British Treaty of 1866 was abrogated in 1908 by Treaty and the German Treaty expired, I believe, in 1910 it, therefore, follows that the French claim to exemption from taxation other than import duties has had no foundation based on a Treaty or otherwise since 1910.

4. Mr. Carregean's argument appears to be that because certain taxes have been specifically mentioned in the 1844 Treaty all other forms of taxation are precluded. I venture to disagree with Mr. Carregean's conclusion. The 1844 Treaty provided that import duties on merchandise brought by French vessels should not exceed five per cent on their value (subsequently increased to ten per cent under the provisions of the Brussels Act), and that such duty freed the French vessels and their cargoes from all taxes of import, export, tonnage, licence, pilotage, anchorage and any other duty whatsoever on entering or leaving. The freedom from taxation based on these provisions can, in my opinion, only apply to the matters set out in the Article and that no exemption can be claimed from other forms of taxation.

5. As the question raised affects the alleged Treaty Rights of France it should, in my opinion, be submitted to the Secretary of State in order that it may be referred to the Foreign Office for an opinion before any definite action is taken.

Sd. J. W. BARTH  
ATTORNEY GENERAL.  
B.

INCLOSURE No 6

In Letter No. 5094, June 26<sup>th</sup> 1915

68

June 22nd 1915.

The Hon: Chief Secretary,

Reference No. 9.18017 of the 18th Instant.  
RE NATIVES of the Comoro Islands  
living at LANU.

Mr. Carrogean has not referred to any special Article of the Treaty of 1844 with the Imam of Muscat to support his argument in favour of his allegation that the subjects of countries under French protection enjoy freedom from ordinary taxation when within the dominions of His Highness the Sultan of Zanzibar.

2. Prior to the expiration of the German Treaty of 1865 and the Abrogation of the British Treaty of 1866 with His Highness the Sultan of Zanzibar the French by virtue of Article 2 of their Treaty of 1844 giving them the privileges and advantages of the most favoured nation were exempt from ordinary taxation because Article 5 in the German and British Treaties provided that German and British subjects respectively should not be liable to any taxation other than the import and export duties provided by the aforesaid Treaties (vide Articles VII and VIII of such Treaties).

when outside his own state in the same position as a British subject. On this presumption it is unlikely that the British Government would be inclined to argue that a native of the Comore Islands is not a French subject and is, therefore, not entitled to enjoy the treaty rights given to French subjects.

- (b) There is nothing in the French Treaty that I can discover exempting French subjects from ordinary taxation.

2. In my opinion Mr. Carougean should be asked to state definitely on what provision of the Treaty he bases his claim on behalf of Comore Islanders to exemption from ordinary taxation.

Sd J. W. BATH.  
ATTORNEY GENERAL.  
E.

INCLOSURE *has*

*20th June 1910*

66

June 11th 1910.

The Hon: Chief Secretary,

Reference No. S. 1897 of the 18th volume.  
re Natives of the Comoro Islands living  
at Lamu.

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I am of opinion that the contention set up by the French Consul Agent at Mombasa that natives of the Comoro Islands living in His Highness the Sultan of Zanzibar's dominions are exempt from taxation is untenable on the following grounds:-

- (a) The French Treaty deals only with the rights of French subjects, the natives of the Comoro Islands appear to be subject to French Protection only. I do not, however, attach much importance to this ground as it is conceivable that the tendency of international law is to regard the subjects of a protected state when within the territory of a state protected by another power as the subjects of their protecting power. So far as I am aware this point has not been definitely settled but I presume it would be to the advantage of England to argue that a British protected person is

when

INCLOSURE <sup>No 4</sup>

to be closed No. 50 of June 25<sup>th</sup> 1915

The Secretariat,

65

Nairobi,

June 24th, 1915.

In reply please quote  
no. S. 12017/8,  
and date.

Sir,

I have the honour to acknowledge the receipt of your letter of the 10th instant respecting the status of Comoro Islanders domiciled in the dominions of His Highness the Sultan of Zanzibar.

2. I regret that this Government is unable to accept the view which you have advanced, as at present advised, but since the question raised affects the Treaty rights of France, it is being referred to the Secretary of State for instructions and I will address you further when his reply is received.

I have the honour to be,

Sir,

Your most obedient servant,

(sd) O.C. BOWRING,

CHIEF SECRETARY to the GOVERNMENT.

Monsieur Ambassadeur,

THE CONSULAR AGENT FOR FRANCE,

NORONHA.

plus trêve en sujet locaux. de vous serai en  
 outre reconnaitant de bien vouloir donner des  
 ordres pour que les frais indiqués par eux  
 jusqu'à tel jour soient intégralement remboursés.

Veuillez agréer, Monsieur le Secrétaire,  
 l'assurance de ma haute considération.

L'ÉVÊQUE DE LYON, M. DE LA RIVÈRE.

Le Secrétaire, M. DE LA RIVÈRE.

REPUBLIQUE FRANCAISE.

Agence Consulaire,  
de  
FRANCE  
O M B A S A.

63

Mombasa, le 16 Juin 1915.

Monsieur le Secrétaire,

J'ai l'honneur d'accuser réception de votre lettre du 12 Juin No. S. 12017/4.

Aucun article du traité de 1844 avec S.M. le Sultan de Zanzibar ne se réfère spécialement au "hut tax" ou à toute autre taxe locale, mais notre thèse est que les seules taxes applicables à nos nationaux et protégés sont celles inscrites dans le Traité à l'exclusion de toutes autres qui ne leur sont pas applicables. Nous avons toujours soutenu cette thèse qui a d'ailleurs aussi toujours été celle de toutes les puissances contractantes avec S.M. le Sultan de Zanzibar, et sans nul doute elle était aussi celle de la Grande Bretagne avant qu'elle n'ait étendu son Protectorat au Sultanat de Zanzibar.

Je dois en outre vous faire remarquer que cette thèse se trouve fortifiée par le respect qui lui a été continuellement accordé depuis la signature du dit Traité jusqu'à ce jour et des usages en pays de législation similisire tels que l'Egypte.

Leu se trouvant dans les Etats du Sultanat de Zanzibar et les Comoriens étant protégés Français, je vous serai reconnaissant en conséquence de bien vouloir donner des instructions à votre Administration sur la côte pour que les nous signale dans sa lettre du 12 mai cessent et pour que nos protégés ne soient plus

traitez -



INCLOSURE *no 2*

is Decree No. 504 of June 25<sup>th</sup> 1915

J.  
In reply please quote  
no. 8.12017/4  
and date.

The Secretariat,

Nairobi.

June 12th, 1915.

62

Sir,

I have the honour to acknowledge the receipt of your letter of the 12th ultimo respecting the status of Somali Islanders domiciled in your country addressed to His Excellency the Governor.

I should be obliged if you would inform me on what provision of the Treaty between France and England you base your claim that such persons are exempt from ordinary taxation.

I have the honour to be,

Sir,

Your most obedient servant,

SG/- G. C. BOURNE.

CHIEF SECRETARY to the GOVERNMENT.

MINISTRE DES AFFAIRES ÉTRANGÈRES,

LE GÉNÉRAL AGENT POUR LE KENYA,

FRANCOIS.

REPUBLIQUE FRANÇAISE.

61

Agence Consulaire  
de  
France.  
A O M B A S A.

Mozambique, le 12 Mai 1915.



Monsieur le Gouverneur,

Il ressort d'une enquête à laquelle je me suis livré que les Comoriens établis à Lamu sont traités en sujets locaux et qu'en particulier votre Administration les oblige à payer le Haut Tax à défaut de lequel ils sont poursuivis.

J'ai l'honneur de vous faire remarquer que les Comoriens sont protégés français et qu'en outre Lamu se trouve dans la partie du Protectorat relevant de v. à la suite de Lamu. Ils n'ont à acquitter aucune taxe et ce en vertu des clauses du Traité de 1844 entre la France et le Sultan de Lamu.

Je vous serai reconnaissant en conséquence de bien vouloir donner des instructions à l'Administration à Lamu et sur tous autres points de côte pour que ces abus cessent et pour que nos protégés ne soient plus traités en sujets locaux. Je vous serai en outre reconnaissant de bien vouloir donner des ordres pour que les taxes indûment payées jusqu'ici par eux leur soient remboursées.

Veuillez agréer, Monsieur le Gouverneur,  
l'assurance de ma haute considération.

L'AGENT CONSULAIRE DE FRANCE.  
M. LACROIX.

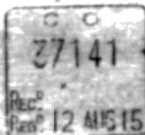
A son Excellence Monsieur le Gouverneur,  
de l'Afrique Orientale Anglaise.

M. LACROIX

GOVERNMENT HOUSE,  
NAIROBI,  
BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE.

No. 509.



June 25th, 1915.

Sir,

I have the honour to transmit herewith copies of correspondence between this Government and the French Consular Agent at Vombasa relating to the status of Comoro Islanders domiciled in those districts of the Protectorate which form part of the dominions of the Sultan of Zanzibar. I attach also two memoranda on the subject by the Attorney General.

2. I agree with the views expressed by Mr. Barth but, since the matter has a certain international importance, I am referring it to you, as suggested by him, in case the Foreign Office may have any observations to make.

3. You will perceive that I have informed Mr. Carougeau accordingly.

I have the honour to be,  
Sir,  
Your humble, obedient servant,

*Alfred B. ...*

GOVERNOR.

THE RIGHT HONOURABLE

ANDREW BONAR LAW, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.

Mr. Carougeau  
10-5-15

Mr. Carougeau  
12-6-15

Do.  
8-15

Do.  
4-6-15

Attorney Genl.  
11-6-15

Do.  
8-15