PUBLIC

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CONTINUED FROM PREVIOUS FILM

at No.1 on this file shows that at that time the Kenya Govt. was considering the formal exemption of widows and nothing particular is said here as to the result of the reference to the Provincial and District Commissioners beyond the statement in the Attorney-General's Report that it is generally agreed by the Provincial Commissioners that there should be a means of levying tax from women householders who own property sufficient to make them independent and competent to pay income tax. If this is enforced we may expect a squeal from every kind of Women's Society and there may be quite a crop of Parliamentary questions. The operative clause in the new Ordinance is No.4 which says that every native being the owner or occupier of a hut shall pay a tax in respect of each hut owned or occupied by him or her, provided that a male native is liable for tax in respect of huts occupied by his wives. The District Officer is to have wide powers for exempting anybody and the Governor may exempt any person or class of persons.

The amendments in the original draft suggested by the Select Committee of Council which considered the Bill have all been adopted. It was a good Committee, including Mr.La Fontaine, Mr.Montgomery and Mr.Welby among the Provincial staff and Mr.Burns and Mr.Hemsted the two unofficials charged with representing native interests. It may, therefore, be taken as a fairly satisfactory Bill on the whole.

With regard to Section 6, while it may

may be the case that procedure by distress is the natural and logical method of dealing with defaulters in tax paying, yet if the defaulter has not no seizable property there are obvious defects in the procedure. The rigmarole set out in para. 5 of the despatch is enough to show how insure the present situation is and I think we can [illegible] that alteration is making things easier [illegible]. We can also agree to allow [illegible] District [illegible] wider powers of exemption under section [illegible].

All these points may be considered later, and the first thing we have to do, I suggest, is to get off an answer to Mrs. Cockburn. [illegible] for that purpose.

J Flood
10.10

Off. to Mr Cockburn [illegible] I am not [illegible] that it will go [illegible]

Rain on the Old [illegible] [illegible] of women [illegible] also there is a lot about disturbances in Nor. Rhodesia papers. Mr Lind [illegible] looked up.

[illegible] 10.10.

12 To The Rev. J. Hutchinson Cockburn (11 encl.) 12/10/34

Recd. for answer 8/(10) vide minutes — reference to be made also to [illegible]

Not [illegible] the Northern Rhodesia [illegible] [illegible] a note on the position

C. Grossmith 12/10/34

Mr. Harragin has made a sound job of this, & I see no reason for deferring signification of non-disallowance. If the Ord.ce is attacked on the ground that it specifically provides for taxation of women, the answer is that taxation is a logical accompaniment of Government's recognition of their status as independent property-holders. It will be recalled that Miss Eleanor Rathbone & others have criticized, not without indignation, the standpoint hitherto adopted by Govts. viz. that a native woman cannot own property, being herself the "property" of her male relations.

Subject to legal advice, I signify n.d.n.

[illegible]
24/1/10

Kenya have got rather muddled over the procedure. The Attorney General advised reservation for signification of His Majesty's pleasure. If that advice had been followed, the Ordinance should have been endorsed "I reserve etc. etc." and signed by the Governor. Instead of that, he

says he is withholding his assent pending receipt of notification of non-disallowance, when I presume he means will assent. But there is no Ordinance until assent is given, and there is therefore nothing to disallow. Moreover, since the Bill has not been formally reserved for His Majesty's assent, it would not be correct for that assent to be given in lieu of that of the Governor. The Governor can (1) formally reserve for His Majesty's assent, (2) assent and suspend the operation of the Ordinance (see Section 1), or (3) informally withhold his assent pending receipt of the Secretary of State's observations. Perhaps the best thing to do is to proceed as if he had adopted course (3).

The only observations I have on the Bill are:

Section 4. If a native has more wives than huts, he pays one tax for each wife, but the law is ambiguous in the case where he has more huts than wives, at least if he has only one wife. Subsection (2) provides that he shall pay one tax if he has one wife, but under subsection 1 he should pay one tax per hut.

Section 6(1). The general rule which is followed nowadays is that no-one should be imprisoned for failure to pay a debt unless he has, since a certain time, generally the date of a judgment for the sum concerned, had the means to pay and has neglected or refused to do so, the burden of proof of means being upon the creditor. This subsection does not appear to adopt this principle. I cannot see that any harm would have been done if a proviso had been added to the effect that if the Court is satisfied that the native is, and at all times since the due date has been, unable to pay, he should not be sentenced to imprisonment. This would not be so strict as the usual rule

~~through~~ for it would cast the burden of proof upon the debtor, ~~and~~ but I agree that in the circumstances that would probably be justified. Alternatively, the Court might have been given a power similar to that conferred upon District Officers by Section 8. It is true that the power to imprison seems to be discretionary, but I feel some doubt as to how far the Courts, especially the inferior Courts, can be trusted to exercise their discretion in accordance with the principle ~~alone~~ alone.

Section 8. There is a point here which the Department may wish to raise. This Section gives a power of remission, but having regard to the words "for such period" in the eleventh line, it is not clear whether it is intended that the District Officer might merely suspend payment. I presume not, and that the words quoted above mean that the District Officer may remit one year's tax or more.

R.O. Roberts-Wray

~~23~~ 7/10/34.

The legal point about the non-assent to this Ordinance is ~~very broad~~ rather funny. As Mr. Roberts-Wray says the best thing to do is to assume that the Governor has simply not assented to it pending instructions from the Secretary of State, since he has not said, as he should do, that he had reserved the Ordinance for the signification of His Majesty's pleasure. We shall have to say so to the Governor in case he actually did use the

W.C.P.

the proper form of words on the copy of the Ordinance in Kenya.

I think Mr. Roberts-Wray's point about the man who has more huts than he has wives is really answered by the definition of 'hut', in the definition of which the words "used by a native as a dwelling" are important. A man in actual practice, in the conditions of life in Kenya, does not maintain half a dozen huts in any of which he can live unless he has a wife in each one of them, so that the point is not likely to arise. In any event, I think it can be left to local common-sense.

Yes, but forward it on to the Governor. Wray and Denton

Mr. Roberts-Wray's comment on Section 5(i) is a good one and I certainly think that the Court should have the power to let a man off altogether if it is satisfied that he has no means to pay.

Yes.

I think the effect of the words "for such period" is that the District Officer is allowed to remit the tax for any time that he thinks fit, i.e. he can give a certificate to the effect that native so-and-so is exempt from the payment of hut tax for a year, ten years, or the rest of his natural life, and some such provision seems necessary somewhere if undue hardship is to be avoided.

I see no harm in leave upon Swynnerton and the other Governor.

The point about the taxation of women is interesting. It appears now that the Kenya Supreme Court have decided that under the existing legislation women were exempt from hut tax. Kenya might have told us this before, since the judgment of the Court must have been given some time ago in view of the fact that in paragraph 3 the judgment is stated to have been the inciting cause of the legislation. I can't see myself that ~~it was~~ it is very a very

very sound cause. Kenya must know perfectly well that the "taxation of widows" has been, and is likely to be, a war-cry over here, and why should they go out of their way to make things more difficult by introducing specific legislation to tax women who have got any property? Mr. Freeston's reply to that argument is quite a good debating point, but doesn't really cut much ice in my mind. It is to be hoped that the application of the Ordinance will be enforced with discretion and that it will be only isolated women, who are in possession of property and the means to pay, who will be called upon in fact to pay hut tax. I think we ought to say so, and, as a matter of interest, ask when the Supreme Court judgment was given and for the terms of it.

As pointed out in paragraphs 5 and 8 of the despatch, procedure by distress is not very suitable for conditions in Kenya. You can't levy a distress warrant on a man whose only assets are a cloth to wrap round him and possibly a spear or two and a decrepit goat, and the eight successive steps set out at the end of paragraph 5 can only have the effect of bewildering the unfortunate native who is unable or unwilling to pay his tax. Under the new procedure tax due may be recovered by distress or in default of distress the Court may order imprisonment or detention up to three months, and instead of issuing a warrant

of

of distress the Court may commit the defaulter to prison or a detention camp for any period up to three months.

This is one of the things where the local Government ought to be trusted, and I, therefore, think that we can reply to the effect that the Secretary of State presumes that the Governor has simply withheld his assent pending observations, that the Secretary of State does not object to the enactment of the Ordinance and will not advise H.M. to exercise the power of disallowance when it receives the Governor's assent, and commenting generally as above. I think we need not take the point about the case where a native has more huts than wives, which probably bears no relation to local practice. (If a native had an extra hut he would either get a wife to fill it or else let it go to glory).

J. & A. Reed

31.10.34.

12A

Sir J.Maffey.

Mr.Grossmith's Note opposite sets out the position very clearly. It is a pity that we have not got the judgment of the Supreme Court but we must assume that in saying that there was no legal authority for taxing women the Court did not refer to those cases where the tax for a hut occupied by a woman is paid for by her man. If there had been such a judgment it would have gone to the root of the whole system of native taxation and we should not have been able to go on with ~~native taxation~~ the Ordinance without exploring the matter.

Leaving

Leaving that very improbable point on one side there remains Lord Moyne's recommendation referred to by Mr.Grossmith, in particular his first point which in certain circumstances exempts from tax in respect of a widow the man who has inherited her. In such a case ~~On that view~~ the tax would not be payable under the Supreme Court decision and it is a pity that Kenya have not been able to take up Lord Moyne's points in their new Ordinance. It seems clear that cases will be included under the operation of the new Ordinance other than those of the independent woman householder whom it is intended to catch.

We must rely on the discretionary power of remission to avoid hardship. I hope, however, that Lord Moyne's point will be taken up soon, as our critics of the taxation of women will not be satisfied with the exercise of the discretionary power, and ~~in~~ a case where the discretion is not wisely used may lead to a storm of protest.

I think that we should put the point of Lord Moyne's first category to the Governor in replying as Mr.Flood proposes. There are also two points indicated by my marginal notes which I think, as a matter of precaution, might be mentioned to the Governor.

W.C.S.
1/11/34.

As proposed.
At once.
J.H.M.
2/XI/34

12

13 The Rev. J. Hutchinson Cockburn — 26 Oct 34.

States that he has been instructed by the Church & Nation Committee to draw attention to further consideration for the raising of the age at which natives are liable for State Poll Tax.

Mr Cockburn appears to be unaware of the new taxation imposed on the non-native population since the Moyne Report was published.

? Ack. as in draft herewith.

C.L.Grossmith
7/11/34.

I think that ~~it might be~~ as well to do more than return a mere acknowledgement. It is quite obvious that Mr.Cockburn and his friends are not aware of the present situation in Kenya or that considerable further taxation has been imposed upon the non-native population. Nor are they aware how closely Kenya has to economise in order to balance its budget at all, and that a sum of £40,000 really bulks very largely in the eyes of the Colonial Govt. Draft herewith.

V. F. W. Flood
10.11.34.

Agree
W.C.S. 10.11.

At once.
J.H.M.
12/XI

14. Governor Byrne Tel 208 — 14 Nov. '34.
Enquiries whether notification of non disallowance of Native Hut & Poll Tax Ordinance may be given.

Draft Tel herewith.

C. Bowring
16/11/34

Minute
16/11

ts refund
n No 10 not yet
ed — file
ned from
file with
ed it was
taking.

15 Tel to Gov Kenya No 274 — 16th November, 1934

16 To The Rev J. Hutchinson Cockburn 20/11/34
(13 answd)

ri mark
20/11/34

17 To Kenya, 966 (w/c Q+A. 5 on P.Q. file) 20 NOV 1934
(10 answd) 19/3/35

Parliamentary Question by Mr Benfield – No 5 on P.Q. file
" " " – No 6 " "
" " " – No 7 " "
" " " – No 8 " "

ri mark
4/12/34

18 To Kenya, 1002 — cons 4/2/35 4 DEC 1934
(w/c Q+A 6, 7 + 8 on P.Q. file)

Parliamentary Question by Mr Benfield – No 9 on P.Q.

19. Extract from Manchester Guardian 10 Dec. '34.

20. Secretariat Circular No 34 of 1934
Native Hut + Poll Tax Collections 1934

21. Governor Byrne 603 — 23rd Nov '34.
Trans. 2 authenticated + 12 printed copies of the Native Hut + Poll Tax Ordinance No 10 of 1934

authenticated + 4 printed copies to Library

The legal advisers saw the Ordinance when it was submitted in No 10.
The Governor's assent was given on 20th November.

? Sanction G.S.

The Governor will no doubt consider the need for amending the Ordinance to meet the suggestions in No 17 which had not arrived in Kenya when No 21 was despatched.

C. Bowring
20/12/34

Yes: we should bring up in 6 months if no reply has been received.

G. S.

noted
19/6/35

A.E.W. Flood
20.12
alone

Library (legal)
Library

noted by
24/12/34

23 To Kenya, 1063 (21 answd) 6/3a 21 DEC 1934

24 Goodchelyme 664 _____ 28th Dec. 34

States that information as to the number of natives who pay Hut Tax as distinct from Poll Tax could only be obtained by enquiries entailing a large amount of addl. work in each district.

This refers to No 6 on the P. of Ag.

I submit the draft of a letter to Mr Banfield Ref., for Comm.

(It is the Sec's practice to sign letters to Members of Parliament)

C.A. Fiorenzi
2 Jan/35.

Yes. Mr Banfield has been promised the info. otherwise I would suggest waiting till he asks again.

J.E.O. Hall

for Sec 28.1.35

25. To Jas Banfield – Ao _____ 28.1.35

26 Government Notice No 46 of 1935.
Rate of tax payable in 1935.

? Reply
C.A. Fiorenzi
7/3/35.

L.B. Proctor
8 Mr

25394/26 Hifara
reply recd. to
y.

24 Governor's Minute 664 _____ 28th Dec. 34

States that information as to the number of natives who pay Hut Tax as distinct from Poll Tax could only be obtained by enquiries entailing a large amount of addl. work in each district.

This refers to No. 8 on the P. & Ex.

I submit the draft of a letter to Mr Banfield Asst., for Comm.

(It is the Govr's practice to sign letters to Members of Parliament)

C.A. Smith
28/1/35.

Geo. Mr Banfield has been promised the inf.
otherwise I would suggest waiting till he asks again.

J.E.O. Hall
28.1.

Letter 281

25. To Jas Banfield — do — 28.1.35

NOTE.
B.A. 25394/Est Mijana
when refer recd. to
Ns. 17.

26 Government Notice No. 46 of 1935.
Rate of tax payable in 1935.

? Reply
C.A. Smith
7/3/35.

L.B. Proctor
8 Mar

GOVERNMENT NOTICE No. 46

THE NATIVE HUT AND POLL TAX ORDINANCE, 1934

NOTICE

IN EXERCISE of the powers conferred upon him by section 3 of the Native Hut and Poll Tax Ordinance, 1934 His Excellency the Governor has been pleased to prescribe that the rate of hut and poll tax payable for the year 1935 under the provisions of the said Ordinance shall be Sh. 12: Provided that in the case of the districts and tribes set out in the first column of the Schedule hereto, the rates of hut and poll tax shall be the rates set out in the second column of the said Schedule.

By Command of His Excellency the Governor

Nairobi,
1st January, 1935.

A. DE V. WADE,
Colonial Secretary.

SCHEDULE.

District or tribe	*Rate* Sh. cts.
Meru District	8 00
Kitui District	9 00
Masai District	14 00
North Kamasia Tribe	6 00
South Kamasia Tribe	9 00
Duruma Tribe	8 00
Turkana Tribe	6 00

GOVERNMENT NOTICE No. 46

THE NATIVE HUT AND POLL TAX ORDINANCE, 1934

NOTICE

IN EXERCISE of the powers conferred upon him by section 3 of the Native Hut and Poll Tax Ordinance, 1934, His Excellency the Governor has been pleased to prescribe that the rate of hut and poll tax payable for the year 1935 under the provisions of the said Ordinance shall be Sh. 12: Provided that in the case of the districts and tribes set out in the first column of the Schedule hereto, the rates of hut and poll tax shall be the rates set out in the second column of the said Schedule.

By Command of His Excellency the Governor,

Nairobi,
1st January, 1935

A. DE V. WADE,
Colonial Secretary.

SCHEDULE

District or tribe	*Rate* Shillings	Cents
Meru District	8	00
Kitui District	9	00
Masai District	14	00
North Kamasia Tribe ...	6	00
South Kamasia Tribe	9	00
Duruma Tribe	8	00
Turkana Tribe ...	6	00

230140/34

15

C. O.

Mr. Ormsby-Gore 28/1/35.
Mr. Fleetwood 26
Mr. Hood 26
Mr. Parkinson
Sir G. Tomlinson
+ Sir C. Bottomley 28
~~Sir J. Shuckburgh~~
Pol. U.S. of S.
Parly. U.S. of S.
Secretary of State.

(Set No 8 PQ file)

DRAFT.

Sir W. Bonfield, Bt, M.P.

W. Bond 28/1/35

(2)

for the Sec. of State's signature

28 Jan

Dear Bonfield

You will recollect that on the 28th of November you asked in the House what was the total number of Hut Tax payers as distinct from Poll Tax payers among native tax payers in 1933 in Kenya Colony. I replied that I was doubtful whether the information could be obtained by the Governor of Kenya without inordinate time and trouble. I have now received a despatch from the Governor in which he says that the figures could only be obtained by means of enquiries

FURTHER ACTION.

enquiries entailing a large amount of additional work in each district of the Colony. In view of the financial position of the Colony and the restricted staff available, I think it would be quite unreasonable to urge the Forester to furnish the information, and I hope you will not press me for it

[illegible]

enquiries entailing a large amount of additional work in each district of the Colony. In view of the financial position of the Colony and the restricted staff available in consequence, I did consider that it would be quite unreasonable to urge the Governor to furnish the information, and I hope you will not press me for it

W

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Yr

(Sgd.) F. CUNLIFFE-LISTER

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Yr

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[illegible]

KENYA.

No. 664.

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

28th December 1934.

Sir,

No 18

I have the honour to refer to your despatch No. 1002 of 4th December, regarding information sought by Mr. J. W. Banfield as to the number of natives in Kenya who pay Hut Tax as distinct from those who pay Poll Tax.

As you informed Mr. Banfield, figures in respect of the year 1933 could only be obtained by means of enquiries entailing a large amount of additional work in each district in the Colony.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL.

GOVERNOR.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

24

16

KENYA.

No.664.

GOVERNMENT HOUSE.
NAIROBI.
KENYA

28th December 1934.

Sir,

No18

I have the honour to refer to your despatch No. 1002 of 4th December, regarding information sought by Mr. J. W. Banfield as to the number of natives in Kenya who pay Hut Tax as distinct from those who pay Poll Tax.

As you informed Mr. Banfield, figures in respect of the year 1933 could only be obtained by means of enquiries entailing a large amount of additional work in each district in the Colony.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL.

GOVERNOR.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

21

KENYA.

No. 603

GOVERNMENT HOUSE,
NAIROBI,
KENYA

November 1934.

Sir,

With reference to my despatch No. 453 of 7th September, and to your telegram No. 274 of 16th November, I have the honour to transmit herewith two authenticated and twelve printed copies of an Ordinance intitled "the Native Hut and Poll Tax Ordinance, 1934", which duly passed its third Reading in the Legislative Council on the 2nd August, and to which I assented in His Majesty's name on the 20th November.

I have the honour to be,

Sir,

Your most obedient, humble servant,

H Grigg

BRIGADIER-GENERAL.

G O V E R N O R.

No 10
No 15

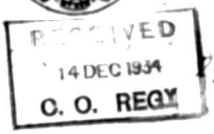
Canal (23)

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

21

KENYA.

No. 603



GOVERNMENT HOUSE
NAIROBI.
KENYA

November 1934.

Sir,

No 10
No 15

With reference to my despatch No. 453 of 7th September, and to your telegram No. 273 of 16th November, I have the honour to transmit herewith two authenticated and twelve printed copies of an Ordinance intitled "the Native Hut and Poll Tax Ordinance, 1934", which duly passed its Third Reading in the Legislative Council on the 2nd August, and to which I assented in His Majesty's name on the 20th November.

Canal (23)

I have the honour to be,

Sir,

Your most obedient, humble servant,

H Byng

BRIGADIER-GENERAL.

G O V E R N O R.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

No. XL. 1934

Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's name this 20th day of November 1934.

J. BYRNE.

Governor.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX

ORDINANCE No. XL of 1934

An Ordinance to Provide for the Levy of a Native Hut and Poll Tax.

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

1. This Ordinance may be cited as the Native Hut and Poll Tax Ordinance, 1934, and shall come into operation on such date as the Governor may by notice in the Gazette appoint. Short title and commencement.

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

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

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

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

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

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

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

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

Power of Governor to prescribe hut tax and poll tax.

3. The Governor may by notice in the Gazette prescribe the amount of hut tax and poll tax which shall be payable for any year, and may in such notice prescribe different amounts for different districts, areas, places or tribes:

Provided that no tax may be prescribed under this section at a higher rate than twenty shillings per annum.

Hut tax.

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

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

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

Poll tax.

5. Every adult male native who shall not be liable to pay the hut tax provided for in section 4 of this Ordinance shall pay in each year a poll tax of such amount as may be prescribed under section 3 of this Ordinance.

Taxes when payable.

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

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

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

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

Receipt for the tax paid

7. A receipt for the amount of tax paid by each native, shall be issued by a collector and delivered to the person paying the tax and such receipt shall be evidence of the payment of the tax:

Provided always that if the receipt cannot be produced the court may in its discretion admit other evidence in proof of payment.

Power to remit tax in certain cases.

8. Whenever it shall be proved to the satisfaction of a district officer that any person liable to pay any tax under this Ordinance is without sufficient means to pay the whole amount of such tax, such district officer may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require: Provided that in such case the district officer shall give to such person a certificate in such form as may be prescribed, and such certificate shall relieve the person in respect of whom the same shall have been given from liability to pay such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer.

Exemptions; powers of Governor.

9. The Governor may by proclamation exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the whole or any portion of any tax leviable under this Ordinance, and may in like manner rescind or alter any such exemption:

Provided that nothing in this section contained shall affect the exemption by any other Ordinance provided for.

Provision for the remission of hut and poll tax in certain events.

10. In the event of any person within the description of any of the classes of persons set out in the Schedule hereto, owing to injuries received whether prior or subsequent to the date of this Ordinance on active service against an enemy or otherwise on active service or owing to a disease contracted on such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his wage-earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the

Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of hut tax on one hut for life or from the payment of poll tax in respect of himself for life as the case may be.

Collector may enter land and buildings in execution of duty.

11. A collector may enter upon any land or into any building in the execution of his duties under this Ordinance.

Tax roll.

12. (1) A district commissioner shall maintain a complete roll of taxpayers in his respective district.

(2) Every tax roll shall contain—

(a) the name of every owner of a hut, the number of huts owned by each hut-owner, and the number of wives of each hut-owner; and

(b) in the case of a native who is not liable for hut tax the name and father's name of such native.

Hut counters.

13. For the purpose of the preparation of the tax roll a district officer may employ persons (hereinafter referred to as "hut-counters") whose duty it shall be to prepare, under the direction of the district officer, the roll of taxpayers in the area to which they may be respectively appointed.

Headman to supply information to hut counters.

14. (1) The district officer shall notify each headman of the date on which the hut-counter will commence to prepare the tax roll in the area to which such headman has been appointed, and it shall be the duty of each headman to furnish the hut-counter with any information, which he may require in order to compile a complete tax roll for the area to which such headman is appointed, and, unless excused by the district officer, to accompany the hut-counter whilst engaged in preparing such tax roll.

(2) A headman may, in lieu of accompanying the hut-counter, order any headman subordinate to him to accompany the hut-counter and to furnish the information aforesaid, and it shall be the duty of such subordinate headman to obey such order:

Provided that nothing hereinbefore contained shall be deemed to relieve a headman of the duty to furnish a hut-counter with any information which he may require for the purposes aforesaid. It shall further be the duty of such headman, upon receiving the said notification from the district

officer, to order every adult male native subject to his jurisdiction to appear before the hut-counter and give him such information as he may require for the preparation of the tax roll, and any native failing to obey such order shall be liable on conviction to a fine not exceeding three pounds or to imprisonment for a period not exceeding one month.

Power to headman to order natives to appear before collectors.

15. A headman shall order any native subject to his jurisdiction who shall not have paid the tax payable by him at the time and place appointed by the collector either to attend before the collector or to send the amount of the tax payable by him to such collector. Any native who fails without lawful excuse to obey the orders of a headman given under this section shall be liable to the penalties provided in the last preceding section.

Penalty for offences by hut-counter.

16. Any hut-counter who shall intentionally omit from the tax roll the name of any person whose name should be included in such roll, or who shall intentionally misstate the number of huts owned by any person or the number of the wives of any hut-owner, shall be liable on conviction to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalty for offences by headman.

17. Any headman who intentionally gives false information to a hut-counter under section 14 of this Ordinance or who, without lawful excuse, refuses or neglects to perform any duty imposed upon him by this Ordinance, or to issue any order which he is required to issue by this Ordinance, shall be liable to the penalties provided in the last preceding section.

Information for the preparation of a receipt.

18. Every person paying the tax shall furnish the collector to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if so required by such collector, attend personally before him for such purpose.

Penalty for giving false particulars.

19. Any person who wilfully furnishes a collector with false particulars in regard to any information required by such collector in preparing a receipt, or who, on being required to attend before a collector, neglects or refuses to attend, or, when attending neglects or refuses to furnish any information required as aforesaid, shall on conviction be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

Production of receipt to collector

20. (1) A collector may, at any time, require any native to produce the receipt granted to such native for the payment of the tax last payable, and may retain any such receipt produced for such time as he may consider necessary for the purpose of identifying the person named in such receipt with the person producing the same.

(2) A collector may require any native who refuses or neglects to produce his receipt when so required, to furnish him with information as to the office at which or the person to whom he has paid his tax last payable, and with such further information as the collector may require for the purpose of ascertaining whether such native has paid such tax.

(3) Any native who, without lawful excuse, neglects or refuses to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, fails to furnish the information which may be required of him under the last preceding sub-section shall, on conviction, be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months.

(4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax, be prima facie evidence that the tax has not been paid.

(5) Any native who, on being required by a collector to produce his receipt, produces a receipt granted to some other person, or who, having failed or refused to produce his receipt, furnishes a collector with any false particulars in regard to any information which may be required of him under sub-section (2) of this section shall, on conviction, be liable to a fine not exceeding seven pounds ten shillings or to imprisonment for a period not exceeding three months.

(6) Any native who transfers to any other native any receipt granted to him with the intention or with the knowledge that it is likely that such other native will falsely produce such receipt as a receipt granted to him, shall be guilty of an offence and on conviction shall be liable to the penalties provided in the last preceding sub-section.

Power to make Rules.

21. The Governor may make Rules—

(*a*) prescribing the duties of all persons engaged or employed in the administration of this Ordinance;

(*b*) prescribing the forms of tax rolls and receipts;

(*c*) for the collection of hut or poll tax in any place which under any law in force in the Colony is declared to be a municipality or a township; and

(*d*) generally for carrying out the provisions of this Ordinance.

Repeal.

22. The Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition) is hereby repealed, but such repeal shall be without prejudice to the collection of any arrears of tax due and payable under that Ordinance.

SCHEDULE.

Any native officer, non-commissioned officer or private of the King's African Rifles, or any native carrier, or any combatant or non-combatant native, recruited or selected under any Ordinance for the time being in force or otherwise for any form of military service.

Passed in the Legislative Council the second day of August, in the year of Our Lord one thousand nine hundred and thirty-four.

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

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

COLONY AND PROTECTORATE OF KENYA.

No. S/F. ADM.9/2.

CONFIDENTIAL.

CIRCULAR No. 34.

G.—25.

A.—8.

D.—1.

THE SECRETARIAT,

NAIROBI, KENYA.

17th September, 1934.

REVENUE.

NATIVE HUT AND POLL TAX COLLECTIONS, 1934.

The Sanctioned Estimates for 1934 provide for a surplus on the working for the year of £10,932.

2. The Estimates of Native Hut and Poll Tax which have been received are :—

	Sanctioned Estimates, 1934.	First Revised Estimates, 1934.	Estimates now received from Provinces
	£	£	£
Nyanza Province	227,500	227,500	206,750
Rift Valley Province	36,697	38,688	40,377
Central Province	227,484	227,484	222,692
Coast Province	51,026	36,158	32,676
Turkana District	6,500	6,650	6,650
Masai District	16,500	6,965	4,303
Northern Frontier District	5,550	5,600	5,600
Total	£571,257	£549,045	£518,948

3. The Revenue upon which the surplus of £10,932 was calculated includes the total £571,257, of the first column above. The first Revised Estimates shown in the second column reduce this total by £22,212 and, in conjunction with an equally disappointing estimated yield from Customs duties, diminish to a very material extent the prospects of balancing the Budget for 1934. If, in addition, a further reduction of £30,097 (making a total reduction of £52,309) in receipts from Native Hut and Poll Tax is to be expected a serious situation immediately arises, as a substantial deficit on the year's working will then be virtually inevitable.

4. His Excellency fully realizes that under present conditions the collection of Native Hut and Poll Tax is a matter of very considerable difficulty. He remarks, however, that the Agricultural and other reports which he has received generally do not warrant the reported shortfall in certain areas; moreover, that the prompt and accurate collection of taxes is of great administrative importance.

His Excellency adds that unless a full collection of Revenue, and of Native Hut and Poll Tax in particular, is made he has little doubt that the financial position will necessitate curtailing services in native areas and elsewhere. He therefore wishes to impress on officers concerned the urgent need for action which will ensure that a maximum collection is made.

5. Provincial Commissioners and Officers in Charge are asked to review the situation at once and in future include in their Monthly Intelligence Reports a schedule showing the collection for each month in each district and to add their comments.

A. DE V. WADE.
Acting Colonial Secretary.

To :—

All Provincial Commissioners.

The Officers in Charge, Northern Frontier, Turkana, and Masai Districts.

The Treasurer.

C. O.

23040/34.

Mr. Grossmith.
Mr. Feetor
Mr.
Mr. Parkinson
Sir G. Tomlinson
Sir C. Bottomley
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State

By Air Mail.

DOWNING STREET,

December, 1934.

C. D.
13 DEC
3 r

DRAFT.

KENYA.

NO. 1002

GOV.

P.Q. and answer No. 8. in P.Q. file

Sir,

I have etc. to transmit to you a copy of a Parliamentary question and of my reply thereto, regarding the number of Natives in Kenya who pay Hut Tax as distinct from those who pay Poll Tax.

2. ~~I shall be obliged if you will furnish me, if possible, with~~ the information ~~desired~~ sought by Mr. J.W. Banfield, M.P. ~~is readily accessible~~. You will no doubt furnish me with the desired particulars.

3. I take this opportunity to transmit to you copies of two other questions asked by Mr. Banfield and of my replies. In this connection I would invite reference to my despatch No.966 of the 20th November.

P.Qs. No. 6 & 7. in P.Q. file

I have, etc.

(Sgd.) P. CONLIFFE-LISTER.

FURTHER ACTION.

(No. 7)

C. O. 230-0/3.

Mr. Grobbelaar. 7/11

Mr. Preston 7

Mr. Hood 10

Mr. Parkinson

Sir G. Tomlinson

Sir C. Bottomley 10

Sir J. Shuckburgh

Permt. U.S. of S. 12/XI 61

Parly. U.S. of S.

Secretary of State.

By Air Mail

Minuted by No 1 31/10/61

DRAFT.

KENYA.

No. 466

GOV.

(10)

P.Q. (Official Reply) Not in 14/11/61 P.Q. File.

FURTHER ACTION.

[illegible]

2 [illegible]

[illegible] for the sign [illegible] pleasure, but, on [illegible] me, I presume that [illegible] your assent pending the receipt of [illegible] observations. I have no objection to the enactment of the Ordinance and shall not advise His Majesty to exercise his power of

C. O.

23040/34.

Mr. Grosamith.
Mr. Fearson
Mr.
Mr. Parkinson
Sir G. Tomlinson
Sir C. Bottomley
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

By Air Mail.

DOWNING STREET,

December, 1934.

Answered by No. 1

O. D.
13 -DEC
3 c

DRAFT.

KENYA.

NO. 1002

GOV.

P.Q. and answer to S. for P.R. file

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P.Qs. No. 6 & 7. on P.R. file.

(No. 7)

I have, etc.

(Sgd.) P. CUNLIFFE-LISTER.

FURTHER ACTION.

C. O. 23040/34.

Room 308

17

Mr. Grossmith. 7/11
Mr. Freeston 7
Mr. Hood 10
Mr. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley. 10
Sir J. Shuckburgh
Permt. U.S. of S. 12/XI
Parly. U.S. of S.
Secretary of State.

By Air Mail

Downing Street,

November, 1934.

C. O.
16 NOV
D. 1 Qn

DRAFT.

KENYA.

NO. 466

GOV.

Sir,

I have etc. to acknowledge the receipt of your despatch No. 453 of the 7th of September, regarding the Native Hut and Poll Tax ~~Ordinance~~ Bill, 1934, which passed its Third Reading in the Legislative Council on the 2nd August.

2. I observe that the Attorney General advised reservation of the Bill for the signification of His Majesty's pleasure, but, on the information before me, I presume that you simply withheld your assent pending the receipt of my observations. I have no objection to the enactment of the Ordinance and shall not advise His Majesty to exercise his power of

P.Q. Official Reply 14/11/34 Not in P.Q. File.

RTHER ACTION.

of disallowance when the Ordinance receives your assent.

I have, however, to invite your attention to the points discussed in the succeeding paragraphs.

3. As regards the liability for Hut Tax, it appears that under Section 4, a native, if he has more wives than huts, will pay one tax for each wife, but I am advised that the law is ambiguous in the case where a native has more huts than wives, at least if he has only one wife. Sub-section (2) provides that he shall pay one tax if he has one wife, but under sub-section (1) he should pay one tax per hut. [I assume, however, that in actual practice in the conditions of life in Kenya, a native does not maintain a number of huts in any of which he can live unless he has a wife in each of them.]

Omit [] [97] J.F.

4. Section 6(1) provides for the recovery of the amount due in respect of taxes and for the penalty in case of default.

I

C. O.

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

DRAFT.

FURTHER ACTION.

I would point out that the general rule which is followed to-day is that no one should be imprisoned for failure to pay a debt unless he has, since a certain time, generally the date of judgment, had the sum concerned, had the means to pay and has neglected or refused to do so, the burden of proof of means being upon the creditor. This sub-section does not appear to adopt this principle. I would therefore suggest the addition of a proviso to the effect that if the Court is satisfied that the native is, and at all times since the due date has been, unable to pay, he should not be sentenced to imprisonment. Alternatively I suggest that the Court should be given a power similar to that conferred upon District Officers by Section 8.

5. As regards the terms of Section 8, however, it is not clear whether, in view of the words "for such period" in the eleventh line, it is intended

tender to the District Officer
ght merely go "one payment.
esumably the effect of the words
on such period" is that the District
ficer is allowed to remit the tax for
y time that he thinks fit.

6. I now turn to the provisions
the Ordinance dealing with the
xation of women. In the third
aragraph of your despatch, you said
at the immediate necessity for this
islation arose from a Supreme Court
gment to the effect that under the
ovisions of Chapter 51 of the Revised
ition of the Laws of Kenya, no woman
as liable to pay tax. I shall be
bliged if you will inform me of the
erms of the judgment and of the date
hen it was given. As you are ~~no doubt~~
ware, the question of the taxation of
idows has been, and is likely to be,
the subject of representations in this
country, and the position is not likely
to

C. O.

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

DRAFT.

FURTHER ACTION.

Published after all. Send from file.

to be relieved by the introduction
of specific legislation for the taxation
of women householders. In this
connection I would refer to the
recommendations contained in paragraph
11 of Lord Moyne's report ~~on~~ and to the position
of the widow who is inherited by a man
after she has passed child-bearing age.
The recommendation was that the man
inheriting should not be called upon to
pay tax on her account. In such cases,
the tax would not be ~~payable~~ payable under the
Supreme Court judgment, ~~and it seems~~ but there is the possibility that cases of this type ~~possible that cases~~ may be included
under the operation of the new Ordinance.

I trust, therefore, that the
application of the new Ordinance will be
enforced with discretion and that those responsible for its ~~it will~~
administration will be careful to exempt the law ~~be only isolated women, who possess~~
only from such widows as are in independent ~~property, who will be called upon to pay~~
possession of sufficient property. I think ~~hut tax.~~
this opportunity to be sent to
I ~~have, etc.~~
be a copy of a question
asked in the House of Commons
on the 4th of November and of

C. O.

Mr. Flood. 16
Mr.
Mr.
Mr. Parkinson.
Sir G. Tomlinson.
Sir C. Bottomley. 10.
Sir J. Shuckburgh
Permt. U.S. of S. 12
Parly. U.S. of S.
Secretary of State.

DRAFT.

THE REV. J. HUTCHINSON COCKBURN, D.D.

Downing Street,
20 November, 1934.

Sir,

I am etc. to acknowledge the receipt of your letter of the 26th of October in which you communicate at length the views of the Church and Nation Committee of the Church of Scotland with regard to the age at which taxation should begin to be imposed on the native population of Kenya.

In the first place it need not be assumed that a native is called upon to produce poll tax on his 16th birthday. In the absence of any records it is impossible to tell the exact age of the native population in most instances, which is the reason for the adoption of the phrase "of the apparent age of 16 years and upwards". It is

FURTHER ACTION.

generally agreed that at the age of 16 native youths are regarded as having attained man's estate and it seems, therefore, not inequitable that they should be required to pay tax at that age.

As regards the amount of revenue raised from the tax, at the present moment the Govt. of Kenya has the greatest difficulty in balancing its budget and the margin for emergencies is extremely low. Govt. simply cannot afford to forgo any possible source of revenue and certainly not a sum of as much as £40,000. In the year 1931, to which you refer, the expenditure exceeded revenue by £150,000 ~~£449,058~~. In 1932 it exceeded revenue by £169,000 ~~£206,200~~. In 1933 ~~there was a surplus of revenue over expenditure of £75,361, due to~~ the deficit was £46,000 despite the introduction of new taxation during the year, and the estimate for 1934 was calculated to show a surplus of just under £11,000, though it is at any rate doubtful

C. O.

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

DRAFT.

FURTHER ACTION.

doubtful whether this figure will be reached.

In his Report, Lord Moyne did state that the non-native taxpayers bear relatively slight burdens but the position has been materially altered since then. It was originally proposed to introduce an income tax but that proposal was dropped for the present and the income tax has been replaced by a poll tax on non-natives, graduated according to income. In addition extra taxation has been introduced on companies, a package tax has been enforced, and other measures taken, and in view of the unfortunate state of industry in the Colony it is generally considered that further taxation on the non-native community would be difficult, ~~if not impracticable~~.

I am to assure you that the considerations raised in your letter have been and are kept before the Govt. of Kenya and before the Secretary of State.

23040/34

30

15

C. O.

Mr. Ormsby Gore 16/11

Mr. Fearnley 16 Nov

Mr.

Mr. Perkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

C.O.
R 16 NOV
16 pm

No. 274

(14)

Colonial Secy

3.30 p

16/11/34

HM

Your telegram No 258 ⊙

No objection to enactment of Native Hut and Poll Tax Ordinance 1934 ⊙

~~Disallowance will not be advised when the Ordinance receives Your assent.~~ Despatch follows by Air Mail ⊙

Gent.

DRAFT. Tel.

Governor Nairobi. Hot

On learning that you have assented to Ord.ce I shall advise H.M. not to exercise his power of disallowance

FURTHER ACTION.

COPY FOR REGISTRATION

114/31

Telegram from the Governor of Kenya to the Secretary of State for the Colonies

Dated the 14th November, 1934 Received 11.19 p.m. 14th November

No.258

My despatch No 453 of the 7th of September . Grateful to know if notification of non disallowance of Native Hut and Poll Tax Ordinance may be given

Dunblane Cathedral

THE DUNBLANE S.
THE CATHEDRAL MANSE
DUNBLANE

26 · 10 · 34.

Dear Sir,

N012

I greatly appreciate the courtesy of your letter of 12th October (23040/34). The matter was raised in the Church and Nation Committee (Church of Scotland) and I was instructed to write urging the attention of the Colonial Office to the following considerations.

The policy of taxing Kenya natives at 16 years of age is, we believe, defended on the ground that it induces Africans to enter the labour market at an earlier age than they otherwise would do. The influx of young boys to the towns in order to secure work, or to the farms, so that they may be able to pay the tax, is having results of a serious nature; all the more that in order to pay the tax at the age of 16, they require to leave home before that age.

The Committee note the statement in the report by Lord Moyne (Cmd. 4093) to the effect that natives mature at an earlier age than Europeans, and the Committee also note the terms of the

Dunblane Cathedral

TEL. DUNBLANE 5
THE CATHEDRAL MANSE
DUNBLANE

26 · 10 · 34.

Dear Sir,

No 12

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The Committee note the statement in the report by Lord Moyne (Cmd. 4093) to the effect that natives mature at an earlier age than Europeans, and the Committee also note the terms of the

Dunblane Cathedral

TEL. DUNBLANE 5
THE CATHEDRAL MANSE
DUNBLANE

legislation (p. 111) whereby the tax is payable "by all male natives of the apparent age of 16 years and upwards". The financial loss likely to result from the proposal to raise the age from 16 to 18 is estimated at £40.000, and the Committee realise the significance of the statement made in Lord Moyne's Report to the effect that a remission of this amount would be very unpopular if it had to be made up partly by other native tax payers. The total revenue from this tax, which amounted in 1931 to £530.877 (p. 64) is only a small part of the total revenue of Kenya, which in the same year amounted to £3.066,930. £40.000 is a very small item in this latter total.

In view of the statement made in the report (p. 58) that increased burdens cannot with any justice be borne by the native population, and that the non-native tax payers bear relatively slight burdens, being in "the probably unparalleled position among civilised nations of bearing no direct taxation at all beyond a male poll tax of Shs. 30, a male education tax of Shs. 20 or Shs. 30,

Dunblane Cathedral

TEL. DUNBLANE 5
THE CATHEDRAL MANSE
DUNBLANE

and a comparatively light scale of death duties; the Committee believe that the problem of finding the additional revenue necessary to secure this important reform would be by no means insurmountable. They are of opinion that the financial argument is unworthy of His Majesty's Government in this question.

I have the honour to be,

Right Honourable Sir,

Your obedient servant.

J. Hutchison Cockburn.

Convener, Church & Nation Committee.

NOTE. (Kenya Ordinance XL of 1924)

Section 2.	Cap. 51.	New Ordinance.
Interpretation.	The term "adult native", means a native, who is or appears to be of the age of 16 years or over.	"Adult male native" means a male native of the apparent age of 16 years or over.

Two points arise in this connection. It was suggested in debate that the age limit should be raised from 16 to 18 years so as to bring it into line with the age limit in Uganda and South Africa, but the proposal was not accepted. The point is covered by paragraph 13 of Lord Moyne's Report. See also the recent correspondence with the Rev. J. Hutchinson-Cockburn. Incidentally, in a new Native Taxation Bill for Tanganyika Territory the age limit is raised to 18 years. (No. 2)

The second point relates to the taxation payable by women. Section 5 of the Ordinance provides that every adult male native who shall not be liable for Hut Tax shall pay a poll tax. The proviso is made for the payment of poll tax by women. It follows, therefore, that women are exempt from poll tax. The question of the liability of women for Hut Tax is discussed below.

" " "Hut"	Cap. 51.	New Ordinance.
	The word "hut" means any hut or building whatsoever used by a native as a dwelling.	"Hut" means a hut constructed according to native custom or any building used by a native as a dwelling other than those erected and maintained by his employer

("Native

NOTE. (Kenya Ordinance XL of 1924)

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Two points arise in this connection. It was suggested in debate that the age limit should be raised from 16 to 18 years so as to bring it into line with the age limit in "Gambia and Sierra Leone", but the proposal was not accepted. The point is covered by paragraph 18 of Lord Moyne's Report. (Note) also the recent correspondence with the Rev. J. Hutchinson-Cockburn. Incidentally, in the new Native Taxation Bill for Tanganyika Territory the age limit is raised to 18 years.

The second point relates to the taxation payable by women. Section 3 of the Ordinance provides that every adult male native who shall not be liable for Hut Tax shall pay a poll tax. No provision is made for the payment of poll tax by women. It follows, therefore, that women are exempt from poll tax. The question of the liability of women for Hut Tax is discussed below.

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" " "Hut"	The word "hut" means any hut or building whatsoever used by a native as a dwelling.	"Hut" means a hut constructed according to native custom or any building used by a native as a dwelling other than those erected and maintained by his employer.

("Nati

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Two points arise in this connection. It was suggested in debate that the age limit should be raised from 16 to 18 years so as to bring it into line with the age limit in Uganda and South Africa, but the proposal was not accepted. The point is covered by paragraph 13 of Lord Moyne's Report. See also the recent correspondence with the Rev. J. Hutchinson-Cockburn. Incidentally, in a new Native Taxation Bill for Tanganyika Territory the age limit is raised to 18 years.

(No. 2)

The second point relates to the taxation payable by women. Section 5 of the Ordinance provides that every adult male native who shall not be liable for Hut Tax shall pay a poll tax. No provision is made for the payment of poll tax by women. It follows, therefore, that women are exempt from poll tax. The question of the liability of women for Hut Tax is discussed below.

" "	Cap. 51.	New Ordinance.
"Hut"	The word "hut" means any hut or building whatsoever used by a native as a dwelling.	"Hut" means a hut constructed according to native custom or any building used by a native as a dwelling other than those erected and maintained by his employer

("Native

	Cap. 51.	New Ordinance.
Section 2. Interpretation. "Native".	The term "native" means any native of Africa not being of European or Asiatic race or origin, and includes any Swahili.	"Native" means a native of Africa not of European or Asiatic extraction, and includes a Swahili.

The question of the status of natives and non-natives to cover the case of Arabs, Somalis, etc., is still under consideration by Govt.

" " "Wife".	No definition.	"Wife" means a wife by marriage or by native law and custom and includes a concubine.

Section 4. "Hut Tax".

Under Cap.51 women were not liable to pay tax (vide recent Supreme Court judgment). Under Section 4 of the new Ordinance every native being the owner or occupier of a hut in any district in the Colony shall pay a Hut Tax, in respect of each hut owned by him or her in such district, provided that every male native shall be liable for tax in respect of any hut or huts owned or occupied by his wife or wives. If a native has one wife he shall pay one tax, if he has more than one wife he shall be deemed to be the owner of a separate hut in respect of each wife.

Thus under certain women hut holders will be liable for Hut Tax. In practice the law will only affect those women who, no longer bound by the tradition of their tribes, have accumulated an independent property in their own right, and are making a substantial income by letting rooms to lodgers. The Provincial Commissioners agree generally that there should be the means of levying tax from women householders who hold property sufficient to make them independent and competent to pay Hut Tax.

In the ordinary way a native woman will not be liable for Hut Tax since by the native system she will be under the nominal guardianship of some male within the family group who, as the owner of the hut occupied, will be responsible for the payment of tax. This, however, raises the vexed question of (a) the liability of the owner to pay tax in respect of a hut occupied by a widowed member of his family and (b) the liability of the derelict widow. The matter is discussed in pages 5-7 of Lord Moyne's Report in which it is recommended that the law should be amended to incorporate the following grounds of exemption:-

"If a widow is inherited by a man after she has passed childbearing age he should not be called upon to pay.

"If a widow is young and capable of bearing children her inheritor should pay. If a widow, now old, was inherited when of childbearing age the inheritor should pay".

The present Ordinance does not deal with that recommendation beyond the fact that the Ordinance widens the scope for the exemption of deserving persons who are unable to pay.

Section 5. Taxes when payable.

The existing legislation provides that the amount due for Hut or Poll Tax shall be payable on the

the 1st January in every year and shall be recoverable at any time on conviction before a magistrate by distress and in default of distress the Court may order imprisonment of either description for any period not exceeding three months. The terms of the new Ordinance allow the native one month from the due date in which to pay, and includes the proviso that "If on conviction the Court is unable to ascertain the whereabouts of any property of the person so convicted, the Court may, if it thinks fit, instead of issuing a warrant of distress, commit such person to prison or to detention in a Detention Camp for any period not exceeding three months unless the Hut or Poll Tax, as the case may be, is paid immediately or within such period as the Court may order. The need for the proviso is explained in para.5 of the Governor's despatch. Long experience has shewn that the process of distress is so cumbersome as to be unworkable, particularly in the urban districts where there is a floating population. Provincial Commissioners are unanimous in recommending the amendment by which the necessity for what one of them called the "cumbersome farce" of distress, could be abolished. The alteration embodied in the new Ordinance has received the fullest consideration locally.

See in Ch. Conspir. No 8/18158/32. Kenya

The clause regarding the forfeiture to Govt. of any hut or huts in respect of which the tax has not been paid or recovered by distress after the expiration of 20 months from the due date, has not been altered.

See No. 1 5633/33 N. Rhod

The question of the punishment of natives for non-payment of tax has recently been discussed on N.Rhodesia papers. It was pointed out to the Governor of N.Rhodesia that the Secretary of State adhered to the view that the punishment of imprisonment should be limited to cases where the native is able to pay the tax but distress cannot be levied, and it was suggested that the N.Rhodesia Native Tax Ordinance should be amended by some form of words which would not render it too simple a matter for the native to escape punishment and would not leave upon the prosecution the onus of proof of ability to pay. The form of words proposed was:-

> "The amount due from any native in respect of each year's tax shall be recoverable at any time on conviction before a Court of a Magistrate or Native Commissioner by distress. Where there is default of sufficient distress and the native cannot show that he is unable to pay the tax the Court may order imprisonment with or without hard labour for a period not exceeding two months. Where there is default of sufficient distress and the native can show that he is unable to pay the tax he shall be released".

The suggestion was not adopted but a Circular was issued to all Judicial Officials indicating the circumstances in which imprisonment should be inflicted. The Circular is flagged on 25549/34 N.Rhod. As against this, Section 8 of the Kenya new Ordinance authorises a District Officer to exempt

exempt anyone "who is without sufficient means to pay the whole amount of such tax" and lays down no conditions to fetter his discretion. The Governor is satisfied that District Officers may be trusted to use their discretion wisely and that the new section is far more equitable than the one which it replaces.

Sections 11-20.

These sections are substantially the same as the Native Hut and Poll Tax Rules. For purposes of general convenience it is thought advisable to incorporate these Rules in the Ordinance.

21090/31 Uganda

I should add that the Governor of Uganda has agreed to introduce into a new Poll Tax Ordinance provision for recovery of tax by distress, and for the maximum term of imprisonment in default of distress, to be reduced to one month in respect of each year of default. The Ordinance has not yet been received.

The new Kenya Ordinance in no way prejudges the acceptance of Lord Moyne's proposals for a recasting of the system of Native taxation in Kenya.

C. Bottomley
24.10.34.

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C.R. 10.10.34.

C.O.

Mr. Flood. 10

Mr.

Mr.

Mr. Parkinson

Sir G. Tomlinson

Sir C. Bottomley. 10 f

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State

DRAFT.

THE REVEREND J. HUTCHISON DOUGLAS, M.A.

2 [illegible] BY [illegible]

[illegible] In [illegible]

12 [illegible]ber, 1[illegible]4.

I am, etc., to refer to your letter of the 2nd of Oct[illegible] [illegible]ten on behalf of the Com[illegible] [illegible]hurch [illegible] Nation of the Church of Scotland, on the su[illegible] of the native hut and poll t[illegible] Ordinance in Kenya. It is t[illegible] case that in discussing a recent amendment and consolid[illegible] of the Ordinance, it was suggested in the debate in the legislative Council that the low limit of the progressive scale for the taxation of natives shou[illegible] be raised from 16 to 18, but sixteen eighteen the

FURTHER ACTION.

C.O.

Mr. Flood. 10

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley. 10 f

Sir J. Shuckburgh

Perml. U.S. of S.

Parly. U.S. of S.

Secretary of State.

12

DRAFT.

THE REVEREND J. HUTCHISON COLEMAN, M.A.

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[illegible] of the

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[illegible] the native hut and poll tax

Ordinance in Kenya. It is the case that in discussing a recent amendment and consolidation of the Ordinance, it was suggested in the debate in the legislative Council that the low limit of age for the taxation of natives should be raised from 16 to 18, but the

FURTHER ACTION.

the proposal was not accepted by the Council.

The question of the age at which taxation should begin to be imposed on the native population of Kenya has engaged the attention of Government since such taxation was first introduced, and it is generally considered that natives at the age of 16 may be regarded as mature and having attained man's estate. The matter was brought to the attention of Lord Moyne during his enquiry into certain financial questions in Kenya, and I am to invite attention to the 13th para. of his report in which he discussed the age at which poll tax should begin to be payable. The report is published as Cmd. 4093 and copies are no

C. O.

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

DRAFT.

Committee. If not, it can be purchased from His Majesty's Stationery Office, at 120, George Street, Edinburgh, price 2/-.

I am, Etc.

(Signed) L. B. FREESTON

FURTHER ACTION.

Telegraphic Address—"PRESE, EDINBURGH." Telephone No. 22150.

40 11

COMMITTEE ON
CHURCH AND NATION

Convener—
REV. J. HUTCHISON COCKBURN, B.D.,
THE CATHEDRAL MANSE, DUNBLANE.
Telephone No. 5 DUNBLANE.

Vice-Convener—
REV. JOHN MACLAGAN, M.A.,
4 WOODBURN ROAD, GLASGOW, S.2.
Telephone No. 1044 MERRYLEA.

Secretary—
REV. ARCH. CHISHOLM, D.Litt.,
10 QUEEN'S DRIVE, GLASGOW, S.2.
Telephone No. 405 QUEEN'S PARK.

The Church of Scotland,
Offices, 121 George Street,
Edinburgh, 2nd October, 1934.

R

Please send reply to

The Cathedral Manse,
Dunblane.
P.O. Perthshire.

ACKD. BY P.C.

Right Honourable Sir,

No 6 Annex (12)
18153/32.

The attention of the Committee has been directed to a letter in the Manchester Guardian of 20th September, signed by Archdeacon Owen dealing with the Native Hut and Poll Tax Ordinance. According to this letter the policy of taxing Kenya natives at the age of 16 instead of at the age of 18 as in other parts of Africa was unsuccessfully opposed in the Legislative Council.

As we do not possess ~~any~~ sufficient information regarding the special circumstances in Kenya which are held to warrant the continuance of the imposition of taxation at 16, we would be very glad to be more fully informed. It does seem that such a policy is calculated to have injurious results on the young lads affected.

As an individual with some experience of East African conditions in Kenya, Uganda and Tanganyika and South Africa, I want to say how heartily I agree with Archdeacon Owen, but I/

Telegraphic Address—"FREE, EDINBURGH." Telephone No. 22138.

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The Church of Scotland,
Offices, 121 George Street,
Edinburgh,

Please send reply to

(2).

I am anxious to lay before my Committee any representations which the Colonial Office may care to make on this important matter.

Yours very truly,

J. Hutchison Cockburn.

Convener.

10

KENYA.

No. 453.

GOVERNMENT HOUSE,
NAIROBI,
KENYA
7th September 1934.

Sir,

I have the honour to transmit two authenticated and twelve printed copies of an Ordinance intitled "the Native Hut and Poll Tax Ordinance, 1934", which duly passed its Third Reading on the 2nd August, together with the Legal Report of the Attorney General. As advised by him I have withheld my assent pending the receipt from you of notification of non-disallowance.

Conseil (17)

2. The Ordinance introduces no new principle. It is in the main a consolidating measure embodying the provisions of the Hut and Poll Tax Ordinance, 1910, and subsequent amendments (Chapter 51 of the Revised Edition of the Laws of Kenya) together with the Native Hut and Poll Tax Rules of 1913, with their subsequent amendments.

3. The immediate necessity for this legislation arose from a Supreme Court judgment to the effect that under the provisions of Chapter 51 of the Revised Edition no woman was liable to pay tax. In paragraph 19 of Appendix A to my despatch No. 441 of 4th August 1931, I explained that under Kenya legislation the obligation to pay hut tax rests on the male head of the family and that "it is generally true to say that a native woman being herself property can own no property".

No 12.
14189/31

that ...

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

That statement remains true of the native tribes as a whole but there are certain exceptions, notably in the coastal area where Mohommedan women, and in certain cases, Christian native women, are no longer bound by the traditions of their tribes and have assumed an independent status as householders. Some of these women by letting rooms to lodgers make a substantial income and there seems no reason why they should not pay hut tax, as indeed many have paid in the past. The Supreme Court Judgment referred to above precluded the collection of tax from these householders without an alteration in the law.

4. Coincident with the necessary alteration opportunity has been taken to introduce a number of other amendments which experience has shown to be desirable.

5. The most important of these is that contained in section 6 (1) wherein provision is made for recovery of the amount due and for penalty in case of default. The maximum penalty remains unaltered, that is to say, three months imprisonment or detention. Whereas, however, under the existing law some attempt at distress is a necessary antecedent to a sentence of imprisonment (Section 8 of Chapter 51), it is now proposed that in certain circumstances, that is to say when the Court cannot ascertain the whereabouts of any property belonging to the defaulter, process of distress may be dispensed with. The reason for this innovation is that long experience has shown that in many cases, particularly in Mombasa and Nairobi, where the native population consists largely of temporary residents, the prescribed procedure is so cumbersome as to be unworkable; and moreover that the difficulties tend to increase with the increasing migration to towns. Writing on this

subject ...

subject in 1925 the Resident Commissioner, Mombasa, explained that out of a native population of 11,000, 4,500 were householders or persons to whom procedure of distress might be successfully applied, the balance of 6,500 being the floating population drawn from every tribe in the country. In respect of these 6,500 he complained that obedience to the law entailed the following steps in any attempt to recover the tax or inflict a penalty for default:-

(1) A native failing to produce a receipt will give his name to the person demanding the receipt.

(2) A summons will be issued.

(3) The native will have to be found again for the summons to be served.

(4) He will then be expected to appear in Court on the day indicated in the summons.

(5) If found guilty of non-payment accused is convicted, ordered to pay the tax and costs or in default to a term of imprisonment. A Warrant of Distress is issued.

(6) This may have to be sent to Kavirondo or Kikuyu for service.

(7) Ultimately it will be returned probably with an endorsement of "no effects".

(8) The native will then have to be found again as he cannot be legally detained pending receipt of the Distress Warrant.

(9) He may then be imprisoned.

Since that letter was written the floating population of Mombasa has doubled.

6. The difficulties were realised by Government, but because it was felt that distress was the natural and logical method of dealing with default no legislative action was taken to meet the situation which it was hoped would improve with time. Such hope, however, has proved illusory and indeed the disabilities under which tax collectors labour have during the last few years been accentuated by a tendency to passive resistance on

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the ...

the part of some of the taxpayers.

7. In 1932 the late Chief Justice, Sir Jacob Barth, writing to the Chief Native Commissioner on the subject of a case reported to him in which a native had been kept on remand pending the return of a Distress Warrant, said:-

> "The procedure laid down by this Ordinance is cumbersome and not well adapted to the circumstances of administration of a great part of the country ... I agree that if non-payment of tax be, as it is now, an offence then the penalty should be fine or imprisonment without the intervening process of distress which is in many cases a farce."

On receipt of this letter the Chief Native Commissioner circularised Provincial Commissioners asking them if in their opinion Chapter 51 required amendment. They were unanimous in recommending an amendment by which the necessity for which one of them called the "cumbersome farce" of distress could be abolished. The Chief Justice informed the Chief Native Commissioner that an amendment with that object would receive his support. From the above it will be seen that the alteration embodied in the new Ordinance has received the fullest consideration and has been approved by the late Chief Justice, by the Chief Native Commissioner and all the Provincial Commissioners, as also, of course, by my Executive Council.

8. A further alteration of some importance is contained in Section 8 which entrusts administrative officers with far wider powers of exemption than those conferred by the corresponding section, Section 10, Chapter 51. By that section only those could be exempted from payment of tax who were without sufficient means to pay and who were unable to obtain employment by reason of age or infirmity. It followed that e.g., there was no power to exempt an able-bodied man without property of his own who had done his best to find work, but had been unsuccessful owing to economic conditions. Section

8 ...

8 of the new Ordinance authorises a District Officer to exempt anyone "who is without sufficient means to pay". and lays down no conditions to fetter his discretion. I am satisfied that District Officers may be trusted to use their discretion wisely and that the new section is far more equitable than the one which it replaces.

9. Sections 11 to 20 are substantially the same as the Native Hut and Poll Tax Rules appearing on pages 307-310 of Volume I of the Kenya Subsidiary Legislation, 1926. For purposes of general convenience it is thought advisable to incorporate these Rules in the Ordinance.

10. You will be aware that there has been some criticism of the retention of the age of 16 as the age at which a native becomes liable to taxation. I dealt with this matter fully in paragraphs 6 - 10 of my despatch No. 441 of the 4th August 1931 and I do not know that there is anything that I can usefully add to the arguments therein set out.

No 12. 17189/31

11. I would add that there is nothing in the Ordinance that in any way prejudges the acceptance of Lord Moyne's proposals for a recasting of the system of Native taxation in Kenya. The Ordinance, with the exceptions to which I have referred above, merely consolidates and restates the existing law. If the time comes to adopt a cultivation tax as recommended by Lord Moyne its adoption will not be rendered any more difficult by the passage of this Ordinance. In this connection I would refer you to paragraph 36 of Appendix C to my despatch No. 441 of 4th August 1931:

No 12 17189/31

> "It seems clear that the time for introducing any change in principle is when agricultural conditions in the Colony are prosperous not when they are depressed and when the community's ability to pay taxes of any kind has been diminished."

I do not think that the time has yet come for

the ...

the introduction of any drastic alteration of the established system although the advantages of a cultivation tax as outlined by Lord Moyne are fully appreciated and the possibility of adopting such a measure, should circumstances permit, is always kept in view. In this connection you will be aware that at the Governors' Conference in February 1933, it was agreed that, although hut and poll tax is unscientific and not always equitable in incidence and could not survive indefinitely, at present the stage of development in East Africa is not sufficiently advanced for the general introduction of a cultivation tax on natives.

40021/3/33.
E.A.

I have the honour to be,

Sir,

Your most obedient, humble servant,

H. Byrne

BRIGADIER-GENERAL.

GOVERNOR.

No. XL. 1934

Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOHN PAYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,

Governor

AN ORDINANCE TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX

No. XL. 1934

Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,

Governor.

Assented to in His Majesty's name this day of 1934

Governor.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX

ORDINANCE No. XL of 1934

An Ordinance to Provide for the Levy of a Native Hut and Poll Tax.

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

Short title and commencement.

1. This Ordinance may be cited as the Native Hut and Poll Tax Ordinance, 1934, and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Interpretation.

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

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

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

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

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

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

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

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

Power of Governor to prescribe hut tax and poll tax

3. The Governor may by notice in the Gazette prescribe the amount of hut tax and poll tax which shall be payable for any year, and may in such notice prescribe different amounts for different districts, areas, places or tribes:

Provided that no tax may be prescribed under this section at a higher rate than twenty shillings per annum.

Hut tax

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

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

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

Poll tax.

5. Every adult male native who shall not be liable to pay the hut tax provided for in section 4 of this Ordinance shall pay in each year a poll tax of such amount as may be prescribed under section 3 of this Ordinance.

Taxes when payable.

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

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

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

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

Receipt for the tax paid

7. A receipt for the amount of tax paid by each native shall be issued by a collector and delivered to the person paying the tax and such receipt shall be evidence of the payment of the tax.

Provided always that if the receipt cannot be produced the court may in its discretion admit other evidence in proof of payment.

Power to remit tax in certain cases.

8. Whenever it shall be proved to the satisfaction of a district officer that any person liable to pay any tax under this Ordinance is without sufficient means to pay the whole amount of such tax, such district officer may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require: Provided that in such case the district officer shall give to such person a certificate in such form as may be prescribed, and such certificate shall relieve the person in respect of whom the same shall have been given from liability to pay such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer.

Exemptions; powers of Governor.

9. The Governor may by proclamation exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the whole or any portion of any tax leviable under this Ordinance, and may in like manner rescind or alter any such exemption.

Provided that nothing in this section contained shall affect the exemption by any other Ordinance provided for.

Provision for the remission of hut and poll tax in certain events.

10. In the event of any person within the description of any of the classes of persons set out in the Schedule hereto, owing to injuries received whether prior or subsequent to the date of this Ordinance on active service against an enemy or otherwise on active service or owing to a disease contracted on such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his wage-earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the

Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of hut tax on one hut for life or from the payment of poll tax in respect of himself for life as the case may be.

Collector may enter land and buildings in execution of duty.

11. A collector may enter upon any land or into any building in the execution of his duties under this Ordinance.

Tax roll.

12. (1) A district commissioner shall maintain a complete roll of taxpayers in his respective district.

(2) Every tax roll shall contain—

(a) the name of every owner of a hut, the number of huts owned by each hut-owner, and the number of wives of each hut-owner; and

(b) in the case of a native who is not liable for hut tax the name and father's name of such native.

Hut counters.

13. For the purpose of the preparation of the tax roll a district officer may employ persons (hereinafter referred to as "hut-counters") whose duty it shall be to prepare, under the direction of the district officer, the roll of taxpayers in the area to which they may be respectively appointed.

Headman to supply information to hut counters.

14. (1) The district officer shall notify each headman of the date on which the hut-counter will commence to prepare the tax roll in the area to which such headman has been appointed, and it shall be the duty of each headman to furnish the hut-counter with any information, which he may require in order to compile a complete tax roll for the area to which such headman is appointed, and, unless excused by the district officer, to accompany the hut-counter whilst engaged in preparing such tax roll.

(2) A headman may, in lieu of accompanying the hut-counter, order any headman subordinate to him to accompany the hut-counter and to furnish the information aforesaid, and it shall be the duty of such subordinate headman to obey such order:

Provided that nothing hereinbefore contained shall be deemed to relieve a headman of the duty to furnish a hut-counter with any information which he may require for the purposes aforesaid. It shall further be the duty of such headman, upon receiving the said notification from the district

officer, to order every adult male native subject to his jurisdiction to appear before the hut-counter and give him such information as he may require for the preparation of the tax roll, and any native failing to obey such order shall be liable on conviction to a fine not exceeding three pounds or to imprisonment for a period not exceeding one month.

Power to headman to order natives to appear before collectors.

15. A headman shall order any native subject to his jurisdiction who shall not have paid the tax payable by him at the time and place appointed by the collector either to attend before the collector or to send the amount of the tax payable by him to such collector. Any native who fails without lawful excuse to obey the orders of a headman given under this section shall be liable to the penalties provided in the last preceding section.

Penalty for offences by hut-counter.

16. Any hut-counter who shall intentionally omit from the tax roll the name of any person whose name should be included in such roll, or who shall intentionally misstate the number of huts owned by any person or the number of the wives of any hut-owner, shall be liable on conviction to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalty for offences by headman.

17. Any headman who intentionally gives false information to a hut-counter under section 14 of this Ordinance or who, without lawful excuse, refuses or neglects to perform any duty imposed upon him by this Ordinance, or to issue any order which he is required to issue by this Ordinance, shall be liable to the penalties provided in the last preceding section.

Information for the preparation of a receipt.

18. Every person paying the tax shall furnish the collector to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if so required by such collector, attend personally before him for such purpose.

Penalty for giving false particulars.

19. Any person who wilfully furnishes a collector with false particulars in regard to any information required by such collector in preparing a receipt, or who, on being required to attend before a collector, neglects or refuses to attend, or, when attending neglects or refuses to furnish any information required as aforesaid, shall on conviction be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of hut tax on one hut for life or from the payment of poll tax in respect of himself for life as the case may be.

Collector may enter land and buildings in execution of duty.

11. A collector may enter upon any land or into any building in the execution of his duties under this Ordinance.

Tax roll.

12. (1) A district commissioner shall maintain a complete roll of taxpayers in his respective district.

(2) Every tax roll shall contain—

(*a*) the name of every owner of a hut, the number of huts owned by each hut-owner, and the number of wives of each hut-owner; and

(*b*) in the case of a native who is not liable for hut tax the name and father's name of such native.

Hut counters

13. For the purpose of the preparation of the tax roll a district officer may employ persons (hereinafter referred to as "hut-counters") whose duty it shall be to prepare, under the direction of the district officer, the roll of taxpayers in the area to which they may be respectively appointed.

Headman to supply information to hut counters.

14. (1) The district officer shall notify each headman of the date on which the hut-counter will commence to prepare the tax roll in the area to which such headman has been appointed, and it shall be the duty of each headman to furnish the hut-counter with any information, which he may require in order to compile a complete tax roll for the area to which such headman is appointed, and, unless excused by the district officer, to accompany the hut-counter whilst engaged in preparing such tax roll.

(2) A headman may, in lieu of accompanying the hut-counter, order any headman subordinate to him to accompany the hut-counter and to furnish the information aforesaid, and it shall be the duty of such subordinate headman to obey such order:

Provided that nothing hereinbefore contained shall be deemed to relieve a headman of the duty to furnish a hut-counter with any information which he may require for the purposes aforesaid. It shall further be the duty of such headman, upon receiving the said notification from the district

officer, to order every adult male native subject to his jurisdiction to appear before the hut-counter and give him such information as he may require for the preparation of the tax roll, and any native failing to obey such order shall be liable on conviction to a fine not exceeding three pounds or to imprisonment for a period not exceeding one month.

Power to headman to order natives to appear before collectors

15. A headman shall order any native subject to his jurisdiction who shall not have paid the tax payable by him at the time and place appointed by the collector either to attend before the collector or to send the amount of the tax payable by him to such collector. Any native who fails without lawful excuse to obey the orders of a headman given under this section shall be liable to the penalties provided in the last preceding section.

Penalty for offences by hut-counter

16. Any hut-counter who shall intentionally omit from the tax roll the name of any person whose name should be included in such roll, or who shall intentionally misstate the number of huts owned by any person or the number of the wives of any hut-owner, shall be liable on conviction to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalty for offences by headman

17. Any headman who intentionally gives false information to a hut-counter under section 14 of this Ordinance or who, without lawful excuse, refuses or neglects to perform any duty imposed upon him by this Ordinance, or to issue any order which he is required to issue by this Ordinance, shall be liable to the penalties provided in the last preceding section.

Information for the preparation of a receipt

18. Every person paying the tax shall furnish the collector to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if so required by such collector, attend personally before him for such purpose.

Penalty for giving false particulars

19. Any person who wilfully furnishes a collector with false particulars in regard to any information required by such collector in preparing a receipt, or who, on being required to attend before a collector, neglects or refuses to attend, or, when attending neglects or refuses to furnish any information required as aforesaid, shall on conviction be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

Production of receipt to collector.

20. (1) A collector may, at any time, require any native to produce the receipt granted to such native for the payment of the tax last payable, and may retain any such receipt produced for such time as he may consider necessary for the purpose of identifying the person named in such receipt with the person producing the same.

(2) A collector may require any native who refuses or neglects to produce his receipt when so required, to furnish him with information as to the office at which or the person to whom he has paid his tax last payable, and with such further information as the collector may require for the purpose of ascertaining whether such native has paid such tax.

(3) Any native who, without lawful excuse, neglects or refuses to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, fails to furnish the information which may be required of him under the last preceding sub-section shall, on conviction, be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months.

(4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax, be prima facie evidence that the tax has not been paid.

(5) Any native who, on being required by a collector to produce his receipt, produces a receipt granted to some other person, or who, having failed or refused to produce his receipt, furnishes a collector with any false particulars in regard to any information which may be required of him under sub-section (2) of this section shall, on conviction, be liable to a fine not exceeding seven pounds ten shillings or to imprisonment for a period not exceeding three months.

(6) Any native who transfers to any other native any receipt granted to him with the intention or with the knowledge that it is likely that such other native will falsely produce such receipt as a receipt granted to him, shall be guilty of an offence and on conviction shall be liable to the penalties provided in the last preceding sub-section.

Power to make Rules.

21. The Governor may make Rules—

(a) prescribing the duties of all persons engaged or employed in the administration of this Ordinance;

(b) prescribing the forms of tax rolls and receipts;

(c) for the collection of hut or poll tax in any place which under any law in force in the Colony is declared to be a municipality or a township; and

(d) generally for carrying out the provisions of this Ordinance.

Repeal.

22. The Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition) is hereby repealed, but such repeal shall be without prejudice to the collection of any arrears of tax due and payable under that Ordinance.

SCHEDULE

Any native officer, non-commissioned officer or private of the King's African Rifles, or any native carrier, or any combatant or non-combatant native, recruited or selected under any Ordinance for the time being in force or otherwise for any form of military service.

Passed in the Legislative Council the second day of August, in the year of Our Lord one thousand nine hundred and thirty-four.

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

Acting Clerk of the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI.

No. XL. 1934

Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOHN PAUSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's name this day of 1934.

Governor.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX

ORDINANCE No. XL of 1934

An Ordinance to Provide for the Levy of a Native Hut and Poll Tax.

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

Short title and commencement.

1. This Ordinance may be cited as the Native Hut and Poll Tax Ordinance, 1934, and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Interpretation.

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

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

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

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

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

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

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

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

Power of Governor to prescribe hut tax and poll tax

3. The Governor may by notice in the Gazette prescribe the amount of hut tax and poll tax which shall be payable for any year, and may in such notice prescribe different amounts for different districts, areas, places or tribes:

Provided that no tax may be prescribed under this section at a higher rate than twenty shillings per annum.

Hut tax.

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

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

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

Poll tax.

5. Every adult male native who shall not be liable to pay the hut tax provided for in section 4 of this Ordinance shall pay in each year a poll tax of such amount as may be prescribed under section 3 of this Ordinance.

Taxes when payable.

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

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

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

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

Receipt for the tax paid

7. A receipt for the amount of tax paid by each native shall be issued by a collector and delivered to the person paying the tax and such receipt shall be evidence of the payment of the tax:

Provided always that if the receipt cannot be produced the court may in its discretion admit other evidence in proof of payment.

Power to remit tax in certain cases.

8. Whenever it shall be proved to the satisfaction of a district officer that any person liable to pay any tax under this Ordinance is without sufficient means to pay the whole amount of such tax, such district officer may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require: Provided that in such case the district officer shall give to such person a certificate in such form as may be prescribed, and such certificate shall relieve the person in respect of whom the same shall have been given from liability to pay such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer.

Exemptions; powers of Governor

9. The Governor may by proclamation exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the whole or any portion of any tax leviable under this Ordinance, and may in like manner rescind or alter any such exemption:

Provided that nothing in this section contained shall affect the exemption by any other Ordinance provided for.

Provision for the remission of hut and poll tax in certain events.

10. In the event of any person within the description of any of the classes of persons set out in the Schedule hereto, owing to injuries received whether prior or subsequent to the date of this Ordinance on active service against an enemy or otherwise on active service or owing to a disease contracted on such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his wage-earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the

Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of hut tax on one hut for life or from the payment of poll tax in respect of himself for life as the case may be.

Collector may enter land and buildings in execution of duty.

11. A collector may enter upon any land or into any building in the execution of his duties under this Ordinance.

Tax roll.

12. (1) A district commissioner shall maintain a complete roll of taxpayers in his respective district.

(2) Every tax roll shall contain—

(*a*) the name of every owner of a hut, the number of huts owned by each hut-owner, and the number of wives of each hut-owner; and

(*b*) in the case of a native who is not liable for hut tax the name and father's name of such native.

Hut counters

13. For the purpose of the preparation of the tax roll a district officer may employ persons (hereinafter referred to as "hut-counters") whose duty it shall be to prepare, under the direction of the district officer, the roll of taxpayers in the area to which they may be respectively appointed.

Headman to supply information to hut counters.

14. (1) The district officer shall notify each headman of the date on which the hut-counter will commence to prepare the tax roll in the area to which such headman has been appointed, and it shall be the duty of each headman to furnish the hut-counter with any information, which he may require in order to compile a complete tax roll for the area to which such headman is appointed, and, unless excused by the district officer, to accompany the hut-counter whilst engaged in preparing such tax roll.

(2) A headman may, in lieu of accompanying the hut-counter, order any headman subordinate to him to accompany the hut-counter and to furnish the information aforesaid, and it shall be the duty of such subordinate headman to obey such order:

Provided that nothing hereinbefore contained shall be deemed to relieve a headman of the duty to furnish a hut-counter with any information which he may require for the purposes aforesaid. It shall further be the duty of such headman, upon receiving the said notification from the district

officer, to order every adult male native subject to his jurisdiction to appear before the hut-counter and give him such information as he may require for the preparation of the tax roll, and any native failing to obey such order shall be liable on conviction to a fine not exceeding three pounds or to imprisonment for a period not exceeding one month.

Power to headman to order natives to appear before collectors

15. A headman shall order any native subject to his jurisdiction who shall not have paid the tax payable by him at the time and place appointed by the collector either to attend before the collector or to send the amount of the tax payable by him to such collector. Any native who fails without lawful excuse to obey the orders of a headman given under this section shall be liable to the penalties provided in the last preceding section.

Penalty for offences by hut-counter

16. Any hut-counter who shall intentionally omit from the tax roll the name of any person whose name should be included in such roll, or who shall intentionally misstate the number of huts owned by any person or the number of the wives of any hut-owner, shall be liable on conviction to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalty for offences by headman

17. Any headman who intentionally gives false information to a hut-counter under section 14 of this Ordinance or who, without lawful excuse, refuses or neglects to perform any duty imposed upon him by this Ordinance, or to issue any order which he is required to issue by this Ordinance, shall be liable to the penalties provided in the last preceding section.

Information for the preparation of a receipt

18. Every person paying the tax shall furnish the collector to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if so required by such collector, attend personally before him for such purpose.

Penalty for giving false particulars

19. Any person who wilfully furnishes a collector with false particulars in regard to any information required by such collector in preparing a receipt, or who, on being required to attend before a collector, neglects or refuses to attend, or, when attending neglects or refuses to furnish any information required as aforesaid, shall on conviction be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

Production of receipt to collector

20. (1) A collector may, at any time, require any native to produce the receipt granted to such native for the payment of the tax last payable, and may retain any such receipt produced for such time as he may consider necessary for the purpose of identifying the person named in such receipt with the person producing the same.

(2) A collector may require any native who refuses or neglects to produce his receipt when so required, to furnish him with information as to the office at which or the person to whom he has paid his tax last payable, and with such further information as the collector may require for the purpose of ascertaining whether such native has paid such tax.

(3) Any native who, without lawful excuse, neglects or refuses to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, fails to furnish the information which may be required of him under the last preceding sub-section shall, on conviction, be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months.

(4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax, be prima facie evidence that the tax has not been paid.

(5) Any native who, on being required by a collector to produce his receipt, produces a receipt granted to some other person, or who, having failed or refused to produce his receipt, furnishes a collector with any false particulars in regard to any information which may be required of him under sub-section (2) of this section shall, on conviction, be liable to a fine not exceeding seven pounds ten shillings or to imprisonment for a period not exceeding three months.

(6) Any native who transfers to any other native any receipt granted to him with the intention or with the knowledge that it is likely that such other native will falsely produce such receipt as a receipt granted to him, shall be guilty of an offence and on conviction shall be liable to the penalties provided in the last preceding sub-section.

Power to make Rules.

21. The Governor may make Rules—

(*a*) prescribing the duties of all persons engaged or employed in the administration of this Ordinance;

(*b*) prescribing the forms of tax rolls and receipts;

(*c*) for the collection of hut or poll tax in any place which under any law in force in the Colony is declared to be a municipality or a township; and

(*d*) generally for carrying out the provisions of this Ordinance.

Repeal

22. The Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition) is hereby repealed, but such repeal shall be without prejudice to the collection of any arrears of tax due and payable under that Ordinance.

SCHEDULE

Any native officer, non-commissioned officer or private of the King's African Rifles, or any native carrier, or any combatant or non-combatant native, recruited or selected under any Ordinance for the time being in force or otherwise for any form of military service.

Passed in the Legislative Council the second day of August, in the year of Our Lord one thousand nine hundred and thirty-four.

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

Acting Clerk of the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

LEGAL REPORT

THE NATIVE HUT AND POLL TAX BILL, 1934.

This Bill is intended to consolidate in one comprehensive Ordinance the previous legislation regarding the collection of hut and poll tax, together with the rules detailing the procedure for such collection. It also provides certain amendments of the existing Ordinance which experience has shown to be necessary.

The Bill widens the scope for the exemption of deserving persons who are unable to pay, but provides for the payment of tax by women hut owners who are financially able to do so. The latter provision has been necessitated by a recent decision of the Supreme Court in which it was held that the existing legislation exempts women from the liability to pay tax. It is generally agreed by the Provincial Commissioners that there should be the means of levying tax from women householders who hold property sufficient to make them independent and competent to pay hut tax.

Clause 6 effects an important departure from the existing law under which a tax-payer who has not paid his tax may only be sentenced to imprisonment in default of distress.

The Clause reenacts this provision, but leaves a discretion in the Court, in cases where it is unable to ascertain the whereabouts of any property of the convicted person on which distress could be levied, to sentence a defaulter to imprisonment or detention without first issuing a warrant of distress.

A comparative table and a copy of the Bill indicating in red ink the departures from the existing law, are attached.

In my opinion, this Bill should be reserved for the signification of His Majesty's pleasure.

Nairobi,

2nd August, 1934.

W. Magan

ATTORNEY GENERAL

No. XL. 1934

Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this day of
1934

Governor.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX

ORDINANCE No. XL of 1934

An Ordinance to Provide for the Levy of a Native Hut and Poll Tax.

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

Short title and commencement.

1. This Ordinance may be cited as the Native Hut and Poll Tax Ordinance, 1934, and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Interpretation.

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

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

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

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

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

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

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

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

ORDINANCE No. XL of 1934

An Ordinance to Provide for the Levy of a Native Hut and Poll Tax.

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

Short title and commencement.

1. This Ordinance may be cited as the Native Hut and Poll Tax Ordinance, 1934, and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Interpretation.

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

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

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

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

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

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

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

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

Power of Governor to prescribe hut tax and poll tax.

3. The Governor may by notice in the Gazette prescribe the amount of hut tax and poll tax which shall be payable for any year, and may in such notice prescribe different amounts for different districts, areas, places or tribes:

Provided that no tax may be prescribed under this section at a higher rate than twenty shillings per annum.

Hut tax.

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

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

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

Poll tax.

5. Every adult male native who shall not be liable to pay the hut tax provided for in section 4 of this Ordinance shall pay in each year a poll tax of such amount as may be prescribed under section 3 of this Ordinance.

Taxes when payable.

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

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

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

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

Receipt for the tax paid.

7. A receipt for the amount of tax paid by each native, shall be issued by a collector and delivered to the person paying the tax and such receipt shall be evidence of the payment of the tax.

Provided always that if the receipt cannot be produced the court may in its discretion admit other evidence in proof of payment.

Power to remit tax in certain cases.

8. Whenever it shall be proved to the satisfaction of a district officer that any person liable to pay any tax under this Ordinance is without sufficient means to pay the whole amount of such tax, such district officer may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require. Provided that in such case the district officer shall give to such person a certificate in such form as may be prescribed, and such certificate shall relieve the person in respect of whom the same shall have been given from liability to pay such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer.

Exemptions; powers of Governor.

9. The Governor may by proclamation exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the whole or any portion of any tax leviable under this Ordinance, and may in like manner rescind or alter any such exemption:

Provided that nothing in this section contained shall affect the exemption by any other Ordinance provided for.

Provision for the remission of hut and poll tax in certain events.

10. In the event of any person within the description of any of the classes of persons set out in the Schedule hereto, owing to injuries received whether prior or subsequent to the date of this Ordinance on active service against an enemy or otherwise on active service or owing to a disease contracted on such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his wage-earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the

Power of Governor to prescribe hut tax and poll tax.

3. The Governor may by notice in the Gazette prescribe the amount of hut tax and poll tax which shall be payable for any year, and may in such notice prescribe different amounts for different districts, areas, places or tribes:

Provided that no tax may be prescribed under this section at a higher rate than twenty shillings per annum.

Hut tax.

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

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

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

Poll tax.

5. Every adult male native who shall not be liable to pay the hut tax provided for in section 4 of this Ordinance shall pay in each year a poll tax of such amount as may be prescribed under section 3 of this Ordinance.

Taxes when payable.

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

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

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

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

Receipt for the tax paid.

7. A receipt for the amount of tax paid by each native shall be issued by a collector and delivered to the person paying the tax and such receipt shall be evidence of the payment of the tax.

Provided always that if the receipt cannot be produced the court may in its discretion admit other evidence in proof of payment.

Power to remit tax in certain cases.

8. Whenever it shall be proved to the satisfaction of a district officer that any person liable to pay any tax under this Ordinance is without sufficient means to pay the whole amount of such tax, such district officer may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require. Provided that in such case the district officer shall give to such person a certificate in such form as may be prescribed, and such certificate shall relieve the person in respect of whom the same shall have been given from liability to pay such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer.

Exemptions, powers of Governor.

9. The Governor may by proclamation exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the whole or any portion of any tax leviable under this Ordinance, and may in like manner rescind or alter any such exemption.

Provided that nothing in this section contained shall affect the exemption by any other Ordinance provided for.

Provision for the remission of hut and poll tax in certain events.

10. In the event of any person within the description of any of the classes of persons set out in the Schedule hereto, owing to injuries received whether prior or subsequent to the date of this Ordinance on active service against an enemy or otherwise on active service or owing to a disease contracted on such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his wage-earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the

Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of hut tax on one hut for life or from the payment of poll tax in respect of himself for life as the case may be.

Collector may enter land and buildings in execution of duty

11. A collector may enter upon any land or into any building in the execution of his duties under this Ordinance.

Tax roll

12. (1) A district commissioner shall maintain a complete roll of taxpayers in his respective district.

(2) Every tax roll shall contain

(a) the name of every owner of a hut, the number of huts owned by each hut-owner, and the number of wives of each hut-owner; and

(b) in the case of a native who is not liable for hut tax, the name and father's name of such native.

Hut-counters

13. For the purpose of the preparation of the tax roll a district officer may employ persons (hereinafter referred to as "hut-counters") whose duty it shall be to prepare, under the direction of the district officer, the roll of taxpayers in the area to which they may be respectively appointed.

Headman to supply information to hut-counters.

14. (1) The district officer shall notify each headman of the date on which the hut-counter will commence to prepare the tax roll in the area to which such headman has been appointed, and it shall be the duty of each headman to furnish the hut-counter with any information, which he may require in order to compile a complete tax roll for the area to which such headman is appointed, and, unless excused by the district officer, to accompany the hut-counter whilst engaged in preparing such tax roll.

(2) A headman may, in lieu of accompanying the hut-counter, order any headman subordinate to him to accompany the hut-counter and to furnish the information aforesaid, and it shall be the duty of such subordinate headman to obey such order:

Provided that nothing hereinbefore contained shall be deemed to relieve a headman of the duty to furnish a hut-counter with any information which he may require for the purposes aforesaid. It shall further be the duty of such headman, upon receiving the said notification from the district

officer, to order every adult male native subject to his jurisdiction to appear before the hut-counter and give him such information as he may require for the preparation of the tax roll, and any native failing to obey such order shall be liable on conviction to a fine not exceeding three pounds or to imprisonment for a period not exceeding one month.

Power to headman to order natives to appear before collectors.

15. A headman shall order any native subject to his jurisdiction who shall not have paid the tax payable by him at the time and place appointed by the collector either to attend before the collector or to send the amount of the tax payable by him to such collector. Any native who fails without lawful excuse to obey the orders of a headman given under this section shall be liable to the penalties provided in the last preceding section.

Penalty for offences by hut-counter

16. Any hut-counter who shall intentionally omit from the tax roll the name of any person whose name should be included in such roll, or who shall intentionally misstate the number of huts owned by any person or the number of the wives of any hut-owner, shall be liable on conviction to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalty for offences by headman

17. Any headman who intentionally gives false information to a hut-counter under section 14 of this Ordinance or who without lawful excuse refuses or neglects to perform any duty imposed upon him by this Ordinance, or to issue any order which he is required to issue by this Ordinance, shall be liable to the penalties provided in the last preceding section.

Information for the preparation of a receipt

18. Every person paying the tax shall furnish the collector to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if so required by such collector, attend personally before him for such purpose.

Penalty for giving false particulars

19. Any person who wilfully furnishes a collector with false particulars in regard to any information required by such collector in preparing a receipt, or who, on being required to attend before a collector, neglects or refuses to attend, or, when attending neglects or refuses to furnish any information required as aforesaid, shall on conviction be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

Production of receipt to collector

20. (1) A collector may, at any time, require any native to produce the receipt granted to such native for the payment of the tax last payable, and may retain any such receipt produced for such time as he may consider necessary for the purpose of identifying the person named in such receipt with the person producing the same.

(2) A collector may require any native who refuses or neglects to produce his receipt when so required, to furnish him with information as to the office at which or the person to whom he has paid his tax last payable, and with such further information as the collector may require for the purpose of ascertaining whether such native has paid such tax.

(3) Any native who, without lawful excuse, neglects or refuses to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, fails to furnish the information which may be required of him under the last preceding sub-section shall, on conviction, be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months.

(4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax, be prima facie evidence that the tax has not been paid.

(5) Any native who, on being required by a collector to produce his receipt, produces a receipt granted to some other person, or who, having failed or refused to produce his receipt, furnishes a collector with any false particulars in regard to any information which may be required of him under sub-section (2) of this section shall, on conviction, be liable to a fine not exceeding seven pounds ten shillings or to imprisonment for a period not exceeding three months.

(6) Any native who transfers to any other native any receipt granted to him with the intention or with the knowledge that it is likely that such other native will falsely produce such receipt as a receipt granted to him, shall be guilty of an offence and on conviction shall be liable to the penalties provided in the last preceding sub-section.

Power to make Rules

21. The Governor may make Rules—

(a) prescribing the duties of all persons engaged or employed in the administration of this Ordinance;

(b) prescribing the forms of tax rolls and receipts;

(c) for the collection of hut or poll tax in any place which under any law in force in the Colony is declared to be a municipality or a township; and

(d) generally for carrying out the provisions of this Ordinance.

Repeal

22. The Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition) is hereby repealed, but such repeal shall be without prejudice to the collection of any arrears of tax due and payable under that Ordinance.

SCHEDULE

Any native officer, non-commissioned officer or private of the King's African Rifles, or any native carrier, or any combatant or non-combatant native, recruited or selected under any Ordinance for the time being in force or otherwise for any form of military service.

Passed in the Legislative Council the second day of August, in the year of Our Lord one thousand nine hundred and thirty-four.

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

Acting Clerk of the Legislative Council

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

COMPARATIVE TABLE

THE NATIVE HUT AND POLL TAX BILL, 1934.

Clause of the Bill.	Remarks.
1.	Short title and commencement.
2.	"Adult male native" - Cf. the definition of the term "adult native" in Kenya Chapter 51. The new definition makes it clear that women are not liable to pay poll tax. "Collector" - Cf. the definition of the same term in Chapter 51, Kenya. The word "Governor" has been altered to "district officer". The definition of "headman" has been added. "Hut" - Cf. the definition of the same term in Kenya Chapter 51. "Native" - Cf. the definition of the same term in Kenya Chapter 51. The definition of "poll tax" is new. Cf. section 5 of Kenya Chapter 51. The definition of "wife" is new.
3.	Cf. section 6 of the Tanganyika Hut and Poll Tax Ordinance (Chapter 63).
4.	Cf. section 3 of Kenya Chapter 51. Provides for the payment of hut tax by women.
5.	Cf. section 4 of the Tanganyika Hut and Poll Tax Ordinance (Chapter 63). Slight verbal amendments have been made to make it quite clear that if an adult male native pays hut tax he does not pay poll tax and if he is not liable for hut tax, he pays poll tax.
6.	Cf. section 8 of Kenya Chapter 51. The Clause allows the Court, if it sees fit, to order imprisonment without prior distress.
7.	Cf. section 7(2) of Kenya Chapter 51. The proviso is new.
8.	Cf. section 10 of Kenya Chapter 51. Verbal amendments only.
9.	Cf. section 12 of Kenya Chapter 51. The proviso is new.
10.	Cf. section 15 of Kenya Chapter 51.
11.	Cf. " 14 " "

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Clause of the Bill.	Remarks.
12.	Cf.Rule 2 of Rules made under Chapter 51, Kenya, and appearing on page 307 of Volume I of the Revised Subsidiary Legislation.
13.	Cf.Rule 3 -do-
14.	Cf.Rule 4 -do-
15.	Cf.Rule 5 -do-
16.	Cf.Rule 6 -do- The penalty is increased from two months to six months.
17.	Cf.Rule 7 of Rules made under Chapter 51, Kenya, and appearing on page 307 of Volume I of the Revised Subsidiary Legislation.
18.	Cf.Rule 8 -do-
19.	Cf.Rule 9 -do- The penalty is increased from one to two months.
20.	Cf.Rule 10 of Rules made under Chapter 51, Kenya, and appearing on page 307 of Volume I of the Revised Subsidiary Legislation. The penalties are increased from one to two months and from two to three months.
21.	Cf.sections 9 and 13 of Kenya Chapter 51.
22.	Repeal.
Schedule	Cf.Schedule to Chapter 51, Kenya.

C O P Y
O F
THE NATIVE HUT AND POLL TAX BILL,1934,
INDICATING IN RED INK THE VARIOUS
AMENDMENTS MADE TO THE EXISTING LAW
THE SUBJECT

No. XL. 1934

Colony and Protectorate of Kenya.

IN THE TWENTY FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
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Assented to in His Majesty's
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AN ORDINANCE TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX

ORDINANCE No. XL of 1934

An Ordinance to Provide for the Levy of a Native Hut and Poll Tax.

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

1. This Ordinance may be cited as the Native Hut and Poll Tax Ordinance, 1934, and shall come into operation on such date as the Governor may by notice in the Gazette appoint. Short title and commencement

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

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

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

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

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

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

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

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

Power of Governor to prescribe hut tax and poll tax.

3. The Governor may by notice in the Gazette prescribe the amount of hut tax and poll tax which shall be payable for any year, and may in such notice prescribe different amounts for different districts, areas, places or tribes:

Provided that no tax may be prescribed under this section at a higher rate than twenty shillings per annum.

Hut tax.

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

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

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

Poll tax.

5. Every adult male native who shall not be liable to pay the hut tax provided for in section 4 of this Ordinance shall pay in each year a poll tax of such amount as may be prescribed under section 3 of this Ordinance.

Taxes when payable.

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

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

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

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

Receipt for the tax paid.

7. A receipt for the amount of tax paid by each native shall be issued by a collector and delivered to the person paying the tax and such receipt shall be evidence of the payment of the tax:

Provided always that if the receipt cannot be produced the court may in its discretion admit other evidence in proof of payment.

Power to remit tax in certain cases.

8. Whenever it shall be proved to the satisfaction of a district officer that any person liable to pay any tax under this Ordinance is without sufficient means to pay the whole amount of such tax, such district officer may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require: Provided that in such case the district officer shall give to such person a certificate in such form as may be prescribed, and such certificate shall relieve the person in respect of whom the same shall have been given from liability to pay such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer.

Exemptions; powers of Governor.

9. The Governor may by proclamation exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the whole or any portion of any tax leviable under this Ordinance, and may in like manner rescind or alter any such exemption:

Provided that nothing in this section contained shall affect the exemption by any other Ordinance provided for.

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10. In the event of any person within the description of any of the classes of persons set out in the Schedule hereto, owing to injuries received whether prior or subsequent to the date of this Ordinance on active service against an enemy or otherwise on active service or owing to a disease contracted on such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his wage-earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the

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

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

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

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(2) Every tax roll shall contain—

(a) the name of every owner of a hut, the number of huts owned by each hut-owner, and the number of wives of each hut-owner; and

(b) in the case of a native who is not liable for hut tax the name and father's name of such native.

Hut counters.

13. For the purpose of the preparation of the tax roll a district officer may employ persons (hereinafter referred to as "hut-counters") whose duty it shall be to prepare, under the direction of the district officer, the roll of taxpayers in the area to which they may be respectively appointed.

Headman to supply information to hut counters.

14. (1) The district officer shall notify each headman of the date on which the hut-counter will commence to prepare the tax roll in the area to which such headman has been appointed, and it shall be the duty of each headman to furnish the hut-counter with any information, which he may require in order to compile a complete tax roll for the area to which such headman is appointed, and, unless excused by the district officer, to accompany the hut-counter whilst engaged in preparing such tax roll.

(2) A headman may, in lieu of accompanying the hut-counter, order any headman subordinate to him to accompany the hut-counter and to furnish the information aforesaid, and it shall be the duty of such subordinate headman to obey such order:

Provided that nothing hereinbefore contained shall be deemed to relieve a headman of the duty to furnish a hut-counter with any information which he may require for the purposes aforesaid. It shall further be the duty of such headman, upon receiving the said notification from the district

officer, to order every adult male native subject to his jurisdiction to appear before the hut-counter and give him such information as he may require for the preparation of the tax roll, and any native failing to obey such order shall be liable on conviction to a fine not exceeding three pounds or to imprisonment for a period not exceeding one month.

Power to headman to order natives to appear before collectors.

15. A headman shall order any native subject to his jurisdiction who shall not have paid the tax payable by him at the time and place appointed by the collector either to attend before the collector or to send the amount of the tax payable by him to such collector. Any native who fails without lawful excuse to obey the orders of a headman given under this section shall be liable to the penalties provided in the last preceding section.

Penalty for offences by hut-counter.

16. Any hut-counter who shall intentionally omit from the tax roll the name of any person whose name should be included in such roll, or who shall intentionally misstate the number of huts owned by any person or the number of the wives of any hut-owner, shall be liable on conviction to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalty for offences by headman.

17. Any headman who intentionally gives false information to a hut-counter under section 14 of this Ordinance or who, without lawful excuse, refuses or neglects to perform any duty imposed upon him by this Ordinance, or to issue any order which he is required to issue by this Ordinance, shall be liable to the penalties provided in the last preceding section.

Information for the preparation of a receipt.

18. Every person paying the tax shall furnish the collector to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if so required by such collector, attend personally before him for such purpose.

Penalty for giving false particulars.

19. Any person who wilfully furnishes a collector with false particulars in regard to any information required by such collector in preparing a receipt, or who, on being required to attend before a collector, neglects or refuses to attend, or, when attending neglects or refuses to furnish any information required as aforesaid, shall on conviction be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

Production of receipt to collector.

20. (1) A collector may, at any time, require any native to produce the receipt granted to such native for the payment of the tax last payable, and may retain any such receipt produced for such time as he may consider necessary for the purpose of identifying the person named in such receipt with the person producing the same.

(2) A collector may require any native who refuses or neglects to produce his receipt when so required, to furnish him with information as to the office at which or the person to whom he has paid his tax last payable, and with such further information as the collector may require for the purpose of ascertaining whether such native has paid such tax.

(3) Any native who, without lawful excuse, neglects or refuses to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, fails to furnish the information which may be required of him under the last preceding sub-section shall, on conviction, be liable to a fine not exceeding three pounds or to imprisonment for a period not exceeding two months.

(4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax, be prima facie evidence that the tax has not been paid.

(5) Any native who, on being required by a collector to produce his receipt, produces a receipt granted to some other person, or who, having failed or refused to produce his receipt, furnishes a collector with any false particulars in regard to any information which may be required of him under sub-section (2) of this section shall, on conviction, be liable to a fine not exceeding seven pounds ten shillings or to imprisonment for a period not exceeding three months.

(6) Any native who transfers to any other native any receipt granted to him with the intention or with the knowledge that it is likely that such other native will falsely produce such receipt as a receipt granted to him, shall be guilty of an offence and on conviction shall be liable to the penalties provided in the last preceding sub-section.

Power to make Rules.

21. The Governor may make Rules—

(*a*) prescribing the duties of all persons engaged or employed in the administration of this Ordinance;

(*b*) prescribing the forms of tax rolls and receipts;

(*c*) for the collection of hut or poll tax in any place which under any law in force in the Colony is declared to be a municipality or a township; and

(*d*) generally for carrying out the provisions of this Ordinance.

Repeal.

22. The Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition) is hereby repealed, but such repeal shall be without prejudice to the collection of any arrears of tax due and payable under that Ordinance.

SCHEDULE.

Any native officer, non-commissioned officer or private of the King's African Rifles, or any native carrier, or any combatant or non-combatant native, recruited or selected under any Ordinance for the time being in force or otherwise for any form of military service.

Passed in the Legislative Council the second day of August, in the year of Our Lord one thousand nine hundred and thirty-four.

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

Acting Clerk of the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

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PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

REPORT OF

THE SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL APPOINTED TO CONSIDER AND REPORT UPON THE PROVISIONS OF A BILL TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX.

Your Excellency,

We, the Members of the Select Committee of the Legislative Council appointed to consider and report on the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects:-

1. That Clause 6 (1) be deleted and the following substituted therefor:

> "6 (1). The amount due from each native for hut tax or poll tax shall become due and payable on the first day of January in each year, and shall, if not paid on or before the Thirty-first day of January in that year on conviction be recoverable by distress at any time after the latter date, and in default of distress the Court may order imprisonment or detention for any period not exceeding three months,
>
> Provided that if on conviction the Court is unable to obtain the whereabouts of any property of the person so convicted the Court may, if it thinks fit, instead of issuing a warrant of distress, commit such person to prison or to detention in a detention camp for any period not exceeding three months unless the hut or poll tax, as the case may be, is paid immediately or within such period as the Court may order,
>
> and provided further that any hut or huts in respect of which the tax has not been paid or recovered by distress on or before the thirtieth day of September in the year next following that in which the tax became due shall be liable to be forfeited to the Government of the Colony."

2. That Clause 8 be amended by the deletion of the words "any tax under this Ordinance for the period mentioned in such certificate, unless the same shall be cancelled by a district officer" and the substitution therefor of the words:

> "such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer".

3. That Clause 14 (2) be amended by the addition of the words "adult male" between the words "every" and

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"such portion of the tax and for such period as may be specified in such certificate, unless and until the same shall be cancelled by a district officer".

3. That Clause 14 (2) be amended by the addition of the words "adult male" between the words "every" and

"native" occurring in line 11.

4. That Clause 17 be amended by the addition of the word "intentionally" between the words "who" and "gives" in line 1, and the substitution of the figure "14" for the figure "16" in line 2.

We have the honour to be,

Your Excellency's

Obedient servants,

(sgd) S. H. La Fontaine. (Chairman).
(sgd) G. Walsh. (Member).
(sgd) H. R. Montgomery. (Member).
(sgd) H. E. Welby. (Member).
(sgd) G. Burns. (Member).
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1st August, 1934.

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1st August, 1934.

8

Mrs Eccles

297 R

Manchester Guardian

7th Aug 1936

HUT-BURNING IN KENYA

A Government Order

To the Editor of the Manchester Guardian.

Sir,—Archdeacon Owen sends me the welcome news that the Government of Kenya has issued an order that the huts of hut tax defaulters are no longer to be burnt. But he adds: "I am on a case now of a man who had paid his tax to date but who failed in some way about cotton cultivation and had his hut burned with all his goods in it." Which shows that while publicity in this country has more effect than some believe, much still needs putting right.

But why should there be any need at all to expose the practices of a British Government in Africa?—Yours, &c.,

NORMAN LEYS.

Brailsford, near Derby,
August 5.

8 15

Sec Executive

297 R

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7th Aug 1924

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NORMAN LEYS.

Brailsford, near Derby,
August 5.

Copy. Draft on 25344/34 Nyasa

76

KENYA
No. 162

DOWNING STREET,

July, 1934.

Sir,

I have the honour to refer to N.A.D.Circular No.42 of the 9th of September, 1933, regarding the liability of women to pay tax under the Native Hut and Poll Tax legislation, to which was attached the draft of an ordinance designed to regulate the question.

I shall be glad to learn what conclusions may have been reached on the subject, and in particular to be furnished with your proposals for dealing with the liability of widows.

In this connection, I enclose for your consideration a copy of despatches from and to the Officer Administering the Government of Nyasaland, from which it will be seen that after five years' experience of the system of granting total exemption on the ground of widowhood the working of the provision is not considered to be satisfactory. I should be glad to receive a reply to this despatch as soon as may be conveniently possible.

Dr.O.A.G.Hynld.

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

(Sgd.) P. CONLIFFE-LI...

GOVERNOR,
BRIGADIER GENERAL,
SIR JOSEPH A.BYRNE, G.C.M.G., K.B.E.,C.B.,
etc. etc. etc.

C. O. 23040/34

Mr. Grossmith 24/7/34
Mr. Chilver 27/7
Mr. Read. 20/7
Mr. Parkinson.
Mr. Tomlinson.
X Sir C. Bottomley. 21/7
~~Sir J. Shuckburgh.~~
Permt. U.S. of S. 21/7
Parly. U.S. of S.
Secretary of State.

S. of S.

S/O for signature by ~~Private Secretary.~~

DRAFT.

J. W. BANFIELD, ESQ.
M.P.

Downing Street,
23 July, 1934

Dear Banfield
~~Dear Mr. Banfield,~~

With reference to the question ~~asked~~ put by Mr. Lunn ~~for you~~ on your behalf in the House ~~of Commons~~ on the 11th April, ~~regarding the alleged burning of the hut of a Kavirondo native, for the non-payment of tax, the Secretary of State has asked me to let you know~~ I am quite sure that the Governor of Kenya has now reported that, in accordance with the provisions of Section 8(1) of the Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition of the Kenya Laws), and after legal proceedings had been taken, the hut belonging to ~~this native~~ Odera son of Wandeda was forfeited to Government and burnt.

~~The~~ The Section of the Ordinance referred

[Note made in error]

FURTHER ACTION.

referred to, lays down that tax is recoverable at any time, on conviction before a Magistrate, by distress, and in default of distress the Court may order imprisonment for a term not exceeding 3 months; ~~and~~ further, without prejudice to that mode of recovery or procedure, any hut in respect of which the tax has not been paid or recovered by distress on or before the 30th day of September in the year next following that in which the tax became due, shall be liable to be forfeited to Government.

The Governor states that forfeiture to Government of huts on which tax has not been paid by this date is seldom resorted to, but in the case of the Location in which Odera's hut was situated, there was no doubt that the natives were withholding payment of their tax while being in a position to pay, and passive resistance to the payment of taxes made drastic action necessary. By the end of 1932, £1414 only had been collected by this Location out of the estimate of £7050. After consideration, it was decided, early in 1933, to make huts on which tax had not been paid for 1931 forfeit to Government. The effect of this action was that during the following three months, the sum of £2150 was paid. The Governor is of the opinion that had such action not been taken, there is no doubt that the

C. O.

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Mr.
Mr. Parkinson.
Mr. Tomlinson.
Sir C. Bottomley.
Sir J. Shuckburgh.
Permt. U.S. of S.
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Secretary of State.

DRAFT.

Location would still be labouring under a very heavy burden of debt to Government, and it is possible that other trouble would have occurred.

It is stated that Odera's circumstances were no worse than hundreds of other natives in the Location, and ~~his~~ his hut would not have been burnt had he made any effort to find the money, or been unable through poverty to pay the tax. It is the practice in such a case to return the forfeited hut to the owner if an effort to pay the tax is made.

The Governor adds that the burning of forfeited huts is rarely resorted to, and that orders for discontinuance have been issued.

(Sgd.) P. CUNLIFFE-LISTER.

FURTHER ACTION.

KENYA

No. 6

GOVERNMENT HOUSE
NAIROBI
KENYA

June 1934.

Sir,

I have the honour to refer to your despatch No. 263 of 16th April 1934, on the subject of the alleged burning of the hut of Odera son of Wandeda, a Kavirondo native, for the non-payment of tax, and to inform you that in accordance with the provisions of Section 8 (1) of the Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition), and after legal proceedings had been taken, the hut belonging to this native was forfeited to Government and burnt.

2. The Section of the Ordinance referred to, lays down that tax is recoverable at any time on conviction before a Magistrate by distress and in default of distress the Court may order imprisonment for a term not exceeding 3 months, and further, without prejudice to that mode of recovery or procedure, any hut in respect of which the tax has not been paid or recovered by distress on or before the 30th day of September in the year next following that in which the tax became due, shall be liable to be forfeited to Government.

3. The forfeiture to Government of huts on which tax has not been paid by this date is seldom resorted to, but in the case of the Location in which Odera's hut was situated, there was no doubt that the natives were ...

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

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I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL.

GOVERNOR.

Women's International League

BRITISH SECTION OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM.

International President: Miss JANE ADDAMS, U.S.A.

Hon. Treasurer: Miss MARY CHICK. *Hon. Foreign Relations Secretary:* Dr. HILDA CLARK. *Hon. National Secretary:* Miss MARY SHEEPSHANKS.

Executive Committee:

Mrs. ADAMS.
Miss MOSA ANDERSON.
Miss B. M. BAKER.
Miss KARLEEN BAKER.
Mrs. BRESLEY.
Mrs. VIPONT BROWN.
Miss K. D. COURTNEY.
Miss JOAN CREYKE.
Miss MAUD DICKINSON.
Mrs. DUNCAN HARRIS.
Miss AGATHA HARRISON.
Mrs. LANKESTER.
Miss C. E. MARSHALL.
Miss EDITH PYE.
Miss W. G. RINDER.
Mrs. McGREGOR ROSS.
Miss MARY SUTHERLAND.
Mrs. THODAY.
Lady UNWIN.
Miss FREDA WHITE.

Chairman: Mrs. K. E. INNES.
Vice-Chairman: Mrs. CORBETT FISHER. Mrs. BARRS DAVIES.

Hon. Press Secretary: Miss KARLEEN BAKER, B.Sc. Econ.
TELEPHONE AND TELEGRAPHIC ADDRESS: MUSEUM 3179.
INQUIRIES: 11 A.M. TO 4 P.M.

KH/ FS

Vice-Presidents:
Miss MARGARET ASHTON.
Miss VERA BRITTAIN.
Mme DE BUNSEN.
Mrs. DIXON DAVIES.
The Hon. Mrs. FRANKLIN.
Miss MINNA GREEN.
Miss WINIFRED HOLTBY.
Mrs. E. PETHICK LAWRENCE.
Dr. MAUDE ROYDEN.
Lady SAMUEL.
Mrs. BASIL WILLIAMS.
Dr. ETHEL WILLIAMS, J.P.

Answd. 19 June 1934

No 3

RECEIVED
19 JUN 1934
C. O.

Office Secretary: Miss E. HORSCROFT.
INTERNATIONAL HOUSE.
55, GOWER STREET, LONDON, W.C.1.

June 13th.1923.

The Rt. Hon. Sir Philip Cunliffe-Lister,
G.B.E., M.C., M.P.,
The Colonial Office,
Downing Street, S.W. 1.

Dear Sir,

Will you allow me, on behalf of the Executive Committee of the Women's International League, to revert to the question of the collection of hut-tax in Kenya Colony, on which topic I received your observations in a letter 3272/33 of December 20th.1933.

You referred my Committee to Lord Moyne's Report, paragraph 10, but several statements here fail to clarify the position.

We note that Lord Moyne observes "Iam advised that under the laws of Kenya they (women) are not in practice liable (to hut-tax) because native women can only themselves hold property as trustees for their families." (Does not Lord Moyne mean "wards of" rather than "trustees for"?)

My Committee maintains that although male relatives are by native custom responsible for the widows of the family, in actual practice many widows are obliged to pay the hut-tax themselves, sometimes because they have no near male relative of their late husband, or because of the poverty of their relatives.

Also my Committee feels that it is taking an unfair advantage of a generous African custom, when this additional payment of a cash-tax is demanded from the menfolk who accept and discharge this responsibility.

Lord Moyne's Report proceeds:-

"The hut tax, unlike the poll tax, is a form of property tax and being levied according to the number of huts owned by the taxpayer, varies to some extent with the ability to pay."

I would point out that it is a room-tax, and one can imagine what reception a proposal would enjoy in the Colony that Europeans should pay 12/- a year on each room in their homes. When a family is required by native custom to take in the widow of a relative this implies no increased wealth to the head of that family. She has to have a room built for her, and she is an added obligation and expense to the family.

We are fully aware that until recently though European women had the vote, they paid no direct taxation nor did their husbands or brothers-in law on their behalf. We know that the Kenya African witnesses to the Joint Select Committee expressed great bitterness on this subject of the taxation of widows.

We are of the opinion that the taxation of the widows and mothers of those who died in our war of 1914-1918 is particularly unjust. What the British or Kenya Government did for African war widows in Kenya Colony was precisely nothing. We are glad to see that the British Government, on the recommendation of the Morris Carter Commission is proposing to pay £50,000 in recompense for lost wages.

We have made enquiries as to the taxation of African widows in Nyasaland, and we learn that on April 29th. 1929, the Legislative Council of Nyasaland made it illegal to tax any widow, and in announcing the fact the then Governor, Sir Charles Bowring, stated that Government realised how heavily the existing system bore upon widows in general, and also recognised the situation created by the existence of many Christian widows who by their Christian profession were bound to monogamy (or words to that effect).

Lord Moyne himself seems to acknowledge that there are many widows who are paying the hut-tax or for whom it is paid, for he says "To accept even the smaller suggestion of exempting all huts occupied by widows would mean a loss of revenue difficult to measure." It seems to us that fear of loss of revenue should not be allowed to

perpetuate an injustice.

We wish to add in addition that we deplore the offensive and ignorant passage in Lord Moyne's Report as to wives being "a very popular form of capital investment." We know that this has given offence to Africans and feel sure that Lord Moyne would not venture to make light play with the status of European wives in the Colony, nor of African wives if Africans were voters and had their own African members in the Legislative Council to counter such a misinterpretation of the relationship between African husbands and wives. We wish to protest against the wording and tenor of the answers given in the House of Commons on January 31st.1934 by Mr. Malcolm MacDonald, which were apparently based on this passage (above quoted) of Lord Moyne's. Contemptuous statements of this kind in the House of Commons create great bitterness among African peoples.

Yours faithfully,

M. Buchanan

Hon. Secretary.

23040/34 Kenya

C. O.

Mr. Fiddian 18/4/34
Mr. Ellerton 17/4
Mr.
Mr. Parkinson
Mr. Tomlinson
Sir C. Bottomley
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State

By Air Mail

Received 25 APR

C.O.

Aden 12th

Sir,

I have the honour to transmit to you a copy of a question addressed to me in the A.L.C. and of my reply thereto, regarding the alleged burning of the hut of Odera s/o Wanda a Kavirondo native for the non-payment of tax.

(2) I shall be glad to be furnished with a report of the alleged incident.

I have etc

DRAFT.
Kenya
No. 263
For.
11th April 1934
No. 1
Pa. 1

FURTHER ACTION.

NATIVE AFFAIRS DEPARTMENT,

Nairobi.

9th September, 1933.

Ref. No. NADM. 19/14.

N.A.D. Circular No. 42.

All Provincial Commissioners (with sufficient copies for District Commissioners).

NATIVE HUT & POLL TAX - LIABILITY OF WOMEN TO PAY TAX - REVISION ORDER BY MR. JUSTICE LUCIE SMITH.

At the last Provincial Commissioners' Meeting it was felt that provision should be made whereby the Native Hut and Poll Tax Ordinance should be applicable to women hut owners in certain areas or to certain classes of women.

2. The matter has been referred to the Attorney General and a copy of his reply together with a copy of the draft bill referred to is attached.

3. I shall be glad to receive your views (a) on the bill (b) on the suggestions that there should be exemption :-

(i) for widowhood generally

or (ii) on the lines recommended by Lord Moyne in Section 11 of his report.

S.H. LA FONTAINE.
ACT. CHIEF NATIVE COMMISSIONER.

AAS/CSA.

Copy.

ATTORNEY GENERAL'S OFFICE,

P.O. BOX, 112,

NAIROBI.

Ref. No. L.51/1/11/30.

18th August, 1933.

The Hon'ble the Acting Chief Native Commissioner,
N A I R O B I.

Native Hut and Poll Tax - Liability of Women to pay Tax.

Ref. Your No.NADM.19/14/42 of 16th August, 1933.

On 7th September, 1931, I submitted a draft of a new Bill (your NFIN.2/1/10/9 II) which imposed hut tax on all males and on women who owned the huts in which they lived.

By clause 12 of that Bill provision was made for exemption on the ground of widowhood.

The definition of "hut" in that Bill excluded a building occupied by a native in connection with his employment. That definition might have the effect of exempting certain squatters, but it is a question of fact in each case.

Since then Lord Moyne (paragraphs 9, 10 and 11) has suggested further amendment.

I do not feel that my own views can possibly be of much value as I know so little of native life and tribal custom in the Colony. I suggest, however, that a decision might be taken as to whether women are in any circumstances to be taxed, whether widowhood should be valid ground for exemption, and whether men may be exempted in respect of huts used by widows in the circumstances given in paragraph 11 of Lord Moyne's report. If I may have decisions on these points I can then submit a draft Bill for consideration.

SD: A.D.A. MacGregor.
ATTORNEY GENERAL.

A BILL TO PROVIDE FOR THE LEVY OF A NATIVE HUT AND POLL TAX.

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

Short title.

1. This Ordinance may be cited as "the Native Hut and Poll Tax Ordinance, 1931".

Interpretation.

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

"Adult male Native" means an able bodied male native of the apparent age of sixteen years or over;

"Collector" includes a district officer and any person appointed by the Governor to assist in the collection of taxes leviable under this Ordinance;

"Hut" means a hut constructed according to native custom or any building used by a native as a dwelling otherwise than in connection with his employment;

"Native" means a native of Africa not of European or Asiatic extraction, but includes any Arab, Abyssinian and Somali, and also Baluchi born in Africa and includes a female native occupying a hut of which she is the owner;

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

"Wife" means a wife by marriage or by native custom and includes a concubine;

"Year" means the calendar year commencing on the first day of January and terminating on the thirty-first day of December next ensuing.

3.(1) ...

Hut tax.

3.(1) Every native being the owner or occupier of a hut in any district in the Colony shall pay to the revenue of the Colony a tax (hereinafter referred to as the "hut tax") for each year at the rate hereinafter provided in respect of each hut owned or occupied by him or her in such district during any portion of that year. Provided that male natives shall be liable for tax in respect of any hut owned or occupied by their wives.

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

Areas and tribes to be proclaimed for the poll tax.

4. The Governor may, from time to time as he may think fit by proclamation, order that the tax prescribed by Section 5 of this Ordinance shall be levied within such district, area or place (hereinafter referred to as a "proclaimed area") or shall be paid by the members of such tribe (hereinafter referred to as a "proclaimed tribe") as he may by such proclamation direct, and may in like manner withdraw or alter any such order.

Poll tax.

5. Every adult male native being a member of a proclaimed tribe or residing in a proclaimed area, who shall not be liable to pay the hut tax hereinbefore provided for, shall pay anually to a collector on behalf of the Government of the Colony a poll tax of

Date when taxes payable.

6. In the year 1952 the taxes shall become due and payable as from the first day of April and in each year thereafter as from the first day of January and shall be recoverable at any time on conviction before magistrate by distress and in default of distress the court may order imprisonment of either description for any period not exceeding three months. And further

without ...

without prejudice to that mode of recovery or procedure any hut or huts in respect of which the tax has not been paid or recovered by distress on or before the thirtieth day of September, in the year next following that in which the tax became due, shall be liable to be forfeited to the Government of the Colony.

(2) Whenever proceedings are taken for the recovery of any tax under this Ordinance, it shall be lawful for the magistrate to order the person in default to pay such sum for court costs not exceeding in any case six shillings as the magistrate in his discretion may determine. The sum so ordered to be paid in costs together with the amount of tax unpaid, shall be recoverable by distress and in default of distress the court may order imprisonment of either description for any period not exceeding three months.

Rates of taxes.

7.(1) The taxes shall be at the rate of

(2) If not paid by the thirtieth day of September in the year in which they are due and payable the taxes shall be at the rate of

Power to increase tax.

8. Notwithstanding anything contained in section 7 hereof, the Governor may, by proclamation, increase the respective taxes prescribed by that section to a sum not exceeding per annum in each case, within such district, area or places, as he may, by such proclamation, direct, and thereupon this Ordinance shall be read and construed in its application to such district, area or place as if such sum were substituted throughout the Ordinance for the sums of

Appointment of persons to assist in collection of taxes. Powers to make rules providing for the collection of taxes and defining duties of chiefs of tribes and headmen under this Ordinance.

9.(1) The Governor may from time to time appoint such person as he may think fit to assist in the collection of the said taxes, and may make rules, with penalties for the breaches thereof, providing for the collection of the said tax, and defining the duties and responsibilities of tribes and headmen of villages in respect of the payment of the said taxes by members of such tribes or by natives residing in such villages.

And to make arrangement for payment of persons appointed to assist in collection.

(2) The Governor may make such arrangement for the payment of the persons appointed by him under the preceding sub-section, whether by salary or commission, as shall appear to him necessary or expedient.

Taxes to be paid in coin or notes.

10.(1) The taxes shall be paid in coin or notes current in the Colony to a collector of the district in which the hut is situate or in which the person liable to pay poll tax resides.

(2) A receipt for the amount of tax paid by each native, signed by a collector shall be delivered to the person paying the tax and such receipt shall be evidence of the payment of the tax.

Provided always that if the receipt cannot be produced a magistrate may admit other evidence in proof of payment but in such case he shall require to be satisfied that the receipt has not been lost or parted with through the negligence or fraud of the native alleging payment.

Governor may make arrangements for commutation of tax.

11. The Governor may make arrangements with any tribe or village for the commutation of the hut tax by payment of a lump sum per annum, to be taken either in money, kind or labour..

Power to remit tax in certain cases.

12. Whenever it shall be proved to the satisfaction of a collector that any person liable to pay any tax leviable under this Ordinance is a widow or is

without ...

without sufficient means to pay the whole amount of such tax, and is unable to obtain employment by reason of age or infirmity, such collector may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require, provided that in such case the collector shall give to such person a certificate in such form as may be prescribed, which certificate shall relieve the person in respect of whom the same shall have been given from liability to pay any tax leviable under this Ordinance for the period mentioned in such certificate, unless the same shall be cancelled under the direction of a district officer which cancellation such officer is hereby authorised and required to direct whenever it shall appear that any certificate has been granted without good and sufficient reason.

Exemptions powers of Governor.

13. The Governor may by proclamation exempt any person or class of persons or the members of any tribe or the inhabitants of any district, area or place from payment of the whole or any portion of any tax leviable under this Ordinance, and may in like manner rescind or alter any such exemption. Such exemption may be for a term of years or for life.

Provided that nothing in this section contained shall affect the exemption by any other Ordinance provided for.

Power to prescribe forms and make rules.

14. The Governor may from time to time make, alter, vary or revoke rules prescribing the form of any receipt or certificate to be given under this Ordinance, and generally for the better carrying out and giving effect to the provisions of this Ordinance.

Provision for the remission of hut and poll tax in certain events.

15. In the event of any person within the description of any of the classes of persons set out in the schedule hereto, owing to injuries received whether ...

whether prior or subsequent to the date of this Ordinance on active service against an enemy or otherwise on active service or owing to a disease contracted on such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his wage-earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of hut tax on one hut for life or from the payment of poll tax in respect of himself for life as the case may be.

Collector may enter land and buildings in execution of duty.

16. A collector may enter upon any land or into any building in the execution of his duties under this Ordinance.

17. This Ordinance shall come into force on the first day of April, 1932, and from that date the Native Hut and Poll Tax Ordinance (Chapter 51 of the Revised Edition) is hereby repealed.

SCHEDULE

Any native officer, non-commissioned officer or private of the King's African Rifles, or any native carrier, or any combatant or non-combatant native, recruited or selected under any Ordinance for the time being in force or otherwise for any form of military service.