

1936

38173

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CO 533/471
KENYA

38173

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Report of the Financial Commissioner

Native Taxation

Previous

Subsequent

1937

R. 297 7/x

Mr. Floods 10/10

Mr. Bottomley 14/10

Mr. Maffey 19

Mr. Boyd 29/10

Leaving State 20/10

Mr. Flood 28

Mr. Bottomley 22

Mr. Flood 27/10

Mr. Bottomley 29/10

R. 297 11

Mr. Flood

297

Mr. Flood 297

1. Financial .
Natives.

In connexion with the recommendations of the Pim Report enclose advance copy of a report on Native Taxation by Messrs. Walsh and Montgomery with comments on the points that arise.

I sent an acknowledgment of this letter to Mr. Wade in which I made a few comments. Unfortunately the letter went down in the mail and the duplicate has gone off, so I have not got a copy. I told him that he was right in thinking that Native Taxation had been made an issue in the press, and I said that as far as I could see, in view of that fact and in view of Sir Alan Pim's definite recommendation, I thought they would have to face raising the age limit to 18 as in Uganda and Tanganyika. The question of the plural huts is also another one in which Sir Alan Pim's proposal will have to be accepted and accepted at once, with as good a grace as Kenya can put on it. The fact that Messrs. Walsh and Montgomery recommended this as something to be done at some future time, if the readjustment is deemed desirable, lends further support to the proposal.

(Filed under 374 (2/12/36)
17/4/36 ~ 374. regd.
on 38103/36)

The report on Native Taxation has not come home yet officially, but there are some things to which I think I ought to draw attention. Paragraph 46 points out that in the years 1930 and 1933 Administrative Officers were instructed to devote ^{all} their energies to the collection of tax, and points out that, apart from this, receipts since 1927 have steadily declined. This looks to me pretty ominous. In Kenya when they instruct officers to use every endeavour to collect tax it means that the uttermost farthing is screwed out of the native, whether in point of equity he ought to be exempted or not. In paragraph 52 the

inquire

inquirers assume that it is not inability to pay but reluctance that is the cause of the falling off. In paragraph 88 they say that they base their figure of what is an equitable annual contribution on the average of the past ten years. Now, those ten years contained a period of general prosperity lasting certainly for five years, and they also contained two years when, admittedly, special pressure was being put on them to screw taxes out of the people, so that I think the basis of calculation was thoroughly vicious. Indeed in paragraph 89 they point out that the estimated revenue which will be secured is £100,000 short of their figure of what is equitable. Statements like these do not lend value to the report.

Paragraph 107 shows that the Provincial Commissioners at the end of 1932 suggested an even poll tax of 6/-, with a variable tax on huts or stock or something else, which could be modified to suit each particular district. This recommendation was rejected, although it had been based on Lord Moyne's proposals.

I would draw attention to the method of collection by stamps put forward in Chapter 3. It appears to have been surprisingly successful and one can only hope that it will spread.

Paragraphs 151 and 154 recommend the appointment of special taxation officers for collecting native taxes to replace the Administrative Staff. This is in accordance with Sir Alan Pim's recommendation.

Paragraph 124 is very annoying.

The

The Treasurer and the Chief Native Commissioner "found evidence of an over-lenient use by District Officers of their powers of exemption.... In certain districts the figures of exemptions reached the astonishing total of some 30 per cent of the taxable population...." It never seems to have occurred to the inquirers that if, in some districts, the District Officer, who presumably knew the people he was living among and their means and their prospects of payment, exercised his powers so as to exempt 30 per cent, the District Officer might be right. It is certainly not for a couple of outside people who cannot know the circumstances to come along and say that exemption is too freely given.

Reading this report makes me think that some of the people in Kenya are far too unsympathetic towards the native population. I, myself, take the somewhat queer view that we owe more of a duty to the native population than to get work, money, and economic crops out of them. Forty years ago no native in Kenya had any money at all, and at present they work for ridiculously small wages. In West Africa the carrier would get from 6d. to 1/3d. a day according to locality, but in Kenya 1d. or 1½d. was considered an ample wage. With people who receive low wages (even though their wants are few) it is not right to extract money without regard to the conditions under which they live. I do not believe they want us in Kenya, and the way to make them more resigned to white man's rule is not to extract money from them and endeavor to hem them in at every turn. The ~~general~~ ^{general} Kenya attitude, and Uganda, too, for that matter, ~~strikes~~ ^{strikes} me as not, what is the least that we can interfere with the black man, but how much can we safely

*I prefer to
omit about the
complaint to the
Treasurer
rather than
to the C.N.C.*

*I seem to
remember 3-2 in
West Africa.*

safely take away from him. I do not like it.

Nothing can be done until we get the report with the Governor's comments, but, in view of Sir Alan Pim's recommendations, they will almost certainly modify it in some way.

J. E. W. Flood
10-10-36

Sir J. Maffey.

This is an advance copy but I send it on in view of the fact that when the report is published it is likely to arouse early comment. In the meantime the Pim Report takes precedence and the local people will certainly have to alter their views materially.

It is a cold-blooded affair and certainly leaves a bad taste. Even the method of collection of tax by stamps (which Mr. Flood blesses) has its unfortunate side. It encourages taxpayers to spend their money while they have it in tax stamps rather than on goods for themselves. So that instead of having no money to pay tax because they have spent it on goods they will have no money to pay for goods because they have spent it on tax. We cannot claim to have made a successful job of native administration until the African who can earn money by working for himself or someone else can earn enough for both purposes.

We now wait for Kenya's detailed views on Sir A. Pim's proposals.

W.C.S.

14.10.36.

Officials suffering abatement in their just salary by the action of a levy are hardly likely to approach the processes of native taxation in a broad-minded and unbiased spirit. This is an argument - I must say I have not seen it used - for securing to our Colonial cadres their established rate of pay regardless of the budgetary fluctuations of the territory in which they serve. To me a salary levy seems totally unjust and illogical. It would justify imposing a salary levy on an Indian Province affected by famine, leaving other Provinces untouched. But that is a marginal comment on the Report, though not irrelevant.

The Secretary of State should know of this Report, for it may well excite comment. Meanwhile we can wait as proposed.

J.M.
19/10/36

I see the Commission recommends that their proposals be brought into operation from Jan 1st 1937. Is this practicable?

I presume we must send an open despatch on all important parts as soon as we get the recommendations of the Govt of Kenya.

Yes
W.C.S.

W.C.S.

20.10.36

With regard to the Secretary of State's minute, I think it would be ^{just} possible for them to get their proposals through in time for adoption next January but it would not be easy and I do not think it would be particularly desirable. Anyhow, they will have to go back on it in view of Sir Alan Pim's recommendation and our definite instruction that ^{it} has got to be adopted.

J.E.G. Hand

22.10.36.

Also, as the Gov. could hardly act on this without reference here this is now not true.

Secretary of State

I think the second para of Mr. Woods's letter shows that that is the intention. "What we are doing" - at the end of the para means doing by way of enquiry; and what they were going to do by way of definite action.

Woods. 22.10.

I hope we shall take up the borrowing question with the Treasury here with out delay so as to be ready in case of possibility of action.

otherwise I agreed

Woods 23-10

Mr. Woods has reminded them Woods.

2. COL. SEC. 3PN. 29.10.36. 5
 Tra. two copies of a memo. by Messrs. Walsh & Montgomery, on proposals of Sir Alan Pim regarding Native Taxation and states that neither the Report nor the Memo. has yet been fully considered; the views of the Kenya Govt. will be communicated at a later date.

See (8) ~ 3808/37 →

3. GOV. KENYA (TO SIR C. BOTTOMLEY) TEL. (P&P) ... 11.11.36.
 Suggests desirability of postponing until 1938 the introduction of Pim's native taxes recommendations and gives reasons therefor.

4 Tel to Kenya (Private & Personal) - 12th Nov 36

Tel to Gov. Kenya no 267 } bono
 bonf } 16/11/36

TRANSFERRED

TO

38054/36

Tel to Gov. Tanganyika no 200 } bono
 (Repeated to Gov. Uganda no 135) } bonf } 16/11/36
 Re: Zanzibar 96 } for reason
 Gov. Kenya 268 for info }

Spaced to Library

5 3PN, DATED 22.10.36. (REGD. CH 38/22/36) FORWARDS 12 COPIES OF NATIVE TAXATION REPORT BY MESSRS. WALSH & MONTGOMERY (COPY REQ. AT NO. 5)

To Gov. TEL. P&P. 11.12.36
 (Draft on 38095/36)

? put by the 5th

n.b. Action again left's this has been min. of 20.10.36 when we receive help's. Commitment done on the 14/6

Draft on

66

38095/36

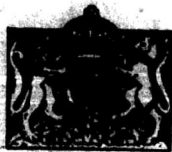
Telegram from the Secretary of State for the Colonies to the Governor of Kenya.

Sent 8 p.m., 11th December, 1936.

Private and Personal.

Your telegram No. 290. Salary Levy. I have felt it necessary to review the financial position with full regard to the difficulties which you are having and will have with your Legislative Council.

There are three principal matters each of which may be claimed to be adverse to the interests of the unofficial European element, (1) income tax (2) revision of native taxation (3) removal of salary levy. I consider it most desirable that (1) and (2) should be introduced with effect from 1st January. As regards (3) while I should regret any change of view it must be recognised that the revision of native taxation does materially affect the present financial position and I am afraid that if a concession has to be made to the unofficial side on any point it must be with regard to salary levy. I have no doubt that you will do everything in your power to ensure the levy being dropped but in any case I do not consider that retrospective effect to October 1st could in the circumstances be justified.



COLONY AND PROTECTORATE OF KENYA

**REPORT ON NATIVE
TAXATION**

BY

G. WALSH, C.B.E.,

Treasurer

AND

H. B. MONTGOMERY, C.M.G.,

Chief Native Commissioner

1936

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER
NAIROBI, KENYA COLONY

REPORT ON NATIVE TAXATION

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The expenses incurred in connection with the preparation of this report were nil, and the cost of printing is estimated by the Government Printer at £36. These figures take no account of the time spent by officers of Government.

REPORT ON NATIVE TAXATION

To—

The Honourable the Colonial Secretary of the
Colony and Protectorate of Kenya.

Sir,

On the 21st April, 1936, as an outcome of discussions which took place at the Provincial Commissioners' meeting held on that date, you, as Chairman, asked us to review the present system of direct native taxation, both as regards incidence and method of collection, and with particular reference to the possibility of eliminating the hut as a basis of assessment of the tax.

Scope of inquiry.

2. You enlarged the above instructions by the inclusion of a recommendation made at the same meeting that—

"It was highly desirable that some method should be introduced by which the number on the Registration Certificate could be identified with the number on the Kodi card, and that the matter should be referred to the Committee to be appointed to consider the question of new methods of taxation."

3. Mr. R. W. Baker-Beall, Acting Clerk to Councils, was detailed to act as our secretary.

4. We held our first meeting on the 24th April, 1936. Subsequent meetings were in the nature of informal discussions of almost daily occurrence. In these circumstances it is considered that a detailed list of dates can serve no useful purpose.

Meetings.

5. In order to supplement the evidence available from past records and obtained as a result of replies received to the circular letter to which reference is made in paragraph 54 of this report, during the months of June and July, 1936, we carried out tours of investigation in the Coast, Central and Nyanza Provinces and the Extra-Provincial Districts of Masai and Turkana. Evidence was taken from all officers in charge of Districts, with the exception of those administering Baringo, Turkana, Kipini, Lamu, and the Districts of the Northern Frontier.

Evidence.

6. Before proceeding to examine in detail the matters raised in this inquiry, we feel it desirable to indicate the method which has been adopted in drafting this report in conformity with your instructions.

Procedure in drafting report.

Contents
Chapter I

7. The report has been divided into four chapters. Of these, the first provides a brief historical survey of native direct taxation in the Colony and Protectorate of Kenya, and concludes with a review of the position confronting us in 1936. In Appendix I, at page 53, a summary of legislation in respect of native taxation in certain other African Dependencies has been furnished for purposes of comparison.

Chapter II

8. The second chapter deals with the action taken by us to obtain data on which to base our conclusions, together with a summary of the data thus made available. Recent and past proposals for a reform of the basis of assessment for direct native taxes have been set out in detail and the arguments favourable and contrary to these proposals tabulated. Our recommendations on this aspect of the inquiry are then detailed.

Chapter III

9. In the third chapter attention has been given to defects in the existing method of and machinery for the collection of these taxes. Various suggestions for an improved means of collection have been examined, with particular reference to the recently introduced Kori-stamp procedure and the possibility of a more extended use of the native registration system. Our recommendation follows the consideration of these suggestions.

Chapter IV.

10. In Chapter IV, in order to facilitate reference, the various recommendations contained in the body of the report have been tabulated, and a brief note has been made of the general principles which have guided us in reaching our conclusions.

CHAPTER I.

HISTORICAL SURVEY OF NATIVE DIRECT TAXATION.

11. The selection of the hut as the basis of taxation is common to virtually all the native territories in Africa, and so far back as 1897 it was employed in German East Africa, now Tanganyika Territory. It cannot be defended as according with the strict canons of taxation, by reason of the fact that the possession of huts is no sure measure of wealth, but the hut tax has persisted in varying forms owing to the lack of any practical formula which would improve the relationship between taxation and ability to pay such taxation.

12. In a primitive state the basis of the hut would appear to be reasonably sound, the inequality of incidence only becoming marked as civilization progresses and the complexities of

native life multiply, until a time is reached when the problem of equitable taxation of the native population differs in no important particulars from the problem as it affects other races. During the interim period when a native community is in process of emergence from a state of barbarism the position is admittedly difficult as, although a proportion of the population continue to measure wealth in terms of wives, families, stock or produce, a rapidly increasing number on becoming traders, wage-earners, etc., translate wealth into terms of money. In this transitional stage, the taxation problem resolves itself into a search for an equitable middle course between a universal male poll tax which takes no account of capacity to pay and an income tax which, although based on ability to pay, is impossible of application.

13. A moderately low universal poll tax together with a tax on wealth in its various forms would meet the case. The results of our search for a satisfactory alternative to the hut as a measure of wealth are given in another portion of this report, from which it will be seen that we have reluctantly arrived at the conclusion that the process of evolution of the native population in Kenya is not yet sufficiently advanced to warrant any material change in the present system of taxation.

14. Native direct taxation in Kenya falls roughly into four historical periods:—

I.—Collection of Tax by Regulations, 1901-1903.

II.—Collection of Tax under Ordinance No. XIX of 1903: 1903-1910.

III.—Collection of Tax under Ordinance No. II of 1910: 1910-1934.

IV.—Collection of Tax under Ordinance No. XL of 1934: 1934 to the present day.

I.—Collection of Tax by Regulations, 1901-1903.

15. The first authorized collection of hut tax was by power of the Hut Tax Regulations (King's Regulation No. 18 of 1901) under Article 45 of the East African Order in Council, 1897, and Article 11 of the East African Order in Council, 1899. Hut Tax.

16. By these Regulations, His Majesty's Commissioner was empowered to impose a tax of not more than 2 rupees per absence of penalties in default.

annum upon all huts used as dwellings. The appropriate Notice is dated 3rd October, 1901, and provides, *inter alia*, that—

- (i) The occupier of the hut is liable for payment of the tax
- (ii) There is no discrimination between sexes.
- (iii) Varying rates may be imposed, subject to the maximum
- (iv) The tax may be collected in cash, kind or labour
- (v) By arrangement with a tribe or village, tax may be committed into a lump sum payable communally in cash, kind or labour.

It is noteworthy that there is no clause in these Regulations imposing sanctions in the event of non-payment.

17. By the Hut Tax (Amendment) Regulations, 1902 (King's Regulation No. 8 of 1902) the maximum tax in the Provinces of Kisumu and Naivasha was raised to 3 rupees.

—II— Collection of Tax under Ordinance No. XIX
— of 1903; 1903-1910.

18. The Regulations were superseded by the first Hut Tax Ordinance of the 28th August, 1903. The provisions of the Ordinance do not differ materially from those of the Regulations, excepting that—

- (i) The owner and not the occupier of the hut is liable; and
- (ii) In cases in which adults other than the man and his wife are living in one hut, those adults are to pay a sum equivalent to the amount of hut tax then in force.

19. This enactment is of considerable interest since it introduces the principle of an *indiscriminate* poll tax, though still veiled under the name of hut tax. Subject to minor alterations, this Ordinance remained in force until 1910.

III.—Collection of Tax under Ordinance No. II
of 1910; 1910-1934.

20. The Native Hut and Poll Tax Ordinance, 1910 (No. II of 1910), became law on the 11th March, 1910.

21. By this Ordinance—

- (i) A tax of 3 rupees was payable by a native in respect of every hut owned by "him" and in respect of every wife in excess of one living in any such hut.

In this connection it should be noted that (although not expressly), by implication, no woman was liable for tax; and, in the second place, a collector had not in his discretion the power to reduce the fixed rate of tax.

- (ii) A poll tax of a sum equal to the amount of the existing hut tax became leviable on all adult male natives apparently of 16 years or over.

This definition of an "adult male native" has survived, although bitterly opposed on the grounds that the taxable minimum age for Europeans and Asians has been fixed at 16 years. Consideration has been given to the question at a later stage of this report.

- (iii) Tax was payable primarily in cash or, in cases of necessity, in kind or by labour of public benefit, at the rate of one month's work in respect of every three rupees due.

Nature of payment

- (iv) By arrangement with a tribe or village tax could be commuted into a lump sum payable communally in cash, kind or labour.

Commutation of tax.

- (v) Sanctions for non-payment were for the first time imposed by virtue of a clause subjecting all defaulters after the 1st of April of each year, on conviction before a magistrate, to distress on their property and in default of distress to three months' imprisonment. Government retained the right to enforce forfeiture of all huts on which tax remained outstanding on the 31st December (amended later to 30th September) of the year next following that during which tax fell due.

Imposition of penalties.

- (vi) A collector was enabled to remit tax in the case of natives who through age or infirmity had insufficient means to pay and could not obtain employment whereby to pay their tax. This provision was also new.

22. By a Proclamation of 11th June, 1910, the Ordinance was applied to the Provinces of Seyidie, Naivasha, Ukamba, Tanaland, and the Districts of Fort Hall, Nyeri and Embu in the Kenia Province, the rate of taxation being 3 rupees.

23. The Hut and Poll Tax (Amendment) Ordinance, 1911 (No. V of 1911) came into law on the 30th September of the same year. By this the penalty clause of the main Ordinance was superseded by a similar penalty clause but containing provision for the imposition of costs in hut and poll tax cases.

Introduction of Poll Tax principle

Definition of adult male native.

Court costs

24. This amendment was repealed by the Native Hut and Poll Tax (Amendment) Ordinance, 1912 (No. V of 1912) of the 19th February, by which the penalty clause of the main Ordinance was reinstated. Provision was also made for the imposition of court costs up to a maximum of 3 rupees at the discretion of the trying magistrate. These costs were made recoverable by distress, together with the original tax due, but in default of distress the period of imprisonment could not be increased.

25. By Rules under Government Notice No. 19 of 1913 instructions were laid down for Administrative Officers, Headmen and Hut Counters in regard to the preparation of Tax Registers and the collection of tax.

26. The maximum of the hut and poll tax was increased to 5 rupees by the Native Hut and Poll Tax (Amendment) Ordinance, 1915 (No. XI of 1915). This Ordinance became law on the 18th December, 1915, and, in accordance with precedent, by Proclamations Nos. 9, 13, 16 and 68 of 1916, the maximum was applied throughout the territory, with certain minor exceptions, including Elgeyo, Kamasia, Marakwet, Suk and Turkana. Favoured treatment was meted out to the Masai by Government Notice No. 216 of 1916, their rate of tax being reduced to 3 rupees. This was raised to 5 rupees, however, by Proclamation No. 96 of 1919.

During this year, by Government Notice No. 124 of 1919, it was decreed that the payment of a house rate in Mombasa of a sum equal to the current tax rate should be accepted as equivalent to the payment of the hut tax itself. This principle was extended to all townships by Government Notice No. 5 of 1921. The point is purely of academic interest, as these provisions were revoked by Government Notice No. 644 of 1920 and No. 238 of 1921, but it would seem to point to some confusion of thought as regards taxation and local rates or rates, and it is for consideration whether this confusion of thought has not persisted in many of the views recently expressed on the subject of the equitable allocation of revenue derived from native taxation.

28. The first application of the provision in the 1910 Ordinance whereby exemption could be granted to certain specified classes of natives, was by virtue of the Native Hut and Poll Tax (War Exemption) Ordinance, 1919 (No. XXIV of 1919). Under this Ordinance, which became law on the 31st August, 1919, any natives liable to tax who had served either as combatants or non-combatants in His Majesty's

Forces, and had become disabled or partially disabled thereby, were exempted from payment of one tax, whether hut or poll, for life. This principle, which appears to have little to commend it in view of the very full powers of exemption already granted to District Commissioners, was extended by Government Notices Nos. 214, 241, and 322 of 1921. King's African Rifles reservists, time-expired King's African Rifles subordinate ranks, and police from Tanganyika Territory and Kenya prison warders were exempted from payment of one tax for life.

29. The maximum rate of taxation was again raised by the Native Hut and Poll Tax (Amendment) Ordinance, 1920 (No. XVII of 1920) which was assented to on the 22nd May on this occasion to 10 rupees. *Pari passu* the length of labour time which could be demanded in lieu of cash payment was raised to two months. This latter enactment was, however, short-lived as the clause in the main Ordinance enabling an officer to call out labour on public work in lieu of tax was repealed by the Native Hut and Poll Tax (Amendment) Ordinance, 1921 (No. XXXIV of 1921), of the 6th September, 1921.

30. A fresh schedule of taxes, consequent on the above-mentioned amending Ordinance, was authorized by Proclamation No. 60 of 1920. With certain exceptions, the general rate of assessment was fixed at 8 rupees.

During this and the succeeding year, the equitable assessment of a native hut and poll tax rate was rendered virtually impossible by the fluctuation of the rupee. From a sterling equivalent of 1s 4d., it soared to nearly twice that figure, and although wages paid in rupees were not affected by the same extent, sterling prices of export commodities in terms of rupees were naturally depressed, a general state of disequilibrium resulting. In these circumstances, fixation of a rate of tax equitable alike to the wage earner whose spending power was increased and to the native producer whose income was considerably diminished was out of the question.

32. On the 20th April, 1920, by the East African and Uganda Currency Order in Council (No. 2), 1920, steps were taken to stabilize the rupee at the equivalent of 2/- sterling by the coining of a British East Africa florin of 180 grains weight (the same as the rupee) and 500 millesimal fineness, to be the equivalent of a rupee and the standard coin of East Africa. For the purposes of settlement of payments due ten florins were the equal of one pound sterling.

Repeal of labour in lieu

Currency difficulties

Stabilization of rupee

House rate in lieu of tax

Exemption in classes

Introduction of shilling currency

31. This alteration in the currency, however, proved to be only temporary, as little more than twelve months after the introduction of the shilling the East Africa and Uganda Currency Order in Council (No. 2) 1920, was revoked by the Kenya and Uganda Currency Order, 1921, of the 10th August. This Order provided for the establishment of the shilling as the standard coin.

Special treatment of Masai

32. By Proclamations Nos. 88 of 1922 and 78 of 1923, tax throughout the Colony was fixed at Sh. 12. The Masai District was, however, assessed at Sh. 20. That this exception was later regarded as directed against the Masai is shown by the exemption under Government Notice No. 17 of 1928, of alien natives resident in Masai country from payment of more than Sh. 12.

Extension of exemption

33. In the Revised Laws of Kenya, 1926, the main Ordinance of 1910 and the succeeding amendments were consolidated in Chapter 51.

34. The only further subsidiary legislation of interest during this period was the extension of the principle of class exemption to all serving soldiers in the King's African Rifles, serving police officers in the Police and Prisons services and Forest Guards in respect of one hut or poll by Government Notices Nos. 382 of 1929 and 167 of 1933.

Northern Frontier Poll Tax Ordinance 1930

35. The enactment of the Northern Frontier Poll Tax Ordinance, 1930 (No. LIII of 1930), of the 24th December, deserves attention for several reasons—

(i) The Ordinance, for the first time, provides for the taxation of natives of a specified area of the Colony, excluded from the express provisions of the Native Hut and Poll Tax Ordinance, by means of a poll tax leviable only on males of the apparent age of 16 years or over.

Consolidation of tax

(ii) The Ordinance maintains the power of the Governor, since delegated to the Provincial Commissioner, to enter into an agreement with representatives of a tribe whereby a commuted amount in lieu of the tax may be paid by the tribesmen as a whole; but extends this power by enabling him, in cases in which it is apparent that tax can be collected by no other means, to order commuted payment without consultation of the tribe concerned.

Imposition of automatic penalty

(iii) The Ordinance borrows from legislation in force elsewhere in Africa provisions to encourage early payment of tax. Under the main Ordinance, where the

payment of a commuted sum has been delayed beyond a specified period after demand, double tax becomes due and, in the case of individual taxpayers, default without reasonable excuse in the payment of tax renders the offender liable to treble tax.

38. The imposition of costs, provisions for punishment and exemption, etc., follow in the main the Native Hut and Poll Tax Ordinance, 1910.

44. Collection of Tax under Ordinance No. XL of 1934-1934 to the Present Day

39. The Native Hut and Poll Tax Ordinance, 1934, was assented to on the 20th November, 1934. This Ordinance laid no claim to altering the principle of native taxation. It was 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 to be adopted in collection.

40. The only additional provisions of any moment were extended powers of exemption, and a definite ruling that women of liable and financially able to pay, could be assessed for hut tax. The power by which the Governor might enter into agreement with representatives of a village or tribe to pay a lump sum in commutation of tax was not maintained.

41. This Ordinance was amended by Ordinance No. XII of 1935, in consequence of a decision by the Supreme Court that the penalty clause of the main Ordinance in respect of detention was nullified by the provisions of section 263A of the Criminal Procedure Code.

42. The main Ordinance came into operation by virtue of Government Notice No. 840 of 1934 on the 1st January, 1935.

43. Subsidiary legislation renewed the exemption of serving soldiers in the King's African Rifles, subordinate police officers in the Kenya Police, subordinate officers in the Prisons Department, and Forest Guards, from the payment of one poll or hut tax during the period of their service, by virtue of Proclamation No. 2 of 1935. By Government Notice No. 175 of 1935 power was given to native tribunals to hear and determine cases under the Native Hut and Poll Tax Ordinance.

Exemption of classes.

Power of Native Tribunals to hear tax default cases.

Consolidation of native tax legislation.

Liability of women to tax assessment.

Modification of assessment in certain cases.

44. By Government Notices Nos. 46, 457, 514 and 833 of 1935 and No. 106 of 1936 attempts were made to meet local conditions by varying the standard rate of a Sh. 12 tax. It will be seen from the following schedule that the scope of existing modifications of assessment is very considerable:—

Tribe	District	Rate
		Sh.
Meru and Tharaka	Meru	8
Emberre	Emberre Location, Embu	8
Kamba	Kitui	9
Masai	Masai	10
South Kamasia	Baringo	6
North Kamasia	Baringo	6
East Suk	Baringo	10
Njemps	Baringo	10
Elgeyo	Elgeyo—Marakwet	8
Marakwet	Elgeyo—Marakwet	8
Duruma	Digo	8
Digo	Digo	10
Giriama	Bamba, Chakama, Shakahola, Sameta, Koroni, Kesikicha, Mzungu, Adu Giriama, Achwasanya, Dagama, Marikago and Mangas Locations, Kilifi District	8
	Elsewhere in Kilifi	10
Galla, Pokomo, Boni, Nyika, Shambara	Tana River	10
Galla, Boni, Sanye, Kori, Shambara	Lamu	10
Turkana	Turkana	3
West Suk	Turkana	8
Kamba	Kikumbulu Location, Machakos	9
Ndindi, Mukogodo, II Mwosi	North Nyeri	8

Intention of modifications.

45. The above modifications were governed by two main considerations, both based on the principle of capacity-to-pay. In certain instances a reduction in the rate of tax was effected to meet a temporary period of depression due to famine conditions and low prices of native produce, whereas in others the change was intended to be of a more permanent character, as it was realized that a flat rate of tax throughout the Colony bore harshly on some of the more backward and inaccessible tribes.

Analysis of revenue over 22 years.

46. It will be seen from the table of comparative figures of revenue derived from the native hut and poll tax over a period of 22 years, shown on pages 12 and 13, that, excepting for the years 1930 and 1933, during which Administrative Officers were instructed owing to the serious financial condition of the Colony to devote all their energies to the collection of tax, receipts have steadily declined since the year 1927.

ANALYSIS OF REVENUE OVER 22 YEARS (REF. PARA. 46)
NATIVE HUT AND POLL TAX REVENUE 1914-15 TO 1936

YEAR	SEYDI		TANALAND		JUMALAND		UKAMBA		KIKUYU		NYANDIA (including Masai Reserves)		NATARBIA (including Masai Reserves)		NESTREKEN FROSTBERG DISTRICT		TOTAL
	£	Sh.	£	Sh.	£	Sh.	£	Sh.	£	Sh.	£	Sh.	£	Sh.	£	Sh.	
1914-15	9,184	3,809	938	3,908	55,689	75,262	8,121	36,408	55,689	75,262	8,121	36,408	217	175,963	317	182,669	£
1915-16	11,255	3,002	1,131	3,448	55,908	75,970	8,123	36,408	55,908	75,970	8,123	36,408	497	182,669	497	182,669	£
1916-17	11,987	2,974	1,132	3,448	79,918	117,877	7,776	36,408	79,918	117,877	7,776	36,408	437	204,513	437	204,513	£
1917-18	13,946	2,880	785	44,075	81,446	125,935	12,550	44,075	81,446	125,935	12,550	44,075	735	213,231	735	213,231	£
1918-19	16,951	3,585	1,246	44,650	71,576	128,313	12,550	44,650	71,576	128,313	12,550	44,650	1,130	278,833	1,130	278,833	£
1919-20	16,951	3,585	1,381	10,558	82,671	128,313	12,550	44,650	82,671	128,313	12,550	44,650	2,609	306,414	2,609	306,414	£
1920-21	31,248	9,998	1,881	10,558	158,403	238,682	39,045	10,558	158,403	238,682	39,045	10,558	939	494,928	939	494,928	£
1921 (April-December)	28,300	6,945	2,709	10,558	158,403	238,682	39,045	10,558	158,403	238,682	39,045	10,558	636	506,414	636	506,414	£
1922	21,847	5,915	2,709	10,558	158,403	238,682	39,045	10,558	158,403	238,682	39,045	10,558	1,225	570,828	1,225	570,828	£
1923	33,383	8,907	2,185	10,558	158,403	238,682	39,045	10,558	158,403	238,682	39,045	10,558	1,387	601,829	1,387	601,829	£
1924	47,383	10,907	2,185	10,558	158,403	238,682	39,045	10,558	158,403	238,682	39,045	10,558	1,387	601,829	1,387	601,829	£

NATIVE HUT AND POLL TAX REVENUE, 1925-1935

YEAR	KIKUYU £	UAMBAM £	NYANZA £	MAAMU £	COAST £	KISUMU £	NORTHERN PROVINCE District £	EXTRA PROVINCE £	TOTAL £
1925	154,088	76,192	315,677	16,060	39,305	26,349	Nil	15,725	538,848
1926	140,303	82,148	290,065	16,319	39,677	24,532	1,884	26,346	556,044
1927	153,443	84,819	277,069	18,490	39,294	31,439	2,067	25,021	568,789
1928	197,274	71,573	368,119	16,960	50,811	16,862	3,708	26,793	581,970
TUMSKANA									
1929	198,866	66,909	350,914	14,740	40,343	7,920	3,679	10,656	531,016
1930	172,295	75,267	279,218	16,108	40,864	6,633	1,785	17,662	591,424
1931	171,276	61,313	363,056	18,669	43,866	8,191	7,782	20,917	530,877
1932	—	—	—	—	49,887	6,869	6,364	18,682	6,311
CENTRAL									
1933	257,375	—	290,648	11,977	99,658	2,243	4,873	13,278	557,790
1934	184,822	—	311,228	6,076	37,681	5,587	7,850	44,188	514,893
1935	196,933	—	302,067	10,254	40,956	3,323	6,784	43,403	502,392

NAYANZA

Neneta

TUMSKANA

MAAMU

NYANZA

UAMBAM

KIKUYU

YEAR

47. We found that during the years 1927, 1928 and 1929 some two months of intensive collection were, in the majority of cases, sufficient to produce the greater portion of a district's tax. Subsequently the period of collection has been so extended that in 1935 it embraced almost the whole year. Apart from the unsettling effect on the Colony's finances, this spread-over of tax work has occurred largely at the cost of what we submit are very important administrative duties.

48. In 1936, in a further endeavour to stimulate payment by affording natives the advantages of the installment system, the collection of tax by stamps was introduced. As we propose to deal with this matter in detail in a later section of the report, it is sufficient to say that, subject to certain modifications which will be recommended, we fully support his innovation.

49. It is indisputable that over a period of years, despite the visible effects of the financial depression, there has been a real increase of actual and potential wealth in the native areas of the Colony. In the Nyanza Province, for example, the number of natives in steady employment has greatly increased owing to the opening up of the gold-mining industry. Elsewhere the activities of the Public Works Department, the Railway, and the Agricultural Department have built up a valuable trade in maize, cotton, and wattle bark of exportable quality throughout the country, but more particularly in the Central and Nyanza Provinces.

50. All the evidence before us went to show that the attitude adopted by the Administration in collecting tax has been a sympathetic one. The power of exemption has been generously exercised, individual cases have been considered on their merits, and the desire to avoid the initiation of criminal charges has been evinced by innumerable instances in which natives have been granted prolonged periods in which to find their necessary tax money.

51. The above were the facts which confronted us at the outset of our inquiry.

52. For the purposes of our inquiry therefore we could only assume that the decline in receipts was based, not on any widespread inability to pay nor on any major defect in the law, but rather on a definite reluctance on the part of a

Growing difficulties in collection.

Introduction of Kofi-stamp system.

Increase in native wealth.

Sympathetic attitude in collection.

Reluctance to pay.

large number of natives to meet their just liabilities, coupled with a system of collection which is not sufficiently elaborated to ensure a maximum yield.

CHAPTER II.

REFORM OF BASIS OF ASSESSMENT.

Possibilities
of inequitable
assessment.

53. At the outset we were inclined to believe that the remedy of the present disturbing situation might be found in a more equitable method of assessment of taxation. It appeared that the movement against the assessment of multiple huts and single women for taxation manifested during the past decade might be based on genuine sense of injustice, as well as on its very obvious value as a political manoeuvre. In consequence we directed our attention to the possibility of evolving some method of taxation whereby either a universal male poll tax of an agreed amount by itself, or such a tax supported by a surtax varying in accordance with the nature and amount of the potentialities of different areas, would produce a sum equal to a fair estimate of the direct revenue-producing capacity of the native population.

Method of
obtaining
financial data.

54. A necessary preliminary was to obtain as exact figures as possible of the total amount which could reasonably be expected to accrue from the imposition of a universal male poll tax on the basis of the assessment at present employed for the collection of the existing tax on both huts and polls. Provincial Commissioners were therefore circulated with the following letter:—

Circular
letter.

"As you are aware the appointment of a small Committee to inquire into the system of native taxation has been recommended to Government.

"It is evident that in an inquiry of this nature an adequate analysis of the yield from the Native Hut and Poll Tax Ordinance as at present framed is an essential preliminary to a proper appreciation of the position as it exists, and also to an estimation of the results which would follow upon an amendment of the Ordinance, e.g. by an elimination of huts as a factor in assessment. Unfortunately, the details supplied to Government from time to time in this connection are so contradictory and inadequate that they cannot be used as a guide to further action, and it is for this reason that more serious attempt must now be made by all Provincial Commissioners and Officers in Charge to gauge the true position.

"To this end officers concerned are requested to complete the attached statement with the least possible delay, keeping the following considerations in view:—

"Column 2: In any district in which there is more than one rate of tax, the figures should be shown separately, e.g. in the Digo District, Digo and Duruma pay different rates of tax and must therefore be shown separately.

"Column 5: The figure required is the amount collected in respect of payments by individuals for more than one hut, e.g. if a native pays Sh. 24, Sh. 12 of this amount would be included in the total shown in Column 5.

"Column 6: The total under Column 6 should not be the multiple of (2) and (3), nor should it be the total of (4) after deduction of (5). What is required is a considered estimate of the amount which would be collected on a purely poll basis, due account being taken of the probability that exemptions from payment should be much more difficult to obtain if each individual is only required to pay per poll, and not per hut.

"Columns 7 and 8 are admittedly difficult of estimation and it is scarcely to be expected that when all returns are analysed the two totals will agree. At the same time, errors of estimation in the past have been due to a very material extent to differences in the methods of computation of tax paid by absentees, and it is essential that some estimate under this head should be given.

55. The replies received were collated in one table for purposes of comparison. In this original table a point of very considerable interest was the extent to which estimates of probable exemptions varied between districts, as well as the extent to which the power to grant exemption is actually exercised at present, notably in the Nyanza Province.

56. These schedules were carried with us on our tour of inquiry, to which reference has already been made in paragraph 5 of this report, and steps were taken to check and, where necessary, correct the figures by reference to the general tax registers of the districts visited. It has also been possible in this way to ensure that the same methods have been universally adopted in arriving at the totals shown in Column 6, namely, by the multiplication of the third column by the second column, the addition of the cash amount appearing under Column 8, and the deduction of that appearing under Column 7, together with the agreed proportion of the total sum estimated to be lost on account of exemptions. The final figures thus obtained are shown in the following composite tables:—

TABLE OF ESTIMATED RETURN FROM UNIVERSAL MALE POLL TAX ASSESSED AT THE EXISTING RATES
FOR HUT AND POLL TAX
NYSANZA PROVINCE

District	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Total Rate of Hut and Poll Tax	Total Number of Adult Males in Census Registers	Total of 1935 Tax Collected in District	Estimate of Amount Collected in (4) Collected in (4) Additional Hut Tax	Estimate of Amount which Collected if Tax were Based on Census at Rate Shown in Column (2)	Estimate of Amount Paid by Absentees in District by the Registrar of the District	Estimate of Amount Paid by Natives Whose Names are in the Census Re- gisters of Other Districts	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
North Kavirondo	19	N/A	£ 56,711	2,100	50,000	9,500	£ 20	
Central Kavirondo	12	*109,640	52,710	1,589	54,500	11,500	30	
South Kavirondo	12	*139,576	52,710	1,589	54,500	11,500	30	
Kenya	2	24,377	15,322	443	14,500	6,450	1,000	
Kisumu-Londiani	2	4,500	8,320	500	8,500	—	7,000	
TOTAL		351,227	190,081	3,667	173,500	27,760	8,070	

1935 census figures; 1936 not available.

TABLE OF ESTIMATED RETURN FROM UNIVERSAL MALE POLL TAX ASSESSED AT THE EXISTING RATES
FOR HUT AND POLL TAX—contd.
RIFT VALLEY PROVINCE

District	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Total Rate of Hut and Poll Tax	Total Number of Adult Males in Census Registers	Total of 1935 Tax Collected in District	Estimate of Amount Collected in (4) Collected in (4) Additional Hut Tax	Estimate of Amount which Collected if Tax were Based on Census at Rate Shown in Column (2)	Estimate of Amount Paid Outside the District by Absentees Appointed on the Registrar of the District	Estimate of Amount Paid by Natives Whose Names are in the Census Re- gisters of Other Districts	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
Nakuru and Naivasha	34	N/A	£ 67,182	1,382	£ 7,700	£ 1,000	£ 300	
Eldoret	12	16,338	3,811	486	6,360	1,500	25	
Kiada	12	*14,687	5,288	327	8,000	660	180	
Nandi	8	11,936	3,900	160	3,850	150	360	
Zigo	2	4,443	2,274	462	2,500	26	105	
Samburu	10	4,540	2,227	—	2,500	100	30	
Parigi—	6	10,003	2,484	50	2,600	58	—	
Karnasia	10	1,985	817	120	600	61	—	
Suk and Njemp	1	94	48	—	48	—	—	
Wandorbo	1	85,076	39,192	3,268	53,345	5,588	1,015	
TOTAL								

1935 census figures; 1936 not available.

TABLE OF ESTIMATED RETURN FROM A UNIVERSAL MALE POLL TAX ASSESSED AT THE EXISTING RATES
FOR HUT AND POLL TAX—Contd.

CENTRAL PROVINCE

Director	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Present Rate on Poll Tax	Total Number of Males in Census	Total of 1935 Tax Collected in District	Estimated Amount Collected in District Additional Rates	Estimated Amount which would be Collected on Poll Alone in Column (5)	Estimated of Amount Paid Outside the District Appearing on Census in Column (7)	Estimated of Amount Paid in the District of Whose Name Law in Revenue Column 8 is the District	£
Tika	54	17,449	8,444	180	9,112	2,300	700	
North Nyeri	12	*2,819	1,064	176	1,064	—	—	
Mukogodo	8	2,518	2,815	6,532	31,510	754	983	
Embu	18	*36,576	5,780	3,077	2,605	6	27	
Meru	8	*57,698	19,464	2,281	42,438	460	40	
South Nyeri	12	*41,000	25,500	3,270	22,300	1,610	100	
Kirot	5	*28,493	9,330	1,169	12,000	200	900	
Narobi	12	*22,217	5,380	12,751	4,000	320	90	
Machakos	6	*2,033	38,409	319	22,046	3,600	—	
Kiambu	12	*22,171	20,176	3,870	17,438	1,300	—	
Fort Hall	12	*56,704	33,138	3,308	28,590	3,800	13	
TOTAL	—	352,492	195,516	35,277	133,674	10,843	2,813	

*1935 census figures; 1936 not available.

TABLE OF ESTIMATED RETURN FROM A UNIVERSAL MALE POLL TAX ASSESSED AT THE EXISTING RATES
FOR HUT AND POLL TAX—Contd.

COAST PROVINCE

Director	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Present Rate on Poll Tax	Total Number of Adult Males in Census	Total of 1935 Tax Collected in District	Estimated of Amount Collected in District Additional Rates	Estimated of Amount which would be Collected on Poll Alone in Column (5)	Estimated of Amount Paid Outside the District Appearing on Census in Column (7)	Estimated of Amount Paid in the District of Whose Name Law in Revenue Column 8 is the District	£
Mombasa Mainland	35	4,431	1,064	9	1,817	184	56	
Mombasa Island (No census)	12	—	6,015	20	4,628	—	—	
Kilifi	12	1,781	1,116	100	1,024	100	50	
Malindi	18	*13,927	4,982	744	6,138	—	—	
Digo	12	1,083	1,154	17	1,459	25	2	
Unguja	10	2,556	4,426	617	3,781	70	25	
Digo	12	2,556	4,426	123	2,977	29	10	
Digo	12	1,048	929	50	649	60	300	
Lamu	10	7,874	3,334	125	3,400	—	—	
Lamu	12	5,948	1,973	250	1,690	120	7	
Tana River	12	3,397	1,861	—	1,861	50	—	
Teta	10	1,274	352	—	1,356	10	15	
Teta	12	4,532	1,525	25	13,004	20	20	
Teta	12	11,857	6,653	1,030	6,800	540	150	
TOTAL	—	76,113	35,011	389	36,394	1,199	634	

TABLE OF ESTIMATED RETURN FROM A UNIVERSAL MALE POLL TAX ASSESSED AT THE EXISTING RATES FOR HUT AND POLL TAX—Contd.

TURKANA EXTRA-PROVINCIAL DISTRICT

District	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Present Rate of Hut and Poll Tax	Total Number of Adult Males in District Registered	Total of 1936 Tax Collected in District	Estimate of Amount Collected in (4) divided in (5) Additional Hut Tax	Estimate of Amount which would be Collected if Tax were Based at Rate Shown in Column (2)	Estimate of Amount Paid in District by Absentees at the Beginning of the District	Estimate of Amount Paid in District by Natives Whose Names are in the Census Register of Other Districts	
	Sh.	No.	£	£	£	£	£	£
West Suk	8	9,389	2,400	88	2,500	75	61	
Turkana	8	15,812	2,771	—	2,000	—	—	
TOTAL	—	25,071	5,171	88	4,500	75	61	

*1935 census figures; 1936 not available.

TABLE OF ESTIMATED RETURN FROM A UNIVERSAL MALE POLL TAX ASSESSED AT THE EXISTING RATES FOR HUT AND POLL TAX—Contd.

MARSAI EXTRA-PROVINCIAL DISTRICT

District	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Present Rate of Hut and Poll Tax	Total Number of Adult Males in District Registered	Total of 1936 Tax Collected in District	Estimate of Amount Collected in (4) divided in (5) Additional Hut Tax	Estimate of Amount which would be Collected if Tax were Based at Rate Shown in Column (2)	Estimate of Amount Paid in District by Absentees at the Beginning of the District	Estimate of Amount Paid in District by Natives Whose Names are in the Census Register of Other Districts	
	Sh.	No.	£	£	£	£	£	£
Marsabit	10	6,440	3,732	864	3,102	26	—	
Aliessa	12	1,118	50	—	—	—	—	
Kajiado	10	4,153	2,375	383	2,062	53	26	
Marsat	10	600	300	—	300	—	—	
Aliessa	10	733	170	—	60	49	70	
Marsabit	12	1,469	72	—	92	—	—	
TOTAL	—	13,734	7,982	1,427	6,862	126	101	

*1935 census figures; 1936 not available.

NORTHERN FRONTIER EXTRA-PROVINCIAL DISTRICT.

In view of the explanation already provided in the report of the existence of a poll tax in the Northern Frontier District, it was considered that no useful purpose would be served by including this Extra-Provincial District within the scope of the inquiry. In reaching our conclusions, however, we have not failed to take into account that, at the present rate of assessment, a sum of approximately £7,000 could be anticipated from these areas.

TABLE OF ESTIMATED RETURNS FROM A UNIVERSAL MALE POLL TAX ASSESSED AT THE EXISTING RATES FOR HUT AND POLL TAX.—Contd.

Provinces or Extra-Provincial Districts	Percent Rate of Hut and Poll Tax	Total Number of Adults Males in the Province or District	Total of Hut Tax Collected in Province or District	Estimate of Amount of Hut Tax Collected in Province or District (4)	Estimate of Amount of Poll Tax which would be collected at Base Amount in Column (2) (5)	Estimate of Amount Paid in the Province or District by Whom Not Assessed on the Basis of the Requirement of the Ordinance or District (6)	Estimate of Amount Paid in the Province or District by Whom Assessed on the Basis of the Requirement of the Ordinance or District (7)	Estimate of Amount Paid in the Province or District by Whom Assessed on the Basis of the Requirement of the Ordinance or District (8)
NYANZA	5%	N/A.	100,000	5,000	175,000	27,500	2,070	12,000
RIFT VALLEY	..	561,224	30,195	3,265	38,348	2,839	1,013	1,013
CENTRAL	..	532,492	195,516	35,374	179,074	10,648	2,813	10,648
COAST	..	70,113	26,011	2,849	1,799	1,799	684	684
UWANDA	..	22,071	6,171	58	4,300	76	61	61
MUSATI	..	12,724	7,832	1,427	6,302	125	101	101
GRAND TOTAL	..	891,610	472,824	65,916	439,973	42,904	12,692	12,692

57. To the total of £472,824 should be added the estimate of £7,000 anticipated to be collected in the Northern Frontier Extra-Provincial District, making a total in all of £479,824. The discrepancy between this figure and the figure of £502,302 in the table shown at page 12 is due to the fact that the latter figures represent total collection throughout the Colony for the year 1935, and naturally include arrears for previous years collected during the current year. The figures above, on the other hand, include only actual collections of the 1935 assessment during 1935 and the early months of 1936.

58. Before attempting to make any deductions from these figures an estimate of the sum in direct taxes which might, in present circumstances, be expected annually from the native population was arrived at by taking an average, to the next highest round figure, of actual collections during the past decade.—We recommend that this figure of approximately £550,000 be accepted for 1937. In passing, we wish to state that the total figure errs, if anything, on the side of leniency, since the period employed in reaching this figure embraces only three years of prosperity as against one year of declining fortunes and six years of extreme financial depression.

59. In the light of the figures recorded in this report, the estimated figures of revenue derivable from a male poll tax, £446,078, or, in round figures, £450,000, fall short of the agreed fair native contribution of £550,000 by £100,000.

60. It is apparent that the hypothetical closer and more willing collection of tax consequent on the introduction of a universal poll tax would still leave a margin between receipts and requirements sufficiently large to demand an increase of at least 20 per cent on present assessment rates, should the poll tax be accepted as the sole direct native tax.

61. Despite this very obvious obstacle, however, we did not wish lightly to dismiss the proposal to introduce the poll tax principle, the more so as in the course of our tour of investigation we found that the consensus of opinion expressed by Administrative Officers was in favour of a universal male poll tax, provided that it was not assessed at higher maximum rates than those at present in force.

62. We could envisage three ways of dealing with this shortfall:—

- (1) By a proportionate increase of tax assessment to the nearest shilling, namely, from twelve to either fourteen or fifteen shillings.

Estimate of total receipts from universal male poll tax.

Recommendation (1). Estimate of equitable annual contribution.

Discrepancy between totals of equitable and poll tax estimates.

Support of poll tax at present rates.

Methods of dealing with short-fall consequent on introduction of poll tax at present assessment.

- (2) By a reduction of £100,000 in direct native revenue, with a consequential reduction in native services.
- (3) By augmenting the revenue derived from the poll tax through the introduction of a system of surtaxes of incidence varying in accordance with the relative capacity-to-pay of the several tribes.

63. The second of these proposals does not admit of consideration. We do not deem it necessary to detail the arguments against a step so retrograde in nature and so clearly hostile to the best interests of the native.

64. Consideration of the third proposition is dependent upon an adverse decision on the first. We therefore directed our attention to the possibility of increasing the present rate of assessment.

65. As has already been stated, the great majority of District Officers favoured a universal poll tax of twelve shillings, but strenuously opposed any increase in assessment. The arguments advanced in favour of a universal poll tax were that it could be assessed without difficulty and would not be unfair in its incidence, since tax would no longer be leviable on women and those liable to pay would pay no more than in the past.

66. The most powerful and, in our view, an overwhelming argument against a general increase in the rate of the tax was that the alteration in incidence would benefit the more wealthy members of the community at the direct expense of the poorer classes, more particularly the agricultural wage-earners, who would be mulcted of as much as a month and a half's wages in respect of each tax paid.

67. We did not find it disputed that our agreed figure of £550,000 was a fair direct contribution by the native taxpayer under present conditions.

68. Briefly then, we were faced with a suggestion that the native should equitably pay £550,000 per annum in direct native taxation, that this sum should be collected by means of a poll tax which under existing rates would only realize £450,000, and that any general increase in these rates would be inequitable.

69. We formed the opinion that the support accorded to a universal poll tax was based very largely on a misconception

Misconceptions regarding the principles at issue in arguments advanced in favour of poll tax.

of the problem; complications of collection being given undue prominence as compared with the more important issues of equity of incidence and yield.

70. The proposal to introduce a universal male poll tax is not a new one. It was publicly mooted in 1920, and in 1924 a Bill was drafted to enable poll tax to be substituted for the present hut and poll tax in respect of any proclaimed tribe. The approval of the Secretary of State was given to the introduction of the Bill into the Legislative Council, but the support accorded by the Administration was lukewarm. The then Governor, Sir Edward Grigg, favoured a poll tax provided that it was combined with a property tax. In the end, however, in 1926, the Bill was dropped, although the Secretary of State was informed that the possibility of introducing a universal poll tax was being considered.

Historical summary of poll tax proposals.

71. Considerable general interest was aroused, and amongst the natives the subject was made a political issue. Briefly, the two main arguments for and against its imposition were as follows:—

Past arguments for and against poll tax.

In favour of poll tax it was held that—

- (a) A hut tax is a wife tax. The position of the woman in the native African social scheme is pitiful; and the fact acceptance by Government that the wife is a revenue-producing property is scarcely calculated to elevate it.
- (b) A hut tax sets a premium on monogamous Christianity inasmuch as the educated Christian native is likely to command a far higher rate than the uneducated pagan; yet the wealthy monogamist pays at a far lower rate than the struggling polygamist.

The opponents of the tax stated that, on account of its imposition—

- (a) The wealthy polygamist would benefit;
- (b) The young men would be discouraged from going out to work, since they would be mulcted to support rich and happy families in the reserves.

72. In our opinion, these arguments are of little value. The support of a poll tax is inferential only, since the arguments in the main are directed for and against hut tax and not on behalf of poll tax.

The view of the Kenya Government on poll tax proposals.

73. The question of the introduction of a universal poll tax was again seriously discussed in 1931. It was again proposed by the Administration, whose views are admirably expressed in the following extract from a despatch to the Secretary of State (No. 441 of the 4th August, 1931) :—

" While I am fully alive to the fact that the system is not perfect—indeed, its inherent defects are patent—I am not by any means convinced of the superior advantages of any of the reforms or alternatives that have been suggested, and I am very reluctant to interfere with any part of it unless I have very good reason to believe that I am interfering for the better. The system has now been in operation for a number of years, it is well understood by the natives concerned and is, I believe, in spite of its defects not inequitable in its general results. It represents a genuine attempt to make the rich pay more than the poor, and in a normal year no one is taxed beyond his capacity to pay such imposts without hardship and without upsetting his customary mode of life.

I regard this principle as an important one, which should not be lightly abandoned because at the moment a general poll tax might at first sight appear to afford the easiest solution of our present difficulties. Experience elsewhere has proved that the native, as he becomes more sophisticated, agitates for the abolition of poll tax, as being unscientific, unfair in its incidence, and degrading, and demands some form of taxation graduated more in accordance with the individual's capacity to pay. If, as a result of the investigations, to which I refer in the twelfth paragraph of this despatch, some more scientific form of taxation is suggested in substitution of the present non-native poll tax, it would clearly be a premature and retrograde step to abolish hut tax in favour of a general poll tax now. It may be for the reasons given in this despatch that the hut tax is becoming, with changing conditions in the reserves, a less satisfactory instrument for taxing property than it was when originally imposed. If so, some other basis for the assessment of property must be sought, and I should welcome any information as to the assessment principles adopted in the Southern Provinces of the Protectorate of Nigeria."

The investigations to which reference is made proved abortive in view of the very great difference between conditions obtaining in Nigeria and Kenya.

74. The last occasion on which the principle of a universal poll tax was raised was in the year 1933 during the discussions which preceded the introduction of the new Native Hut and Poll Tax Bill of the succeeding year. On this occasion the opinion was expressed that "new circumstances, namely, that tax payment was no longer communal, might make it advisable to adopt universal poll tax." This argument, which is tantamount to a declaration that tax should be a liability on those whose income consists in cash, irrespective of the actual wealth of the contributor, on the grounds that cash is more easily tapped than property, was, rightly we consider, dismissed.

75. From the above brief résumé it is apparent that the real issue has throughout been clouded by social, religious and financial considerations, and at this point we formed the opinion that in accordance with our instructions it was our duty, ignoring previous arguments, to examine the question of a universal poll tax on lines of broad principle. These principles we found in the four main canons of taxation laid down by Adam Smith, which we append since we shall have frequent occasion to refer to them in the course of this report.

False premises in the past.

A.—Method of Taration.

76. (1) The subjects of every State ought to contribute towards the support of the Government as nearly as possible in proportion to their respective abilities to pay.

Adam Smith's canons of taxation.

(2) The taxes which each individual is bound to pay ought to be certain and not arbitrary.

B.—Method of Collection.

(3) The time of payment, the manner of payment, and the quantity to be paid ought to be clear and plain to the contributor and to every other person, and every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it.

(4) Every tax ought to be so contrived as to take out and keep out of the pockets of the people as little as possible over and above what it brings into the Treasury of the State.

These canons we have elaborated by the addition of the following three principles :—

(5) A contributor should be enabled to pay in such a way as will freeze his cash contribution for as short a time as possible.

(6) A contributor should have no fear that, once payment has been made, through error he should a second time be made liable for the same contribution.

(7) A stimulus should be applied to the contributor of such a nature as to convert the present obligation to collect on the part of the State into an obligation to pay on the part of the native.

77. These canons form the basis of the arguments on which we have built up the recommendations in this report. Although we are seldom concerned with them as a whole, we have considered it advisable to group them together at this early stage, in the hopes that our conclusions may be read in the light of them, and that tedious cross-references may thus be avoided.

78. It is apparent from the first of these dicta, and it is based on common justice, that taxation by means of a male poll tax, unsupported by any other tax on additional wealth, must be abhorrent. It takes no account of the capacity to pay of the individual. Its tendency must be to oppress the poorer sections of the community—and in Kenya they form the vast majority—and to discourage them from endeavouring to better their position. It must build up a powerful oligarchy in whose hands the land and wealth of the country will concentrate. It must thus, ultimately, reduce the revenues of the Colony.

79. We have considered the statement that altered conditions have altered the balance of wealth, and we do not doubt the evidence that numbers of monogamous natives who derive a considerable income from service or business escape lightly under the present system of taxation; but we have come to the conclusion that this is unavoidable in a primitive society. The present system of taxation does at least make an honest endeavour to allocate the burden of taxation fairly, and it is a system which has stood the test of time and criticism in a number of African communities.

80. Always keeping in view therefore the possibility of finding some more equitable form of assessment for the surtax than the hut, we recommend most strongly against the imposition of a universal male poll tax, of whatever amount, as the sole direct native tax.

81. We considered next the possibility of retaining the poll tax at its present rate of twelve shillings, subject to the modifications enumerated in paragraph 44, supported by an equitable surtax in lieu of the present hut tax.

82. The proposals which we had in front of us were the following:—

- (a) Poll tax supported by a tax on exports.
 - (b) Poll tax supported by a tax on imports.
 - (c) Poll tax supported by a tax on stock or goats.
 - (d) Poll tax supported by a super poll tax on a sliding scale.
 - (e) Poll tax supported by a tax on land and/or a production tax on crops.
 - (f) Poll tax supported by a tax on wages.
 - (g) Poll tax supported by the hut tax principle, the enforcement of each being a separate liability.
83. There were in addition two further proposals:—
- (h) Poll tax at a reduced rate supported by a district surtax.
 - (i) Poll tax and surtax combined for purposes of collection. But subsequently reallocated in agreed proportions to central and district revenue.

which envisaged the separation of direct native taxation into two funds, one administered by the Central Government, and one administered by the Local Native Councils for the direct benefit of the area contributing. Although these contain principles extraneous to this inquiry, we have included them in order that the widest comprehensive picture possible may be presented.

84. In considering these proposals we have kept in mind that the basic principles as originally enunciated by Adam Smith, already detailed in paragraph 76 of this report, have subsequently been reinforced by certain secondary considerations. Primarily, of course, taxes are imposed with the avowed intention of raising revenue. Inevitably taxation brings in its wake a multiplicity of consequences which in time become absorbed into the causes of taxation, and, in fact, are scarcely to be distinguished from the primary object of taxation itself. These objects may be grouped in three main classes:—

- (1) Taxation to encourage certain occupations or industries.
- (2) Taxation to discourage the use or consumption or possession of certain things which have either social or economic disadvantages inherent in them.
- (3) Taxation to remedy maladministration of wealth.

Proposals by means of a surtax to constitute local treasuries.

The main purview of taxation.

Grave defects in incidence of poll tax.

Comparative equity of present form of taxation.

Recommendation (2) adverse to universal male poll tax.

Possibilities of poll tax at present rates supported by surtax.

Simple form of taxation necessary.

85. Many of the proposals enumerated in paras. 82 and 83 suffer from the obvious disadvantage that they are sectional in character. A tax on wages, for example, could not equitably be imposed unless combined with a tax on the non-wage-earning portion of the native population. An extremely expensive and cumbersome structure of native taxation, completely at variance with the methods adopted in regard to the taxation of other races in Kenya, would then be brought into existence. At the same time, although to this extent certain of the proposals are clearly repugnant to the accepted principles of taxation, we have deemed it desirable to consider them separately in detail.

(a) Poll Tax Supported by a Tax on Exports.

86. It was generally agreed that a tax on the overseas exports of native produce would be unfair and impracticable, as well as economically sound. To impose an export duty for purposes of general revenue on native production shipped overseas, merely on the grounds that such products are grown by natives and are exportable, would be completely indefensible. A tax on exports in the narrower sense of the term, i.e. on a parcel of produce from a district or province, would be almost equally unfair as the setting up of an elaborate system of market fees designed to yield £100,000 per annum would so depress the cash receipts of the native producers vis-à-vis producers of other races, who would not be subject to the tax, that the levy would defeat its own object. Our recommendation is against this proposal.

(b) Poll Tax Supported by a Tax on Imports.

87. The insuperable difficulties consequent upon the Customs agreements with neighbouring territories remove this suggestion from the sphere of practical politics. An internal tax on imported articles sold to the native population is clearly not feasible. We cannot therefore recommend the adoption of this form of assessment.

(c) Poll Tax Supported by a Tax on Stock or Goats.

88. The proposal to introduce a tax on stock or goats has always found support from a strong body of opinion; and, on the face of it, provided that it is accompanied by an equivalent produce tax in non-agricultural areas, it would appear to be equitable in its incidence and to provide a panacea for the difficulties caused by overstocking and erosion.

The evidence of past discussions and of our own observations did not, however, support these specious conclusions.

89. In the first place, if the tax is to fulfil its purpose of reducing stock-holdings in the country, assessment must rise in proportion as the quantity of taxable stock declines. This would contravene what we consider the very necessary second dictum of Adam Smith that taxes should be certain and not arbitrary.

90. In the second place, in order to ensure an equitable incidence of taxation, a correct count of individual holdings of native live stock must be obtained. We did not consider that this was possible. Difficulties of stock enumeration.

91. Thirdly, we were unable to believe that the levy of a stock tax would necessarily discourage the possession of certain things which have economic disadvantages inherent in them, i.e. a superfluity of cattle and goats. Stock, in the eyes of the native, is tangible and visible wealth. A goat is a goat, whether it is worth five shillings or thirty shillings, and for eighty goats, whether they are worth four hundred or two thousand four hundred shillings, a man can buy a wife. Unlikely to relieve overstocking.

92. The native has learnt from experience this difference between the capital and cash value of stock, for the cash value is the market price. The market is limited and delicately balanced, and any considerable increase in the number of stock thrown into it must cause it to collapse. We are of opinion that the native would not dispose of stock to meet his tax, but would strain every effort to obtain cash by other means.

93. We also considered the question of the assumption that either the native would be prepared to sell out of stock, or that the same result would be reached by the imposition of forcible culling. In the nature of things, this stock would consist in the poorest quality beasts, and, in the absence of a by-products or meat factory, the difficulties of disposal for cash would be insurmountable.

94. We concluded that the native must find his stock less out of cash reserves, and that this would have a deleterious effect on the free flow of money and on internal trade.

95. On the above grounds, and in view of the difficulty of collection, the complicated problems of lien on loan and farming out of cattle which would have to be surmounted in order to determine ownership, and the close manner in which stock is linked with the social and religious life of the native, we found ourselves unable to recommend a surtax of this nature. Social, economic and religious obstacles.

Recommendation (C) against stock tax.

Recommendation (4) Imports and exports surtax.

Stock surtax.

(d) Poll Tax Supported by a Super Poll Tax on a Sliding Scale.

96. This proposal we dismissed immediately, as in effect it follows the principle already provided for in the existing legislation dealing with the native hut and poll tax, whereby maximum scale of assessment has been introduced with power to vary the rate in varying circumstances. This variation of the rate has not always fulfilled its purpose in the past, and we saw no reason why the imposition of a minimum rate with a varying surtax should prove any more effective in the future. In any circumstances the variation of the rates of the surtax would only affect districts or localities, and the possibilities of inequitable incidences on the individual would remain.

(e) Poll Tax Supported by a Tax on Land and/or Production Tax on Crops.

97. A tax on land has been admitted, in principle, to be ideal. Land is potential wealth in an agricultural country, and once the quality of the land and its capacity has been assessed, adjustment of taxation to market rates, accessibility, etc., is comparatively simple. The proposal collapses, however, on two fundamentals:

- Land tenure varies from tribe to tribe and only in isolated parts of the Colony is individual tenure fully recognized.
- An equitable assessment can only be based on surveys, which would be far beyond the financial capacity of Government in the native reserves.

98. It has been argued that a commuted land and cultivation tax for a village, clan or district might be imposed somewhat on the lines of section 47 of the Ordinance of 1910. Experience has shown, however, that when such communal contributions are levied it is the poor man who pays, since he lacks sufficient influence and prestige to insist on an equitable distribution of demands.

99. A production tax, also, is admittedly ideal in principle, but it is so impossible of achievement as to render its consideration a matter of academic interest only. To all intents and purposes it is scarcely distinguishable from the export tax dealt with above, and the objections which apply to the latter tax apply also to this.

100. On broad principles any taxation of this nature would be regarded with suspicion. Production should only be taxed in so far as taxation acts as a stimulus to production, or as

the revenue derived therefrom is employed directly in benefiting the occupation taxed. The general tendency in modern times has been to tax "accretion" or "income", and stimulate production by a "bounty", or regulate it by a "quota".

101. In matters of detail, the following questions presented themselves: If the tax is to be assessed on the main exportable crop of the district, how is it to be assessed? What steps will be taken to institute a sliding scale to provide for approximately equal revenue in good and poor years? Would such a scale result in equitable incidence? Does it not transgress the principle of a "certain sum"? If the tax is not on a sliding scale, how is the financial provision for the machinery of administration to be met? Is it in the interests of trade to force down by taxation the price obtained by the native producer? Can a tax on native produce be defended so long as no similar tax is imposed on the produce of other faces?

102. We found ourselves quite unable to recommend a tax of this nature.

(f) Poll Tax Supported by a Tax on Wages.

103. A wages tax is not feasible on practical grounds. Natives would definitely be discouraged from seeking employment. The responsibility for collection would naturally rest on the employer, and, though it could be collected with little difficulty from the big companies, it is a tax which lends itself to evasion in the case of the small employer of labour. It could only be worked side by side with a strengthened and improved native registration system, which would render collection a very costly matter. Finally, the native who leaves his home in order to work for cash to pay off the family taxes would find himself penalized, whereas the small trader and primary producer would stand to gain.

104. In treating this tax on its merits we have not lost sight of the fact that its author envisaged its introduction not as a single tax but as one particle of a sisyphæan rock compounded of taxes on labour, production, stock, etc., but the further we progressed in our inquiry the more convinced we became that fragmentary taxation of this nature is impossible of assessment, impossible of application, impossible of collection, and resultant only in discord and a falling-off in revenue. In any circumstances, alone or attended, this tax must be contentious.

Impossibility of assessment.

Recommendation (f).

Wages tax.

Impossibility of fragmentary taxation.

Sliding scale for super poll tax.

Recommendation (b).

Virtues of land or production tax on general grounds.

Insuperable obstacles in Kenya.

Commuted tax.

Production tax *qua* ss.

Recommendation (8).

105. Apart from any other consideration, no possible justification could be found for a levy on the wages of a native so long as the same scale of levy is not imposed on the wages of other sections of the community, and, in consequence, we do not recommend it.

(g) Poll Tax Supported by the Hut Tax Principle, the Enforcement of Each being a Separate Liability

106. This suggestion is outlined as follows in Lord Moyne's Report on Certain Questions in Kenya, of May, 1932:—

Hut Tax.—Hut and poll tax should be varied according to the taxable capacity of each district. The rate varying between, say, Sh. 6 per hut in the remote and poorer districts and Sh. 20 in the richer districts, where the present tax is borne without difficulty. When the new uniform poll tax (see below) is brought into force, the hut tax should be reduced to a rate varying between Sh. 2 and Sh. 14, according to district.

Poll Tax.—Poll tax as now collected should be replaced as soon as possible by a uniform adult male poll tax at Sh. 6 collected by means of stamps to be affixed to the registration certificate. This change would solve many difficulties now occasioned by collecting poll tax in the locations. Men who are absent working far away from their villages are believed to pay twice over, the father in the reserve and the son at his work, each without the other's knowledge. In spite of all the efforts made to trace men, and of much correspondence between Administrative Officers, many also avoid payment altogether, because of the difficulty of verifying, in a centre such as Mombasa, how many of the 10,000 up-country natives working there have already paid the tax in their villages.

The separation of hut and poll tax would also greatly simplify checking the hut tax, as receipts could then be left in the hut as evidence of payment, instead of being carried away to other districts. It often happens at present that men working outside the reserve take hut tax receipts away as evidence that they have already paid tax and are not again liable. I am assured that this change of method when fully applied will immediately save a great amount of labour to District Officers, and when the cultivation tax is also in force it will do away with the necessity of tax collection in villages by European officers. It is estimated by the Chief Registrar of Natives that the additional work in his office

could be carried out by six to eight African clerks, and that the expenses of the additional staff and other necessary incidentals would certainly be more than covered by the closer collection of tax. Owing to the number of temporary registration certificates now in circulation, the change-over to the new method here suggested could necessarily be achieved neither immediately nor simultaneously throughout all districts.

He envisaged that subsequently—

"A native cultivation tax should be substituted for the hut tax, at first experimentally in the more advanced and most suitable districts, but eventually throughout the native reserves."

And that a—

"Native live stock tax should be instituted as a tax on wealth only, applicable over and above a certain free allowance of live stock, sufficient to provide the necessities of life."

107. Although at a meeting of Provincial Commissioners in November, 1932, the following resolution was adopted—

"That it be the policy of the Government to divide native taxation into an even poll tax which should be Sh. 6 and a tax which will vary between districts imposed on huts or stock or such other unit as may be decided,"

and although it was decided that the system should be introduced on the 1st January, 1934, in 1933, after a fuller examination of the scheme, it was decided to be impolitic and impracticable.

108. We do not propose to comment on the contingent proposals of Lord Moyne. The difficulties of assessment of varying units of wealth for purposes of taxation have already been dealt with.

109. The main recommendations we considered most carefully, and we came to the conclusion that a poll tax of Sh. 6 would be too low a rate to assess the unmarried male native in employment or business, and that the incidence of the surtax which would be required to produce the difference between approximately £225,000 and £550,000 would be inequitable.

110. We recommend, however, that, if the present system of taxation is retained, and if at some future time a readjustment of values is deemed desirable, a reduction of the plural

Support of Provincial Commissioners.

Recommendation (9). Inequity of incidence.

Recommendation (10). Possibilities of future reduction in rates.

hut tax assessment rates should be the first consideration. In this connection we were impressed by the increasing number of independent women noted in the census registers as liable to tax. There would appear to be nothing inherently wrong in the taxation of women who are property owners: in fact, if, as should be the case, the structure of native taxation follows as closely as is possible the methods adopted in regard to other races, they should bear their fair share of the burden of taxation. It is possible, however, that the standard rate of Sh. 12 may be unduly high, and if, as opportunity permits, the tax on multiple huts is reduced, we recommend that this reduction should also extend to independent women hut-owners.

Recommendation (B).
Assessment of women.

(h) Poll Tax at a Reduced Rate Supported by a District Surtax.

(i) Poll Tax and Surtax Combined for Purposes of Collection but Subsequently Reallocated in Agreed Proportions to Central and District Revenue.

111. These proposals are, to all intents and purposes, similar in their goal, but follow a different route. Both aim at instituting separate exchequers for the Central Government and the Local District Administration respectively. In each case a fixed proportion of the assessment will be paid direct to the Central Government for the purpose of meeting the cost of the native share of the central activities.

112. Hereafter they differ: (h) is based on the assumption that a district must cut its coat according to its cloth, and that internal activities, such as the remuneration of headmen and tribal police, and the cost of communications, education, etc., must be limited by the capacity-to-pay of each several district; (i) envisages a surtax of varying rates which will be collected into a central exchequer and allocated by the Chief Native Commissioner proportionately to the needs of districts but with no regard to their actual contributions.

113. The aim of both these schemes is the establishment of a Native Betterment Fund. This fund has been accepted in principle, and we do not feel that the duty to comment on its merits or demerits falls within our instructions. We considered the proposals therefore purely from the taxation morality viewpoint.

114. In either case the fundamental issue is the same. A surtax is to be imposed at rates varying in accordance with the capacity-to-pay of each district. Since no other suggestions have been made, the method of assessment of this surtax must presumably accord with one or other of the proposals which we have just dismissed, and, in consequence, we found ourselves in the position of G. K. Chesterton's heroes who "went to Bannockburn by way of Brackley Head." We have therefore no recommendations to make in respect of these two final proposals.

Recommendation (12).
Introduction of local treasury principle.

115. In this Chapter we have dealt as fully as possible in the limited space at our disposal with all the proposals for and arguments in favour of a change in the method of assessing native direct taxation. Although realizing that the present system is by no means perfect, we are forced to the conclusion that the alternatives submitted are no more equitable and present numerous insurmountable practical difficulties in addition.

Conclusions regarding alteration in assessment.

116. The hut and poll tax represents as nearly as possible a reasonable contribution on the part of the individual to the support of the State; it is certain in amount and not arbitrary; it is not apparently damaging to the economic position of the State.

117. Until individual land tenure has been established and native society has sufficiently advanced in its conception of civic duty to regard the payment of fair taxes as a moral obligation, and in its organization and education to make it possible for the individual to make an accurate return of income, we recommend that the system of taxation by means of a hut and poll tax should be retained.

Recommendation (13).
Retention of present system.

CHAPTER III. METHOD OF COLLECTION.

118. At this stage of our inquiry we had satisfied ourselves that—

Summary of conclusions already reached.

- (1) The native hut and poll tax conforms sufficiently nearly with accepted principles of taxation.
- (2) The amount which the native should be required to contribute by means of this system is £550,000 per annum in existing circumstances.
- (3) The totals appearing in the census registers indicate that this amount should normally be possible of collection without difficulty or hardship, provided that the methods of collection are efficient.

(4) The native in fact contributes a declining total which has now reached the low level of £502,000.

(5) The shortfall in revenue must result from defects in the method of collection.

119. The system of collection followed in the past has been briefly as follows:—

- (1) A register of natives resident in a district up to a time three years previously, with a census of their additional huts, wives, and children, was prepared annually.
- (2) At the time of registration natives were issued with a white census slip bearing a number corresponding to that allotted to them in the register, and carrying details of plots or huts.
- (3) Census entries were grouped into small units of villages or families numbered consecutively, with a sufficient intervening allotment of numbered blanks to suffice for additional registrations during the succeeding three years.
- (4) Natives presented themselves before the officer collecting tax on a date fixed at the camps of their local chief. A taxpayer handed in his cash together with the original white census slip. His number was checked from the slip, a ticket issued bearing his serial number, and payment endorsed in the register.
- (5) Natives claiming exemption appeared before the officer at the close of each day's collection.
- (6) Payments for natives who had left the district were made by relatives, or an endorsement of payment in the register was made by virtue of the handing in of a receipt issued in the alien district in which the absent taxpayer was resident.
- (7) As the register endorsements neared completion, lists of defaulters, location by location, were made out and sent for action to the appropriate chief, who was assisted in rounding them up by his own retainers and Government tribal police.
- (8) Approximately in October of each year prosecutions were instituted.
- (9) Scarcely any tax payments were made at district headquarters.

120. Owing to the reluctance shown by natives in paying their taxes, which has been the subject of comment earlier in this report, and the consequent lengthening of the period of tax collection, in 1934, after certain tentative steps in Nyanza Province, a system of hut tax collection by chiefs and headmen was instituted. It was considered that District Officers would thereby be relieved of much purely routine work and freed for more important administrative duties. It is not possible, as yet, to say whether the new method admits of universal application.

Collection by chiefs and headmen.

121. In 1935 the proposal to collect tax by means of shilling stamps was seriously considered, a decision was reached and the scheme put into operation by the 1st January, 1936. Since this proposal, in our opinion, offers the first of certain genuine remedies for the present state of affairs, we intend later to describe it in detail, as it will be an integral part of our final recommendations.

Collection by stamps.

122. In the course of our inquiry we found ample evidence to show that the existing method of collection presents numerous opportunities of evasion, particularly in the large towns and the settled areas. We found also that the system of registration employed results in some cases in natives escaping the census over a period of years, and, in other cases, in their finding their names entered both in the reserve and settled area registers for the same year.

Present methods result in evasion.

123. These two defects we considered were responsible for the large discrepancies in the final figures for the seventh and eighth columns of the schedule at page 22 of this report.

124. We found evidence of an over-lenient use by District Officers of the powers of exemption conferred on them by the Native Hut and Poll Tax Ordinance. In certain districts the figures of exemptions reached the astonishing total of some 30 per cent of the taxable population. The attitude towards these powers is exemplified by the average figure of 5 per cent estimated exemptions in the event of the introduction of a male universal poll tax shown through the totals at column six of the schedule. This percentage of exemptions we consider to be unduly high.

Over-lenient use of powers to grant exemption.

125. We found evidence to show that there is no stimulus in the present legislation to encourage the native to speed up his payment of tax.

Lack of effective stimulus to speedy payment.

Risks of double liability.

126. Finally, it is clear that, even though of extremely infrequent occurrence, there have been cases in which a native, owing to the inaccuracy of the present tax register system, has been made doubly liable and twice paid the tax due from him. We wish to emphasize the infrequency of this injustice, and to add that we have found no instance in which a native so mulcted has not, after a reasonable delay, been able to obtain a refund of the excess payment. Political capital has, however, been made out of this fact by interested parties, both native and non-native, and we considered that steps should be taken to remove what, if not an injustice, is an irritating defect in the system.

Abuses of modification of rates.

127. A somewhat similar defect exists in regard to natives of a tribe liable to a reduced rate of tax employed in a district where a tax of greater amount is payable. Taxation of such natives is not uniform; in some cases the full amount chargeable in the district is collected, whereas in others only the amount due at the reduced rate is demanded. We recommend that uniformity should be achieved by payment of the higher rate unless the native concerned is a casual labourer who emerges from his reserve with the sole intention of earning his tax money. Under the Kodi stamp system no difficulty in application of this suggestion is anticipated, as the native, on presentation of his stamped card, either obtains a tax receipt at a reduced figure in his reserve or receives acknowledgment of full payment and then makes application in his reserve for a refund of the difference between the full and the reduced tax, if entitled to do so.

Extinction of liability by imprisonment undesirable.

128. We considered also that in many cases in which a native has suffered imprisonment for non-payment of tax it has not been shown that he was not at any time in a position to pay, nor that the existing machinery was capable of ensuring collection of arrears at a subsequent date to his release.

Reluctance to pay taxes.

129. Before proceeding to our detailed recommendations we wish to stress the fact that any proposals for tightening up tax collection cannot be made dependent on emphasizing the moral obligation of the native to shoulder his proportionate share of the expense of administering the State, nor, by means of propaganda, of pointing out the benefits which a human being derives from sinking his personality in a corporate body.

Not abnormal nor confined to natives.

130. We do not consider that the natives' present aversion from paying taxes arises from any startling and sudden change in his social or economic conditions. The truth is that no intelligent human being ever did or ever will pay taxes gladly.

In the more highly civilized States, tax is paid because the contributor in part realizes that however unpleasant the provision for its upkeep may be he needs a central organization, but mainly because he has succumbed to an artificial convention which demands that he should suffer any hardship in preference to the indignity of suffering public punishment for failing to meet his liabilities.

We have not found that the native is influenced by these considerations, and the fact must therefore be faced that the native must be induced to conform with a system which is for his ultimate good.

Natives not trained to sense of tax obligation.

131. To effect this we considered the introduction or elaboration of the following proposals as inherent parts of the machinery for the collection of tax:—

Proposals for elaboration and improvement of present methods of collection.

- (a) The system of collection by stamps.
- (b) The elaboration of tax census registers and the coordination of them with the native registration scheme.
- (c) The appointment of taxation officers.
- (d) The introduction by legislation of an automatic penalty increase on taxes unpaid after a certain date.
- (e) The appointment of *ad hoc* local courts to deal with applications for exemption.
- (f) The hearing of as many tax default cases as possible by Native Tribunals, and the allocation to local funds of fees and costs received or imposed in respect of such cases heard by them.
- (g) The introduction by legislation of powers of summary arrest in respect of the persons of tax defaulters.

(a) *The System of Collection by Stamps.*

132. The details of the so-called Kodi-stamp system at present in use are as follows:—

Details of Kodi stamp system.

An issue of revenue stamps, similar in size and shape to postage stamps, adhesive and perforated, have been printed. They bear a special design and are of the denomination of one shilling. They are for sale at all post offices, administrative offices and certain other centres, and are purchasable in bulk by large employers of labour such as the Railway Administration and private companies.

At the time of the tax census natives liable to pay are issued with a tax stamp collection card. This card is endorsed with the native's name and certain particulars. The design of the card provides separate spaces for affixing twelve stamps representing a sum equivalent to one hut or poll tax.

At any time at which a contributor has completed his total of twelve stamps, or when he is prepared to hand in a sum of money representing the cash difference between the number of stamps already affixed and the amount due on the card, he is entitled to a tax receipt in respect of one hut or poll.

A system of accounting has been evolved to deal with this method of tax payment, but its details do not appear to require explanation in a report of this nature.

Recommendation 134. Retention of Kodi-stamp system.

133. We recommend the retention of this scheme, not only as a powerful medium for the tightening up of the collection of direct native taxes, but also as a means of easing the burden of payment.

Imperfect collection by the native of the uses of money.

134. Under the procedure whereby a hut or poll tax could only be paid as a unit, the native had been schooled into the belief that on a certain day at a certain time of the year a European would demand twelve shillings of him at a certain place. There were three ways of acquiring this sum open to natives in reserves: either by selling out capital—namely, stock—or by seeking work which would be recompensed by a cash payment, or by the sale of produce. There was little co-ordination of demand for payment with the opportunity to pay, and, in consequence, at a certain period of the year, every paying native was either seeking work in the settled areas or, if resident in the reserves, as a pastoralist was endeavouring to sell his stock or, as an agriculturist, endeavouring to sell cereals for cash. There was a wholesale drop in prices, and the native was exploited by European, Asian, and fellow African alike. In the search once a year for 12, 24 or 36 shillings, it was not unnatural that the native failed entirely to grasp the symbolic value of money, and in consequence grew to picture it as representing one thing only—the completely unproductive piece of paper which he received in return for it.

Indication of success of Kodi stamp scheme.

135. These defects in the method of collection are largely overcome by the Kodi-stamp system, and all the evidence available appeared to show that the ultimate success of the scheme is assured. The alacrity with which natives, even in

the more backward of the reserves, have appreciated the benefits of the system was a matter of surprise and gratification to us. In the short space of time since its adoption there has been a marked increase in tax receipts for the time of year, and, what is even of greater importance, the incomings have been steady. The tables in the second appendix to this report giving specimen figures of issues, sales and cancellations of stamps, fully bear this out. Separate figures of sales to the Railway Administration have been included in the same tables, and afford an example of what may be done by private employers of labour to make known the benefit offered by an accretion system of tax collection and to encourage its adoption.

136. The scheme is in its early stages, and we hesitated, for this reason, to make any far-reaching suggestions for its improvement. We have confined ourselves to the following recommendations as regards matters of detail.

137. We recommend, in view of the fact that there are approximately 150,000 natives in permanent employment, that legislation should be introduced making it mandatory on employers to provide, and on employees to purchase, two one-shilling stamps in respect of each month of the first six months of the year, in lieu of the cash equivalent of the monthly salary; and we recommend further that legal responsibility for affixing these stamps to the collecting card should attach to both parties. By this means a sixth part of the total native hut and poll tax for the Colony will be paid by the close of June in each year, without any expenses of collection and without any risk of keeping more than one-sixth of the total sum of £90,000 out of circulation at any given time. The native will pay his tax almost imperceptibly, and the employer will be freed from any anxiety on the grounds that he may suddenly be deprived of a large number of his labourers owing to their being prosecuted for tax default.

Mandatory payment by natives in employment.

138. We further recommend that the stamp collecting card at present in use should be altered in design in order to admit of the entry of full particulars of the contributor, including his census number, registration number and tax receipt number, on a separate portion of the card. The advantage of this would be that when the completed card is forwarded to the Treasury for accounting purposes this particular portion may be detached and either retained in the office of payment, if the contributor is a native of that district, for checking and purposes of reference, or, in the event of the contributor being

Alteration in design of stamp collecting card.

an alien, for transmission to his district of origin in order that particulars of payment may be entered on the census tax register of that district. A specimen of the form of stamp collecting card appears as Appendix III. Its potential value is obvious.

139. We recommend that monthly returns should continue to be issued to all District and Provincial Commissioners, giving details of issues, sales and cancellations of stamps, in order that they may be posted with up-to-date information in regard to the rate at which taxes are being accumulated in their districts. This information will be sufficient to enable the officers concerned to take administrative action if, at any time, it is considered that reasonable efforts to accumulate the tax are not being made.

140. In the event of the acceptance of our later recommendation that the final date of tax payment without penalty should be the 31st July (though in theory, of course, the taxes will continue to fall due as in the past, on the 31st January), we hope that, as the payment of tax by means of stamps becomes better known and more popular, District Commissioners will be relieved of all need to make tax collections on tour before that date. In the early months of the year this should greatly relieve the congestion of administrative work.

141. We consider that the retention of the collection by stamp scheme with these modifications will fulfil the third, fourth and fifth of the principles to be observed in the method of collecting tax which we have already set out in paragraph 76 of this report.

The Elaboration of Tax Census Registers and the Co-ordination of them with the Native Registration Scheme.

142. From the evidence before us we were satisfied that faulty entries in the tax census registers have resulted in a considerable loss of revenue in past years. There is evidence to show that certain natives, particularly in the settled areas, have never been registered for tax. This remark applies chiefly, though by no means entirely, to casual labourers who avoid employment during the census-taking period, and at the same time absent themselves from their reserves. That this should be possible is highly unsatisfactory from every point of view, as not only is there a leakage of revenue, but the native taxpayer who meets his liabilities to Government is apt to suffer from a sense of grievance if he is aware of the fact that some of his fellows escape such liability without punishment.

143. We cannot emphasize too seriously the necessity for the strictest possible supervision of tax registers during the year of collection. The method of indicating that payment has been made is normally by a simple sign which can easily be imitated; and unless the register is permanently in charge of responsible officials the risks of corruption are great.

Need for strict supervision of tax registers.

144. It is natural that officers responsible for collecting tax should regard the actual books of tax receipts as of paramount importance. Any loss or misuse of tickets will affect them, personally, financially. We formed the opinion, however, that they are perhaps not sufficiently alive to the importance of the register as a record of moneys paid as well as moneys due to Government. It is a matter for some comment that although the native hut and poll tax represents nearly one-fourth of the net revenue of the Colony, receipts for the payment of twelve shillings are recorded with only a fraction of the care taken in the issue of a driving licence costing five shillings.

Importance of tax registers underestimated.

145. In a report of this nature we have not considered it possible or advisable to deal with minor details and the following recommendations are made on broad principles.

146. Tax registers should be kept in duplicate, the loose-leaf ledger system being brought into operation as the opportunity offers. Of the two copies, one should be used for census-taking and collection in the field, whilst the master copy should be kept under lock and key. Entries transcribed into this latter copy should be checked by the identity slips detached from the stamp collecting cards recommended above, and the tax receipt number should be entered in the case of every payment.

Recommendation (15). Preparation of registers.

147. Code numbers should be used wherever possible, the same general system being applied to all districts. Thus, the first number should be the Hollerith code number allotted to the district; the second should be the coded number of the location, mango, farm, etc., and the third the number of the individual native. By such a system difficulties of identification will be minimized, as the series of three numbers will indicate precisely the place of residence and the recorded name of the native to whom that number has been allotted. Unnecessary elaborations of the general system should be studiously avoided.

Use of code numbers.

Monthly returns of progress of collection.

Penalty date.

Faulty registration in tax census.

Co-ordination of native registration and tax census.

148. There should be co-ordination between the native registration system and the taxation census. In order to effect this, steps should be taken gradually to insert in tax registers the registration number of all male contributors. The census number of contributors should remain unaltered from the date of their first appearing in a tax register until their death. A registration certificate, in addition to other particulars, should be endorsed with the tax census number of the holder, and similarly, the stamp collection card issued to a native should bear both his census and his registration numbers. The manner in which this system would facilitate the work both of the Registration Bureau and the revenue collecting authority is too obvious to demand elaboration.

Maintenance of two registers in non-native areas.

149. In order to obviate risks of duplicate registration, we recommend that two registers should be kept in non-native areas, one containing a permanent record of natives either on agreements under the Resident Native Labourers Ordinance or permanently resident in the district, and the second a temporary register in which would be entered all natives whose residence in the district is of a temporary nature.

Standard form of entry.

150. We recommend that a standard form of entry in the census register should be considered by the Provincial Commissioners.

(c) The Appointment of Taxation Officers.

Need for specialized taxation officers.

151. There is a considerable quantity of evidence to show that the collection of the native hut and poll tax should be carried out by specialized officers, in replacement of Administrative Officers.

Amplification of collection by Administrative officers.

152. In the first place it is clearly undesirable that officers responsible for the administration of justice should also be responsible for the imposition and collection of tax, and for instituting prosecutions in respect of defaults. In the second place, the whole situation in regard to native taxation has undergone a radical change in recent years. In the past the native was satisfied with a piece of paper bearing an undecipherable census number in exchange for his contribution of twelve shillings. He knew that he was liable as a taxpayer and would be punished for default, and paid. His consciousness had not awoken to the fact that it was possible to evade payment by means of the law which punished evasion.

Change in native outlook on taxation.

Of late he has become alive to the arguments against taxation; he demands that the methods of collection should conform fully with the legislative provision on the subject; and, with reason, he is dissatisfied with any receipt other than such as will absolve him from a second liability.

153. At paragraph 47 we have already called attention to the delays engendered by factors such as these in the collection of tax.

154. We therefore recommend the appointment of taxation officers to the major reserves as a preliminary step, with the conviction that their appointment will result in a closer collection of taxes. As they acquire a more intimate knowledge of their work they should be in the position to evolve an improved formula for the assessment and collection of direct native taxes—a task quite beyond the powers of an Administrative Officer, who is the subject of continual transfer.

Recommendation (16). Appointment of taxation officers in lieu of Administrative Officers in certain cases.

(d) The Introduction by Legislation of an Automatic Penalty Increase on Taxes Unpaid after a Certain Date.

155. The imposition of an automatic penalty or fine conforms not only with the procedure followed in respect of default in local non-native taxation, but it is also in accordance with the practice in respect of direct native taxes in certain other territories, of which details are set out in Appendix I to this report. So far as this Colony is concerned we recommend that the penalty should take the form of an addition to all taxes unpaid on the 31st July of two shillings in respect of every overdue hut or poll; and we further recommend the collection of such penalty by means of fixed value receipts.

Justification of automatic penalty.

Recommendation (17). Nature of penalty to be applied in Kenya.

156. In view of the fact that stamp collecting cards will be issued between the months of October and December of the year preceding that in which tax becomes due, and stamps will be available for purchase at all times, we consider that the imposition of a penalty cannot be regarded as a hardship.

Native has ample opportunity to accumulate tax.

157. Should this recommendation be accepted, we further recommend that in the enabling legislation His Excellency the Governor should be given power to remit the penalty in districts or areas approved by him. This would obviate the anomaly of a Turkana, who pays only three shillings in tax, being saddled with a two-shilling penalty. In respect of individuals, we recommend that District Officers should be empowered to waive the penalty in cases of hardship.

Powers to remit penalty.

Method of
estimating
penalty sum.

158. Our recommendation that the penalty should amount to two shillings only is actuated by the belief that the same principles should be followed, as far as is possible, both in native and non-native taxation. Two shillings in twelve shillings is the nearest approach to a 20 per cent penalty.

(e) *The Appointment of ad hoc Local Courts to deal with Applications for Exemption.*

Danger of
over-generous
exemptions.

159. We found that a considerable proportion of the falling off in direct native revenue is attributable to over-generous exemptions. We wish here to record that we found no evidence to suggest that this defect is consequent on a desire by the Administration to shirk the issue, or curtail the unpleasant duty of extracting revenue from a reluctant contributor.

Need for
intimate local
knowledge.

160. We consider that the fault lies in the fact that the responsibility placed in the hands of one man, and an alien at that, is insupportable. However intimate the knowledge of an Administrative Officer of the customs and communal life of his district, it is obviously impossible that he should have any intimate acquaintance with the personal condition of individuals.

Definite in
exemptions
granted by
District
Officer.

161. The District Officer, in considering applications for exemption, is dependent on the advice offered him by his higher tribal authorities, his interpreters, his tribal police and his hut counters. We have no evidence that the advice thus tendered is venal or corrupt, but it is obvious that the likelihood of such an occurrence is so great as to border on a certainty. Further, in the nature of things, this advice must be tentative and biased by personal considerations, and the tendency of the collector must be to err on the side of the angels.

Recommendation
(19).
Appointment
of local ad hoc
courts.

162. We recommend therefore that an ad hoc committee, consisting of an agreed number of native elders, and under the presidency of the District Commissioner, should be appointed in the several locations, milango, or such other divisions of each district as are most suitable, at some period during each year to consider applications for the remission of taxes.

Composition
of courts.

163. This committee would of course vary in its composition in each division in order that each decision might be reached by a body of elders competent, on account of their local knowledge, to consider every case on its merits.

(f) *The Hearing of as many Tax Default Cases as possible by Native Tribunals and the Allocation to Local Funds of Fees and Costs Received or Imposed in respect of such Cases heard by them.*

164. It was our intention to recommend that costs collected in respect of the hearing by Native Tribunals of tax default cases should be credited to Native Funds. In the interval between the opening of this inquiry and the writing of this report this procedure has been accepted and legalized by Government.

Allocation
of costs and
fees in tax
default
cases.

165. Our only recommendation in this respect, therefore, is that the hearing of as many tax default cases as possible should be carried out by the Local Native Tribunal, rather than by a magistrate. We urge this strongly, since we believe that its acceptance is a necessary contribution towards the building up in the native mind of a sense of communal financial responsibility.

Recommendation
(19).
Hearing of
majority of
cases by
Native
Tribunals.

(g) *The Introduction by Legislation of Powers of Summary Arrest in respect of the Persons of Tax Defaulters.*

166. In view of the foregoing recommendations, we do not consider that the principle of summary arrest is necessary. We wish to record also that we consider it introduces a principle into what are, very largely, civil suits which is objectionable and retrogressive.

Recommendation
(20).
Summary
arrest
objectionable.

Age of Taxation.

167. On the assumption that it was intended that the scope of this report should be as far-reaching as possible, we have considered one other matter which does not appear strictly to come within our terms of reference.

168. It has been stated at various times that the liability on the part of natives to pay direct taxes at the age of 16, instead of at the age of 18 as in respect of non-natives, is regarded as a grave injustice. At the opening of our inquiry we considered that it was possible that a sense of grievance on this score might be a contributory cause towards the reluctant attitude on the part of natives to meet their tax obligations. No evidence, however, was offered in support of this.

Opposition to
present
definition of
adult native.

169. In accordance with tribal custom, a native enters manhood and qualifies both for the obligations and the benefits of that condition so soon as he has passed through the tribal initiation ceremonies. We considered that one of these obligations must of necessity be his proportionate contribution towards the expense of maintaining the State in which he lives.

Arguments in
favour.

Accepted
view.

170. The whole question was dealt with very fully in a Kenya despatch (No. 441 of the 4th August, 1931), and although written five years ago we do not feel that we can usefully add anything to the decision contained in the following excerpt:—

"The discrimination between races in the age at which taxation is imposed is not so illogical or so unjustifiable as might at first sight appear. It is, I believe, a fact that natives develop physically more rapidly and reach maturity at an earlier age than Europeans. For practical purposes, at any rate, a native reaches manhood and is capable of doing a man's work and earning a man's pay at the age of 16, at which age the average European boy is still at school. Sixteen is the age at which a native must provide himself with a registration certificate and such certificate is generally regarded as entitling the possessor, if he is in employment, to a certain wage. I am therefore of opinion that there is nothing inequitable in the selection of that age for the assumption of liability to tax, and there are, I believe, numerous precedents for it both in our African and far-eastern colonies."

Recommendation (21).
No alteration in age definition.

171. We therefore do not recommend that the age of liability to taxation should be altered.

CHAPTER IV SUMMARY

172. For purposes of convenience we append a summary of the recommendations which appear in the body of this report:—

Taxable capacity.
Para. 58

Universal male poll tax.
Para. 80.

Surtaxes (a) Export tax.
Para. 86.

(b) Import tax.
Para. 87.

(c) Stock tax.
Para. 95.

(d) Super poll tax on a sliding scale.
Para. 96.

- (1) We recommend acceptance of the principle that the sum of £550,000 is a fair annual native contribution in direct taxation in existing circumstances.
- (2) We recommend against the imposition of a universal male poll tax, of whatever amount, as a sole direct native tax.
- (3) We recommend against the imposition of a tax on native exports, whether external or internal.
- (4) We recommend against the imposition of a tax on native imports.
- (5) We recommend against the imposition of a tax on stock of any kind.
- (6) We recommend against the imposition of a super poll tax on a sliding scale additional to a fixed poll tax.

- (7) We recommend against the imposition of a tax assessed either on the productive capacity of land, or on an estimate of crop values. (e) Land and/or production tax. Para. 102.
- (8) We recommend against the imposition of a tax on wages. (f) Wages tax. Para. 105.
- (9) We recommend against the imposition of a poll tax of six shillings and a hut tax varying according to capacity to pay. (g) Poll and hut taxes a separate liability. Para. 109.
- (10) We recommend, in the event of a readjustment of rates, reduction of the plural hut assessment as a first consideration. Assessment of hut tax. Para. 110.
- (11) We recommend that women should receive equal consideration as in the preceding recommendation in respect of huts. Assessment of women tax-payers. Para. 110.
- (12) We recommend against the imposition of surtaxes, assessed on the capacity to pay of the several districts, for the purpose of creating local treasuries. (h) (i) District surtaxes. Para. 114.
- (13) We recommend the retention of the present system of native direct taxation by means of a hut and poll tax. Hut and poll tax. Para. 117.
- (14) We recommend the retention of the Kordis stamp system of tax collection; the initiation of legislation making it mandatory for employed natives to contribute Sh. 2 per mensem from January to June inclusive, an improved design for the stamp collecting card; and the retention of monthly circulars of stamp issues, sales and cancellations. Improved collection methods. (c) Stamp. Para. 133 and 137-139.
- (15) We recommend the keeping of tax census registers in duplicate; the use of code numbers in the construction of the tax census; the co-ordination of the native registration and tax census registration systems; the maintenance of separate census registers for resident and non-resident natives in non-native areas; and the formulation by the Provincial Commissioners of a standard form of census entry. (b) Tax census registers. Para. 140-150.
- (16) We recommend the appointment of specialist taxation officers in native reserves. (c) Taxation officers. Para. 154.
- (17) We recommend the imposition of an automatic penalty of Sh. 2 in respect of every several tax, either hut or poll, outstanding after the 31st July of the year in which it falls due; that this penalty should be collected on a fixed value receipt; and that His Excellency the Governor should be empowered to grant remissions of the penalty generally, and District Officers individually. (d) Penalty increase. Para. 155, and 157.

(e) Exemption Courts. Paras. 162, and 163.

(f) Default prosecutions. Para. 165.

(g) Summary arrest. Para. 166.

Age of liability. Para. 171.

General principles guiding recommendations.

Support for present proposals.

Introduction of legislation.

Need for making innovations known.

(18) We recommend the appointment of local *ad hoc* exemption courts to deal with applications for remission of tax in individual cases.

(19) We recommend that the fullest possible use should be made of the powers enabling Native Tribunals to adjudicate in tax default cases.

(20) We recommend against the granting by legislation of powers of summary arrest in respect of persons charged with tax default.

(21) We recommend against any alteration in the age at which a native becomes liable for fixation assessment.

173. The above recommendations are based neither on political nor financial expediency, but on broad principles of taxation morality and procedure which have been accepted as nearly perfect over a period of years.

174. We trust that our investigation of the problem, which has involved prolonged discussion with a large number of the officers most intimately concerned in the administration of native tax legislation, has clarified the issues involved. So far as we are able to judge, it has resulted in a surprising unanimity of opinion in favour of the various recommendations contained in this report.

175. Should these recommendations be accepted, we suggest that the legislation necessary to make them effective should be enacted at a date which would make possible their introduction as from the 1st January, 1937.

176. Finally, we cannot urge too strongly the importance of taking steps in advance, by means of personal propaganda, circularization, the local Press, and broadcasting, fully to acquaint the native and non-native population of the Colony with their provisions.

177. Our thanks are due to Mr. R. W. Baker-Beall for his able assistance as our secretary.

G. WALSH,
H. R. MONTGOMERY.

R. W. BAKER-BEALL,

Secretary.

Nairobi,

27th August, 1936.

APPENDIX I

Table of comparable provisions in legislation on the subject of native taxation in the territories of Kenya, Uganda, Tanganyika, Southern Rhodesia, Northern Rhodesia, and Nyasaland respectively:—

I. TITLE

Kenya	Native Hut and Poll Tax Ordinance, 1934.
Uganda	Poll Tax Ordinance, Cap. 63 (Revised Edition 1923).
Tanganyika	Hut and Poll Tax Ordinance, Cap. 63 (Revised Edition, 1928).
Southern Rhodesia	Native Tax Act, 1930 (No. 13 of 1930).
Northern Rhodesia	Native Tax Ordinance, Cap. 66 (Revised Edition, 1930).
Nyasaland	Native Hut and Poll Tax Ordinance, Cap. 52 (Revised Edition, 1933).

II. AGE OF LIABILITY TO PAY

	Section
Kenya	Apparent age of 16 years or over
Uganda	Apparent age of above 18 years
Tanganyika	Apparent age of 16 years or over
Southern Rhodesia	Adult male native
Northern Rhodesia	Apparent age of 18 years
Nyasaland	Apparent age of 16 years or over

III. NATURE OF TAX

	Sections
Kenya	Hut Tax not exceeding Sh. 20; similar Poll Tax
Uganda	Variable Poll Tax without a maximum
Tanganyika	Hut Tax not exceeding Sh. 20; similar Poll Tax
Southern Rhodesia	Poll Tax of Sh. 20 and Sh. 10 in respect of each wife in excess of one
Northern Rhodesia	Poll Tax not exceeding Sh. 20
Nyasaland	Hut Tax of Sh. 6; similar Poll Tax

IV. DATE (a) ON WHICH TAX FALLS DUE. (b) AFTER WHICH IT IS RECOVERABLE.

	(a)	(b)	Section
Kenya	1st January	31st August	6
Uganda	1st January	31st August	6 and 9
Tanganyika	1st April	1st April	5
Southern Rhodesia	1st July	1st August	4 and 7
Northern Rhodesia	First day of Financial Year	First day of Financial Year	5 and 7
Nyasaland	1st January	31st October	5 and 11

V. NATURE OF PAYMENT

	Section
Kenya	Cash
Uganda	Cash or, in certain conditions, work for two months in lieu
Tanganyika	Cash or, in case of default, work of a value at current wage-rates equivalent to the tax due and rations necessarily supplied
Southern Rhodesia	Cash unless Governor determines otherwise
Northern Rhodesia	Cash or an equivalent amount in grain or stock at discretion of District Officer
Nyasaland	Cash or, by virtue of a specific Proclamation of the Governor-in-Council, in kind

VI. MODE OF PAYMENT

	Section
Kenya . . . Lump sum in cash or accretion by stamps	—
Uganda . . . Lump sum	—
Tanganyika . . . Lump sum. In certain Districts, accretion by stamps	—
Southern Rhodesia . . . Lump sum	—
Northern Rhodesia . . . Lump sum	6
Nyasaland . . . Lump sum, or cash by instalments	—

VII. PROVISION FOR AUTOMATIC PENALTY INCREASE

	Sections
Kenya . . . Nil, but vide Northern Frontier Poll Tax Ordinance, 1930 (Para. 37 of this Report)	—
Uganda . . . Nil	—
Tanganyika . . . Nil	—
Southern Rhodesia . . . Nil	4
Northern Rhodesia . . . Increase of Sh. 1 after 31st December	—
Nyasaland . . . 50 per cent after 30th September	—

VIII. MAIN PENALTIES ON CONVICTION FOR DEFAULT BEYOND DUE DATE

	Sections
Kenya . . . Tax, and costs up to Sh. 4 recoverable by distress or in default of distress imprisonment or detention not exceeding 3 months	6
Uganda . . . Fine not exceeding three times amount due or two months imprisonment	9 and 10
Tanganyika . . . Tax and costs recoverable as civil debt. If default delayed beyond 10th October, tax recoverable may be increased by 10 per cent	10
Southern Rhodesia . . . Fine not exceeding £10 or in default of payment imprisonment not exceeding three months, with proviso that sentence may be postponed	7 and 8
Northern Rhodesia . . . Tax recoverable by distress, and in default of distress imprisonment not exceeding two months	7
Nyasaland . . . Imprisonment for a period not exceeding six months with right to remission of five months if tax subsequently paid. Alternatively sentence may be postponed in order to pay tax and costs not in excess of tax due	11, 12 & 13

IX. EXTINGUISHMENT OF TAX LIABILITY BY IMPRISONMENT

	Section
Kenya . . . No	6
Uganda . . . Yes	12
Tanganyika . . . Recoverable as civil debt	10
Southern Rhodesia . . . No	7
Northern Rhodesia . . . No	11
Nyasaland . . . No	—

X. REMISSION OF TAXES

	Sections
Kenya In whole or in part in respect of individuals by District Officers. In respect of areas or classes in whole or in part by the Governor	8, 9 and 10
Uganda In whole or in part by reduction to Sh. 4 in respect of individuals by District Commissioners	14
. In whole in respect of certain persons, classes and areas, by legislation and/or Proclamation	13 and 15

Tanganyika In whole, in respect of certain classes, professions and areas by legislation and/or Notice. In whole, in respect of individuals by an Administrative Officer	7 and 12
Southern Rhodesia In whole in respect of alien natives under contract with Rhodesian Native Labour Bureau during period of contract by legislation, and in respect of native pupils and students and others specified by the Governor's prescription. In whole in respect of individuals by a Native Commissioner	6 and 10
Northern Rhodesia In whole or in part by order under the Governor's hand in respect of individuals, classes, tribes or areas, and in respect of individuals by a District Officer	6
Nyasaland In whole or in part in respect of individuals, classes, tribes or areas by the Governor. In whole in respect of widows and certain classes of persons, and in whole or in part in respect of indigent persons by a District Commissioner	9 and 10

APPENDIX II

KODI STAMPS
PROGRESS REPORT FOR THE PERIOD 1st JANUARY to 30th JUNE, 1936

STATION	ISSUES FROM CENTRAL STOCKS						SALES						CANCELLATIONS AGAINST TAX TICKETS ISSUED					
	Jan. May		June	Total	Jan. May		June	Total	Jan. May		June	Total	Jan. May		June	Total		
	Jan.	May			Jan.	May			Jan.	May			Jan.	May				
Kakamega	35,100	10,000	10,000	45,100	13,231	31,992	31,992	3,710	7,752	11,462	11,462	3,710	7,752	11,462	11,462			
Kericho	30,500	20,000	20,000	40,500	10,729	10,826	10,826	444	4,290	4,734	4,734	444	4,290	4,734	4,734			
Kisumu	50,000	20,000	20,000	70,000	20,318	13,220	39,533	10,025	14,073	24,098	24,098	10,025	14,073	24,098	24,098			
Kisumu-Londiani	6,000	6,000	6,000	12,000	5,749	5,089	10,833	3,890	4,982	8,902	8,902	3,890	4,982	8,902	8,902			
Central Kavirondo	12,000	10,000	10,000	13,000	2,176	823	2,901	1,260	1,140	2,400	2,400	1,260	1,140	2,400	2,400			
Eldoret	12,000	10,000	10,000	13,000	2,454	1,976	4,430	1,708	854	1,962	1,962	1,708	854	1,962	1,962			
Kaharnet	15,000	10,000	10,000	25,000	15,375	3,833	19,438	9,808	5,654	15,288	15,288	9,808	5,654	15,288	15,288			
Kapsabet	10,000	10,000	10,000	20,000	6,212	2,314	9,026	1,228	2,409	2,409	2,409	1,228	2,409	2,409	2,409			
Kilalo	10,000	10,000	10,000	20,000	4,847	3,311	8,168	3,252	4,028	4,028	4,028	3,252	4,028	4,028	4,028			
Nakuru	22,000	10,000	10,000	22,000	2,626	574	3,200	180	1,250	1,419	1,419	180	1,250	1,419	1,419			
Nyeri	1,000	2,000	2,000	3,000	359	1,323	1,682	1,323	1,323	1,323	1,323	1,323	1,323	1,323	1,323			
Tambora	50,000	20,000	20,000	70,000	24,225	22,227	39,742	4,560	8,784	12,544	12,544	4,560	8,784	12,544	12,544			
Fort Hall	40,000	20,000	20,000	40,000	1,047	7,675	9,000	3,270	2,103	2,373	2,373	3,270	2,103	2,373	2,373			
Kisumu	6,000	21,000	21,000	27,000	24,111	1,275	25,386	24,839	3,537	32,676	32,676	24,839	3,537	32,676	32,676			
Kisumu	50,000	1,000	1,000	50,000	3,448	5,640	9,088	9,088	—	—	—	9,088	—	—	—			
Machakos	10,000	1,000	1,000	10,000	1,069	1,398	2,467	2,467	2,430	2,430	2,430	2,430	2,430	2,430	2,430			
Nyeri	15,000	1,000	1,000	16,000	1,828	1,828	3,656	192	720	912	912	192	720	912	912			
Nyeri, South	10,000	1,000	1,000	11,000	1,64	1,64	3,28	1,64	1,64	3,28	3,28	1,64	1,64	3,28	3,28			
Nyeri, North	15,000	10,000	10,000	25,000	5,046	7,600	12,615	6,662	6,458	13,120	13,120	6,662	6,458	13,120	13,120			
Thika	15,000	10,000	10,000	25,000	1,444	2,335	3,779	4,279	662	1,207	1,207	4,279	662	1,207	1,207			
KIHH	5,000	25,000	25,000	30,000	828	—	828	—	—	—	—	828	—	—	—			
Kipini	1,000	1,000	1,000	2,000	—	—	—	—	—	—	—	—	—	—	—			

*Erroneously treated in May—now adjusted.

APPENDIX II—Contd.

KODI STAMPS
PROGRESS REPORT FOR THE PERIOD 1st JANUARY to 30th JUNE, 1936

STATION	ISSUES FROM CENTRAL STOCKS						SALES						CANCELLATIONS AGAINST TAX TICKETS ISSUED					
	Jan. May		June	Total	Jan. May		June	Total	Jan. May		June	Total	Jan. May		June	Total		
	Jan.	May			Jan.	May			Jan.	May			Jan.	May				
Kwale	10,000	10,000	10,000	16,000	2,450	1,024	3,084	22	64	86	86	22	64	86	86			
Lamu	4,200	1,000	1,000	6,200	2,295	268	2,563	942	309	1,251	1,251	942	309	1,251	1,251			
Malindi	15,000	10,000	10,000	35,000	17,673	2,674	20,347	4,908	1,302	6,210	6,210	4,908	1,302	6,210	6,210			
Mombasa	20,000	10,000	10,000	30,000	7,653	5,091	12,744	1,300	2,208	3,508	3,508	1,300	2,208	3,508	3,508			
Taita	20,000	10,000	10,000	30,000	4,041	1,287	5,328	1,287	—	1,287	1,287	1,287	—	1,287	1,287			
Chisamba	100	—	—	100	—	—	—	—	—	—	—	—	—	—	—			
Isiolo	100	—	—	100	—	—	—	—	—	—	—	—	—	—	—			
Marabit	10,000	10,000	10,000	10,000	3,544	271	3,815	1,123	224	1,347	1,347	1,123	224	1,347	1,347			
Moyale	10,000	10,000	10,000	10,000	1,670	442	2,112	942	768	1,710	1,710	942	768	1,710	1,710			
Wajir	2,000	2,000	2,000	2,000	832	4	836	134	690	724	724	134	690	724	724			
Kapenguria	1,800	1,800	1,800	1,800	350	350	350	345	120	465	465	345	120	465	465			
Kajiado	1,000	1,000	1,000	1,000	2,725	1,045	3,770	3,770	—	3,770	3,770	3,770	—	3,770	3,770			
Narok	1,000	1,000	1,000	1,000	2,403	3,026	5,429	5,429	—	5,429	5,429	5,429	—	5,429	5,429			
Ngong	1,000	1,000	1,000	1,000	4,325	1,472	5,797	5,797	—	5,797	5,797	5,797	—	5,797	5,797			
Post Offices at—																		
Eldoret	112,700	125,400	125,400	238,100	3,978	3,625	7,603	7,603	—	7,603	7,603	7,603	—	7,603	7,603			
Elgeyo	—	—	—	—	264	778	1,042	1,042	—	1,042	1,042	1,042	—	1,042	1,042			
Kitale	—	—	—	—	673	17,186	17,859	17,859	—	17,859	17,859	17,859	—	17,859	17,859			
Mombasa	—	—	—	—	31,812	48,798	80,610	80,610	—	80,610	80,610	80,610	—	80,610	80,610			
Nairobi	—	—	—	—	56,168	24,128	80,296	80,296	—	80,296	80,296	80,296	—	80,296	80,296			
Nakuru	—	—	—	—	344,725	190,848	535,573	535,573	—	535,573	535,573	535,573	—	535,573	535,573			
Nyeri	90,000	30,000	30,000	120,000	56,168	24,128	80,296	80,296	—	80,296	80,296	80,296	—	80,296	80,296			
Other Stations	775,400	311,900	311,900	1,087,300	344,725	190,848	535,573	535,573	—	535,573	535,573	535,573	—	535,573	535,573			
K.U.R. & H.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—			
TOTAL	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—			

APPENDIX III

SPECIMEN STAMP COLLECTING CARD

Nom ya Dufasi ya Kodi _____

<p>_____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p> <p>_____</p>	<p>KODI-MWAKA 1937</p>
--	--	--	--	------------------------



1937

State of Oregon

Department of Fishery



38173/5

4¹¹

G. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

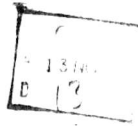
Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Coded & sent

8.15h



12/11/26

Hull

Private & personal

Wry 12.11.26

Distressed to read your

(3) telegram to Bottomley of 11 November

In my opinion it is most essential that Sims' recommendations should be implemented expeditiously as soon as possible especially in regard to raising age to 18 on grounds of equity and practice in neighbouring territories in East Africa.

What reasons did Finance Committee give for rejection of borrowing. It is admittedly an expedient and not orthodox but special case needs special measures.

Income Tax is essential not merely on financial grounds but to replace present graduated Poll Tax and unsatisfactory Trade Licenses ^{by} ~~with~~ taxation based on ability to pay. It will also ~~be~~ ^{be} in line with other

DRAFT.

Governor

Handwritten signature

conf. code

~~Handwritten mark~~

FURTHER ACTION.

parts of Empire and inter-Imperial
reciprocity regarding Income Tax ~~is~~
with Dominions & Colonies can only
help Kenya's interest ^{by} facilitating
movement of capital.

I have made personal approach to
Chancellor of Exchequer regarding Pims
borrowing proposals and I hope for an
favourable reply.

With reference to end of first para
of your telegram no surplus could be
reckonable which was based on the
inclusion of rating taxes on present scale.

Surely collection of taxes can be tightened
without retaining existing rates and ^{indeed I do not see how} to
retain those rates which are admittedly
excessive and yet make increased effort
to collect - could not be defended.

Truly yours

ORIGINAL decode

of a telegram from the Governor of Kenya

Colonial

Dated 11th. Nov. 1936

Received in the _____ office at 3.46p.m.

on 11th. Nov. 1936.

~~XXXXXXXXXX~~

Decoded

by _____
Decyphered

Private and Personal.

Following for Bottomley. I referred your personal letter of 28th. October to the Colonial Secretary Treasurer and Chief Native Commissioner. Unanimously they have suggested desirability of postponing until 1938 introduction of Pim's native taxes recommendations. They urge that borrowing to cover loss of revenue will raise political issues as adoption of any such unorthodox measures will be recognised as results of direct orders from the Secretary of State our Standing Finance Committee having already definitely rejected it. This political issue will be accentuated because as you are aware European Elected members are banking on any surplus in excess of that estimated to support their contention that Income Tax is not necessary and that even some emergency taxes should be withdrawn.

In the opinion of my official advisers postponement will give us an opportunity to tighten up tax collection amongst those well able to pay as recommended in the Walsh Montgomery Report. By this tightening up it is anticipated that

ORIGINAL

of a telegram from the

Colonial

Dated

Received in the _____ Office at
Dominions

on

Decoded

_____ by
Decyphered

(2)

that during 1937 ways and means will be found to finance existing services after introduction of dual relief. If this anticipation not realised recourse to borrowing may become imperative but during interval political objections may have disappeared.

I must own that these views coincide with my own.

AIR MAIL

WHEN REPLYING
PLEASE QUOTE
NO. S. F. ADM. (9/19/1.
AND DATE



THE SECRETARIAT
NAIROBI
KENYA

44

RECEIVED
7 NOV

29 OCTOBER, 1936.

*Regd. on 38103/36
Printed publications
including 12 copies of
Native Taxation Report*

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies and, with reference to his third personal note No. D/Leg. Cor. 20/3/7/51 of the 22nd October, 1936 forwarding copies of the Report on Native Taxation, has the honour to transmit two copies of a Memorandum by Mr. G. Walsh, C.B.E., Treasurer, and Mr. H.R. Montgomery, C.M.G., Chief Native Commissioner, on the proposals of Sir Alan Pim regarding native taxation. Neither the Report nor the Memorandum has yet been fully considered, and the views of this Government will be communicated to the Secretary of State at a later date.

Now see (8) on 38088/37

SP

MEMORANDUM.

P I M R E P O R T. N A T I V E T A X A T I O N.

In paragraphs 75 and 76 of his Report Sir Alan Pim recommends:-

- (a) raising the tax age to 18;
- (b) reducing the tax paid on the multiple huts.

These proposals involve a very large reduction in Revenue and, in our opinion, could not be supported if they had to be followed by reduction in services but, as it has been argued that the less affluent of the European and Asian communities are being afforded some relief in the matter of direct taxation, it is somewhat difficult to resist proposals which would in a similar way benefit the Natives.

It is unnecessary to state that we would welcome reduction in Native Taxation if it involved no diminution in services.

2. It is first necessary to consider the financial effects of Sir Alan Pim's proposals and then to investigate the possibilities of making up the short-fall.

3. TAXABLE AGE.

In our Report on Native Taxation we wrote:-
Section.

"168. It has been stated at various times that the liability on the part of natives to pay direct taxes at the age of 16, instead of at the age of 18 as in respect of non-natives, is regarded as a grave injustice. At the opening of our inquiry we considered that it was possible that a sense of grievance on this score might be a contributory cause towards the reluctant attitude on the part of natives to meet their tax obligations. No evidence, however, was offered in support of this.

169. In accordance with tribal custom, a native enters manhood and qualifies both for

the

/the obligations and the benefits of that condition so soon as he has passed through the tribal initiation ceremonies. We considered that one of these obligations must of necessity be his proportionate contribution towards the expense of maintaining the State in which he lives.

170. The whole question was dealt with very fully in a Kenya despatch (No. 441 of the 4th August, 1931), and although written five years ago we do not feel that we can usefully add anything to the decision contained in the following excerpt:-

'The discrimination between races in the age at which taxation is imposed is not so illogical or so unjustifiable as might at first sight appear. It is, I believe, a fact that natives develop physically more rapidly and reach maturity at an earlier age than Europeans. For practical purposes, at any rate, a native reaches manhood and is capable of doing a man's work and earning a man's pay at the age of 16, at which age the average European boy is still at school. Sixteen is the age at which a native boy must provide himself with a registration certificate, and such certificate is generally regarded as entitling the possessor, if he is in employment, to an adult's wage. I am therefore of opinion that there is nothing inequitable in the selection of that age for the assumption of liability to tax, and there are, I believe, numerous precedents for it both in our African and far-eastern colonies.'

171. We therefore cannot recommend that the age of liability to taxation should be altered.

We are unable to find in Sir Alan Pim's Report any factors which have been overlooked or which did not receive full consideration by us in the course of our recent investigations.

We are not, therefore, inclined to depart from the recommendation quoted above and; as we shall endeavour to show later, it may not be in the best interests of the Natives to do so.

We entirely disagree with Archdeacon Burns' statement that there is wide-spread dissatisfaction in the Reserves because the age of taxation is 16 while in

/Uganda and Tanganyika it is 18. Some of the semi-educated malcontents who are reluctant to pay taxes at all and make it as difficult as possible for collecting officers may have told him this but we do not agree that the feeling is general or prominent.

It is beyond question that some boys are registered who are not due to pay taxes but the Hut Counters cannot be given final discretion. They include those who they think should be registered and the District Commissioner has full authority to exempt. We are not impressed by the argument that these boys cannot gain easy access to the District Commissioner and that point was discussed in the Report of the Webb Commission.

But, as the Secretary of State may insist that the tax age be raised, it is necessary to consider the implications which easily fall into two categories:-

- (a) effect on the Colony's finances;
- (b) effect on the Natives concerned;

4. EFFECT ON THE COLONY'S FINANCES OF RAISING THE TAX AGE TO 18.

(a) In para: 75 of his Report Sir Alan Pim wrote:

"This proposal has been considered by Lord Moyne in his "Report on Certain Questions in Kenya" and he was of the opinion that fixing the age at 18, besides involving much practical difficulty because of the absence of any proof of age, would lead to a loss of Revenue of about £40,000. The case for alteration has been strengthened by the recent change in Tanganyika, and it seems improbable that the loss in Revenue would exceed £20,000. There is, therefore, a good case for the alteration, but, so far as real hardship is concerned, it appears to be a much more urgent matter to deal with the question of the additional payment of a full tax on each extra Hut."

We would draw attention to the last sentence
and

/and

to the fact that in para. 408, Recommendation 1, Sir Alan puts the reduction of the tax on the multiple hut before the raising of the age limit.

(b) Lord Moyne puts the loss of Revenue at £40,000 and Sir Alan Pim does not think it would exceed £20,000. Lord Moyne probably obtained his information from the Government Statistician but we are not sure on what information the £20,000 was based.

(c) Mr. Walter has been consulted as to the number of males of the age groups 16 and 17 and he has been to some trouble to get the information. This he proposes to check up if a copy of his analysis of the 1931 Uganda Census can be obtained.

On page 22 of the "Report on Native Taxation" the number of adult males, (i.e. 16 and over), on Census Registers is given as 891,600 but that figure must be heavily discounted owing to duplicate registrations of natives who reside in a Reserve but are working in another District. This was referred to in Chapter III of the same Report.

Mr. Walter has given a figure of 772,000 males of the age of 16 and over, based on the 1935 census. Of that number he calculated that 63,000 are of the age groups 16 and 17 so that the loss in Revenue by exempting those groups would be £37,800.

The 1931 Census on which the Moyne figure was based showed those age groups rather larger so the figure of £40,000 was then a reasonable Estimate.

EFFECT ON THE NATIVES CONCERNED.

(a) This is much more difficult to arrive at but it seems certain that, according to which of the following....

/an.

autcry that youths who could produce a Certificate and get a man's wage at 16 would be prevented from doing so.

Inevitably one effect would be that boys of 16 would insist they were 18 and, if necessary, bribe a clerk to put down the false information. It might be argued that no great harm would be done as the boy would be quite aware that he would be liable for tax earlier than was necessary and would, therefore, willingly pay tax in order to obtain better wages.

There would be a gain to Revenue but there would be a certain bad moral effect though nothing like as great as that in the first alternative.

(d) Naturally we prefer the second alternative.

(e) There is a third alternative which does not appeal to us and that is to follow the Southern Rhodesian practice and make an "Adult male Native" liable for tax.

So long as the registration of native births is not compulsory, the satisfactory establishment of the actual age of a native must always be a matter of extreme difficulty. On these grounds, adoption of the Southern Rhodesian practice which evades the issue as between 16 and 18 might have some justification as, in any event, the element of conjecture cannot be wholly eliminated. To judge the age of a native "of the apparent age of 16" is a simple matter as compared with assessment of the age of a native who appears to be not under 18, but to leave the matter completely in the air by making "every adult native" liable to tax would in our opinion be highly undesirable. In the absence of any proper definition of the term "adult male native" inequality

/inequality

of application would be inevitable and the second of the canons of taxation mentioned in para. 76 of our Report would obviously be violated. (The taxes which each individual is bound to pay ought to be certain and not arbitrary").

6. REDUCTION OF TAX ON MULTIPLE HUTS.

(a) In para. 76 of his Report Sir Alan Pim wrote:-

"In Tanganyika the standard payment for each extra hut is half the full Tax Until a satisfactory substitute can be found for the present tax it does not seem advisable to abolish all liability on account of additional huts. Not is it financially practicable without a substantial increase in the general rate of tax but the adoption of the Tanganyika system would largely mitigate the hardships which certainly result from the existing provision."

(b) In the past it was always assumed that Hut Tax was as nearly as possible a property tax. The possession of several wives, and therefore several huts, was a sign of wealth as the women and children could work in the fields and, when of marriage age, the Bride Price of each girl came to the family. It is true Bride Price had to be found for the sons but as a set-off the sons went out to work and contributed to the tax of the whole family.

That has altered in recent years and the effect of locusts and drought and the consequent loss of cattle has materially reduced the capital wealth of the families. Added to that is the individualistic outlook of the young men now-a-days. Boys who used to contribute to the tax of the families now spend the money on themselves and their girls and the fathers are unable to find the money to pay Hut Tax especially if the women are old and unable to do much work.

The results are the hardship mentioned by Sir

Alan

/Alan

Pin and a very high rate of exemptions.

(c) In para. 110 of our "Report on Native Taxation" we recommended, however,

"... that if the present system of taxation is retained, and if at some future time a readjustment of values is deemed desirable, a reduction of the plural hut tax assessment rates should be the first consideration. In this connection we were impressed by the increasing number of independent women noted in the census registers as liable to tax. There would appear to be nothing inherently wrong in the taxation of women who are property owners; in fact, if, as should be the case, the structure of native taxation follows as closely as is possible the methods adopted in regard to other races, they should bear their fair share of the burden of taxation. It is possible, however, and as, as opportunity permits, the tax on multiple huts is reduced, we recommend that this reduction should also extend to independent women hut-owners."

that the standard rate of 12/- may be reduced, we recommend that this reduction should unduly high

We adhere to that recommendation but do not consider that the present is the right time to bring it into force.

(d) Reference to pages 11 and 12 of the Report on Native Taxation shows that especially in the last two years there has been a serious decline in Revenue from Native Hut and Poll Tax and, especially in Nyanza, the rate of exemptions is inordinately high. In Nyanza the total of exemptions, (which includes men who do not pay tax, following imprisonment), is £67,000 or 23.45% of the tax due.

In all the more sophisticated areas there is, among the young men in particular, reluctance to pay which almost amounts to passive resistance.

(e) In our Report on Native Taxation we have gone into these questions carefully and we are of the opinion that before the rate of tax on multiple huts is reduced the method of collection should be tightened up and, if our recommendations are accepted, this should be possible in 1937 thus allowing for consideration of reduction of the tax on multiple huts in 1938.

(f) At present the economic position in the Native Reserves, especially in Nyanza and Central Provinces, is very good. Large sums have been spent in agricultural development and in medical and educational facilities and it is entirely wrong that the resultant prosperity should show a large reduction in direct taxation.

A class of semi-educated agitators has arisen and it would be unwise to pay into these people's hands by reducing taxation until there is a reasonably full collection at the present rates. We would not advocate this if there was inability to pay but, as the tribes are prosperous, there is no excuse.

Reductions already made in the rate of taxation in certain Districts have not, as was hoped, led to easier collection.

7. FINANCIAL EFFECT OF THE REDUCTION OF TAX ON MULTIPLE HUTS.

In para. 76 of his Report Sir Alan Pim puts the loss of Revenue at £25,000 but, if the figures in Column 5 of the Table on page 22 of the Report on Native Taxation are accepted the short-fall would be nearer £33,000.

8. If the proposals are adopted we, therefore, have to face an apparent reduction in Revenue of:-

As regards raising the age limit	£ 37,800
Reduction of tax on multiple huts ...	<u>33,000</u>
	<u>£70,800</u>

It is probable, however, that this total which is based on arithmetical computation, might be materially affected in practice by the following considerations. If the age limit is increased without a similar alteration in the age of registration wholesale evasions may be expected and the figure of £37,800 would be an under-estimate;

if

/under-estimate; if, on the other hand, 18 is fixed as the age of both taxation and registration, the loss would be considerably reduced owing to the desire of natives to obtain a registration certificate before they are, in fact, 18 years of age, ^{and} the impossibility of checking their ages. A reduction in the rate of tax on multiple huts should reduce the number of exemptions and the figure of £33,000 is, therefore, probably an over-estimate.

9. It is now necessary to consider how this short-fall can be made up so as to oblate any reduction of services or bring the expenditure below the figure of Lord Moyne's formula i.e. half the average of direct Native Taxation for the last five years.

The intention of Sir Alan Pim is clearly to adjust native taxation with a view to improving the equity of incidence and with this object we are naturally in complete accord. He makes no reference, however, to the Moyne formula nor does he suggest any means whereby the adverse balance as between native direct taxation and expenditure in native reserves which would follow the immediate adoption of his proposals, may be redressed. We do not believe that Sir Alan Pim envisaged a curtailment of native services to bridge the gap and unless the Moyne formula is to be abandoned the yield must, therefore, be improved. On this point the Report of the Financial Commissioner is silent and, for the reasons given in our own Report, we are unable to recommend a general increase in the rate of poll tax, (the only method of direct native taxation known to us), to make good the short-fall.

In consequence we are forced to reiterate our opinion that the remissions suggested should await consideration.

-11

consideration until a reorganisation of the system of collection of Native Hut and Poll Tax has effected a material improvement in the yield of Revenue from this source.

10. To summarise our conclusions:-

- (a) We do not consider that the taxable age limit should be raised from 16 to 18 nor that it would be in the best interests of the Natives to do so.
- (b) If the age limit is raised we consider that the age limit for compulsory registration under the Registration of Natives Ordinance must also be raised to 18.
- (c) We advocate consideration of reduction by half of the tax on multiple huts in 1938 by which time it is hoped that the methods of assessment and collection will be improved and that there will be fewer evasions and exemptions.

(Sgd.) G. WALSH.

TREASURER.

(Sgd.) H.R. MONTGOMERY.

CHIEF NATIVE COMMISSIONER

6/10/36.

By air mail.

The Secretariat,

Nairobi.

7th September, 1936

56

Dear Flood,

Copy a/c ho's

In view of paragraphs 75 and 76 and recommendation No. 1 of the Pim Report, I am sending you by air mail the enclosed copy of the Report on Native Taxation by Walsh and Montgomery. This Report arose from a discussion at the last Provincial Commissioner's meeting, and will be considered by the P.C.s at their next meeting in about a month's time. After that, it will go to Executive Council with the comments and recommendations of the P.C.s. It cannot, therefore, yet be considered as representing the approved policy of Government.

Normally, I should have waited until after Executive Council had pronounced upon it before sending it to the Secretary of State, but in present circumstances I think it just as well that you should know what we are doing.

You will note that Walsh and Montgomery recommend that the taxable age should not be increased from 16 to 18, and that is the line that I have always taken myself. However, I am told that Tanganyika has now raised the age to 18 and that Archdeacon Owen is making the question a major issue in the "Manchester Guardian" and also, I believe, with the Archbishop of Canterbury, and as Pim has now recommended that the age should be raised I suppose we shall have tremendous pressure brought upon us to agree to it. The cost to Government is not definitely known, but it may be about £30,000.

The other recommendation of Pim's is that the tax on plural huts be halved, and you will note that Walsh and Montgomery, in paragraph 110 of their Report, have quite independently advocated the same development at some future date. Personally, I am not convinced that this is the

J.E.W. Flood, Esq., right policy, as it seems to be an encouragement
C.M.G.
Colonial Office.

to/

polygamy, and if a man can afford the luxury of a number of wives I don't see why he should not pay for them. The person whom I would like to help is the struggling, hardworking youngster who for social, moral, and economic reasons ought to settle down with a wife.

However, that is not the immediate point. What I am worrying about is my budget for 1937. Without either of these reforms in the way of native taxation we can just about balance on the basis of income tax in substitution for non-native poll tax, education tax, levy on salaries, and some adjustment in the matter of trade licences. But if we have suddenly to find another £60,000 or £70,000 by reason of relief in native taxation we are pretty well in the soup, unless we are allowed to have recourse to Pim's proposal in paragraph 406 which, if sanctioned, would probably get us out of the mess temporarily but which Walsh regards as thoroughly heretical. I must say that from the little I know about finance I cannot help agreeing with Walsh, and I have sent off today a rather agitated telegram to the Colonial Office pointing out our dilemma.

The Governor, as you know, is away in South Africa and is not expected back till the 18th or 19th. He had a copy of the Pim Report the night before he left and was proposing to read it in the plane, so that I do not know at present what his reactions are to Pim's heretical proposal. I do know, however, that he is very anxious for all the levy to come off and he would regard it as a calamity if the levy had to be retained in order to relieve native polygamists.

At present we are inclined to regard the Pim Report as a complete vindication of the policy of Government during the last few years. He has not been able to recommend any considerable reductions in any departmental expenditure, and his proposals only envisage a certain amount of problematical economy realisable at some indefinite date, and most of that economy is to come from the Administration as a result of reduction in numbers, as to the wisdom of which there may well be different opinions. I note from recent utterances of Sir Daniel Hall that

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what we need is more administrative and more agricultural officers.

Yours sincerely,

Arnold