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Extent for letter chated \$ 9.37 to ford F. Scott (and)

Mr. Flood. Sir Gecil Bottomley. Sir Cosmo Parkinson.

The correspondence relating to the assurances which were given to the Kenya Elected Members, in connection with their agreement to accept the imposition of income tax, will be found on 38008/2/36. The assurances for which the Elected Members asked will be found in the telegram of the 17th December, at No.1 on that file. The assurances which the Secretary of State was prepared to give are set out in the telegram of the 22nd of December at No.9, and the assurances actually given (differing only in one respect from the Secretary of State's telegram) were set out in Mr. Pilling's letter to Lord Francis Scott of the 30th December, 1936 (enclosure to No.18 on that file).

Before/Lord Francis Scott's observations on these assurances, it is as well to point out that it was not merely a question of the elected Members accepting the income tax proposals in return for these assurances.

They formed in fact part of a compromise involving considerable modifications of the Government's fiscal proposals, of which the principle were as follows:

- (a) A reduction of the amount to be raised by way of income tax from £ \$3,500 to £ 43,500
- (b) A reduction of £12,000 in the amount to be raised from the Non-Native Poll tax.
- (c) A reduction of £15,000 in the Petrol Consumption tax.
- (d) The postponement of Sir Alan Pim's recommendation for relief in the taxation of multiple native huts which would have amounted to £

Quite apart from the "assurences", these modifications of the Government's proposals involveds very substantial concession to the European Elected Members.

It will now be convenient to set out the assurances asked for, and the assurances act ly given in Mr. Pilling's letter of the 30th

A. Executive Council.

Assurance asked for: "That the new Governor will be instructed to explore the constitution possibilities of changes in the constitution which would result in the unofficial community being far more closely associated in the responsibility of Government".

Assurance given: "The Secretary of State had already intended that the new Governor should be asked to consider how Executive Council could be made more convenient in working and more useful as a means of association with unofficial opinion. It should be understood, however, that the responsibility of the Government of Kenya must be through the Secretary of State to the Imperial Parliament and he is not prepared, and indeed is unable, to agree to anything which would be inconsistent with that responsibility".

B. Moyne formula.

Assurance asked for: "That some safeguard be forthcoming so as to ensure that no further departure from Moyne formula resulting in increased Non-Native direct taxation to support increased hative services".

Assurance given: "The Elected Members"
may be assured that their point of view will be

borne in mind as the question arises regarding the provision for Native services, but he trusts that they will not press for a new hard and fast limitation on this subject. They will recognise the circumstances might well arise, such as an increased prosperity leading to a large increase in the yield from Native taxation which would make such a limitation of Native services both unreasonable and unnecessary".

C. Income tax in Tanganyika and Uganda.

Assurance asked for: "They stress most strongly their conviction that unless an income tax is imposed on the adjoining territories, this measure must necessarily bear unfairly and to the detriment of Kenya".

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

of State was in respect of the "Moyne formula". In his telegram of the 22nd December (No.9 on 38008/2/36) the following passage appeared:

"The Elected Members appear to have misunderstood Lord Moyne's proposals. He did not lay down a hard and fast formula for the amount to be devoted to Native services.

services. In paragraph 29 of his report he did no more than indicate that the figure given by his formula would provide for the coming year a reasonable settlement, having regard to the existing serious financial difficulties of the Colony. This statement was omitted f Mr. Pilling's letter of the 30th of December for the reason that (as explained in ar A wade's despatch of the 2nd of January - No. 18 on the file) Sr.A. Wade (i.e. presumably the Government of Kenya) had walways been of the same opinion as the Elected Members, namely that the intention of Lord Moyne was that the direct Native services should as a general principle be financed by them. The average direct (native) taxation takes over a period of 6 years.

the three Heads was the assurance given in the form in which it was as ed for; and it is inportant in discussing the matter with ford Prancis Scott, to have in mind when the temps of the assurance actually Aven.

is reterns the Executive Council, the file is not available but I annex duplicate copied of the Covernor's despatch of the 26th of June, sibilitize his proposals and of the Secretary of State's really of the 25th of July.

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objection to the proposals is not to the stotal ""

numbers (i.e. four officials before to the stotal "

and four unofficials) but to the fact that the

Covernor has stated that one of the unglicials will

be a person having a special know, service that we have

for prancis scott represents that this limits the

Covernor to having some quite uncless "yes-yes man".

This is not the case.

The Governor has made it quite clear that it is not the intention that any of the undificial members of the Council shall be appointed with a view to their representing particular interests, but should be selected with a view to the utility of their advice from the point of riew of the Colony as a whole and it has also been nude clear that the Governor will not reard pinself limited to choosing a missionary or other similar error as the fourth unofficial member. "As well as the fourth unofficial member."

When the proposals were to the the Executive Council no objection were rised by either Major Cavendish Bentinck or by hr. Conway large to the Fourth member being selected from per one living a special knowledge of natives. On this point Major Cavendish Bentinck's observation was as follows:

"Nomination to Executive Council soul ont be made on a sectafian basis. Hof ember should be rowinated as specifically representing any community and on Executive Council all members should resard themselves as representing all communities, races, creeds one, and to profer advice on the Pines

high

to the stratest good for the Colony as a whole".

that the re-organisation of the Council will be otherwise than in accordance with the assurance given.

to regards the <u>Novne formula</u>, the position is that both the unofficial members and Sir A. Wade held the view that Lord loyne's proposal was that the amount to be expended on purely mative services ground be <u>limited</u> in any one year to the average of the proceeds of the direct Butive taxation over the preceding period of six years.

Secretary of State. As explained in his despatch of the 25th of February (No. 23 on 38008/2/36) the Secretary of State holds that. Lord loyne's proposal to set up a lative Betier ent Juni, into which would be paid year by year an amount representing the average of the proceeds of direct mative taxation over the preceding period of six years, was intended, as a Bafeguard to prevent expenditure on direct mative services falling below that level.

if the Elected Numbers view were to be accepted and error of the remissions of the direction live transform proposed by Sin A. Pin would be to reduce the amount of money which would be available for expenditure on mative services. This fact alone is afficiently of the view but forward by the unofficial members.

It is unfortunate that the secretary of State's view on this point was omitted from the Filling's letter of the 10th of Denomber in the circumstances explained above, but that omission is of less importance than it would have been in New of the fact that, in his letter of the 22nd of February to Lord Francis Scott (No. 5 on 38300/37), the Secretary of State made is view on the Thoyne Formula! quite clear to Lord Francis Scott

On this Mead also, therefore, there is no reason for Lord Francis Scott's suggestion that the Government of Lenya will depart from the assurance given.

Income Tax in Uganda and Cangan iva.

In the later letter of the 1sth of September. Lord Francis loott admits that no soblic undertaking was given that income tax would be imposed in the neighbouring territories, but he says that he was given to understand privately by the Secretary of State that this would be done. Here again it is mecessary to graw attention to the actual words of the absurance given as quoted above in which it was stated that the enactment of income tax in those territories must depend on local conditions.

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the cut, ought that on

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secret of his view that income tax is the best form of taxation not only for Kenya but also for Deanta and Tanganyika, or of his disappointment at the fact that it has not been found postible to proceed with the introduction of the tab in those territories.

In complaining about the imposition, by the Secretary of State, of the tax in Lenya, but not in Usanda and Tanganyika, hord Francis cott disregards the fact that in the case of Kenya the introduction of this tax was recommended by two successive financial commissions (i.e. Lord Moyne and Sir A. Pim), and has for many years also been advocated by the Government of Kenya; whereas there is no such history in the case of Tanganyika and Ugenda. The relative correspondence will be found in 46500/2673.

20/5/3

This remark of Lord Francis Scott's is particularly annoying. It is the usual Kenya method of ignoring every single thing that has taken place and trotting out the previous question as if nothing had happened. It appears now that a powerful organisation has been forwed to light income tax. I venture to doubt in though if I said so to Lord Francis Scott he would probably see that

Income tax is in force at a low rate and the people will quite soon get used to it. It must be remembered that in 1923 income tax was only dropped, because they produced their alternative unprosals which they did not like when they were tried, and it has now been introduced following upon Sir A. Pim report.

Lord Francis now contends that they only gave in and agreed to income tax on the specific. conditions that they were to have what he now calls "more say in Government in Executive Council." It now appears that he thought there was going to be a third unofficial member chosen from the Blected Members in Council. He had no right to think so. and, anyhow, the Governor has since pointed out that he has no intention of limiting himself in any way in making recommendations as regards the people to sit on Executive Council as unofficials. In practice there has to be an Indian and Lord Francis Scott must face that fact. He may not like it but it can't be helped. It does not in the least follow that anybody with particular knowledge of the natives would be a "yes, yes man", If Lord Francis Scott means by that that anybody with a knowledge of natives would invariably take the same view as the Government and oppose the Elected Members, that is a very bad give-away of the general attitude of the Elected Members.

As regards the Moyne Report, I need add nothing to what has been said. The Secretary of State has made it perfectly clear to Lord Francis Scot-

see at the end. Thus

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and has made it clear also to the Government of Kenya. / any othe view would be quite ridiculous . The position is, in brief, that Lord Moyne said that in order to be certain that adequate sums were being spent on the natives he thought that at least half the proceeds of direct taxation should be given out and if that sum were not spent the balance should be obtained and used to form a Wative Betterment Fund. Financial .. circumstances preventathe formation of such a fund and if the Moyne principle were adopted Kenya would now have to find about £50,000 to ent into it. At the same time successive commissions have declared that the natives in Kenya were over-taxed, notably Sir A. Pim. If then. Lord loyne's Formula were to be accepted. it would follow that Native services would have to be introduced and that is unthinkable. As regards the introduction of income tax in Uganda and Tanganyika, one's first reaction is to enquire what concern of the Kenya settlers this is. It is the case that the Secretary of State is wase that income tax ought to be introduced in Uganda and Tanganyika, but the Governments of those territories do not consider that the time is yet ripe. If so, there is no need whatever to them into adopting income tax simply to please Kenya. I'do not know, of course, what Lord Francis Scott may be thinking of when he says the Secretary of State gave him a private

assurance

The letter of 22 Feb. 1957 gave no assumance.

assurance that it would be imposed in 1938. What probably is the case is that he has misinterpreted some utterance to the effect that although it could not be introduced this year, the Secretary of State hoped to see income tax introduced in 1938, from which he has understood too much. When he says that they don't bother much about evasion that is rather curious because that is what they were talking about and they used to use possible evasion as an argument against introducing income tax in Kenya.

The whole thing makes me feel uneasy since it is pretty clear that Lord Francis Scott is going to revive all the old controversies just where they left off. He has no idea of any kind of compromise and while he says that he is quite ready to co-operate with Government it only means that Government idea everything he wants.

I distated the above on 21 Sept. and I have now got the attacked cutting from the E. A. Standard from which it appears that an organization to repeal Income Tax is being formed.

Some of the organisms used are children but they do use the broken understanding. Assistics get off in practice because few have incomes of £750 a year as the appeal to racial justomery fulls flat. This body will now I suppose so on re-iterating this court of stiff and expect to be answered. If amounted, it will just be seen as before.

21.9

Mr. Paskin.

I have looked through the private correspondence between the Secretary of State and Lord Francis Scott, but the only two references to income tax which are at all relevant to your enquiry are as follows:-

(a) In a letter of the 8th January, 1937, Lord Francis Scott wrote -

> "You say you will not enforce income tax in the other territories wihout the consent of the people there, but in Kenya you have insisted on it against public opinion."

(b) In a letter dated the 22nd February, 1937, the

Secretary of State wrote -

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

I am afraid that these two extracts do not really meet your enquiry except in a negative sense (and the letter of the 22nd February is in any case on record in one of your files), but that is all I can find.

9. Cuay 5

See also culture from letter of 9(3) of the 5 of 5 of 1/2 of 31/0 (No. 1 0) on 46590/37 [.a.)

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copy \$8008/2/37.

Sir Cecil Bottomley.

It seems clear that we are going to get some agitation from Kenya about income tax.Mr.Schwarze saw me for a moment yesterday and mentioned this, but I had to send him away, and he is coming back in about three weeks' time when he will certainly raise this matter again. The Secretary of State's position has been made clear to the Governor of Kenya, and we have made it clear to Lord Francis Scott. But what I do not know is how exactly matters stand vis-a-vis the Tanganyika Government. We have told Lord Francis Scott, for instance, that the Secretary of State is not unhopeful that income tax will be introduced in Tanganvika. I think we ought to see how matters stand and what steps, if any, we ought to take now to X ensure that the Tanganyika Government gives active consideration to the matter. As regards Uganda. I have gathered that the Secretary of State thought 1 hardly worth while to press the Government. I suppose however, that if both Kenya and Tanganyika had income tax. that might influence the position in Uganda?

See 46590/87 EA regarding the desirability of introducing Tangangue and Ugante on the result of the

(6.10.3)

SEE No.4

to Sir Cosmo Parkinson, dated 1st
September, 1937.

(Org . - 38300/17)

by ne means heard the last of this question. A quite powerful organization has been formed to fight it still, and is backed by money. You must remember that I and those acting with me accepted income tax in a modified way last year so as to avoid a first class row. e laid ourselves open to a great deal of criticism and unpopularity in doing so, and we did it on certain conditions. One was that we should have more say in Government in Executive Council. Certainly Executive Council has been reduced, but instead of our getting a 3rd member, as I thought the Secretary of State had agreed, though not necessarily a member of Legislative Council, the Governor has announced his intention of choosing some one with particular knowledge

of natives, as well as an Indian. That definitely ties his hands, and limits him to having some quite theless "wes men" on Executive Council who is mersive Government sycophant. On that ground we have not got any advance. Our second contention was that the basis of the Moyne report should not be departed. from in respect to money devoted to direct networkenerats. That I hope will be stood by. Our third point was that it is obviously unjust to penalize the Europeans (because practically speaking no one else pays income tax) in Kenya by forcing income tax on them, and not having income tax in the neighbouring territories. We realized it could not be put in for 1937, bute the Secretary of State certainly informed Cavendis: Bentinck when he was at home that he intended introducing is come tax everywhere in 1938, as it was the policy of the Imperial Government. Now we hear from Governors of neighbouring territories that they are not joing to have income tax there at all. Under these circ mstances people are saying that wenterve been deliberately tricked, and the op onents of income tax will have a very strong case, which will undoubtedly carry much weight, and we who helped Government will be let down. As the financial state of Kenya will not need the money found from this source, the opponents will have a strong case. Is you don't mind my being blunt, the chief cause of Complaint we have in Kenya, is that when we agree to something if the Government do something in return, it always works out that Government accept our part of the bargain but do not implement their own part. The two big cases at the moment are the White Hi hlands, and Income Tax. If you could get these questions of ared up at once, it would make the task of co-operation much easier, and incidentally would help our Governor very much. I have purposely accentuated these two questions, because I can assure you that feeling in Kenya is very strong. There can be no possible justification for forcing income tax on Kenya and not

EXTRACT FROM LETTER TO LORD FR NCIS SCOTT | FROM SIR COSMO PARKINSON, dated ith September, 1887

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

TAXPAYERS PROTECTION LEAGUE"

New Body Formed in Kenya

Statement on Income Tax

ding It is announced on page 5 of this It is amounced on page 5 of this issue that a new organisation has the been formed in Kenya called "The work Taxpayers Protection League" for a The Constitution and Rules are set sing out, together with a membership emplication form, in an advertise: the League

The organisers of the League issued to the "East African Standren. yesterday, with a request for a so punication, the following ment called "The Trust state- jom-The Truth About In- sely come Tax In December 1936 the Elected

Members, by a majority, submit-ted to Income Tax because they were faced with what was tantat in mount to threats. That the Colonial (a) Office

the

tax-

would force it on to the Colony whether it liked it or not; and That if they did not agree

nce the Colony would not be able to In-(Continued on Page 8) for ed

uganda and Tanganyika Territory,
4. That the costs of collection

would be approximately an additional £3,000 per annum.

5. That there would be a comprehensive readjustment of

the fiscal system (see Official Gazette 3rd October 1936). The Official method of carrying out the understanding would pear to be as follows

Council Executive been reorganised in such a way as to give Elected Members NO

as to give Elected Members NO greater say in managing the affairs of the Colony.

2. There is no intention of honouring the Moyne formula any further.

3. There is no intention of enforcing Income Tax on Uganda or Taxonuble.

or Tanganyika. Income Tax has been An introduced which throws the burden of tax on to the shoulders of the European Settlers to the

practical exclusion of all other

5. In order to collect this tax from about 1000 persons an Offi-cial organisation, the annual cost of which will greatly exceed the estimate, is being assiduously built are

built up.

6. There has not been and

there is no possibilit. of any comprehensive readjustment of the fiscal system as there is no possibility of there being one la and Tanganyika until Uganda have an Income Tax. To sum up, this Colony been, by misrepresentation

duress, forced into an apparent acquiescence in a tax which:—
1. Falls practically entirely on the European community to the exclusion of Asiatics, Arabs and Natives.

Can never be equitable in a Colony with a mixed community: the allowances being based on the European standard of living and applied to all races.

3. Is unwarranted
4. To administer Is unwarranted, effectively will cost vast sums per annum.

5. Is a direct inducement to Asiatic immigration in that education for their children is prac-

tically free.

6. Is a direct discouragement to White Settlement.

7. Puts European Traders to staggering disadvantage vis-a-vis their Asiatic competitors.

Is an additional handicap to ALL planters and producers Kenya as compared with Uganda and Tanganyika Territory.

Will put ALL. members and non-Official, whether may and non-official, whether may the tax or not, to filling up forms, consulting countants, answering the queries of the Tax Commissioner etc., and will involve endless litiga-

10. Can be increased inde-finitely at the whim of the Colonial Office.

NOTE. An analysis of the figures given in the Official Gazette of 3rd October, 1936 shows that but of 15,534 Asiatics only 37 have incomes of £750 or over, so that with the scale of allowances in force practically speaking only 37 will pay the tax out of 2,922 Arabs etc., only 3 will pay the tax; whereas out of 8,125 Europeans a minimum of L(00) will pay. The above figures do not will pay. The above include Companies, of which the vast majority are European:

Percentages. European not less than 12%, Asiatics not more than 0.24%. Arabs and others not more than 0.10%. It is evident

It is evident that the Colonial Office never had any intention implementing their side of of implementing their side of understanding and that the of the sole reason for the Secretary of State in insistence on the introduc-tion of Income Tax in Kenya was for molitical kineary with the way

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EXTRACT FROM NOTE OF DISCUSSION PETWEEN STR 2. POTTOMINY AND LORD FRANCIS SCOTT ON 29TH SEPT., 1937 LORIG. RECD.ON 38300/37

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Income Tax.

He referred to the enclosure to his second letter to me (we have had the same information from other sources) saying that there is going to bex trouble over the non-application of Income Tax in the two other territories. He said that there was going to be much trouble over this and he mentioned the alleged assurance of the Secretary of State to him; but, before I had an opportunity of treaking in, he passed on to other points and I did not think that it was either necessary or desirable to hark back to the matter of the assurance, As regards the official assurances which had been given at the end of last year, I said that nobody had the right to claim that they had not been kept. Personally, he was quite prepared to give Income Tax a fair trial for a couple of years or so, and and then, if it was found to work harshly, the Secretary of State would, no doubt, be willing to drop it. I did not reply on that point.

He said that many people, e.g. sisal growers, were suffering from Tanganyika competition through being subject to a tax which did not affect Tanganyika. I suggested that there was no question of competition as the price of sisal was a world price, and that what they meant was that they did not have as much profits as the Tanganyika growers.

PARKINSON TO SIR HOBERT BROOKE-POPHAN (ORIGINAL DRAFT ON 38300/37)

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Mr. Ormsely Gore that he gave no undertaking that income tax would be introduced in Uganda and Tanganyika. I thought it desirable to refer to him again, in view of what Lord Francis said in his letter of the lst. September. The position is that Mr. Ormsely Gore regards income tax as a sound form of taxation and he would be glad to see it introduced in the neighbouring territories, but he must take into consideration local conditions and the views of the Governments, and he would not feel justified in forcing either Tanganyika or Uganda to introduceit,

For all that, he is hopeful at any rate as to Tanganyika.

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Extract for 5/6 letter to 3. of 5. for 5.

The budget Session of Legislative Council is going off fairly peacefully, with the approach of the elections, many of the speeches have naturally been directed to members' constituents rather than to the Council, and in consequence some of them have been excessively long. With regard to the European elected Members, the main feature is the coming split between the anti-income tax party headed by Grogan and Wright and the "give it a fair trial" party headed of course by Francis Scott. The former party have made drastic and uncalled for criticisms of Francis Scott in Legislative Council and he has my full sympathy, as he has stuck to his guns and supported the Government, including the Colonial Office, over the so-called compromise. There it will all end I don't know, but It looks as if we shall have a party in the next Council pleaged to their constituents to use any and every means to remove the income Tax from the Statute Book. It is a great bity this agitation is starting; it merely foments bitterness and diverts energy from constructive work, I saw a. deputation from the anti-income tax people a little while ago and told them what I thought about it all and that they were doing a disservice to Kenya by their agitation, but I don't suppose it had much effect.

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PAICTLY PRIVATE & CONFIDENTIAL

6th December, 1937.

satisfied

Dear Brooke-Popher,

ann to the the

Many thanks for your letter of Hovember 25th.

I am very sorry that the dichards still continue to make trouble about income tex, which I still think is the only fair form of European direct taxation as between individual Europeans. The remittance san and one who enjoys an income from stocks and shares ought to pay, and the proper proportion which the Europeans should pay for public services generally and for all that Government has done and is doing for the Europeans cannot be fairly distributed on any flat rate basis. And looking to the future it is in the real interest of the revenue that the Colony should benefit from the inter-imperior reciprocal income tax arrangements. I am still

AIR CHIEF MARSHAL SIR ROBERT BROOKE-POPHAM, G.C.V.O., K.C.B., C.M.G., D.S.C

satisfied that the European ought to contribute by direct taxation to the revenue, and income tax has been found by experience not only throughout the Empire but in all civilized countries to be the only equitable way of distributing the burden of such a tax. I am as diehard in favour as Grogan is against the fundamental principle. I had a talk to Mitchell on income tax in Uganda and doubtless he has told you what passed between us. (Sgd) W. Smisty Gove