

1937

38054/

CO 533/478
KENYA

38054/

INCOME TAX

Enquiry by Sir R. Brooke-Popham regarding

Previous

main file

Subsequent

see 38054/38

R. 297

10/12/37

297

13/1/38

Mr. Dawe

13.1

M. Cheary

15.1

Mr. Dawe

17.1

Sir C. Bottomley

17.1

297

20/1/38

R. 80

21/1

298

20.1

297
302

Mr. Coffey

[Messrs. Grogan - 5:30 13 Dec]

2 Mr. Flood has informed the committee after discussion with me, as to the points which the S. P. mentioned above. I do not think I can add to it.

Now I suggest that if Messrs. Grogan starts riding his hobby after devaluation of currency he should do so on a discouraged? He was assured that any large organization for his cause that he may once have used.

W.L.S. 11/12/27.

12

Sir Charles
Sir C. Bottomley

I submit two possible drafts marked A & B. There is not much between them but I think B is more what the S. ops. wants.

As to the Magadi Soda Company, how anyone could expect it to pay Income Tax beats me. It can't be making any profits. Mr Brogan no doubt is thinking in a woolly way of the I.C.I. and contending that Kenya ought to try to tax that concern (as the Persians wanted to do with the Anglo-Persian oil Co.). Anyhow if there was any ineptitude why didn't he as a member of Council see it was put right? He was an Elected Member.

J.S.O. Howard
16.12.

I prefer B.

As to Magadi, the Harriott, the Govt. Director, is to write to about the position after today's Board meeting. They have lost their Japan market & their Australia market, & the Indian market is going. They have only their salt to look to in order to keep going, unless an apparatus come on the part of I.C.I. to throw good money after bad.

W.S.O. 16.12.37

W.S.O.
17.12.37

TO Sir R. Brindle-Popham - (P.P.) - 26.12.37
(1 and)

M. F. Johnson
? This may be put by phone
39
28/12

Put by for the present.
18.12.37

Sir C. Parkinson. 7.1.38
Sir C. Bottomley. 7.1.38
Mr. Dawe. 7.1

The Secretary of State wishes you to see the attached letter which he has received from Major Grogan regarding income tax in Kenya.

5.

Major Grogan states that since 7.1.38, & has about 1/2 in his hands. The cost of collection would be enormous & the farmer, who would have change his method of accounts, would be badly hit. How capital & "remittances" would be affected etc.]
G. Creasy.
6.1.38

To Major Grogan (5 added) - 5.1.38

DESTROYED UNDER STATUTE
Mr. Creasy.

(5) is marked by the Secretary of State "Dept. to see", and I assume that no further action in addition to your acknowledgment of (6) is required. The Secretary of State has made the position clear to Major Grogan and the Governor, on receipt of (4), has no doubt informed Lord Francis Scott of the position.

I have spoken with Sir C. Bottomley.
Put by.

A. J. Dawe
13.1.38.

Yes. The SLS does not propose to reply further to (5).

Creasy
16.1.38.

Sir C. Bottomley
to see.

Atome
A. J. Dawe
17.1

Wed
17.1.

12.1.38
17.1.38



Sept to see 5.
W.S.

4. L. 38

Dear Grady Jones

I was grateful to you
for the long time you gave me
the other day when in to air our
sorrows. I wrote to Francis Soto
and told him that you had
said that you particularly wanted
not to involve H.R. in the
dispute as he had had no
part in the perpetration of the policy.
I enclose F.S.'s reply

88



[Faint, mostly illegible handwritten text on the left page, possibly bleed-through from the reverse side.]

[Faint, mostly illegible handwritten text on the right page, possibly bleed-through from the reverse side.]

DELORAINÉ,
RONGAI,
KENYA COLONY.

24/12/37

Dear Ewart - Many thanks for
your letter. I am so glad
you had such a good talk
with Smoby fore. As the Governor
is in fact the person who
ultimately decides ~~on~~ what
taxation is necessary, I cannot
see that it would embarrass
him, especially as he says himself
he is quite prepared to shoulder
the responsibility. I cannot think
of any other equally acceptable

Yours sincerely
Ewart Ewart

which may possibly irritate you
I agree with what he says.
If H.E. is prepared to take
the responsibility and the Governor
is prepared to rely upon
his judgment in the matter;
there would be real finality
to the smog issue, which
is not the advisability or
the merits of vicarious but
the method and manner of its
imposition.

arbitrator. I am staying with
H.F. for the New Year, & so shall
pass on your information to him.
Nothing much has happened here
since you left. We finished the
budget on Tuesday last, & we
are now considering the orders in
council & relative ordinances, to
try & get them all straightened
out before they are published for
the public. A subcommittee of
Harniss, Hosking, Mortimer, C.B.,
me, & Burns are doing this. I think
they are alright, with one or two
amendments to make things quite
clear. All good wishes to you for
the New Year. Yr. sincere friend
James S. L.

B. 4

C. O.

Mr. Flood. 12.37.

For the Secretary of State's signature.

Mr.

Mr.

Sir H. Moore.

Personal & private

Downing Street.

Sir G. Tomlinson.

20th December, 1937.

Sir C. Bottomley. 16.12

Sir J. Shuckburgh.

Pres. U.S. of S. 17.12.37

Dear Broke. Popham

Pres. U.S. of S.

Secretary of State. W.B. 20.12.37

Thank you for your long

letter of the 1st of December about income tax and the present situation.

DRAFT
Chief
Amherst

SIR ROBERT BROOKE-POPHAM, G.C.V.O.,
K.C.B., G.M.G., D.S.O., A.F.C.

The suggestion which you have put forward is, as I understand it, that I should make a pronouncement to the effect that I will leave entirely in your hands the decision as regards the continuation or abolition of Kenya's income tax when you are satisfied that there are enough figures from which to draw correct conclusions. I have considered that suggestion, but I fear that it would be altogether impossible for me as Secretary of State, or for any Secretary of State who remains responsible to Parliament for affairs

FURTHER ACTION.

in

B. 1

C. O.

Mr. Flood. 12.37.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley. 16.12

Sir J. Shuckburgh.

Permt. U.S. of S. (12.12.37)

Parly. U.S. of S.

Secretary of State. W.B. 20.12.37

For the Secretary of State's signature.

Downing Street.

20th December, 1937.

Personal & private

Dear Brooke Popham

Thank you for your long

letter of the 1st of December about income tax and the present situation. The suggestion which you have put forward is, as I understand it, that I should make a pronouncement to the effect that I will leave entirely in your hands the decision as regards the continuation or abolition of Kenya's income tax when you are satisfied that there are enough figures from which to draw correct conclusions. I have considered that suggestion, but I fear that it would be altogether impossible for ~~me as~~ ^{any} Secretary of State, or for ~~any Secretary of State~~ who remains responsible to Parliament for affairs

DRAFT.

Chief Air Marshal

SIR ROBERT BROOKE-POPHAM, G.C.V.O.,
K.C.B., C.M.G., D.S.O., A.F.C.

FURTHER ACTION.

in

in Kenya, to delegate the ultimate responsibility to a Governor, however trustworthy and competent, or to a Committee of Inquiry, however composed.

I therefore fear that I could not possibly make any such pronouncement as you suggest, although I need hardly say that the fullest consideration would be given to your opinion on the matter when the time does come to reconsider it.

I gave a long interview to Grogan in which I informed him as above, but he continued to press his view that income tax was undesirable in Kenya ^{as everywhere else} and nothing seems able to alter his obsession on this point. I told him that I was quite prepared to have the working of income tax in Kenya examined by an impartial outside enquiry after it had been given a fair trial, but I said that neither I nor any other Secretary of State could

pledge

C. O.

Mr.

Mr.

Mr.

Sir H. Mears.

Sir G. Tomkinson.

Sir C. Bottomley.

Sir J. Shackburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

FURTHER ACTION.

pledge himself in advance to accept all or any of the recommendations of such an enquiry. I pointed out to him that when income tax was last passed the majority in Council included ^{many} unofficials as well as officials, and I added that the inter-Imperial reciprocal arrangements as regards income tax did confer certain benefits on Kenya which the Colony could not afford to throw away. I ^{own} added that my own opinion was that these mutual arrangements, which are now part of the revenue system of all the Dominions and of many Colonies, are of Imperial significance and benefit to the overseas Empire.

Grogan put forward the view that a poll tax was a more suitable way for collecting taxation but I told him that in my opinion the experience of all modern nations had shown that income tax was the only way to get

taxation

taxation on to the basis of effective ability to pay and that it was the only equitable way of arranging the burden

of taxation as between European and European. Grogan took the view that income tax was the worst possible form of tax since it fell upon the man who had made money and not upon the unsuccessful man. This argument is, of course, clean

ridiculous, but he uses it for his view on the principles of taxation and from which he is evidently impossible to convince and impossible to argue with or to compromise with, but I wonder how far his views are really held in Kenya. It cannot be contended by any reasonable man that the rates of income tax imposed by the Kenya Ordinance are at all burdensome, though, of course, people might follow Grogan's lead in the hope of getting off any payment at all.

There

Income tax has after years of trial not only in 4th Britain but in most civilized countries been found to be the only scientific method of direct taxation as between white & people

C. O.

- Mr.
- Mr.
- Mr.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh
- Permt. U.S. of S.
- Party, U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.

There is also the political aspect in this country. Kenya is unfortunately a chopping block for criticism in the Press and in Parliament, and one ground of criticism is that the Government of Kenya is entirely devoted to the interests of the white settlers, ^{and, in particular,} ~~another argument~~ which is trotted out is that in Kenya the native is taxed while the European is not. Now income tax was recommended both by Lord Moyne and by Sir Alan Pim. It was tried in 1920 and proposals to re-introduce it got very near the Statute Book in 1933. It has now been introduced and to yield to clamour from people like Grogan would certainly expose the Government of Kenya to a ^{considerable} volume of very awkward criticism. To examine the question again by an impartial authority after the tax has been

allowed

allowed to work for a few years is another ^{hardly} story and could not ^{involve} such adverse comment.

I am sorry that I cannot adopt your suggestion in full for the reason which I gave at the beginning of this letter, but, as I have said, I should have no objection to an enquiry and would give the most careful consideration ^{the results of also} not only to that enquiry but to your ^{own} opinion. It is most unfortunate that

there should be this political trouble ^{which as you recognize can do nothing but} ~~but there is no use in panicking away from~~ ^{the harm to everyone in Kenya.}

I used hardly say that I have not signed this letter to Grogan.

W. Murray Gore

C. O.

Mr. Flood.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Blountley.

Sir J. Shackburgh.

Parat. U.S. of S.

Party. U.S. of S.

Secretary of State.

DRAFT.

Chief
Air Mail

SIR ROBERT BROOKE-POPHAM, B.C.V.O.,
K.C.B., C.M.G., D.S.O., A.F.C.

FURTHER ACTION.

DOWNING STREET.

December, 1937.

For the Secretary of State's signature.

Thank you for your long

letter of the 1st of December about income tax and the present situation. I gave a long interview to Grogan on the 14th of December, in the course of which he showed himself a bigoted and uncompromising opponent of the whole principle of income tax. One of his arguments was that he objected, particularly in Kenya, because income tax was being imposed by the Imperial Government and should not be imposed until the electors of Kenya had responsible Government. This looks as if he is going to bring out that rather jaded horse from the stable, but I don't suppose it will run well.

I made it as clear as I could that so long as any Secretary of State remains responsible to Parliament for the Colony of Kenya, he cannot delegate the ultimate responsibility to a Committee of Inquiry, however it might be composed, or to any caucus in Kenya, nor even to any individual Governor. Income tax has been recommended by both Moyne and Pim as being the most convenient and equitable way for securing a proper contribution from the European community and I am in entire agreement with that view.

I told Grogan that I was quite prepared to have the working of income tax in Kenya examined by an impartial outside enquiry after it had been given a fair trial, but that neither I nor any other Secretary of State could bind himself in advance to accept all or any of the recommendations of such an enquiry. I pointed out to him that income tax was passed by a majority including the unofficials, as well as the official members, and I added that the reciprocal arrangements as regards income tax conferred certain benefits on the Kenya Exchequer

which

C. O.

Mr.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shackburgh.

Parlm. U.S. of S.

Party. U.S. of S.

Secretary of State.

DRAFT.

FURTHER ACTION.

which the Colony could not afford to throw away. I ^{then} added that I personally was of opinion that these mutual income tax arrangements, which are now part of the revenue system of all the Dominions and of many Colonies, are of Imperial significance and benefit to the overseas Empire.

He thought that ^apoll tax was a more suitable way of collecting taxation but I told him that in my opinion the experience of all modern nations had found that an income tax was the only way to get taxation on to the basis of effective ability to pay and that it was the only equitable way of arranging taxation as between European and European. Grogan said he was in favour of direct taxation of natives but against direct taxation of any kind on non-natives. He said that if you had to impose direct taxation, then income tax was the worst form it could take, because it was paid

by the successful man and not by the
unsuccessful.

Grogan is evidently impossible to
convince and impossible to argue with or to
compromise with. In the circumstances I do
not think that I could go so far as Scott and
Grogan suggest in the fifth paragraph of
your letter. What I said at the beginning,
that I cannot, as Secretary of State, divest
myself of responsibility, holds true. It must
always be remembered that there is a strong
body of opinion ^{here} which holds that the Kenya
settlers receive far too much in the way of
benefits and pay far too little, and a decision
to withdraw income tax after the past history of
it and the attempts to impose it in 1920 and 1933,
would provoke a great deal of political criticism
which would be hard to answer. Holding the view
I do, that income tax is the best form of taxation,
and having regard to the fact that the allowances
contained in the Kenya Ordinance are of an extremely
generous nature, I do not think that the tax can be

regarded

C. O.

Mr.

Mr.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

FURTHER ACTION.

regarded as in any way oppressive, or
that it could possibly impose any burden
on those the community who have to
pay it. I agree with you that at
least two years, and possibly, three
years' experience will be necessary
before any enquiry could serve a useful
purpose.

It is somewhat doubtful how
far Grogan really carries weight now.
He is a fanatical and fairly convincing
speaker, but I am given to understand
that he commands less and less influence
in the country, though of course he is
always able to make a considerable noise.
I do not think there is any use in
trying to mollify him, since any
concession would only be regarded by
him as weakness and if he was not after
the Government for one thing, he would
easily find another excuse for being
equally violent.

~~Sir C. Parkinson.~~

Sir C. Bottomley.

I had a long interview with Major Grogan last night.

His attitude to any form of income tax whether in Kenya or any other country is one of diehard opposition to the whole principle of an income tax. The only direct taxation he considers equitable is a poll tax. He will continue to fight income tax everywhere on account of his economic theories of inflation and deflation and of the rights of capitalism. His objections apply to income tax in Great Britain and the Dominions - he quoted New Zealand as an example of its evil effects - equally as much as in Kenya. He added that his main additional objection to income tax in Kenya is that it is being imposed by an Imperial authority and should not be imposed unless and until the electors of Kenya have responsible Government.

I made it clear that as long as any Secretary of State remained responsible to Parliament for the Government of Kenya, he could not delegate ultimate responsibility to an individual Governor or to a Committee of Enquiry however composed.

He had many objections in detail to the form of income tax embodied in the existing law in Kenya.

Kenya. I told him that the practical working of income tax in Kenya as in this country would undoubtedly require examination and amendment.

I said I was quite prepared to have the working of income tax in Kenya examined by an absolutely impartial outside enquiry, after the experiment had been given a fair trial, but that no S. of S. could bind himself beforehand to accept all and every recommendation. I made it clear that I could not possibly accept the proposal in Sir R. Brooke-Popham's letter, or make "gestures" to influence the fortunes of rival candidates in a general election in Kenya. I pointed out that income tax was passed by a majority of the unofficial as well as the official members voting for it; and that inter-Imperial arrangements re income tax on pensions, future loans, etc., conferred benefits on the Kenya Exchequer which I could not and Kenya could not afford to throw away.

I pointed out that these income tax arrangements had become part and parcel of the revenue system of every dominion and many colonies and that I personally regarded it as of Imperial significance and of benefit to the overseas Empire to maintain it.

As

As to poll taxes I said I was convinced that the experience of all modern nations had found that income tax was the only way in which taxation could be levied on the basis of effective ability to pay, i.e. to enable the State to obtain equitably more from the rich than the poor, and that as between European and European it was the only equitable way of imposing taxation. He said "all the Indians will evade income tax and all the Europeans will have to pay". He said he was in favour of direct taxation on natives but in effect he opposed all direct taxation on non-natives; but if this was necessary in equity because the natives paid direct taxes, income tax was the worst form of direct taxation, as it penalized the successful and let off the failures. I do not see how any compromise is possible with Major Grogan, holding the views he does.

He told me that owing to the ineptitude of the Government of Kenya Magadi Soda was this year escaping payment of any income tax, and that the methods of collection being adopted were inept and discrediting and that the whole Colony was in an uproar against me and Francis Scott and Cavendish Bentinck who had sold the pass.

Clearly I must answer Sir R. Brooke-Popham's letter.

letter. It is most unfortunate that he showed its contents to so bitter and consistent an opponent of Government as Major Grogan.

(Intld.) W.O.G.

14.12.37.

Kenya Income Tax.

There are various ways in which the imposition of income tax will benefit Kenya, quite apart from the revenue which can be collected.

As things are at present if there were no income tax the Government of Kenya would be in the position of remitting money to this country for pensions, salaries, dividends on loans and so on, which would be liable to income tax in this country out of which Kenya would get nothing. The net result is that Kenya ~~is~~ ^{would be} really subsidizing the Imperial Exchequer because the individual is not affected by the existence of income tax in Kenya and the existence of such a tax enables the Kenya Government to deduct income tax on pensions and salaries which can then be credited against the Imperial tax. The result is that the Kenya pensioner pays the same amount in tax but pays some to Kenya and the balance to the Exchequer.

As regards loans the position is this. Loans are issued in this country and the income tax on the interest goes to the Exchequer here. If, however, a Kenya investor living in Kenya held money in a Kenya loan, Kenya could arrange for local payment ^{of interest} and recover income tax at Kenya rates. What the investor did with the rest of his interest would not be the concern of the Kenya Government.

People living in Kenya who pay income tax in the United Kingdom may get relief from Kenya income tax if that tax exceeds half the United Kingdom tax. As the Kenya tax is not half the

Colonial Loans have to be issued free of Colonial Income Tax in order to attract investors: so this is not a great point.

If part of the Kenya loans were issued in Kenya it would be better to Kenya I.T. & not, ordinarily, to U.K. Tax would.

United Kingdom tax it follows that Kenya will be able to tax such incomes and the taxpayer can get his refund from the Inland revenue authorities here.

There is a small class of people who, drawing incomes from Kenya, might come to the United Kingdom and overstay the minimum of six months. They would of course continue to pay their Kenya income tax all through and it would presumably be deducted at source, and when they became liable to the United Kingdom tax they would have a corresponding set-off against the amount of such tax.

Similarly, a man who retained a house in England (in which case he is liable to pay United Kingdom income tax on all moneys remitted to England) would be able to secure a set-off in respect of his Kenya tax so that Kenya in any event will still receive the tax on the income originating within it.

COPY.

O.G. 1/1/37.

GOVERNMENT HOUSE,
NAIROBI.

1st December, 1937.

My dear Ormsby Gore,

This is again on the subject of Income Tax. As I told you in my letter of the 25th November, a strong campaign against Income Tax in Kenya has started, and is fomenting bitterness and diverting energy away from constructive work. I think it will become accentuated as election time draws near, and we may have a definite party amongst the elected Members in the next Legislative Council pledged to use every effort to remove Income Tax from the Statute Book.

2. From my personal point of view there are three factors. First, I am not committed to Income Tax as a profession of faith and had nothing to do with its introduction, so I am in a position to take an unbiased view. My main object now is to get on with what I am pleased to call constructive development, which this agitation will hamper. The second factor, on which I feel very strongly, is that we want stability in Kenya, not only for our own sakes, but also in order to inspire confidence in the City as well as in Whitehall. The Income Tax agitation will not only hamper development but will impair confidence, because I am afraid it will be regarded in England as proof that Government and settlers

in

in Kenya can never work together. Thirdly, if we suspend Income Tax now or abolish it on insufficient evidence, England will think Kenya cannot make up its mind and that the Government bows to any popular clamour.

3. As I see it, therefore, there are two problems: first, to stop this agitation as soon as possible; and secondly, to collect facts with regard to Income Tax so as to prove definitely whether it is harmful or whether it is beneficial to Kenya.

4. I have already agreed that as soon as we have complete figures regarding the yield of Income Tax and the cost of collection this year, they should be submitted to the Standing Finance Committee.

5. Francis Scott and Grosan came to see me yesterday morning on the matter. Neither of them have in the least gone back on their previous views. Francis Scott maintains that income Tax should be given a fair trial, and Grosan is quite certain that it is bad. But both want to stop the agitation, and their suggestion is that you shall make an announcement to the effect that the decision as regards continuance or abolition of Income Tax in Kenya shall be made by me when I am satisfied that sufficient facts and figures are available from which to draw correct conclusions. They both think that if such an announcement were made it would stop the agitation.

6. I told them that I would not be prepared to come

to

business matters, and I thought it would be a good opportunity for him to give you this letter and to explain the position to you personally. I have told him that I have no objection whatever to his seeing you on the matter if you are able to arrange an interview. He has had a copy of this letter, which practically confirms what I said at the interview I had with him and Francis Scott.

Yours sincerely,

(Sgd.) R. BROOKE-POPHAM.

THE RIGHT HONOURABLE W. ORMSBY GORE, P.C., M.P.,
COLONIAL OFFICE,
DOWNING STREET,
LONDON, S.W.1.