

1937

CO 533 / 480

38088

KENYA

NATIVE HUT + POLL TAX

~ ARCHDEACON BURNS' ALLEGATIONS AS TO COLLECTION.

Previous

1936

Subsequent

R 297

R 299

in Hand

214

S. C. G. G. G.

234

S. J. G. G.

26

in Hand

204

S. J. G.

214

in Hand

R 299

204

R 297

=

98

G.I.  
TAXATION.  
Nominal.

1. ACTING GOV. KENYA.....91.....6.2.57.  
 Trs. observations on the Report of the Commission appointed to inquire into Archdeacon Burns' allegations and encls. for information, extracts from the records of the debates in Leg. Co. in November last, during which reference to the Report was made on several occasions.

This is the awaited despatch on the Report of the Commission which investigated the alleged abuses in the collection of native hut and poll tax. The Report has been debated in the Legislative Council and the Acting Governor now states what action is being taken on the recommendations of the Commission. These are set out below in detail.

It was originally contemplated that the investigations of the Committee should be restricted to abuses in the collection of native hut and poll tax, but it was subsequently considered desirable to widen the terms of reference to include non-native graduated poll tax, in view of representations of hardship made by the Indian Elected Members.

The Commission visited Fort Hall, Embu and Mombasa, *to investigate the numbers of complaints* ~~to investigate complaints of alleged abuse~~ *\* Cases heard are as follows: -* and hardship in the collection of Native Hut and Poll Tax.

	<u>Fort Hall</u>	<u>Embu</u>	<u>Mombasa</u>
Complaints made to the D.O. or to the Commission.	67	20	112
Number of cases in which evidence was taken.	43	14	6 (i.e. the most recent in date and most serious in nature).

(350 cases were stated to have been received by the C.M.S. at Weithaga)

Types of complaints investigated.

	<u>Fort Hall</u>	<u>Embu</u>	<u>Mombasa</u>
Illegal seizure of stock	7	-	-
Arrest	5	-	6
Illtreatment	5	10	3

Compulsion

	<u>Fort Hall</u>	<u>Embu</u>	<u>Mombasa</u>
Compulsion to pay for absent relatives	2	-	-
Presents to Headmen to secure his interest in order to obtain exemption from tax	10	2	-
Failure to obtain a receipt from Headmen	-	1	-
Number of cases in which the complainants were women	15	10	2

N.B. At Fort Hall the D.C. stated in evidence that "In this District about 5000 of the population have been exempted from the payment of tax. I mentioned this to my interpreter yesterday who has been a very long time, and I asked him how many of these exemptions had, in his opinion, been obtained by means of a bribe. He replied 'anything from one-third to one-half, or in other words possibly 2500 of these people had paid bribes in this connection'".

The Commission found that, taking the evidence as a whole, there could be no doubt that abuses do occur in the collection of tax, but that the abuses are, with a very few exceptions, neither/prevalent nor, from the evidence submitted, very grave in character having regard to the state of civilisation of the people.

They found in regard to non-native graduated poll tax that complaints related not so much to abuse or hardship in collection as to the difficulties in which the poorer classes of Indians and Arabs are involved as a result of their inability to pay the amount due. Their recommendations and the Governor's proposals are set out below.

Recommendation I. We recommend that it would be desirable to extend the system of unpaid Advisory Committees appointed by Government to advise the collecting officer in regard to the

circumstances

circumstances of Indian, Goan and Arab applicants for exemption.

The Acting Governor points out that non-native graduated poll tax has now been abolished and in its place a small poll tax payable at the rate of Sh.40/- and Sh.30/- by Europeans and Asiatics respectively, and Sh.20/- in the case of other non-natives, has been substituted with effect from the 1st of January under the Non-Native Poll Tax Ordinance No.50 of 1936. He has therefore deferred the issue of any instructions for the appointment of Advisory Committees pending the introduction of income tax and the delegation to District Commissioners of the Governor's powers to remit non-native poll tax.

Recommendation II. We recommend the substitution of a Poll Tax upon all males of taxable age in place of the present Hut and Poll Tax.

The Acting Governor is not able to accept this proposal for the reasons stated in the note by the Chief Native Commissioner on page 18 of the Report, *in which is contained*.

Recommendation III. We recommend the collection of tax by Revenue Officers appointed exclusively for that purpose.

The Acting Governor reminds us that this step has, of course, also been suggested by Sir Alan Pim and accepted in principle by Government. He points out that provision has been included in the 1937 Estimates for the appointment of two such officers.

Recommendation IV. We recommend that the salaries of Headmen be reviewed and that each Headman be supplied with a sufficient number of Tribal Police appointed and paid by the Government, and uniformed.

The Acting Governor says that the salaries of Headmen are admittedly low in some cases, but he

considers

considers that in the first instance it would be preferable to investigate the possibility of amalgamating a number of the smaller locations in certain districts with a view to increasing the salaries and responsibilities of the more efficient and progressive Headmen. He adds that action on these lines has already been taken in the Fort Hall and Embu Districts from which numerous complaints were received by the Commission. He is satisfied that the re-organisation will make for better administration.

Recommendation V. We recommend -

- (a) that consideration be given to a suggestion made to us by the District Commissioner, Fort Hall, that District Officers should, when dealing with the claims of applicants for exemption, appoint from day to day an informal Committee from amongst those present to advise as to the means of each applicant, instead of relying upon the headman or some individual;
- (b) that Exemption Certificate should be issued to persons who have been permanently exempted.

The Acting Governor says that steps are being taken to put into effect both of these proposals.

Recommendation VI. We recommend that the principle of establishing proper detention camps under adequate supervision on the roads, with a view to the employment of detainees upon road work, be extended.

The Acting Governor observes that this system is being gradually extended as opportunity offers and five such camps were gazetted during 1936.

No action appears to be called for on this despatch beyond acknowledgment. It contains passing references only to the Report on Native

Taxation

Taxation by Mr. Walsh and Mr. Montgomery in which those gentlemen found that a system of native hut and poll tax conforms sufficiently nearly with accepted principles of taxation. That Report is overshadowed, however, by Sir Alan Pim's Report and it is Sir Alan's recommendations in regard to native taxation which have got to be considered by the Kenya Government, e.g. the reduction of the tax on plural huts. This has been discussed in semi-official correspondence with Mr. Wade on 38173/2/37, and in the despatch approving the 1937 Estimates, the Governor <sup>is being</sup> ~~has been~~ asked to consider closely <sup>in 1937</sup> Sir A.Pim's recommendations in regard to native taxation.

There is action outstanding on 38088/1/36.

*C. J. W. ...*

20.4.37.

With regard to the recommendation that a consolidated poll tax should be substituted for the present hut and poll tax, this is a suggestion which has been made before. Sir Alan Pim discussed it in his report, where he said that it had been put forward in the form of a uniform adult male poll tax plus a cultivation and/or cattle tax. He pointed out that there were many serious practical obstacles to its introduction and ruled it out. At the same time he said that efforts should be made to evolve a new system of taxation which he recognised would take a long time and would have to be tried out gradually. Mr. Montgomery and Mr. Walsh

in



6028  
in their report also turned down the idea of a uniform poll tax and I think that we can follow the Acting Governor in rejecting it.

With regard to the non-native graduated poll tax as it affects Indians, the Acting Governor points out that the new fiscal arrangements will remove the need for doing anything in that direction.

As Mr. Grossmith says, the proposal to have tax collected by Revenue Officers appointed for the purpose is being put into force. It will be advisable to proceed gradually and we can only wait and see. The Revenue Officers will, of course, have to be Europeans at first, but eventually they ought to be natives, though that will take a very long time.

With regard to the fourth recommendation that the salaries of Headmen be reviewed and each Headman supplied with a sufficient number of tribal police to be uniformed and paid by Government, I have considerable misgiving. The Acting Governor proposes to investigate the possibility of amalgamating some of the smaller areas in order to increase the salaries of the more efficient Headmen. This is all right, but he says nothing about the suggestion in regard to the extra police. Here one is on doubtful ground. On the one hand it might be urged that to give the Headmen a force of Government police at their disposal would enable them to terrify the untutored population even more effectively than

than hitherto. On the other hand, it may be argued that it is better for the Headmen to have properly constituted people at their disposal who can be got at easily, than to rely upon casual people, or to have people falsely representing themselves as agents of Government. We might perhaps ask what they think about this.

The other recommendations are being put into effect gradually.

After re-reading the report I am not particularly happy. On the other hand, I am not particularly unhappy. That abuses were bound to exist where you have direct tax being collected through the medium of very ignorant Headmen and subordinates is inevitable, and it is a matter for very considerable satisfaction to find that the Commission were able to report that the abuses are neither very prevalent nor very grave in character, having regard to the stage of civilisation of the people. I would draw attention to the statement on the top of page 6, that complaints of alleged abuses are "often unfounded or grossly exaggerated." Some of the complaints made were also found to be quite unworthy of belief, and the 1936 file has a record of one case where the District Officers spent a lot of time in investigating complaints. At the same time I would draw attention to paragraph 20 of the report, where the Commissioners thought that there might be reluctance on the part of victims to make their complaints to District Commissioners and that there might be cases where complainants were deterred by clerks or orderlies.

Thus

*Yes. But the reason is that for some tribal tribes; and there are a few more about and I think there is much to be said for them.*  
L. Ward

Thus I think it can be established that there have been grounds for complaints, because nobody can be perfect, and in the circumstances of Kenya it is surely unreasonable to look for perfection. Yet the trouble is that complaints will be put forward and taken up by people who ought to know better, and exaggerated statements will receive too much currency.

I would draw attention also to the extracts from the debate in the Legislative Council which took place last November. What they were arguing about there was not, as one might think, the report of the Commission, but how much revenue they ought to expect from direct native poll tax, the idea being that if they could get more revenue from this source than was estimated, there would be less need for income tax. Mr. Pandya made some very sensible remarks with regard to native taxation, the increase in the wants of the native population, and the Moyne formula. Archdeacon Burns, however, said that he stuck to his guns and thought evidence of abuse was far more widespread than would appear from the Commission's report. He said that he signed the report with a reservation, but what the reservation was <sup>is</sup> not stated. He hopes that the Commission will not be put away and that it will have done good by ventilating the existence of the abuses about which he talked. Mr. Conway Harvey, on the other hand, pointed out that as a member of the Commission, the

most vivid impression left on his mind was the keenness and fairness with which complaints were investigated by the District Officers. The Chief Native Commissioner referred to Archdeacon Burns' reservation, which appeared to be simply, "while there are a few things weakened down I agree with it as a whole", and said that as Archdeacon Burns had signed the report, he should not now go back on it. I would draw attention to Mr. Montgomery's warning against "credulous acceptance of complaints", and I would also draw attention to Mr. La Fontaine's much more tactful remarks when he says that he wished to assure Council that early steps would be taken to see that the abuses disclosed would not be repeated as far as is humanly possible. He referred to the case of the Fort Hall Chief (mentioned in the 1936 file) where the District Officer spent three weeks in investigating groundless charges against him. He pointed out that collecting tax was now a more slow and difficult matter than it used to be, because the African, with increased wants, was now becoming more reluctant to pay. In fact, the position really is that the African is now finding some other use for money than simply to pay tax with it. As a result, the native wages will probably have to go up, which will do no great harm in Kenya.

I agree that it is not necessary to do very much with this despatch, except to note it, but I think that in acknowledging, we should call attention to the recommendations which have been made and in particular to that about native police, and say

In this I agree it must  
have done good  
J

Good

d.

that while the Secretary of State is glad to think that abuses are not so common or so serious as had been feared, yet the fact of there being abuses shows that, as Mr. La Fontaine observed in Council, "steps should be taken, so far as is humanly possible, to see that they are not repeated", and say that while it is too much to hope for perfection, yet the existence <sup>of</sup> speedy machinery for enquiry into and redressing legitimate grievances is an important safeguard against abuses.

J. E. W. Flood

21.4.1937

Sir John Maffey.

I think we may take this question as having been sufficiently explored although there is some conflict between the Chief Native Commissioner's view that it would be sufficient to take a sample of complaints in order to establish the facts of the abuses having occurred, and the terms of reference of the Commission which were "to inquire into and to report on allegations of abuse": it was not the fact of ~~the~~ abuse but cases of ~~the~~ abuse that were to be inquired into. However, that was a matter for the judicial Chairman.

Cruelty has been and will be punished and corruption (if the word can be used of the simple-minded African habit of giving presents) will, it may be hoped, be discouraged by the new arrangements for tax collection.

The upshot of the whole matter is that

we

we are working in Kenya with very indifferent instruments and that the long association of District Officers with tax collection discourages people from making complaints.

I have marked on page 15 a passage which may be useful if the Government of Kenya continue to resist Sir. A. Pim's recommendation that taxation on multiple huts should be abolished.

As proposed?

W.E.D.

23.4.37.

S. J. S. shall see. Reply  
as proposed by Mr. Flood.

J.W.  
26/4

W.E.D. 26.4.

AIR MAIL 2 To Kenya - 350 - (acked) 29/4/37

Received 4/21/469



38088/1/37.

2

C. O.

AIR MAIL

DOWNING STREET.

Mr. Flood. 27.4

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

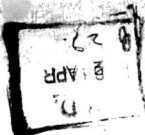
X Sir C. Bottomley 28.4 f

Sir J. Shuckburgh.

Permi. U.S. of S.

Parly. U.S. of S.

Secretary of State.



29 April, 1937.

Sir,

DRAFT.

KENYA

NO. 350

GOVERNOR

I have etc. to acknowledge the receipt of Mr. Wade's despatch, No. 91 of the 6th of February, in which he discussed the report of the Commission appointed to enquire into the allegations made by Archdeacon Burns in regard to the methods employed in the collection of the native hut and poll tax. I have read the despatch with interest, and also the extracts from the debate in the Legislative Council which were enclosed.

2. I am glad to think that the report has shown that abuses in the collection of tax are neither so common nor so serious as had been feared. On the other hand, it must be recognised that in fact the existence of ~~such~~ abuses

FURTHER ACTION.

abuses

abuses, which might easily become worse if it were not for careful supervision, constitutes a full justification for having held the enquiry. Mr. La Fontaine, in addressing Council, stated that some of the abuses were of a serious nature, which could not be lost sight of, but he gave Council the assurance that steps would be taken, so far as humanly possible, to see that these abuses are not repeated. I need hardly express my entire agreement with this view, and I trust that the very fact of the enquiry having been made will, of itself, serve to diminish the number of cases of abuse and, further, will encourage the native population to bring legitimate grievances to light.

3. I recognise that <sup>in many instances</sup> complaints have been in the past unfounded or grossly exaggerated and that, as the Commission found, some of the complaints made were unworthy of belief. Still, the existence of speedy machinery for enquiring into and redressing

legitimate

C. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomkinson.

Sir C. Bottomley

Sir J. Shuckburgh.

Parli. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

FURTHER ACTION.

legitimate grievances is a most important safeguard against abuses, and must lead to such ungrounded accusations.

4. In regard to the recommendations made by the Commission, I note that Mr. Wade is disposed to agree with the view taken by Mr. Montgomery that a universal poll tax would be inequitable as a substitute for the present system, and I am disposed to share Mr. Wade's view that this proposal should not be adopted, having regard to the opinions expressed by the Treasurer and Chief Native Commissioner in their joint report on taxation. The suggestion was also considered by Sir Alan Pim, who pointed out that there were serious practical objections to it.

5. I note that the suggestions made by the Commissioners are being examined by Government with a view to their introduction as circumstances

allow



allow, but in regard to the proposal  
that each Headman should be supplied with  
a sufficient number of tribal police, it has  
occurred to me that to place at the disposal  
of Headmen a more numerous force of police  
who are uniformed and paid by Government  
might possibly serve to encourage abuses,  
since an ignorant population would be open  
*be deceived by*  
to mis-representations on the part of the  
police. On the other hand, it may be  
contended with *equal probability* ~~force~~ that it is better for  
Headmen to rely upon properly constituted  
and controlled forces than upon casual  
agents, which, in turn, gives room for  
fraud by persons falsely representing themselves  
as agents of Government. I have no doubt  
that this aspect of the matter will receive  
full consideration.

I have, etc.

(Signed) W. ORMSBY GORE.



COLONY AND PROTECTORATE OF KENYA

**Report of the Commission Appointed to Inquire  
into and Report upon Allegations of Abuse  
and Hardships in the Collection of Non-Native  
Graduated Poll Tax and of Native Hut and  
Poll Tax**

Price 1/-

1936

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER  
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PERSONNEL OF THE COMMISSION.

His Honour Mr. Justice A. H. Webb, K.C., *Chairman*.  
R. W. Hemsted, Esq., C.M.G., O.B.E.  
The Hon. H. R. Montgomery, C.M.G., Chief Native  
Commissioner  
The Hon. Conway Harvey, M.L.C.  
The Ven. Archdeacon the Hon. G. Burns, O.B.E., M.L.C.  
The Hon. J. B. Pandya, M.L.C.

R. F. Patil, Esq. *Secretary*

To:—

His EXCELLENCY  
BRIGADIER-GENERAL

SIR JOSEPH A. BYRNE, G.C.M.G., K.B.E., C.B.

Your Excellency,

We, the undersigned Commissioners have the honour to submit herewith our Report.

CHAPTER I.

INTRODUCTION.

1. We were appointed under the Commissions of Inquiry Ordinance, our appointment being published in the Official Gazette of the Colony under Government Notice No. 99 of 7th February, 1936. Appointment and terms of reference.

The terms of our reference are as follows:—

"To inquire into and report upon allegations of abuse and hardship in the collection of Non-Native Graduated Poll Tax and of Native Hut and Poll Tax."

2. We assembled at Nairobi on 13th February, 1936, when it was decided that letters should be addressed to Dr. the Honourable A. C. L. de Sousa, the Honourable Shamsud-Deen and the Honourable A. B. Patel, asking them to substantiate certain statements made by them in the Legislative Council. Copies of these letters, together with copies of the replies received from Dr. de Sousa and Mr. Patel are attached as Appendix A. No reply was received from Mr. Shamsud-Deen. Appendix A.

3. It was also decided that letters should be written to all Administrative Officers, and to Missionary Societies, requesting them to submit particulars of any cases of abuse, or allegations of abuse in regard to the collection of Native Hut and Poll Tax which might have come to their notice. A copy of this letter with an analysis of the replies received from Administrative Officers and Missionary Societies is shown in Appendix B. Appendix B.

4. In addition, letters forwarding complaints were received from the Earl of Erroll, Major the Honourable F. W. Caven-dish-Bentinck and Captain Eric Gooch.

5. We were thus supplied with a large quantity of material on which to work, and in order to investigate the complaints received we visited Fort Hall, Embu, Mombasa, Kaloleni, Kisumu and Kericho. The results of these visits are referred to in greater detail below.

6. Nineteen meetings of the Commission were held between 13th February and 29th July, 1936.

7. During the course of our inquiries we received information by means of oral evidence or written memoranda from 207 persons, and we wish to take this opportunity of expressing our thanks to those who assisted us in our deliberations, and to the Administrative Officers who afforded us hospitality.

#### CHAPTER II MEETINGS

Fort Hall

8. The Commission visited Fort Hall from 25th to 29th February for the purpose of investigating complaints regarding Native Hut and Poll Tax. Sixty-seven complaints were actually received by the District Commissioner or by the Commission, and of these, evidence was taken in forty-three cases. In addition to these, some 350 complaints were stated to have been received by the Church Missionary Society at Weithaga, regarding which evidence was not taken by the Commission. Evidence was also taken from the District Commissioner and the Rev. L. J. Beecher, of the Church Missionary Society Kilimba, Headman Malink, and Sila Kario.

Among the cases investigated by us seven were complaints of the illegal seizure of stock, five of arrest, five of ill-treatment, two of being compelled to pay tax due by absent relatives and ten of having to give a present to the headman to secure his interest in order to obtain exemption from tax. In fifteen cases the complainants were women.

We believe that the cases investigated were those that were most recent in date and appeared to be most serious. Most, if not all, of the complaints made to the District Commissioner related to the giving of presents to headmen, and in some cases people appeared to be under the impression that the Commission would refund the amounts paid.

The District Commissioner stated in evidence that in this District about 5,000 of the population have been exempted from the payment of tax. I mentioned this to my interpreter yesterday who has been a very long time here, and I asked him how many of these exemptions had, in his opinion, been obtained by means of a bribe. He replied, anything from one-third to one-half, or in other words, possibly 2,500 of these people had paid bribes in this connection.

9. The Commission visited Embu from the 9th to 11th March. Twenty complaints were actually received by the Commission and evidence was taken in fourteen cases. Evidence was also taken from the District Commissioner, the Rev. T. F. C. Bewes, of the Church Missionary Society, Kabare, Jason Mbiti, Kanuni Ireri, Paulo Kangi, Headman Njega and Headman Johana.

Among the cases investigated by us ten were complaints of ill-treatment, two of having to give a present to the headman and one of failure to obtain a receipt from the headman; four were quite unsubstantial or appeared to be untrue. In ten cases the complainants were women. Of the ten cases of ill-treatment we strongly suspect three to be based upon local feeling against a particular headman.

10. The Commission visited Mombasa from the 23rd to 26th March. One visit was paid to Kaloleni. Evidence was taken on Native Hut and Poll Tax and Non-Native Graduated Poll Tax.

(a) *Native Hut and Poll Tax.*—One hundred and twelve complaints were actually received. Of these sixty-six were from the Church Missionary Society, Kaloleni, thirty-seven from the District Officer, Malindi, and the remainder from various sources, including Voi. Evidence was taken in six cases, which appeared to be the most recent in date and most serious in character—all were from the Kilifi District. The following gave evidence: Provincial Commissioner, Coast, District Commissioner, Mombasa, District Commissioner, Digo, District Commissioner, Kilifi, Mr. K. E. Stovold and Miss P. I. Deed of the Church Missionary Society, Kaloleni, and the Rev. Wilson Kaporo.

Of the cases investigated six were complaints of arrest and three of ill-treatment, two of the complainants were women. In our opinion two of the complaints of ill-treatment—one by a woman that she had been raped, the other by a man that he had been beaten, and made to give some property to the *askaria*—were unworthy of credence, though in the latter case an attempt had undoubtedly been made to arrest the man.

Owing to a misunderstanding, seventeen witnesses from the Malindi area who were to have given evidence before the commission at Kaloleni, failed to arrive at that place, but their complaints were investigated by the District Officer, Malindi.



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Owing to a misunderstanding seventeen witnesses from the Malindi area who were to have given evidence before the Commission at Kaloleni, failed to arrive at that place, but their complaints were investigated by the District Officer, Malindi.

(b) *Non-Native Graduated Poll Tax*.—The following gave evidence in regard to Non-Native Poll Tax:—Provincial Commissioner, Coast, the Honourable Sheriff Abdulla bin Salim, and Dr. Karve, representing the East African Indian National Congress.

A Memorandum was received from the Afro-Asian Association. A copy of this Memorandum is attached as Appendix C.

11. The Commission visited Kisumu from the 5th to 7th April, and Kericho on the 9th April. Twenty-five complaints from Nyanza Province regarding Native Hut and Poll Tax were received and evidence was taken in seven cases.

Memoranda were received from the Ven. Archdeacon W. E. Owen of the Church Missionary Society, Ng'iya, who who also gave evidence to the Commission, and from the Kavirondo Taxpayers' Welfare Association, a deputation from which also gave evidence.

Evidence was also taken from the Provincial Commissioner, Nyanza, District Commissioner, Central Kavirondo, District Commissioner, Kericho, and the Rev. Father Rowlands of the Roman Catholic Mission, Kibuye.

At Kisumu four cases were investigated; two were complaints of illegal seizure of stock and one, by a woman, of arrest. The remaining complaint was by a man who alleged that a charge of growing bhang had been fabricated against him in revenge for his activity in bringing to the notice of the District Commissioner abuses in the collection of tax.

12. At Kericho we heard three complaints, none of which, on investigation, appeared to have any substance or to be connected with the collection of tax. One of these which may be taken as typical, was reported to us by Mr. E. S. Barnett of the Africa Inland Mission, Litein, in the following terms:—

"The two 'gangs' Nabe and Arap Bore came to the complainant's (Tabela's) house to collect hut tax. At the time complainant's husband was away from home. The persons complained of then took complainant away for a day and some time during the day both forced her into adultery.

No action was taken as the case was not brought before the baraza for trial."

Evidence was taken from the complainant, Tabela, who stated that she was the owner of a house and plantation and that the tax in question was in respect of herself, her husband being dead. She said that the Tribal Policeman told her to accompany him to the Headman, who wished to see her about her tax which had not been paid. On the way the complainant alleged that intercourse with the Tribal Policeman took place, but on being asked whether this was the first occasion on which anything of the sort had happened since the death of her husband, she stated to the Commission "No, I go with anybody I like. I have slept with people if I have wanted to." The witness was then asked why she did not complain, and replied "I do not know why I did not complain at the time—I just did not do so."

### CHAPTER III.

#### GENERAL CONCLUSIONS.

13. Taking the evidence as a whole there can be no doubt that abuses do occur in the collection of tax, as, indeed, is inevitable in any operation that is conducted by human agency, but, as will be seen from the analysis at Appendix B of the replies received in response to our Circular letter addressed to Administrative Officers and Missionary Societies, it would appear that these abuses are, with a few exceptions, neither very prevalent, nor from the evidence submitted to us, very grave in character having regard to the stage of civilization of the people. While it is clear that abuses and hardships in the collection of Native Hut and Poll Tax do occur, there is no doubt that collection has of recent years become a much more difficult matter, owing to the fact that it is no longer paid on a family basis and that natives are less willing to help their kinsmen than formerly. A native earning money at work formerly sent a portion of his wages to his relatives in the Reserves as a contribution to the tax of his village, but now prefers to spend it on providing for his own individual wants in the form of clothing, food and tobacco. It must not be forgotten that the State benefits indirectly by money being spent in this manner, but the Hut and Poll Tax suffers and becomes increasingly difficult of collection. Headmen have consequently been driven to resort to illegal and undesirable methods in order to obtain payment from those who should be in a position to pay without undue hardship or delay.

It should also be observed that very many of the complaints related to occurrences two, three, or more years old.

While we are satisfied that abuses and hardships exist, we wish at the same time to point out that complaints of alleged abuses or hardships are often unfounded or grossly exaggerated. The District Commissioner, Fort Hall (Mr. D. O. Brumage) told us of a case in which three women had been convicted by a Native Tribunal for non-payment of tax: he said "They were quite buxom looking women and had paid regularly in the past, but said that they had absolutely nothing at all. The people who had come with them told me that these three women were quite well off. The women then looked at me and said: 'If you can find any property belonging to us we will gladly pay the tax.' I was rather interested, so I issued warrants of attachment and told the women that I was quite prepared to exempt them and that if there was any difficulty they were to come back and report to me, but that I was going to accept their challenge. I heard later that the warrants in each case were executed and that the tax was paid. I also heard later that directly after this one of these women went to the Tribunal and paid Sh. 60 in fees for the purpose of instituting a big civil case."

A much more serious case was reported to Mr. Stovold, of the Church Missionary Society, Kaloleni, and by him to the Commission in the following form—

"Kunono's brother, Mwangala, who is an old man, and has been exempted by the District Commissioner from *kodi* for some time, was seized one night by seven *askaris* and three police from Kilifi, and taken to the village of Mzee Leje. After three days in this village, where he was beaten and ill-treated, together with his sons, he was marched off with them towards Kilifi. They were all made to run and sing on the way, and any one who refused was beaten. This proved too much for Mwangala, who collapsed and died at Ng'ombeni on the way. He was a man of good health.

(The Mombasa police are investigating into his death)."

As the death of this man was under investigation by the Superintendent of Police, Mombasa, we did not take evidence in the case, but an inquest was subsequently held by the Resident Magistrate, Mombasa (Inquest No. 2 of 1936), and a summary of the finding is attached as Appendix D.

It appeared that Mwangala had been arrested not, as the complaint seems to imply, because his tax was unpaid, but in connection with an assault upon a Tribal Retainer from whose custody certain prisoners, including a son of Mwangala, had been rescued.

## CHAPTER IV.

### DIFFERENT TYPES OF ABUSE.

14. Turning now to the different types of abuse complained of, the gravest is, of course, *physical ill-treatment* for which there can be no kind of justification. From the evidence which we heard, this form of abuse would appear to be commonest in the Embu District, or, rather, in that portion of it from which the complaints came. According to the District Commissioner there has been of recent years something like a campaign of passive resistance to the payment of tax in this District, and there can be but little doubt that a Headman must feel that his reputation for efficiency, to some extent, depends upon the ease and promptitude with which the tax from his location is collected; at the same time he, and still more his retainers, will naturally be annoyed at the extra trouble caused to them by the recalcitrant, and to them the infliction of some sort of physical pain, whether by a blow or by whipping with nettles, is the obvious way of expressing their annoyance and of bringing pressure to bear upon the person who has caused it, whether the whipping is inflicted upon him or upon his wife, or some member of his family. As one Headman said to us "You have to be cruel to people to get money". It is, however, only right to say that, whatever may have been usual in the past, Headmen seem to realize that any form of ill-treatment will not be tolerated, and whenever such a case has been proved the offender has been severely dealt with. It is regrettable, but not, perhaps, very surprising, that where ill-treatment has been inflicted it has been, as a rule, upon women or old men who are least able to resist.

15. *Arrest*.—There may be some confusion in the minds of those who speak of natives having been "arrested" by headmen for non-payment of tax. Under section 8 (p) of the Native Authority Ordinance (Cap. 129, Laws of Kenya) a headman may issue orders to the natives residing within the local limits of his jurisdiction requiring them to attend before a District Commissioner, or District Officer, or before himself, and such orders are naturally issued when the District Commissioner or District Officer is visiting the locality for the purpose of tax collection. Strictly, all that the headman is entitled to do is to direct the person to attend, but in practice, particularly in the case of defaulters and when the period of collection is drawing to an end, the headman's retainer conceives it to be his duty to bring the defaulters before the officer and actually does so, probably in most cases

without the actual use of force, the person, however unwillingly, submitting to what is, in the eyes of the law, an arrest. If the defaulter is not to be found his wife is sometimes so arrested in order that she may explain to the officer where he is. Arrest in this sense, though not legally justifiable, sometimes does not involve any great hardship and cannot be regarded as a very serious abuse. But there is the sense in which arrest is spoken of where the wife of a defaulter, who is believed to be keeping out of the way, is taken and actually held as a hostage by the headman until he appears and redeems her by paying his tax, or where the actual taxpayer, in these cases usually a woman, is kept at the headman's village and perhaps made to work for him, or when a woman is taken away at night. The evidence is that these practices, which are wholly indefensible, were not uncommon in the past, but in recent years have been specifically forbidden and are now less common.

16. *Seizure of Stock.*—Save in execution of a judgment of a court, distraint upon property is illegal, but there can be no doubt that it is not uncommon for a few head of stock to be seized by the headman's retainers and brought to his village, or to the Native Tribunal, sometimes with the actual defaulter but, probably, oftener when he cannot be found. In the latter case it would seem that the stock are simply held in pawn; where the defaulter is present and cannot pay his tax the stock are sometimes sold without a judgment, and it is suggested that, as is not unlikely, they are often bought cheaply by the headman or some friend of his. The excuse offered is, that if the stock were not seized until after the defaulter had been duly summoned before some tribunal and a distress warrant issued, they would never be found at all. So far as regards the question of price it is the common experience of courts everywhere that a forced sale means only too often a sale at an under value, and it is hard to see how the law can satisfactorily provide who is, or is not, to bid at such a sale. It would seem that the most that can be done is to endeavour to ensure that the sale shall be, so far as possible, a public one, and advertised in whatever manner may be practicable. We must add, however, that the forced sale of stock is really the penalty of procrastination, because the owner could and should, in the great majority of cases, have sold the stock himself without waiting for it to be seized.

17. *Bribes or presents to headmen.*—It has not been alleged that headmen are bribed in order to procure exemption

for persons not entitled to it; the charge is that a present must be given in order to secure a recommendation for exemption from the headman, upon whom the District Commissioner must inevitably depend for information as to the means of the applicant for exemption. It must be regretfully admitted that this is a malpractice which it is very difficult to suppress, for the simple reason that it is almost impossible to prove it; in the vast majority of cases one person asserts and the other denies, and the matter must end in doubt. Usually the sums alleged to have been given were not large, and it must be remembered that, while in some cases the "present" may be said to have been extorted, in many the complainant admitted that it had been freely offered. To the native it is a natural thing to make a present to, or, as it was put to us, "to gladden the heart of" a person who is in a position to do one a favour or assist one, even though one is actually entitled to that assistance. With the spread of education and the growth of character, this practice may be expected to die out here, as it has elsewhere.

18. *Payment of tax due by other members of the family.*

It seems to be not unusual that tax is demanded from an individual, and its payment enforced by arrest or seizure of stock, when the tax is actually due by an absent member of the family who, however, has a hut in the District in question. In former times the fairness of this practice seems not to have been questioned, fewer individuals went afield in search of work, and property, with the consequent liability to tax, was regarded as belonging not to the individual, but to the family as a whole. Indeed the practice was to demand tax only from the heads of families, each being responsible in respect of the number of huts occupied by the family. It is obvious that headmen still continue so to regard the position, ignoring the altered circumstances and the growth of the idea of individual, as opposed to communal, ownership. To some extent their view is not unjustifiable. Apart from what he may own himself, the absent member of the family has, or will have, a share in the family property. If he is a man, the bride-price when he marries will probably be paid out of it, and while he is away those who remain at home have each a larger share in it or its enjoyment. But there can be no doubt that this liability is increasingly felt as a hardship, and the practice of demanding tax due by an absentee from his father or brother should cease.

Incidentally, this would obviate the difficulty that sometimes arises in the case of double payments. Owing to the

fact that a man may have on his registration certificate a name different from that by which he appears in the tax register of his District, it is difficult and often impossible, if he pays his own tax, say in Nairobi or wherever he is working, and his tax is also paid by some relative at his home, to ascertain to whom the payment received from outside is to be credited.

19. *Failure to obtain receipts for tax paid to headmen.*—Strictly, tax ought only to be paid to a Government officer or to those headmen who, in some Districts, are authorized to collect tax and issue receipts, but whether from laziness or inability to go to the collecting centre, people often hand their tax to the headman to pay it for them. It is worthy of note that among the cases investigated by us, there was only one in which the tax had not been duly paid in, and in that case a refund had been made. The difficulty is that, as neither the headman nor the payer can read, it is hard to deliver to each taxpayer, if he asks for it, his proper receipt. This abuse, if it is worthy to be so described, is one for which taxpayers have only themselves to blame. The District Commissioner, Fort Hall, informed us that he had issued instructions that, in order to avoid mistakes, tax should only be accepted either from the person liable or from some member of his family. We consider that this practice should be generally adopted.

20. We have already alluded to the relatively small number of complaints that have been preferred to the Commission, and it would appear that no great number of complaints, and these not always of a particularly serious character, have been made to Missionaries. Mr. Beecher, who has been in the Fort Hall District since 1930, said that from time to time he had heard of things such as seizures of stock and exaction of tax from widows and poor people; Mr. Bewes had never heard any rumours of abuses until recently; Archdeacon Owen was "entirely ignorant of the practice of seizing women until this Commission was appointed"; Mr. Stovold, of Kaloleni, said that pupils at the school had complained from time to time, usually of some female relative having been seized; Father Rowlands, of Kibuye, in nine years had "never heard any real complaint in regard to the collection of tax". Only Miss Deed, of Kaloleni, said that "the molesting of women has been going on for many years in connection with tax, or forced labour, or something".

The fact that few or no complaints seem to have been made, even to the persons who would naturally be regarded

as most likely to receive them sympathetically, might be regarded as showing that abuses were not very rife or very grave, or, at all events, were not so regarded by the victims, but other possible explanations have been given. The first, and the most serious, is that natives are afraid to complain against a headman, or his retainers, owing to apprehension of victimization by the persons complained of. There is little real evidence to support this contention, and all the District Commissioners who have given evidence have said that complaints against headmen regarding other matters are far from infrequent, but, human nature being what it is, this possibility cannot be dismissed as being entirely unfounded. If this fear exists—and we are far from suggesting that it does not—it is hard to suggest a remedy; some change in the manner of appointment and remuneration of headmen and their retainers, a subject to which we shall advert later, may effect something, but in the main, one must depend upon the growth of character and courage in the people themselves.

Allied to the foregoing is the suggestion, in which we think that there is considerable substance, that there is a reluctance on the part of natives to lay before a District Commissioner any complaint in connection with the payment of tax, although they would have no hesitation in complaining of hardship or ill-treatment in regard to any other matter. This is, no doubt, due to the fact that in their eyes the District Commissioner and District Officer seem to be mainly concerned with the collection of taxes and so would be assumed to be unsympathetic to any tale of hardship arising out of non-payment.

Lastly, it has been suggested that those who actually want to complain are turned away by the clerk, or interpreter, or *askari*. Miss Deed asserted that it was a common complaint of natives that they could not get past the clerk or interpreter. No single case in which this had happened was brought to our notice and all the officials who gave evidence assured us, not, indeed, that it was absolutely impossible, but that they took every reasonable precaution to render themselves readily accessible to suitors. Where an officer does not speak the language spoken by the natives of his District, and they cannot speak Swahili, it is always possible that a dishonest interpreter may misrepresent what an applicant says, but we cannot believe that clerks and interpreters are generally in league with the headmen and their retainers, or that a person who has a genuine cause of complaint cannot, with a little persistence, succeed in getting it to the ears of authority.



21. A study of the evidence shows that nearly all complaints of abuse and ill-treatment have been made against the unpaid retainers of the headmen. The salaries of the headmen are generally admitted to be inadequate for the duties they have to perform, and out of these they cannot be expected to pay those whom they must employ to assist them in connection with tax collection. In the circumstances it is not surprising that there should be cases of petty bribery and extortion and other abuses.

22. There is another matter to which we desire to refer, and that is the attitude of officers of the Administration to complaints of abuses or hardships brought to their notice by members of the various Missionary Societies or other private individuals.

Mr. Beecher of the Church Missionary Society, Kahuhia, and Miss Deed, late of the Church Missionary Society, Kaloani, have said that their impression was that such action on their part would be actively resented. Mr. Beecher said "They (i.e. complaints) have come to my notice from time to time, and, without casting any reflection on the Administration, I must say it has been rather borne in on me that it was not my duty to interfere in these matters," and, in revising the record of his evidence, he added a note: "After giving my evidence I was informed by the District Commissioner that, in coming to this conclusion, I was under a misapprehension. I maintain that what I said was strictly true. When I took charge at Kahuhia in 1930, there was on the files a letter (171/32/23 of 12.5.1923) which said, *inter alia*, 'I desire to invite your consideration to the prevailing practice of giving letters to natives who wish to lay complaints before the District Officers. Such letters must, of necessity, give only one aspect of the alleged grievance . . . As a matter of fact . . . they are of no value whatsoever, and merely tend to waste the time of those who write and of those who receive them . . . If for any exceptional reason a letter is necessary it should only take the form of a road pass'. Since Mr. Brumage took charge of Fort Hall one of his own junior officers has told me that he discourages the practice of getting letters, by making those who bring them, irrespective of the time at which they arrived at his office, wait until the last. It was not until Mr. Brumage told me that he always welcomed letters from missionaries accompanying complainants that I saw any reason or encouragement to change the procedure which my predecessors and I had adopted."

Miss Deed said, "I do not generally report these cases because I have felt that complaints are not welcome and that we are rather a nuisance."

On the other hand, whatever may have been the attitude of the Administration in the past, we are certain that District Commissioners, so far from resenting such action, would be grateful for it, though, naturally, they would recognize that the information conveyed to them in all good faith, was not necessarily true and, in any event, represented only one side of the story. Mr. Brumage said, "From my personal experience I know that in mixed districts I have had to request employers not to send in complainants in Civil Cases with long letters on the subject of the case, because it is only a waste of time as the whole case has to be gone into . . . I should certainly not adopt this attitude in the case of a complaint of criminal ill-treatment. I can say without any doubt that I should be only too grateful and pleased to investigate at once any complaints or allegations of ill-treatment made against Government employees which were brought by a Missionary. I am sure I can say the same for my brother officers and predecessors here. I know that in every case in which a Missionary has written to me in such matters I have been only too pleased to act on his information. I feel that Mr. Beecher's predecessor at Kahuhia was doubtless requested by a former District Commissioner not to interfere in Civil disputes."

Here, possibly, is the misunderstanding. It is common knowledge that a native who has a case coming before a Court, will often try to get his employer, or anyone who is interested in him, to write a letter to the Judge or Magistrate, and if the letter is written, however innocuous its contents, the harm has been done, because the litigant and his friends will be for ever convinced that the Court was to some extent swayed by it and not, as the law requires, solely by the evidence given. Wholly different considerations arise when the information conveyed is an allegation that some person has been guilty of ill-treatment or some other abuse; it is then the duty of anyone who has reason to believe that the charge is not baseless to bring it to the notice of authority for investigation.

## CHAPTER V.

## NON-NATIVE GRADUATED POLL TAX.

23. The evidence received by us under this head was restricted, with one exception, to the Indian, Goan and Arab communities. The one complaint made by a European did not appear to us to come within our terms of reference.

24. From the evidence received it appears that complaints in regard to Non-Native Poll Tax relate not so much to abuse or hardship in collection, as to the difficulties in which the poorer classes of Indians and Arabs are involved as a result of their inability to pay the amount due. We associate ourselves with an expression of opinion by various witnesses that the possibility of improving the machinery for exemption in the case of Indians, Goans and Arabs by an extension of the principle of advisory Committees, should be considered. We have it in evidence from the Central Revenue Officer that an unpaid Committee to advise in regard to the circumstances of applicants for exemption has been tried this year at Nairobi with some success, while at Mombasa the revenue officer has worked through the various Associations.

## CHAPTER VI.

## RECOMMENDATIONS

25. As a result of our investigations we would make the following recommendations.

*Non-Native Graduated Poll Tax.*

**RECOMMENDATION I.**—We recommend that it would be desirable to extend the system of unpaid advisory Committees appointed by Government to advise the collecting officer in regard to the circumstances of Indian, Goan and Arab applicants for exemption.

*Native Hut and Poll Tax.*

**RECOMMENDATION II.**—We recommend the substitution of a Poll Tax upon all males of taxable age in place of the present Hut and Poll Tax.

We have it in evidence from Administrative Officers, Missionaries, and natives, that the present system of Hut and Poll Tax is not now such an equitable system of taxation as it was in the past, owing to the individualistic payment which is now prevalent instead of the family payments of the past.

Sons do not now help their families to pay as they used to and the result is that a man is often unable to pay taxes for his wives, and there is a very high proportion of exemptions on this account. Some years ago there were very few exemptions on account of women who occupied additional huts, as the family all contributed, but now the proportion is so high as to make the system of little use. We were informed that a Poll Tax would be almost universally appreciated, and we are of the opinion that investigation should be made with a view to substituting a universal Poll Tax for the present Hut and Poll Tax.

Poll Tax is not an ideal form of taxation as rich and poor pay alike, but it would eliminate the women and so, to a large extent, do away with some of the malpractices of which we have heard. An over-zealous headman might still try to keep in unlawful restraint a woman whose husband had absconded to evade payment, but there would be less inducement to do so as it would be comparatively easy for a man to find one tax, and there would be no question of exemption of old women and the consequent petty bribery to obtain the headman's assistance.

**RECOMMENDATION III.**—We recommend the collection of tax by Revenue Officers appointed exclusively for that purpose.

Most of the District Commissioners who have given evidence would welcome the appointment of Revenue Officers whose sole duty would be the collection of tax. The chief advantage that we foresee is that Administrative Officers, so much of whose time is now occupied in the work of tax collection, would be freed for the performance of their other duties. Also, as things are at present, they must inevitably be regarded with a measure of the distrust and hostility which is almost universally felt towards the tax gatherer: we have already alluded to the possibility that the victims of abuse arising out of tax collection may think it useless to complain to the Administrative Officer.

Again, a Revenue Officer, permanently on tour through his area would probably become better informed as to the means of individual taxpayers than is possible for an Administrative Officer and so would have to depend less upon information derived from the headman. At the same time, it should be pointed out that in some Districts where selected headmen have been authorized to collect tax the system appears to be working well and giving satisfaction, particularly because the

headman is always on the spot and tax can be paid to him at any time when the money is available. Possibly the two systems, of collection by Revenue Officers and by selected headmen under their supervision, might be combined.

**RECOMMENDATION IV.**—We recommend that the salaries of Headmen be reviewed and that each Headman be supplied with a sufficient number of Tribal Police appointed and paid by the Government, and uniformed.

It is suggested that Government should investigate the cost of tax collection and increase the native staff, or the remuneration paid to such staff, where necessary. At the present time headmen are compelled to rely largely for assistance in the performance of their duties on casual retainers who are usually unpaid, one of whom naively told us he was willing to work for nothing from a sense of public duty and a desire to assist the Government.

While it is admitted that the payment of subordinate officials is not an insurance against bribery, it is obvious that the employment of a number of unpaid retainers is almost an invitation to them to seek illegitimate remuneration for themselves. Measures should be taken to ensure, so far as possible, that any assumption of authority by other than authorized persons, is dealt with severely.

**RECOMMENDATION V.**—We recommend—

- (a) that consideration be given to a suggestion made to us by the District Commissioner, Fort Hall, that District Officers should, when dealing with the claims of applicants for exemption, appoint from day to day an informal committee from amongst those present to advise as to the means of each applicant, instead of relying upon the headman or some individual;
- (b) that Exemption Certificates should be issued to persons who have been permanently exempted.

We have already referred to the abuse of headmen exacting or accepting presents for their good offices in recommending individuals for exemption, and to the difficulty of preventing this occurring. The first part of the Recommendation above would appear to us to be a possible means of checking such abuses. Complaints have also been made to us that persons who have been exempted permanently are again called upon to pay in the ensuing year. In most, if not in all, of these cases, we think that the complaints are due to a misunderstanding, the person thinking that the census

ticket, bearing his number in the census register, is a demand for payment. We consider that the issue of exemption certificates to persons who have been permanently exempted should prevent such misunderstandings.

**RECOMMENDATION VI.**—We recommend that the principle of establishing proper detention camps under adequate supervision on the roads, with a view to the employment of detainees upon road work, be extended.

At present the normal penalty for non-payment of Hut and Poll Tax is, in default of distress, a sentence of three months' detention. The evidence of all District Commissioners is that this is regarded as an illusory penalty, and that sentences of imprisonment with hard labour would be very much more effective, and would be justified in the case of many able-bodied and well-dressed young men who prefer detention to the trouble of working. Such work as can be provided for the detainees is usually light and of a more or less unproductive nature. Our recommendation is designed with the object of ensuring that the work on which detainees are employed constitutes a more real penalty than is usually the case at present, while being, at the same time, of some service to the community. In the case of obviously recalcitrant tax defaulters, we do not consider that a sentence of imprisonment with hard labour, in accordance with the existing law, would be unjustified.

26. In concluding our Report we desire to express our gratitude to the Secretary to the Commission, Mr. R. P. Platt, whose services have been of the greatest assistance to us.

We have the honour to be,  
Your Excellency's most obedient servants,

A. H. WEBB (*Chairman*),  
R. W. HEMSTED,  
H. R. MONTGOMERY,  
CONWAY HARVEY,  
GEO. BURNS,  
J. B. PANDYA.

R. P. PLATT, *Secretary*.  
21st August, 1936.

## NOTE BY CHIEF NATIVE COMMISSIONER.

I have signed this Report subject to the following reservation regarding Recommendation II (the substitution of a Poll Tax in place of the present Hut and Poll Tax).

I agree that the imposition of a Poll Tax would make collection very much easier and that some of the abuses and irregularities we have found to exist might be obviated if the hut (and therefore the woman) could be eliminated in regard to taxation. But since the Commission heard the evidence referred to in the Report I have been considering the question from a slightly different point of view as a member of a departmental committee appointed to inquire into the system of native taxation generally.

In that Committee we have found many reasons why a universal poll tax would be inequitable; also we could not recommend raising the basic rate of the tax and were unable to agree that at the present time Government could afford to lose revenue to the extent of, possibly, £100,000 without diminution of Native Services which, to say the least, would be regrettable.

After full consideration I am now of the opinion that the present system of Native Hut and Poll Tax should not be altered and I therefore have to disagree with Recommendation II.

H. R. MONTGOMERY,  
*Chief Native Commissioner.*

## APPENDIX A.

F. ADM. 9/10/2/2.1.

THE SECRETARIAT,  
NAIROBI.

18th February, 1936.

Sir,

I have the honour to refer to the following extract from your speech in the Legislative Council on the 9th January, 1936, as reported in the uncorrected proof of *Hansard* for that date:—

"I do not wish to add much to what my hon. friend has said, except that the law as it stands to-day does not exempt the people who are not totally unemployed. I know that the majority of Indians are getting an average, I am talking about the working class, of about Sh. 50 a month, and that they have got to pay not less than Sh. 50 a year in non-native poll tax and education cess to the Government. That is practically bringing them on the same level as the native of the country, who also pays one-twelfth of his yearly income to Government. The exemption is only given to those people who are totally unemployed and destitute and if they have no means whatsoever. No man is exempt from the tax whose income is less than £100 a year, and even a man who is getting only Sh. 40 a month is not entitled to be exempt.

I have mentioned in this House before, a reference to reports of the Medical Officer of Health, Nairobi, in one of which he said a large proportion of the mortality among Indian infants is due to the ill-fed mothers of this town. I think if this committee which is asked for is appointed they will be doing a great service to the community if they made it their job to make investigations and find out the number of people who have actually died in this town for want of medical assistance of any sort, for want of food, and for fear of exposing their poverty to the authorities. The Municipality of this town, for only about three months, gave a sort of relief to this very hard hit class, but that was not the end of it. Conditions were somewhat relieved with the building of the Supreme Court and other minor works, but we have come back to the same destitute conditions prevailing among the poor class. These people are very hard hit, and the least Government could do would be to appoint a committee to go into the whole thing.

If I were sitting on the other side of the House and knew that my salary with which I bought my bread came from a class who had to take the bread out of the mouths of their children and ill-fed wives, I should have serious qualms of conscience in accepting such salary, and I think the least that can be done, Your Excellency, is to have a committee appointed."

2. In this connection I am directed by the Chairman of the Taxation Collection Commission to ask you to furnish particulars of any individual instances of hardship in the collection of Non-Native Graduated Poll Tax to which you were referring in your speech, and also, details of any other allegations of hardship that may have come to your notice.

In order to facilitate the work of the Commission it is desirable that in each instance the name and address of the person concerned be supplied, together with a brief account of the case.

I have the honour to be,  
Sir,  
Your obedient servant,  
R. P. PLATT,  
*Secretary.*

The Hon. Shamsud-Deen,  
P.O. Box 290, Nairobi.

THE SECRETARIAT,  
NAIROBI.

F. ADM. 9/10/2/2/1.

18th February, 1936.

Sir,

I am directed by the Chairman of the Taxation Collection Commission to refer to your speech in the Legislative Council on the 20th December, 1935, as reported in the uncorrected proof of *Hansard* for that date. I am to inquire whether any instances of hardship or allegations of hardships in the collection of Non-Native Graduated Poll Tax have come to

your notice, and if so, to request you to furnish particulars. In the event of no complaints having come to your notice, I am to request that you will reply accordingly.

I have the honour to be,  
Sir,  
Your obedient servant,  
R. P. PLATT,  
*Secretary.*

Dr. The Hon. A. C. L. de Sousa,  
P.O. Box 354, Nairobi.

THE SECRETARIAT,  
NAIROBI.

F. ADM. 9/10/2/2/2.

18th February, 1936.

Sir,

I have the honour to refer to the following extract from your speech in the Legislative Council on the 28th November, 1935, as reported in Legislative Council Debates, Uncorrected Proof, November 27th, 28th and 29th, 1935. —

"I shall now refer to the Revenue side. I take first Item 11, Native Hut and Poll Tax, under II, Licences, Duties, Taxes, etc. There is a general feeling among many persons who know something about native reserves that in the collection of this tax undue harshness is sometimes used. There are many instances, it is stated, of cases where the whole live stock of a native has been sold in order to collect the tax. Only last week or, as a matter of fact, yesterday, we passed an amendment to the Civil Procedure Ordinance to give relief to the agricultural community by raising the limit of exemption from attachments on live stock and agricultural implements to the value of £500. Have we considered also the interests of the native community? I think in fairness also they should be considered, and in any event their live stock up to a certain minimum should not be sold in order to collect this tax. Government should always see that they at least retain a few cattle which will be necessary for them to make their living."



2. In this connection I am directed by the Chairman of the Taxation Collection Commission to inquire whether any concrete instances of abuses or allegations of abuses in the collection of Native Hut and Poll Tax have come to your notice, and if so to request you to furnish particulars.

3. In order to facilitate examination of complaints it is desirable that the particulars should be submitted in the form attached, a separate sheet being used for each case. In the event of no complaints having come to your notice, I am to request that you will reply accordingly.

I have the honour to be,

Sir,

Your obedient servant,

R. P. PLATT,

Secretary.

A. B. Patel, Esq.,

P. O. Box 274, Mombasa.

P. O. Box 354,

NAIROBI

24th February, 1936.

Secretary

Taxation Collection Commission,

Secretariat, Nairobi.

Sir,

In reply to your letter No. P. ADM. 9/10/2/2/1 of the 18th instant, I beg to say that I have not been favoured with the uncorrected proofs of *Hansard* containing a record of my speech in Legislative Council on the 20th December, 1935. I have, however, seen a typed recording of the same speech and nowhere in it did I see allegations or instances of hardships in the collection of Non-Native Graduated Poll Tax.

In this connection I wish to refer you to a letter appearing over my name in the *East African Standard* of the 17th February, 1936, in which I refuted the statement made in the same paper in the course of its editorial of the 14th of the same month and which was as follows:—

"The extension of the terms of reference invites a reminder of the fact, of which Government was apparently mindful, that allegations of hardship in collection

from Asians were made by the Hon. Dr. de Sousa, an elected representative of the Indian community, in the Legislature a few months ago."

I append hereto a copy of the said letter for your easy reference. This will obviate the necessity of my reply to the latter part of your letter.

I shall be grateful if you will inform the Chairman and members of the Commission that in the course of the last session of the Legislative Council no allegations of hardships in the collection of the Non-Native Graduated Poll Tax were made by any of the Elected Members, European, Indian or Arab, and that the issue before the House was the method of the collection of native taxes and no other.

I have the honour to be,

Sir,

Your obedient servant,

A. C. L. DE SOUSA, M.L.C.

From the *East African Standard*, dated the 17th February, 1936.

THE TAXATION INQUIRY.

To the Editor, *East African Standard*.

Sir,

I should be extremely sorry if the impression were carried that, in the last session of the Legislative Council I had made allegations of hardships in the collection of the Non-Native Poll Tax. The whole of my case during that session was against the tax itself and not against its collection, but I am bound to agree with you that the enlarged terms of reference by Government might be useful in the examination of "the wider aspect of the machinery for granting relief" to non-natives.

In enlarging the terms of reference, thus rendering the inquiry an examination into the collection of taxes generally and not of native taxes, as was asked by the member representing native interests, Government do not appear to have been moved by any allegations made by me. This is borne out by the appointment to the Commission of an "Indian Member" who is not myself. It is the practice to always include an Indian on such Commissions. Whilst in the case of allegations in the collection of native taxes, Canon Burns, who made them, finds a place on the Commission, and rightly

I might add that the Central Revenue Officer has always been sympathetic to the several cases of hardship among Asians which I have had the opportunity of bringing to his notice during the last two years.

Yours, etc.,

A. C. L. DE SOUSA.

Nairobi.

15th February, 1936.

P. O. Box 274,

MOMBASA,

7th March, 1936.

To The Secretary

Taxation Collection Commission,

The Secretariat, Nairobi.

Sir,

I have the honour to acknowledge the receipt of your letter No. S.F. ADM. 9/10/2/2/2 of the 18th February last.

As you will observe from the extract of my speech referred to in your letter I did not make the statement on account of my personal knowledge but on account of the information received from those who knew something about native reserves. I had no reason to doubt the statements of my informants but at no time had I occasion to discuss specific instances with any of them.

I am unable therefore to submit to you any specific complaints.

I have the honour to be,

Sir,

Your obedient servant,

A. B. PATEL.

APPENDIX B.

Ref. No. S.F. ADM. 9/10/2/2/2.

THE SECRETARIAT,

NAIROBI,

15th February, 1936.

Sir,

I have the honour to refer to Government Notice No. 99 published in the Official Gazette of 11th February, 1936, appointing a Commission of Inquiry under the Chairmanship of His Honour Mr. Justice Webb, K.C., with the following terms of reference:—

To inquire into and report upon allegations of abuse and hardships in the collection of Non-Native Graduated Poll Tax and of Native Hut and Poll Tax.

2. I am directed by the Chairman of the Commission to request that you will furnish particulars of any abuses, or allegations of abuses in the collection of Native Hut and Poll Tax that have come to your notice, together with details of action taken.

In order to facilitate examination of complaints it is desirable that the particulars should be submitted in the form attached\*, a separate sheet being used for each case.

3. In the event of no complaints having come to your notice, I am to request that you will reply accordingly.

4. Copies of this letter are being sent to all Provincial Commissioners with copies for District Commissioners, and to all Missionary Societies.

Replies should be addressed as early as possible to:—

The Secretary,

Taxation Collection Commission,

P.O. Box 621, Nairobi.

I have the honour to be,

Sir,

Your obedient servant,

R. P. PLATT,

Secretary.

To:—

All Provincial Commissioners,

All Officers in Charge—with copies for District Commissioners.

All Missionary Societies.

\*Attached Form—

## NATIVE HUT AND POLL TAX.

District .....

Name of complainant or injured party.....

Sex .....

of Chief ..... Location .....

Name of person or persons complained of .....

of Chief ..... Location .....

Names of witnesses :

Approximate date of incident .....

Brief account of incident and action taken .....

Signature.

ANALYSIS OF REPLIES RECEIVED FROM THE  
ADMINISTRATION.

## Complaints :—

District Commissioner, Kilifi.  
 District Commissioner, Embu.  
 District Commissioner, Meru.  
 District Commissioner, Machakos.  
 District Commissioner, Nakuru.  
 District Commissioner, South Kavirondo.  
 District Officer, Malindi.  
 District Commissioner, Kericho.  
 District Commissioner, Central Kavirondo.  
 District Commissioner, North Kavirondo.  
 District Commissioner, Kitui.  
 District Commissioner, Fort Hall.  
 District Commissioner, Mombasa (Kilifi).  
 District Commissioner, Voi.

## No Complaints :—

District Commissioner, North Nyeri.  
 District Commissioner, Mombasa (Mombasa).  
 District Commissioner, Kwale.  
 District Commissioner, Thika.  
 District Commissioner, Kiambu.  
 District Commissioner, South Nyeri.  
 District Commissioner, Narok.  
 District Commissioner, Kisumu-Londiani.  
 District Commissioner, Nandi.  
 District Commissioner, Trans Nzoia.  
 District Commissioner, Uasin Gishu.  
 District Commissioner, Laikipia-Samburu.  
 District Commissioner, Elgeyo.  
 District Commissioner, Baringo.  
 District Commissioner, Tana River.  
 District Commissioner, Kajado.  
 District Commissioner, Lodwar.  
 Officer in Charge, N.F. District.

ANALYSIS OF REPLIES RECEIVED FROM  
MISSIONARY SOCIETIES.

*Complaints* :—

- Church Missionary Society, Kahuhia.  
Church Missionary Society, Weithaga.  
Church Missionary Society, Kabare.  
Church Missionary Society, Ng'iya.  
Church of Scotland Mission, Tumutumu.  
Africa Inland Mission, Kericho.  
Friends' Africa Mission, Kaimoisi (No specific allegations made).  
Roman Catholic Mission, Nyeri (No specific allegations made).  
Seventh Day Adventist Mission, Nakuru (forwarding complaints from Kisii).  
Church Missionary Society, Kaloleni.  
Church Missionary Society, Dabida, Voi.

*No Complaints* :—

- Africa Inland Mission, Kiyabe.  
Church Missionary Society, Kabete.  
Church Missionary Society, Embu.  
Bible Churchmen's Missionary Society, Marsabit.  
Bible Churchmen's Missionary Society, Samburu.  
Bible Churchmen's Missionary Society, Kitale.  
Bible Churchmen's Missionary Society, Kacheliba.  
Church of Scotland Mission, Chogoria.  
Methodist Mission, Meru.  
Methodist Mission, Mazaras.  
Roman Catholic Mission, Mombasa.  
Roman Catholic Mission, Kiambu.  
Roman Catholic Mission, Yala.  
Roman Catholic Mission, Kakamega.  
Seventh Day Adventist Mission, Nairobi.  
Seventh Day Adventist Mission, Mombasa.  
Salvation Army, Mombasa.  
Gospel Missionary Society, Kambui.  
Church of God Mission, Bunyore.  
Nyangeri Mission, Kisumu.  
Rev. Father Witte, Waa School, Mombasa.

APPENDIX C.  
THE AFRO-ASIAN ASSOCIATION.

MOMBASA,

26th March, 1936.

His Honour Mr. Justice Webb,

Chairman,

The Taxation Inquiry Commission,  
Mombasa.

Your Honour,

We, the undersigned, on behalf of the Afro-Asian Association, crave leave to address you with the following grievances which we hope that same will be redressed :—

1. That this Association had long felt the difficulties and hardships experienced by the taxpayers both natives and non-natives and was all the while awaiting for an opportunity to present the case before the Government.

2. We are only giving a few of the many examples of hardships, as we do not want to attempt to deal with this at length and should your Commission desire, we are prepared to come before you to make a proper amplification of the case.

3. To commence with, we would first take up the question of Non-Native Graduated Poll Tax. This tax is termed "graduated" but we are compelled to confess that this term is wrong and no one amongst the poor people is considered with regard financial state. It is obvious that poor people are suffering great hardship. Those who are well-to-do are being taxed according to the term "graduated" but those who are not so are totally disregarded.

4. So oftentimes the taxpayers who are in bad financial state have approached those who are responsible in collecting the taxes with a view of being exempted from or at least being treated leniently but very little or no attention is being paid to them. It cannot be denied that this is in no way the fault of the officers collecting the taxes because they do not know that exact state of the people while personal grudges against the people by the minor officials are playing a great part, to force the poor people to pay the taxes beyond their capabilities.

5. Moreover, there would be a person who is working for a very little pay of about Sh. 25 to Sh. 70 per month while this man has behind him his dependents—say about three children, a wife (and perhaps aged mother and father) who

are all depending upon him, how could it be possible for this man to pay Sh. 30 in a year while he has no other income other than the salary. If he is forced he will undoubtedly pay, and, if he will not pay he will be committed to jail. Now it should be borne in mind what great injustice and hardship is inflicted upon this man—

- (a) if he pays the tax he must incur the debt;
- (b) how greatly will his dependents suffer if he goes to jail;
- (c) if he goes to jail he might lose his job after release, and it will take some good time in which to find another job.

If this is the position of the man in the employment, we decide to leave the question of non-employed and who do not know what to do to earn their living untouched. We have only to appeal that such persons should have the mercy of the Government.

6. Similarly the question of Native Hut and Poll Tax payers is one which ought to receive consideration as these poor people are being unduly oppressed. It is universally known that the natives are subjected not to fat salaries when they are employed. A native would be employed to work for one complete calendar month at a pay of Sh. 10 to Sh. 15. Is it not a sort of oppression when the Government is expecting to get a tax from this native? How can this native balance anything out of his pay to pay the tax in so far as what he gets is inadequate for his living and family?

7. The question of native women is one of vital importance. Greater and more hardship is imposed on these poor women, simply because they own a hut while the secret of how the hut has become the property of the woman is entirely overlooked. She may own a hut but there are compulsory obligations to be met by her—

- (a) a land rent of about Sh. 8 per month;
- (b) interest on the money which she has borrowed to build the hut.

If she pays not the ground rent, her hut will be attached and sold at a public auction and so is the case with (b).

8. It is a wrong impression to think that any person owning a house or *shamba* is able to pay the tax. This matter should be thoroughly investigated.

9. Finally, we request that the following points should receive the lenient consideration of the Commission, as they may lead to the solution of these perplexed grievances:—

- (1) No woman should be taxed.
- (2) Every one should pay the tax according to his own capability.
- (3) That a permanent body should be appointed by the Government consisting of all communities in every town to consider the case of individuals with a view to make recommendations to the Government for exemption from or remission of tax or alternatively every community should have its own body, which should be recognized by the Government.

We have the honour to be,

Your Honour's

Most obedient and humble servants,

ALI BIN MOHOMED,

*President.*

NAIDER MOHAMED,

*Hon. Secretary.*

*For and on behalf of the Afro-Asian Association.*

## APPENDIX D.

SUMMARY OF THE FINDING IN INQUEST NO. 2 OF 1936 IN THE  
COURT OF THE RESIDENT MAGISTRATE AT MOMBASA.

*Re: Mwangala s/o Gogo, of Kaloleni, deceased.*

The Resident Magistrate was unable, on the evidence, to state the cause of death with certainty, but found that the probable cause was shock and collapse resulting from strangulation of a hernia which had existed before the time of the deceased's arrest. The Magistrate thought it to be true that the deceased was rough-handled by the tribal police after arrest, but did not believe that there had been any organized beating, or that the deceased was beaten either on the way to the village of Mzee Leja or on the journey to Kilifi. There was evidence that the prisoners were told to sing, and that they were hurried along at a fast pace, but the Magistrate was not satisfied that they were made to run. The Magistrate was also satisfied that no report was made to anybody that the deceased was in pain either on the morning of January 3rd when the prisoners started for Kilifi, or on the following day.

In conclusion the Magistrate stated :-

"It is possible that deceased was given a punch in the region of his hernia on the night of 31st December, and that this caused the hernia to become inflamed, and it is possible that if the deceased had not been required to do a long journey on 3rd January the inflammation might have subsided. It is all a matter of conjecture, and I am unable to find, on the evidence that deceased's death was due to the effects of ill-treatment by the police or tribal police constables. And I do not believe that anybody, including the deceased himself, thought that deceased was not in a fit state to undertake the journey to Kilifi when he set out on the morning of 3rd January.

B. V. SHAW.

*Resident Magistrate.*

13th May, 1936.

subject.

3. It will be observed that the report is unanimous, subject to a note of reservation by the Chief Native Commissioner regarding the recommendation for the introduction of an universal poll tax in place of the present native hut and poll tax. With the exception of this recommendation, in regard to which I agree with the Chief Native Commissioner, I concur both in the conclusions reached as to the existence and extent of abuses in collection, and in the recommendations made with a view to improving the situation.

4. The Commissioners state, in paragraph 24 of the report, that complaints in regard to non-native graduated poll tax relate not so much to abuse or hardship in collection, as to the difficulties in which the poorer classes of Indians and Arabs are involved, as a result of their inability to pay the amount due. It is suggested that the machinery for exemption would be improved by an extension of the system of committees, to advise the collecting officer in regard to the circumstances of Indian, Coan and Arab applicants for exemption.

5. Non-native graduated poll tax has now been abolished by Ordinance No. XLIX of 1936, and in its place, a small poll tax, payable at the rate of Shs. 40/- and Shs. 30/- by Europeans and Asiatics respectively, and Shs. 20/- in the case of other non-natives, has been substituted, with effect from the 1st January, under the Non-Native Poll Tax Ordinance No. L of 1936. I have therefore deferred the issue of any instructions for the appointment of advisory committees pending the introduction of income tax, and the delegation to District Commissioners of the

(1) or 38, 21 1937

Governor's powers to remit Non-Native Poll tax.

6. Turning to Native Hut and Poll tax, the Commissioners express the opinion, in paragraph 13 of the report, that taking the evidence as a whole there can be no doubt that abuses in collection do occur, but it would appear that these abuses are, with a few exceptions, neither very prevalent, nor from the evidence available, very grave in character, having regard to the stage of civilisation of the people. It is pointed out that the growth of individualism has rendered collection more difficult, and headmen have had to resort to illegal and undesirable methods in order to obtain payment from those who should be in a position to meet their obligations without undue hardship or delay.

7. To these observations I would add that the economic depression has, during the past few years, tended to make a full collection of tax difficult. The recent general improvement in conditions has already been reflected in the increased return from Native Hut and Poll tax, and the corollary of the easier accumulation of money by the taxpayers, is the diminished necessity for the exercise of pressure by headmen in the collection of tax, with the attendant possibility of abuse.

8. At the same time it is evident that in some districts, there has been in recent years, what practically amounts to a state of passive resistance against tax. Reference to this aspect of the matter is made in paragraph 14 of the report.

9. I do not propose to comment upon the various types of abuse which were brought to the notice of the Commission, but I am glad to observe that the practice of holding women as hostages, which you will



recollect was the point particularly raised by Archdeacon Burns, is considered by the Commissioners to be now less common as a result of the measures which have been taken for its suppression. The practice is, of course, wholly indefensible and is specifically forbidden.

10. Five recommendations dealing with the collection of hut and poll tax have been made by the Commission, the first being, (Recommendation II), that an universal poll tax upon all males of taxable age should be introduced.

As I have mentioned above, I am not able to accept this proposal for the reasons stated in the note by the Chief Native Commissioner at page 18 of the report, which are elaborated in the report on Native taxation by the Treasurer and Chief Native Commissioner, copies of which were transmitted to you with Kenya third personal note No. D/Leg. Co. 20/3/7/51 of 22nd October 1936.

(5) on 38008/5/36

11. In Recommendation III, the Commissioners advise that tax should be collected by revenue officers especially appointed for the purpose. This step has, of course, also been suggested by Sir Alan Pim, and accepted in principle by Government. In this connection I would refer to my despatch No. 44 of the 16th January, in paragraph 12 (4) of which I informed you that provision had been included in the 1937 Estimates for the appointment of two such officers.

(10) on 38008/36

12. In Recommendation IV it is suggested that the salaries of headmen be reviewed, and that each headman be supplied with a sufficient number of Tribal Police appointed, paid and uniformed by Government.

The salaries of headmen are admittedly low in

some cases, but I consider that in the first instance, it would be preferable to investigate the possibility of amalgamating a number of the smaller locations in certain districts, with a view to increasing the salaries and responsibilities of the more efficient and progressive headmen. Action on these lines has already been taken in the Fort Hall and Ambu districts, whence numerous complaints were received by the Commission. I am satisfied that the reorganisation will make for better administration.

13. The Commissioners propose, in recommendation v, the institution of ad hoc committees to advise District Officers in regard to exemptions, and the issue of certificates of exemption to persons who have been exempted permanently. Steps are being taken to put into effect both of these proposals.

14. Government is advised, in recommendation vi, that the principle of establishing proper detention camps under adequate supervision on the roads, should be extended, with a view to the employment of detainees on road work.

This system is being gradually extended as opportunity offers, and five such camps were gazetted during 1936.

15. I enclose for your information, extracts from the records of the debates in the Legislative Council in November last, during which reference to this report was made on several occasions.

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

*Ad. Wade*

ACTING GOVERNOR.

EXTRACTS FROM RECORDS OF DEBATES IN LEGISLATIVE

COUNCIL - NOVEMBER 1936.

H.E. the Governor's Speech. 28/10/36.

Two important Reports will be laid on the table of Council this Session. One is the Report of the Commission appointed, under the chairmanship of Mr. Justice Webb, to inquire into allegations of abuse and hardships in the collection of Non-Native Poll Tax and Native Hut and Poll Tax. It is gratifying to note that, although there are many irregularities, abuses in the collection of the native tax are not as common or as serious as had been alleged. The other Report is a Report by the Treasurer and the Chief Native Commissioner on Native Taxation.

Major Treasurer. E. S. Grogan.

4th November, 1936

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*N.B. He was talking on the Salimela being too large that Gov. had underestimated revenue & that more could be raised. Nature of the report is only casual.*  
*J.*

~~revenue, to two items, and two items only.~~ I am going to refer to native taxation. Now in the matter of native taxation, the budget provides for £540,000 revenue, whereas at the same time as this was published we were presented with these two documents here, in which it is stated quite definitely by my hon. friends the Treasurer and the Chief Native Commissioner that native wealth is greater than it has ever been. On page 23 of their report it is stated that £550,000 is the proper minimum basis of taxation. The words are:—

"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."

Now what earthly justification—if that is the considered opinion of the Treasurer and the Chief Native Commissioner—what possible justification is there for estimating a lower figure by £10,000, more especially in view of the fact that it is admitted that there has been a very heavy shortfall last year on collections, due not to the native's real capacity to pay but due to inadequate methods of collection, assisted by a system of bribery referred to in that other Report on the part of the native machinery through which these taxes are collected? In other words, if you read these two documents together, it is perfectly clear that £540,000 is at least a £10,000 underestimate of the proper revenue, and that if attention is paid to the fact that there is a large shortfall, which should be recoverable this new year in view of the improving conditions, I do not think that there is any question that this is an under-estimate.

5th November, 1936

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Coming to the discussion of the question of native taxation, I am entirely in agreement with the recommendation of Sir Alan Pim that those taxes should be reduced as suggested by him. I entirely sympathize with the difficulties of the Government in which they find that it is not possible to have £70,000 required to meet these recommendations, but I have not the slightest doubt in my mind that it bears very harshly on the native community. It is not quite correct to say now that the natives do not pay any other way. That was perfectly true some time ago. But the natives are now coming into the orbit of civilized life and their wants are increasing. I have quoted figures and percentages of duties on cheap articles towards which natives make a very big contribution, so I think it would be quite fair to say that the natives are paying in an indirect way.

In this connection, Sir, we have two Reports laid on the table. One is in regard to the abuses in the collection of taxes and of that commission of inquiry I was a member. I do not think in that particular Report it would be quite correct to assume that there were not certain abuses of which we had evidence of a serious character. I am quite sure there were serious cases. But in regard to the other Report which is laid on the table, the hon. the Treasurer and the hon. the Chief Native Commissioner should be complimented on going into very great detail and finding ultimately that it would not be possible to have any alternative system of fair and equitable taxation in regard to the native population.

I do not know whether they started with that assumption that it was not possible to find such an alternative system of native taxation, but they have quoted the principles of taxation of Adam Smith of which I gave one portion earlier in my speech. I submit, Sir, that I do not think that in this particular instance that quotation is fairly made. The main point in that quotation is that the tax should be in the ratio of the ability to pay, and that is implied not in the restricted sense in which it has been used, namely, adjustment between natives themselves, but that quotation is only useful in the sense that it should be used in the ratio of tax which the native should be fairly required to contribute towards the expenses of the State as a whole. If we take that as a principle then I am quite sure the whole basis of that Report will be upset, because it starts from the contribution that must be made by the natives, namely £550,000, based not on their capacity to pay but on the previous revenues which the Government had collected. But the mere collection of revenue is not an indication that they are paying very fairly; in all probability more might have been squeezed out of them. I am quite sure there are grounds on which we could show that it was so, and the

first thing in that case to find out is whether that £550,000 is based on any grounds which can be justified on the principle admitted by them. If we take the average native wage in this country we find they get about Sh. 10 to Sh. 12 per month, and the direct tax is about Sh. 12 per head, which means about 10 per cent of their gross income. I should like to ask, which of us, Europeans or Indians, in this country are prepared to accept that 10 per cent on gross income as a fair basis of direct taxation. Here we are objecting to much less than 10 per cent on gross income, and it should also be remembered at the same time that the natives to-day are paying their indirect taxation as well. Therefore I must submit that that basis of £550,000 to be squeezed from natives is not a reasonable one and could not possibly be the basis of taxation for them. It has been argued that if the direct taxation is reduced then the services will equally be reduced or should be reduced. I do not think that that is a correct interpretation of what Lord Moyne suggested. I think it was meant as far as Lord Moyne was concerned (he came here in 1932) that he found on the one hand the native population were paying such a large tax directly, and on the other hand their services were very much below the figure, and he reasonably asked Government to accept the principle that in any case they should be given back 50 per cent on what they actually contributed in direct payment. In view of the fact that the natives do contribute through Customs duties, it is quite fair that the services should not be reduced even if the taxation is.

It is also said that while prosperity in native reserves, and generally in the country, has increased, that correspondingly the difficulty of the collection from natives of these taxes has also increased. There must be some reason for it, and as far as I am concerned I feel that the reason is not far to seek. To-day the natives are getting civilized, their wants are increasing but unfortunately not in the ratio in which their earnings have been increasing. Their earnings have been for a large number of the population practically stationary, whereas their wants have increased by a hundredfold. They started from a nil point. They did not require anything more than a raw hide or a blanket; now they want modern, up-to-date suits, with hat, and tie and collar. How can we reasonably assume it is necessary or possible for natives in the state in which we find them to-day to accept the responsibilities of civilization in the manner in which we wish them to accept it; that is, to pay taxes first and obtain their necessities afterwards. That is not to be reasonably expected of them, and we must therefore conclude that in view of the fact that their earnings have not increased in ratio to their wants which are created by a modern Government, therefore they direct ratio

I now turn, Sir, to the matter which is to my mind the most important in the whole position as far as I am concerned, and what I want to emphasize is the question of native taxation. I notice that in His Excellency's speech—I must be very guarded in my words—I notice in His Excellency's speech that he refers to two reports that had been laid on the table at this session, and in that speech he said something like this: that he was glad and gratified to find that with regard to the Commission under His Honour Judge Webb—and I should like here, Sir, to pay a tribute to His Honour Judge Webb for the patient and kindly way that he conducted the inquiry with regard to native taxation from the beginning to the end. One cannot speak too strongly of the patient way, under very trying circumstances often, in which he carried out his work—(but when it is said as it has been stated and will be repeated not only in this Colony but in England) that His Excellency was very glad to see that although there were certain irregularities (a very nice, handy sort of word!) in the native reserves in

6th November, 1936

connection with the collection of taxes, they were not of a very serious character, and that there were not so many or at least not as numerous as were made out to be.

I am the person who was responsible for the appointment of that Commission, and I do say to-day that what I said twelve months ago was absolutely true and, may I say, to a lesser extent is true to-day. I think the hon. the Chief Native Commissioner will bear me out when I say that as we round on our itinerary, with the other members of the Commission, and listened to the evidence that was brought from the few—I emphasize this—brought from the few out of the very many who wanted to give evidence, that he himself on more than one occasion gave utterance to words such as these: "There is no use in flogging a dead horse. We have seen and it has been borne in upon us that these abuses are not unknown and that they are very widely spread. Therefore, what is the use of going on further? We have taken such evidence as would justify us in saying that the abuses are there." One of your responsible District Commissioners in giving his evidence, made a statement such as this: "The past four days have been a shock to me when I heard as I listened to the evidence with regard to the abuses throughout the district of which I am in charge." Other officers as we went from place to place gave utterance to practically the same words.

As far as I am personally concerned, all that I would ask and all that I should feel justified in asking for, is that the evidence as such should be laid on this table. I know that the printing of such evidence cannot possibly be undertaken because of the cost, but I am convinced that hon. members of this House, if they listened to it as I have listened to the evidence given there, and as I am convinced that that evidence was true, I say that if the things that were done and are being done, perhaps not in the same measure now, but certainly were, to the African women, because she happened to have a black skin and has no one to stand up for her, were done to the ladies in other sections of the community, there would be such a *kalele* that would be very hard to subdue or to bring down. This thing, Sir, has been going on, and it was my hope and the reason—I will be told "Well, you were one of the members who signed the Report of which you are now speaking." Yes, I was one who signed the Report, but with a reservation. The copy I sent in to the Secretary of the Commission had my reservation on the end of that copy. But I hope, Sir, that the very fact that the Commission had gone round and that this thing was ventilated would cause the headmen and the chiefs to be more careful in their treatment of natives in the future than they had been in the past, but I do say that almost every week I receive letters. Only last

week I received a letter from a man at Kisumu asking when the Commission was going there to take evidence. Well, the Commission is now dead and I suppose it will be put away in a pigeon hole or something of the kind. Yet, I do not think so, because I believe the British officer is too just to allow the irregularities and injustices that are being perpetrated throughout the reserves even to-day to go on, and when he hears of them, as I know to be the case, he will at once take steps to cause them to be done away with.

Turning to taxation, as we have it in connection with the Report of the two hon. gentlemen who produced this very able Report, although perhaps I will not agree with it, but the amount of labour they must have put into it must have been very considerable indeed. We are told in their recommendations that the sum that should be put down for native taxation is the sum of £550,000. They give their reasons for putting down that sum. I am very glad indeed to see that the Government has not accepted that sum, certainly not for the present, and I was very much astonished to hear the hon. members on this side of the House asking and urging the question on the Government how it was that it had not accepted the recommendation of these two gentlemen and put down the figure for 1937 at £550,000. At the same time, these very gentlemen—and I do say so with all restraint—were asking Government to remove from their own shoulders the burden of the non-native poll tax, education tax and other things like that and, at the same time, they would be prepared to put on to the shoulders of the natives throughout the Colony an extra sum of £10,000. It is a thing that beats my comprehension.

CAPT. THE HON. H. E. SCHWARTZ: On a point of order, Sir, as I was the person concerned in this, I wish to say that there never was any suggestion of increasing native taxation by £10,000. The fact that you put a one-line figure in the budget does not make natives pay more or less. It is purely a question of estimation of what in fact they will pay.

VEN. ARCHDEACON THE HON. G. BURNS: Sir, I thank the hon. Member for Nairobi South for his words, but I think it was he himself who pressed the Government for a reason and asked why they had not accepted the recommendation of these two gentlemen who brought out this Report, and put down for native taxation during 1937 the sum of £550,000. Passing on from that I cannot but reiterate that I am glad the Government did not accept it and that the sum of £540,000 has been put down.

But, before passing on to deal with that very briefly, I should like to say that the reason and the only way by which this sum of £550,000 could possibly be collected from the natives of the Colony was by retaining the age of 16 years,

whereby the youth of the Colony was to pay his taxes. Eliminating that age and bringing it up to 18, I think the hon. gentlemen who dealt with that Report will agree with me that the collection of £550,000 could not possibly be brought about. Here I do make an appeal to this House with regard to these youths. I think every native should pay something towards the taxation of the country in which he is living, and so help the Government in the services which they render him, but I do say that if we are going to follow the principle that the natives must be trained and educated to take their places in the Colony that they deserve, that is their due to take, and that is payable out of the taxation which they are to pay to prepare them for that position. I say that any man who has any knowledge of the training of Africans—I have some little knowledge for I have been at it for the last 37 years—I say that the age when a boy is most plastic and when he can be trained for the work which the Government and the honourable elected members, and Sir Alan Pim especially, would wish him to take, is between 15 and 18.

And to take a boy from his school or drive him out of his reserve—drive is perhaps a strong word—compel him to leave his reserve and come into Nairobi or various centres to find money with which to pay his taxes, is hindering the very work which we are so anxious to see take place, and which Sir Alan Pim has so strongly recommended. Having driven them out of the reserves and when they cannot get work they are arrested and put into detention camps, and we have the colossal figure of 840 or 850 natives in these detention camps during 1935. I do not want to speak about these camps because they are a sore point with me; they are a nuisance to the whole Colony, and I cannot see they are of any benefit to the country. The Government has to provide housing accommodation for them and give them, I suppose, blankets or something of the kind, and has to provide the attendance of *askaris* to look after them during the time they are in these detention camps. I do ask seriously, what is the benefit to the Colony of these detention camps? What benefit does the Colony derive from these men detained in these camps for two or three months, as the case may be, what benefit do these people in these camps get from being detained? We are told that in Nyanza Province there are all young fellows there, with an inclination for clothing and all that, and therefore they are to be given some hard work to do. I entirely agree that detention camps should be done away with, and where there is a real case of a boy who does not want to pay his tax and does try to get out of it, he should be made to work, and he would then think three times before he goes for three months into a detention camp or prison as the case may be. But my plea is with regard to boys who



are now being taxed at the age of 16. I know I am a voice in the wilderness, but I shall go on crying as long as I have a voice in this matter. I do appeal to Government very earnestly in regard to this matter that they will give due consideration to it.

I think I have over-stepped my time, but there is one other point which I would like to bring out and that is the shifting of the natives from Pangani village on which natives in Nairobi have spoken to me. I know I will be told that this is a municipal matter, but I do feel very strongly in the case of some of these, especially the older people who served in the olden days as carriers, porters and *nyapararas* to Europeans going up-country, and when that kind of labour was done away with they were given a little place to settle in. I think the greatest care should be exercised with regard to the removal of these people from Pangani. I think, Sir, that it may be a very good thing when it is finished, but in the process of moving these people there is a very real danger of creating serious trouble and especially, if I may say so, these people should not be touched or interfered with during their season of Ramadan. They should be allowed to remain in their place until that is over and then not only should they not be given glorified coffins—I do not know whether I am speaking to any member of the Municipality, but I can express it in no other word—as some of the houses that have been erected in the municipal area are to-day, but they should be given fairly decent houses where they can spend the remainder of their lives in some comfort and with some sense of the justice that the Government has meted out to them.

I do not think, Sir, that there is anything else that I want particularly to speak about this morning from this point of view, but I do urge more particularly—and I am sure the hon. Chief Native Commissioner himself and the district officers throughout the country will see to it—that in regard to these hardships that are still being perpetrated throughout the reserves with regard to the collection of hut tax that the chiefs and headmen will be given to understand that while the taxes are to be collected they are to be collected in a just and reasonable way so that the natives will not have to make the complaints that they are making. Someone will say to me, "Of course, they make them to you because they know you have a soft heart." Perhaps I have, I have a very soft heart for the natives, but I do recognize justice, Sir, and I think that the native is willing to pay his taxes and with very few exceptions the native is quite prepared when the time comes to pay his taxes, but they should be dealt with sympathetically, not by the officers, for I am convinced they do deal with them sympathetically, but by the headmen and their chiefs in the various areas.

One other point and then I sit down, and that is with regard to the sale of tax stamps. Complaints have been lodged to me that certain chiefs will not allow a stamp to be sold in their area. It may be now that they have received orders that they must do so, and that the natives be allowed in every reserve to buy these stamps and so make it more easy for them to provide the tax which the Government demands of them. I see in the report of these two hon. gentlemen that after the 30th June there is to be imposed an extra tax of Sh. 2 on all defaulters. May I earnestly suggest, Sir, that the time be lengthened a little bit, and that they be allowed to go on as long as they can show that they are really trying to collect their taxes and put it on the card, that the time be allowed to go on until the last day of August and not on the 30th June as they suggest in their Report?

Hon. C. W. Harvey.

9/11/36.

Sir Alan Pim also recommends the appointment of taxation officers and, unaware that such a recommendation was to be made, it will be noticed that a similar conclusion was reached by the special Native Taxation Committee that I mentioned a moment ago and also by the commission the subject of the collection of native taxation of which I was a member. There is one important point I wish to make here. Sir Alan Pim says (and I support his statement) that the substitution of District Officers by Tax Officers should result in an economy. Unless the Tax Officers take the place of the equivalent number of District Officers there will in fact be no economy, and I am very much inclined to think that it might easily lead not only to a reduction in expenditure but far greater efficiency. I should like to say in passing, as a member of the commission on native taxation, the most vivid

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impression left on my mind after touring the country, interviewing complainants, interviewing District Officers and all and sundry, the most vivid impression left on my mind is the keenness and enthusiasm and fairness with which the District Officers without exception investigated, at very great personal inconvenience in many cases, every question of alleged hardship that was brought to their notice. I think it only fair to say that, because I sincerely believe it to be the case.

THE HON. THE CHIEF NATIVE COMMISSIONER : Sir, I want first of all to allude to the speech of the Hon. the Venerable Member representing Native Interests when he disagreed with the portion of the speech made by His Excellency the Governor at the beginning of this session. His Excellency in his speech stated in connection with the Webb Commission :—

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“It is gratifying to note that, although there are many irregularities, abuses in the collection of the native tax are not as common or as serious as had been alleged”.

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Now, Sir, that was taken from the Report itself, where on page 5 we said :—

“Taking the evidence as a whole there can be no doubt that abuses do occur in the collection of tax, as, indeed, is inevitable in any operation that is conducted by human agency, but, as will be seen from the analysis at Appendix B of the replies received in response to our circular letter addressed to Administrative Officers and Missionary Societies, it would appear that these abuses are, with a few exceptions, neither very prevalent, nor from the evidence submitted to us, very grave in character having regard to the stage of civilization of the people.”

On page 6 we went on :—

“While we are satisfied that abuses and hardships exist, we wish at the same time to point out that complaints of alleged abuses or hardships are often unfounded or grossly exaggerated.”

That is the report of the commission appointed at the instance of the hon. member himself, and I want to point out that he signed that report.

There may be some misapprehension, and it may be quite inadvertently he was put in a difficult position and I am going to try (I do not think I can succeed) to justify his point of view. He said that he had submitted a note of reservation. Well, Sir, I have here the letter signed by himself saying that he had received the draft report of the commission and he wrote : “I have read the revised report, and while there are a few things weakened down I agree with it as a whole.” In the absence of the chairman I should like to say that we did not regard that as a formal note of reservation, especially as a very few days later the hon. member signed the final draft submitted to Government without making any mention of where this note of reservation was. He signed it, and although I did not see him myself he did sign it and the fact remains that he did, and what is going to happen now I do not know.

He rather inferred in his speech that abuses are still very prevalent and very general, although we, a number of responsible people, said they were not. He even twitted me by saying that I myself at one meeting had said : “It is no use flogging a dead horse, we have all heard enough evidence and do not want to hear any more”. I think that is probably what I did say, and I think it is a common practice in the courts that even though there may be a hundred witnesses outside a judge can send them home if he is satisfied from the few he has heard that the matter at issue has been established.

The hon. member also said two things which are entirely correct. One was, that he has very long residence in this Colony, and the other that he has the interests of the natives at heart. Well, some of us have served here for a number of years, and all of us have the interests of the natives at heart. But where I differ with the hon. member is the way that interest should be expressed.

I do not for one moment agree that credulous acceptance of complaints is in the interests of the natives (hear, hear), nor do I agree that they should be mollycoddled in any way, although I do insist that they should have a fair deal. As regards the credulous acceptance of a complaint or in the matter of exemptions, I can remember a few years ago when I was collecting taxes in Kavirondo an old woman was brought up on a stretcher carried by four men. Without going into the question thoroughly I looked at her and said: "That is all right, you have exemption." Those four men, obviously considering they had done their day's good work, put the stretcher down, and the old woman leapt up and ran away smiling. (Laughter.) It came to my notice the other day while the assessment of compensation due for disturbance of land when the roads in Kisumu-Kakamega were being realigned, a small portion of one man's holding was cut off. He was given compensation of Sh. 132. That morning he went to the District Commissioner and asked for exemption from taxation on account of absolute inability to pay! Well, Sir, one does not blame the native for doing that, any more than one blames the European or Indian or anyone else who naturally do not want to pay taxes if they can get away with it, but I say it is quite wrong to accept any of these things without going into the question thoroughly, for vague statements of alleged abuses do a lot of harm in this Colony. (Hear, hear.)

I am sorry every time I stand up to have to query the Hon. and Venerable Member, but I cannot let some of his statements pass without mentioning them. He said last week that in certain areas the natives were definitely prohibited from buying the new kodi stamps. Well, Sir, that is the statement he makes, and is a statement which I refute. We have proof of what is the real position, and if he did me the honour of calling on me, or goes to any District Officer, he will see the return of the stamps sold in every single district of the Colony and will be told by the District Officers that what he has said (I do not know where he got his information) is not correct.

VEN. ARCHDEACON THE HON. G. BURNS: On a point of explanation I did not say last week. The matter referred to

was a matter of over two months ago. I brought the matter before the proper officer who dealt with it, and I also mentioned the matter to the Chief Native Commissioner.

THE HON. THE CHIEF NATIVE COMMISSIONER: I referred of course, Sir, to what the hon. member said last week and not to the subject matter being last week.

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THE HON. T. D. WALLACE : I have no knowledge of the case off hand, but the matter will be looked into.

THE HON. S. H. LA FONTAINE : Sir, hon. members opposite have taken the opportunity afforded by this debate of stating their views on the subject of native taxation and the methods of collection. I am very glad they have done so, because it enables me to draw attention to some other aspects of the problem which are causing district commissioners in the Central Province some concern.

I propose to confine my remarks to the question of actual collection.

There have been allegations as to malpractices by chiefs and members of the native staff in the collection of taxes. These have been the subject of a Report by the Webb Commission. Some of the abuses which relate to the districts of the Central Province are of a serious nature and cannot be lost sight of, but I trust that hon. members will accept my assurance that early steps will be taken as far as is humanly possible to see that these abuses are not repeated. Native chiefs and members of their staffs are not plaster saints and sometimes, not often, they yield to temptation. It would be marvellous if they did not. But in fairness to the district officers it is only right to add that the methods of collection are fair to the African, as efficient as circumstances allow, and compare favourably with those pursued in other territories, for the simple reason that where the tax is collected under the direct eye of the district officer he makes it his business to ensure that the methods are honest and inflict no avoidable hardships.

The business of collection is a soulless and uninspiring job to these officers. They spend many weary weeks in this process, and their task is made the harder and the burden more difficult when they are inundated with complaints from well intentioned people which, after lengthy investigations, are found to be ill-founded or grossly exaggerated. Recently, the best and most loyal chief in the Fort Hall district, at the instance of the ven. and hon. member representing native interests, was charged in this way. The district officer deputed to investigate these charges spent three weeks of valuable time in the process, and not one single charge was proved!

District officers are grateful when complaints are brought to their notice which enable them to correct abuses or to right a wrong. All they ask is that before action is taken on these complaints or before they are voiced on platforms or any other place, an effort will be made to certify them for close investigation. (Hear, hear.)

13th November, 1936

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District officers are grateful when complaints are brought to their notice which enable them to correct abuses or to right a wrong. All they ask is that before action is taken on these complaints or before they are voiced on platforms or any other place, an effort will be made to certify them for close investigation. (Hear, hear.)

It has been brought home to the officers in the Central Province that the collection of the tax is getting more and more difficult. There is a greater tendency now on the part of the native to evade taxation in the Fort Hall district. In 1928 the whole of the tax was collected in the short space of two months; in 1936, in spite of the district commissioner, who commands the affection and confidence of his people, the tax will take the greater part of the year. It is not due to disaffection or discontent. It is due rather to the fact that the African, like others, is getting to realize that by lying low he can often evade payment.

And that is the reason why I welcome the Report of the hon. the Treasurer and the hon. the Chief Native Commissioner which deals in realistic manner with the collection of the tax and the present difficulties. What we have to face is not so much the capacity to pay, which of course is an important matter, but a mind which is averse to paying. The increased wants of the native, the increased demands of his domestic budget, the fact that Cherogi wants his bicycle and his shoes, the wife wants sugar and clothing, the disinclination of the African to pay the tax on behalf of the other members of his family and last, but not least, the encouragement that has been given both on the platform and in the Press that the native is overtaxed, are important matters in inducing this reluctance.

The Report to which I have referred has endeavoured to deal with these difficulties, and I think that as the years go by we shall be able to redeem them with greater success.

I trust I shall be forgiven if I quote what has recently happened in the Central Province with regard to the methods of collection. I daresay I shall be accused by the hon. Member Dr. de Sousa of self-advertisement, but I am prepared to risk that because the credit lies largely with the district officers concerned.

At the last meeting of the district commissioners in August it was reported that a large number of adult males, able-bodied taxpayers, had run away from a native reserve to farms and to townships in the settled areas in order to evade payment of the tax, hoping for a return to their reserve when the actual collection had ceased. It was decided to post two officers to Nairobi and Thika whose function would be collect the tax from these defaulters, and native assistants went with them in order to identify the defaulters concerned. The result has been an outstanding success. In the short space of three weeks a sum of £2,300 has been collected without the slightest friction and with the minimum of hardship to the taxpayers concerned. This money would have been lost to the revenue but for the steps which were taken.

I draw attention to this matter because it shows that the solution of this problem lies rather in the methods of collection than in any other direction.

In conclusion, I would emphasize that in dealing with African taxation and African problems generally, what is required is a robust realism. Sentimentalism is not only ineffective in its results, it can only do harm to the cause of African welfare which we all have at heart. (Applause.)

The debate was adjourned.



Capt. the Hon. H. E. Schwartz.

16/11/36.

CAPT. THE HON. H. E. SCHWARTZ: So long as I am acquitted by the hon. member we can leave that matter!

I now change my attitude from one in the dock to one of prosecutor, the hon. and venerable gentleman being in the dock this time, not on a very serious offence. I do regret very much that he thought fit in view of all that happened again to reiterate in this House the story of these abuses which have taken place all over the country in connection with the collection of native taxation. The hon. and venerable gentleman, a year ago I think it was, started this thunder storm which did a great deal of harm, and as a result of a careful and impartial inquiry it was found that it was a very small storm in a very small tea cup. The Report is before the Colony, it is for everyone to read who wishes, and it is signed by the hon. member, and I suggest that, having had the inquiry, having had the fullest publicity given to the allegations he made, he should have rested content with that Report and not have suggested by innuendo that the abuses were considerably more than the Report shows and that the abuses were still going on.

He also, I think, was hardly fair in the suggestions he made in regard to detention camps, and perhaps the hon. gentleman will not think me impertinent if I suggest that sometimes he is a little too apt to give vent to *suggestio falsi* which, if carefully considered, would really prove to have no foundation of fact.