

1930.

Kenya.

No. 16043.

SUBJECT

C0533/396

Taxation in Northern Province.

Previous

15313/28.

15559/29 (Administration)

Subsequent

See 17009/31.

3338/33.

States as to consultation with the I.C.
K.A.R. as to the likelihood of trouble if
taxation is imposed.

I don't see how
he could!
drrr

Para 1 I don't know what the
I.C.'s reported opinion is very
satisfactory. He won't guarantee
that - there won't be any armed
resistance. But he thinks the
K.A.R. will be able to check
any resistance there is.

In no 15 in the previous file
the I.C. asked the Gov. to send
a despatch a statement of the
amount estimated to be received
in a year from each tribe in the
N.F.D. & of services in which
he proposed to expend the
receipts. The Gov. promised
a further telegram.

? wait for this ..

E. Eastwood

The Gov's minute of 14 Jan re above
No 15 of X. 15318/30 said ...
accordingly (? by me) for the further

information suggested which should
be sent by dispatch (so that it may
be full & ^{detailed} accurate)

Presumably the Govt
will send a dispatch to follow up
the further he has promised
& it scarcely seems necessary to
hurry him at the point of
my rate at this stage.

wait a fortnight
and see what happens

W. H. C.

20/2/30

all P

X 2.20

at least

2. Gov. Grigg. Conf'd Tel 844 14th. March 1930.

States estimated receipts from taxation £16,646 - gives proposals for expenditure. In view of the extreme urgency of passing the Bill at the April Session to enable collection of taxes this year, request telegraphic sanction to publication and introduction.

information suggests which should
be sent by despatch (so that it may
be full & detailed)

Presumably the Govt
will send a despatch following
the further he has promised
& it scarcely seems necessary to
harass him at the point of
any rate at this stage.

wait as proposed
unacceptable

L.V. H. C.

20/2/30

Recd P

W 2. 30

at once

2.

Gov. Grigg. Conf'd Tel 846 14th. March
1930.

States estimated receipts from taxation
£16,646 - gives proposals for expenditure. In view
of the extreme urgency of passing the Bill at the
April Session to enable collection of taxes this
year, request telegraphic sanction to publication
and introduction.

Please see the minutes etc. below No. 14 on
15313/28.

The Secretary of State asked the Governor to
consult the Inspector-General K.A.R. as to whether
taxation could safely be undertaken. No. 1 on this
file gives his opinion, which is probably as satis-
factory as could be expected.

The Secretary of State also said that he con-
sidered that taxation could only be justified if the
~~services~~ ^{services} were simultaneously provided with beneficial
services, and that such services should be instituted,
at any rate on a skeleton basis, before taxation was
actually levied.

The Governor was ^{asked} to send by despatch a
statement of (a) the amount estimated to be received
in a year from each tribe in the Northern Frontier
Province: (b) the services on which he proposed
to spend these receipts.

The Governor has sent by telegram, (a) an
estimate of the total amount which will be received in
a year from taxation - £16,646. details followed
by post. (b) A list of services proposed. In
addition to the present medical expenditure of £3,000
the services are :-

- | | |
|--|-----------------|
| (1) Hospital at Wajir | No figure given |
| (2) Hospital at Lamu | No figure given |
| (3) Water boring (? recurrent expenditure) | £3,000 |
| (4) Veterinary expenditure (recurrent) | £2,587 |
| (5) Veterinary expenditure (capital) | £8,630 |

The Governor expressly states that a doctor
can be made available for work at Lamu this year. This
^{seems to} imply that no doctor will be available for work at
Wajir. ~~therefore~~. Presumably the work would be begun
there

there on the construction of buildings. Lamu is a Coast port. I believe very little trade goes to it from the N.P.P. and ~~the~~ Hospital there can only serve a very small corner of the N.P.P.

If the introduction of taxation is approved, ^{in principle} the draft Bill which was sent home by the Governor some time ago must be examined. It will be found in No. 1 on 15313/28. A copy is also attached to this file. A memorandum on various points arising in regard to it has been prepared and is also attached. ^{The Govt wishes to publish the Bill at the next session of the Legislative Council which begins on April 5th.} It would be possible for the Secretary of State to agree to the introduction of the Bill then (subject to any amendments of it that it may be desired to suggest), while reserving a decision as to whether or not taxation should be imposed immediately, until ^{the} a despatch with further details is received.

E. Parkinson

18-3-30.

Mr. Parkinson,

We have had some discussion about this, and as regards the Bill the main points arise out of the under-mentioned Sections:-

Section 4. No exception need be taken to the form which prescribes the maximum tax of 20/-, whereas the Native Hut and Poll Tax Ordinance

prescribes

Yes: I think the Bill should keep control in this way. See

x This means, I think, proceedings taken by an Admin. Officer in the capacity of Magistrate. See

prescribes a minimum of 6/- with power to increase to a maximum of 20/-.. But the rates to be fixed should be submitted to the S. of S. ^{for their approval} with explanations?

Section 7, 9 and 10. These Sections provide for -

- (a) Individual Tax (Section 7).
- (b) Commuted or Tribal Tax (Sections 9 and 10).

(a) Individual Tax. The argument against the procedure of Section 8 of the Native Hut and Poll Tax Ordinance (i.e. recovery on conviction before a magistrate by distress or imprisonment in default of costs) is (see par.6 of No.1 on 15313/28) the impracticability of taking civil proceedings against individual nomads or of ascertaining the ownership of property for attachment in cases of non-satisfaction of judgments. The reference to "civil proceedings" is not clear since even in the case of the Native Hut and Poll Tax Ordinance the proceedings are apparently not "civil", since relevant Section 8(1) refers to "conviction". Further, how can distress be levied against an individual under sub-section 3 (and be it noted apparently without any legal process in view of the argument that the ownership of property cannot be ascertained for purposes of attachment? Also the maximum fine contemplated by sub-section 1 namely £25 seems excessive, and might be limited to three times the amount due as in the case of Uganda. In addition, sub-Section 4 which provides that imprisonment does not satisfy or extinguish the debt has no counterpart in the Native Hut and Poll Tax Ordinance.

Some explanation seems to be required why in cases in which the tax can be levied individually, and

and the necessity for commutation does not arise, the procedure of the Native Hut and Poll Tax cannot be applied. Taxation should pre-suppose a measure of ordered government in which some form of legal process should be available for the ^{benefit} of the taxpayer and not merely for imprisonment ~~in~~ in case of default.

(b) Commuted Tax. Section 11 of the Native Hut and Poll Tax Ordinance enables the Governor to "make an arrangement" with the tribe or village for the commutation of Hut Tax. Section 9 of this Bill empowers the Governor to enter "into an agreement" for a commuted tax, but Section 10 which follows seems to mix up two different things:-

(1) The Governor is empowered to deal with concerted evasion by fixing a lump sum in lieu of individual payments. Logically, this provision would seem to come more properly after Section 7, or, at least, include a reference to that Section with which it is really connected, and not with Section 9. Surely also the lump sum to be fixed should be limited to a maximum not exceeding the total of the individual taxes due.

(11) In cases in which the negotiations for an agreement under Section 9 are unsuccessful, the Governor can nevertheless proceed to commute the tax for a lump sum without agreement. This provision seems distinctly extraordinary, and it would surely be better to get rid of the pretence of agreement, and to empower the Governor to levy a commuted tax in suitable cases. But what seems to be really wanted is a provision dealing with the event of failure to carry out an agreement.

entirely agree.
all

Yes. all

Use in case of agreement without the alternative of imposing a lump sum? all

and the necessity for commutation does not arise, the procedure of the Native Hut and Poll Tax cannot be applied. Taxation should presuppose a measure of ordered government in which some form of legal process should be available for the ^{protection} benefit of the taxpayer and not merely for imprisonment ^{in case} made in case of default.

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(i) The Governor is empowered to deal with concerted evasion by fixing a lump sum in lieu of individual payments. Logically, this provision would seem to come more properly after Section 7, or, at least, include a reference to that Section with which it is really connected, and not with Section 9. Surely also the lump sum to be fixed should be limited to a maximum not exceeding the total of the individual taxes due.

(ii) In cases in which the negotiations for an agreement under Section 9 are unsuccessful, the Governor can nevertheless proceed to commute the tax for a lump sum without agreement. This provision seems distinctly extraordinary, and it would surely be better to get rid of the pretence of agreement, and to empower the Governor to levy a commuted tax in suitable cases. But what seems to be really wanted is a provision dealing

I entirely agree. all

Yes. all

the... agreement... in alternative of... lump sum? all

agreement entered into under Section 9. Also under ~~the~~ Section ¹⁰ double tax may be levied, but there is no provision for dealing with cases of failure to pay the double tax, unless it is to be assumed that the penalties in Section 14 apply, though that can surely not be the case. Similarly, there is no specific provision in the Native Hut and Poll Tax Ordinance for failure to carry out an arrangement for commuted Hut Tax under Section 11, unless it is to be assumed that breaking of the arrangements renders it void, and the provisions of Section 8(1) of the Ordinance ^{then} apply to the people concerned as individuals. It seems possible, however, that cases have occurred, and in view of the desirability of keeping the terms of the present Bill as close as possible to the Native Hut and Poll Tax Ordinance, it would be desirable to ascertain whether this is

Yes. all

In general, we still try to keep the provisions similar to that already in use under the existing Indian Tax legislation all

the case, and what action is taken with a view to adopting it in, or adapting it as closely as possible to, the conditions in the Northern Frontier Province. Here again, under Section 10 distress is leviable without legal process (sub-Section 3), and appeal from any order is ruled out (sub-Section 4).

Section 14. Reference has already been made to this Section, but if it only applies to such matters as Section 12(1) i.e. interfering with the collector, there does not seem any reason to criticise, since such ^{interference} ~~interference~~ might lead to very serious trouble.

Whatever good grounds there may be in defence of all these provisions, they certainly seem to call for justification, and the publication of the Bill

in its present form would possibly arouse a good deal of hostile comment from Kenya's critics. Mr. Eastwood has referred to the fact that what we have here is a telegram and not the despatch requested in No. 15 of 15313/28. - in this connection reference should be made to the S. of S's minute of the 14th of January, 1930, on that paper in which he said that the information required "should be sent by despatch" (so that it may be full and detailed). Further as regards the request at the end of this telegram from the Governor for telegraphic sanction to publication ~~of the~~⁷ introduction of the Bill "in view of the extreme urgency of passing the Bill at the April Session to enable a collection of tax this year", it should be noted that in the same minute the S. of S. said that it should be made clear that the "institution of services, on a skeleton basis, must be made before the levy of taxation, even if the initial cost is debited to the district as a loan to be paid out of the taxes when levied". *This was done in the tel. of the 9th of 23 Jan.*

NOTES. 16313/28

Therefore, apart from ~~any~~ objections to the terms of the Bill, it would appear necessary to wait for the Governor's despatch before approving further action. The Bill will have to go to the Legal Adviser, but on the assumption that further justification for its provisions is required, the first step would seem to be to let the Governor know that the S. of S. feels obliged to await the promised despatch, but that publication will, in any case, have to be deferred since the provisions of the Bill (about

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Therefore, apart from ~~any~~ objections to the terms of the Bill, it would appear necessary to wait for the Governor's despatch before approving further action. The Bill will have to go to the Legal Adviser, but on the assumption that further justification for its provisions is required, the first step would seem to be to let the Governor know that the S. of S. feels obliged to await the promised despatch, but that publication will, in any case, have to be deferred since the provisions of the Bill (about

NOTES. 16313/28

which a despatch will be sent) seem open to criticism in several respects, and to require further explanation. This is another case in which the Governor is asking for an urgent decision on an important matter at short notice. It is unfortunate that we are compelled once again to appear obstructive, but I don't see that anything else is possible in this particular case.

W. Miller

29/3/30

To be fair to the Governor, I must admit that the opt. bill has been here since last August, & that he might perhaps expect criticism of it (if any) to have been formulated long since. But although we took a vote at the time of some points that we had looked into, we have not been at pains to examine the bill in detail while the discussion ~~remains~~ on the question of principle has been proceeding.

It is, I think, clear that the bill cannot come on this session & I submit opt. tel for enscr.

acc Parkman

I am a trustee & do 22.3.30

This is a bad Bill with Savage penalties and likely to lead to serious trouble if it were passed. It would need revision before I could agree to it. Further, there is little hope of the Services - Skeleton or otherwise - beyond the two proposed hospitals, which I agree would be required if an attempt were made to operate a Bill like this. I think the telegram too mild. The Governor must be shown that we will not be pushed or stampeded into doing what he wishes us to do. This Bill pursues the characteristic and fatal course which distinguishes the Govt. of Kenya. The Bill is only the outcome of a bad and wrong Native Policy, under the present repeated proofs. Under the present regime we will have constant repetitions of this kind of thing, for all the courtesy and kindly hints that the Governor has felt, showing him, or trying to, the spirit of our policy, have been met by exacerbations of anti-native declarations or measures. It is very disappointing! T.S. 25.3.30.

We must certainly have the despatch, & may adopt Dr. Shields variant of the telegram

P 26/3

3. To Gov. Tel (No 2200) - 26 Mar 30

has about the proposed despatch

sent on in 8 p.m. when the despatch arrives

accp

5. 5. 30
a d m t

DESTROYED UNDER STATUTE

Gov. Grigg

2nd April

Canets no 4 & states will telegraph further when after consultation with Provincial Commissioner N.P.P.

No 5 canets no 4 so no action is necessary. No. 4 is very mysterious

? may

G. Easton

accp

u. u. 20
above

6. Gov. Grigg. Conf'd 68. 10th. May 30.

The obscura on the subject of the proposed taxation, with details of estimated revenue and of the various services contingent upon the introduction of the taxation. Requests that decision be communicated by telegraph.

I attach a note. The immediate point for decision is whether the S. of S. will accept the services now proposed as justifying the introduction of taxation. If so, the details of the Bill require further consideration. The Department has already minutes on them, but they have not yet been considered

x6a

considered by the Legal Adviser and higher authority.

Mr. Allen

5/6/30

Mr. Dawson

Attends that at this stage we ought to have your views on the off Bill - see enclosure to No 1 in X. 15/1/28 below, and especially comments on No 2 in this file.

A. C. Parmanor
5.6.30

Mr. Parmanor.

Section 7:

The proceedings in 7(1) are of a criminal character, and I ^{think this} ~~suppose~~ that the reference to "distress" in 7(3) means that the tax can be so recovered on conviction, and not without any legal process, as Mr. Allen supposes. But it is not clear, and I suggest that the "if any distress has been made default or otherwise" words "on conviction" should be inserted after the word "recovered" in line 2. The practical difficulty, of course, as regards ascertaining the ownership of property for purposes of attachment remains.

I agree that £25 is an excessive fine. Three times the amount due, as Mr. Allen suggests, should be sufficient.

I do not know that there is any legal

considered by the Legal Adviser and higher authority.

Mr. Allen

5/6/30

Mr. Duncan

I think that at this stage we ought to have your observations on the off Bill, - see memo to WOT in X. 1531428 below, and especially comments on No 2 in this file.

A. C. Bottomley

5.6.30

Mr. Richardson.

Section 7:

The proceedings in 7(1) are of a criminal character, and I ^{have a feeling} ~~am sure~~ that the reference to "distress" in 7(3) means that the tax can be so recovered on conviction, and not without any legal process, as Mr. Allen supposes. But it is not clear, and I suggest that the words "on conviction" ^(If any provision was made for default on appeal.) should be inserted after the word "recovered" in line 2. The practical difficulty, of course, as regards ascertaining the ownership of property for purposes of attachment remains.

I agree that £25 is an excessive fine. Three times the amount due, as Mr. Allen suggests, should be sufficient.

I do not know that there is any legal

legal objection to Section 7(4). It is not an uncommon provision.

I agree that an explanation should be given as to why the procedure of the Native Hut and Poll Tax Ordinance cannot be applied where the tax is levied individually.

Sections 9, 10, and 14:

I agree generally with Mr. Allen's criticisms, and I gather that the Governor will be asked for his observations, and invited to suggest, in the light of these criticisms, any amendments to the Bill which may be necessary.

The mention of "distress" by itself in Section 10(3) ~~is not~~ does look as if the intention is to levy this without legal process; and it is clearly stated that there shall be no appeal from any order under this Section. All this certainly seems to require explanation.

I cannot see the word "order" elsewhere in the Section: ~~but~~ ^{but} presumably, it refers to the fixing of the lump sum by the Governor, and its communication to the tribe concerned through the Administrative Officer in charge of the area; and also to any order to pay double the amount, ^{if made} if default, or to any order to levy "distress".

A. C. Bottomley

10.6.30.

L. C. Bottomley

I agree generally; but, as Mr. Allen brings out above, the main point for discussion now by the S.O.A. is

considered by the Legal Adviser and higher authority.

J. Allen

5/6/30

A. Duncan

I think that at this stage we ought to have your views on the Bill - see enclosure to No 1 in X. 1531428 below, and especially comments on No 2 in this file.

A. C. Paterson
5.6.30

M. Ferguson

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A. Duncan

10.6.30.

L. C. Bottomley

I agree generally; but, as Mr. Allen brings out above, the main point for discussion now by the Govt is

whether on the basis of
the services proposed,
taxation may be
imposed forthwith in
the N.F.P. tribes
which have hitherto
not paid tax. If the
S.G. decides in the
affirmative, the Dept.
could put up a draft
for consent which wd.
cover questions relating
to the rest of the
bill & which wd.
be the most convenient
form of crystallisation
of rather a mass
of minutes in these
2 files.

We have promised a
prompt reply after receipt
of the Dept., but the Govt.
has suggested to Jan 1951
as the date for the new
taxation to be imposed.
So we shall have
time, in any event,
for a resp. to that effect

more convenient
having regard to the nature
of the country & the habits
of the tribes, services of
the kind now suggested
seem to be the most
appropriate. It is however
for consent whether the
S.G. would wish to
speculate that a definite
percentage of the tax
raised, say 50%,
must be devoted to
recurrent expenditure.

I think the Governor
is right when he says
that taxation will have
to come in the N.F.P.
generally, and on the
question of principle
I should be inclined
now to advise that
the S.G. accepts the
Governor's proposals
subject to modification

as at X. All Pakistan
I agree. A copy is sent 10. 30
to be made with copies to the Govt.

and we shall be able to see
to it that they are treated
according to their needs.

In para: 6 the list of tribes
(to tax) is no comprehensive

that I am not clear that

other tribes are included (see
preceding paragraph) in those
of the West & North that have
fulfilled their obligations.

W.S.D. 10.6.30.

W.S.D. 10.6.30.

Sec. of State

(Through Dr. Shells)

I think we might proceed as
proposed.

B.H.G.

18.6.30.

Mr Allen's memo is good. Telegram No 4 is certainly mysterious and looks as if the Gov. had expressed himself naturally and freely and then recanted. The Gov. - as always - writes a good dispatch and makes some points.

The main one, however, as has been pointed out, is that he proclaimed that he was going to impose taxation on the Northern tribes (without getting the S. of his consent) and that now he will be badly let down unless we enable him to do what he said he would do. We have, I think, already indicated our views on this kind of procedure, but there is still ^{shown} the desire to hush us in the request for a reply by telegraph. We should reply by dispatch!

Frankly, I do not like the form or methods proposed. I would have preferred continuation of the present system. The mixture of communal and individual payments - wants clearing up. How is the amount of a communal tax to be levied? Is it by the estimated number of a tribe on a per capita basis? It is a loose method. The payment in kind I do not like. It brings up the spectacle of tax-fatherhood diving before them sheep and goats which must appear like authorized robbery to the simple natives. If we agree to the proposals being further gone into and approve of the principle, I would like to suggest that a 10/- per head basis is enough to start with. It would be less of a shock and it would serve until the services on paper were transformed into being so that the Somalis would see something for their money. It would be less to have one class of tribesmen paying 20/- and another in the same area paying 10/-... I know this is so with the Massai and their neighbors but the Somalis have not enjoyed the enlightening of civilization and may not

It would tend to make tax-fathering dangerous
the previous notes on the penalties and fines
will, I hope, be incorporated in our suggestions.
The savage punishments which appear to be
dear to the heart of Gov. Griff are not only inhuman
but very unwise. These should be scaled down
to a reasonable figure.

Also, there should not be any tax imposed on a
Section of a tribe which is different from that on
the whole tribe (Cl. 304)

The comments of Mr. Duman on Justice's brief
out the fact that penal action is evidently
contemplated on the initiative of and at the discretion
of the tax-father, without any legal protection
This opens up such possibilities of heart-burning
and bitterness that some change must be imposed
on it. Clause 10 gives a power to the Gov. which
I do not think he should have. Legal authorities,
and not a layman - possibly incapacitated by their
regards as collusion to avoid payment - should
decide such matters in a judicial atmosphere.
If such power is given at all, a maximum sum
should be fixed, tho. there is the risk in that of its
becoming the standard. But that could be considered when
fixing it, and it is the lesser evil.

I agree with Mr. Eastwood that Clause 14 might well be
omitted.

I would like these points and the others noted
in the various minutes worked into a draft
dispatch which we might see later.

T.D.S. 18630

Draft resp. for concn accordingly.
- a uniform 10%, but we had better
not stipulate for 50% or any other
fraction being spent in services,
as this would become a fixed rule.

P 19/6

It would be to have tax-payers dangerous
the previous notes on the penalties and fines
with I hope, be incorporated in our suggestion.
The savage punishments which appear to be
dear to the heart of Gov. Swift are not only inhuman
but very unwise. These should be scaled down
to a reasonable figure.

Also, there should not be any tax imposed on a
section of a tube which is different from that on
the whole tube (Cl. 304)

The comments of Mr. Duncan on Justice's brief
out the fact that penal action is evidently
contemplated on the initiative of and at the discretion
of the tax-payers, without any legal protest.
This opens up such possibilities of heart-burning
and bitterness that some checks must be imposed
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and not a layman - possibly incapacitated by that
regards us collusion to avoid payment - should
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If such power is given at all, a maximum sum
should be fixed, tho. there is the risk in that of its
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fixing it, and it is the lesser evil.

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omitted

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in the various minutes worked into a draft
dispatch which we might see later.

T.D.S. 18630

Draft prop. for concess. accordingly
- a uniform 10%, but we had better
not stipulate for 50% or any other
fraction being spent in services,
as this would become a fixed rule.

P 19/6

is provided for excessive penalties. These penalties are £25 or 6 months or both. The penalty for obstructing a collector is £20 or 3 months or both.

This is on the high side but I think it may pass?

Presumably it is intended that sub-sections (3) & (4) of clause 7 & 2 of clause 10 should be.

? appear attached
? Note of telegram?
~~sub-sections~~

G. Cartson
29.9.30.

Note to bring up with the Estimates.

The words "of other descriptions" do not appear after "imprisonment" in either the new clause 7 or the addition to 12(2). This may be deliberate & if so there would be no reason to object. But even

See

The old 7(3) is covered by the new 7. The old 7(4) deals with the old 6(3) & covers Ebb. The old 10(2) - the old 10(4) reappears in the new 10A(4) 1930

if it is accidental & they wish to restore it, it must have been possible to object - compare with 7(1) & original bill & sec 8 of Act 57. I suppose the effect of the provision is to limit imprisonment to simple imprisonment, but Mr. Quince will advise.

The addition to sub-section is not the result of any instruction from the Lords.

This is quite alright

H. Allen
30/9/30

The reference in the original draft of the bill to "imprisonment of either description" was due to Section 53 of the Indian Penal Code which provides that imprisonment is of two descriptions, namely, (1) Rigorous, that is, with hard labour; (2) Simple. The words in question have now been omitted because the new Penal Code, which replaces the Indian Penal Code, came into force on the 1st August, 1930 (see Gazette of the 15th July, 1930).

Section 26 of the new Code is as follows:
"26. (1) All imprisonment shall be with or without hard labour in the discretion of the court, unless the imposition of imprisonment only without hard

hard labour is expressly prescribed by law.

(2) A person liable to imprisonment for life or any other period may be sentenced for any shorter term.

(3) A person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment.

From the provisions of Section 26 (1) set out above it will be observed that the question whether a sentence of imprisonment under the "Northern Frontier Province Poll Tax Ordinance" (when it becomes law) is to be with or without hard labour will depend upon the Judge, unless, of course, we insist upon an amendment prescribing that imprisonment under that Ordinance shall be imprisonment only without hard labour. In my opinion, the matter should be left to the discretion of the court.

H. Duncan.

1st October, 1930.

On the assumption that the
Sops. will now agree to the bill,
I have in view to same time,
just up a short app. for
creation

LAC CP. 3.10.30]

Such satisfactory of the bill
down 10 I can't remember I
think it should be that will
anyway, the possibility of error in
... a table ought to

have found in ...
and I think it should be laid down
- but in the Ord. as far as possible
guidance - that any representation
by business etc. is necessary
high level must be communicated
to the Governor. (This is not "official")

W.D.S.
3.10.30.

Sec of State

I think this is all right

W.D.S.

3.10.30.

P 3/10

10. To Gov. Tel to 215 Conf (Darius) - cons -
3/10/30

11 To Gov - Conf (2) - 9 and 10 Confirmed - 14/10/30

12 Extract from Official Gazette No. 54 dated 9th Oct.
Registered in accordance with minutes on 16/10/30

? put by
H. Harris
28/11/30

G. Harris
R. E.

Hours to library

13 12 copies of report of select committee on
Northern Frontier Province Poll Tax Ordinance,
1930 received under cover of 3/4 for
4/6/30, dated 2 December 1930

Very
6.5.31

the

to be returned

Further despatch promised in HQ
has not been received - please see no 10

shown
7/5/31

A dep. has been read as to Veterinary
measures & is not separately.

No further dep. will probably
come on this file, but the point
will be referred to in the order
to the dep. in reply to the notes
(now in dept) & the relevant
extract might be attached
to this file for record

was all
seen 2/1
10/12/30
J.M.S.

no. 13A

6.5.31

14 Hon. Byre Nov 14
In authenticated and printed copies of Northern
Frontier Province Poll Tax Ordinance no 53 of 1930,
together with legal deposit by Attorney General

Hours to library

The amendments in the Bill to No 9
have all been inserted. The Jot & approved
introduction of Bill with these amendments.
The original amendments & the addition
to which provides that the Order
shall expire 31st Dec 1930, unless continued
by resolution of Legislature until a later
date. This is based on a similar
provision in the Native Tribes
Order which was directed from here
- but in that case (Ordinance 5)
Proclamation issued with the
approval of the Regis Col other Jot &
They do not explain why the provision
has been inserted in this case - but
as it is there perhaps it must be
well to ask that the Jot & may
be inserted before the resolution is
introduced.

10
16092/30

A

There is a spelling error in
"representations" in 9 Jot &
the word "the" might have been
inserted before "warrant" in

21(3) let (3.5.2001)
to draw attention to the small points.
as in 9.3
I sanction the Lt

note as at 10

J. M. Allen

19/3/31

25/3/31 H. Duncan

all p
25.3.31
Allen

14/6/31
16/5/31

15 No. Govt (2) - not known - 11 APR 1931

16 Copy of Dep No 518 - 2/8/31 Jan
in Kenya - original registered
on 16300730 to
Registered for record

11(3) let 3's hand with lines
to draw attention to the small parts.
as in 93
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link as at 10

H. M. Allen

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25/3/31 H. Duncan

all P

25.3.31

at times

11 APR 1931

15 1/2. Cow Lamb (?) - not known -

16 Copy of despatch No 518 2/5/31 from
M. Kenya - original registered
on 16300720 16/4/31
Registered for record

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16300/50

2nd September, 1961.

RESERVED.

Sir,

I have the honour to refer to Lord Passfield's Comptach No.107 (reserved) of the 16th March, 1961, enclosing a memorandum dealing with certain questions arising from the Colony's Estimates for 1961.

2. An explanation is desired by your predecessor of the special measures which it is necessary to take for the collection of revenue in the Northern Frontier Province.

3. By Section 3 of the Northern Frontier Province Poll Tax Ordinance, 1950, the Governor is empowered to enter into agreements with representatives of tribes for the payment of assessed amounts in lieu of poll tax. This power the Governor has delegated to the Provincial Commissioner.

4. The system adopted by the Provincial Commissioner is as follows:-

When the agreements have been concluded the Headmen of the tribes concerned proceed to collect the agreed amounts through the heads of their sub-sections. These heads of sub-sections are not salaried Government servants and are therefore paid for their services in connection with the collection of tax a remuneration at the rate of 2% of the amount collected. The Headmen are also remunerated at the same rate in consideration of the additional work put upon them and of the amount of travelling involved.

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

THE RIGHT HONOURABLE
J. H. BURNES, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
LONDON, S.W. 1.

J. BYRNE,
PROVINCIAL COMMISSIONER,
GOVERNOR.

7. 1804 27 30 1871

10
17

- Mr.
- Mr.
- Mr.
- Mr. Tomlinson.
- Sir C. Bellamy.
- Sir J. Stuchburgh.
- Sir G. Grindle.
- Parlt. U.S. of S.
- Parlt. U.S. of S.
- Secretary of State.

over



Amended No 1 3359/23

21 APR 1871

DRAFT.

Kenya (cont) (2)
Gen. Byrne

Li.
 I have the honor to acknowledge the
 rec. of yr. conf. despatch.
 No. 4 of the 21 Feb.
 & to inform you that
 H.M. will not be
 advised to exercise
 his power of
 disallowance in
 respect of Ordinance
 No. L III of 1870
 of the Legislature
 of Kenya, entitled
 "An Ord. to make
 Provision for the
 Payment of a

X. 1600 of 30 Aug 1931

18
17

G. O.

Mr. *0. W. P. H.*

Mr.
Mr.
Mr.

Mr. Tomlinson.
Sir C. Bottomley.
Sir J. Shackburgh.
Sir G. Grindle.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

10
-4 APR
10

Amendy No 1 3358/33

C.O.
21 APR 1931

DRAFT.

Kenya (Amend) (2)
Gen. Byrne

Li -
I h. the h. Wash. Am
rec. of yr conf. Sept.
No 14 of the 21 Feb.
& to inf. you that
my. will wolver
advised to exercise
his power of
disallowance in
respect of Ordinance
No. L 117 of 1930
of the Legislature
of Kenya, entitled
"An Ord. to make
Provision for the
Payment of"

Poll Tax in the Northern Frontier Province.

(2) I note that provision
is made in Section 17 of the
Ord. that the Ord. shall
expire on 31st Dec.
1923, unless by resolution
of the Legislative Council
it is continued in force
until a later date.

I have to request that
I may be consulted before
any resolution to extend
the Ord. beyond the 31st Dec
is ~~introduced~~ moved

Poll Tax in the
Frontier Province.

(2) I note that provision
is made in Section 17 of the
OWA that the Ord. shall
expire on the 31st Dec.
1933, unless by resolution
of the Legislative Council
it is continued in force
until a later date.

I have to request that
I may be consulted before
any resolution to extend
the Ord. beyond the 31st Dec
is ~~introduced~~ moved
in the Council.



18 14
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

KENYA.

No. 14

CONFIDENTIAL.

RECEIVED
16 MAR 1931
COI

215 February 1931.

My Lord,

I have the honour to transmit herewith two authenticated and 12 printed copies of an Ordinance intituled "The Northern Frontier Province Poll Tax Ordinance, 1930", which duly passed its third reading in the Legislative Council on the 29th November 1930, and to which the Acting Governor assented in His Majesty's name on the 24th December 1930, together with a copy of the Legal Report by the Attorney General.

2. As promised by Sir Edward Grigg in paragraph 5 of his Confidential despatch No. 130 of the 8th September, 1930, I will address to Your Lordship at a later date a further despatch on the subject of the revised estimates of the revenue which will accrue from the tax, and the programme of native services to be undertaken in the Northern Frontier Province.

I have the honour to be,

My Lord,

Your Lordship's most obedient,
humble servant,

BRIGADIER GENERAL.

G O V E R N O R.

Amwo. Com (2) - 11 APR 1931

No. 9

LEGAL REPORT

THE NORTHERN FRONTIER PROVINCE POLL
TAX BILL, 1930.

In his despatch Confidential (2) of 14th October, 1930, the Secretary of State approved of the introduction of this measure in its amended form.

The Bill as introduced embodies the amendments suggested by the Secretary of State.

In Select Committee one clause, which appears as Clause 17 in the Bill as passed was added, providing for the Bill expiring at the end of 1930 unless its life is prolonged by resolution of the Legislative Council. A similar provision appears in the Native Tribunals Ordinance, 1930.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
29th November, 1930.


ATTORNEY GENERAL.



Colony and Protectorate of Kenya.
 IN THE TWENTY-FIRST YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
HENRY MONCK-MASON MOORE, C.M.G.,
Acting Governor.

Assented to in His Majesty's
 name this *24th* day of *December*
 1930.

H. M. M. MOORE.
Acting Governor.

**An Ordinance to make Provision for the
 Payment of a Poll Tax in the Northern
 Frontier Province.**

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

1. This Ordinance may be cited as "the Northern Short title.
 Frontier Province Poll Tax Ordinance, 1930."
2. In this Ordinance, unless inconsistent with the con- Interpretation.
 text:—
 "Tribesman" means any male person who by birth,
 adoption belongs to any tribes which may be proclaimed under
 the provisions of section 3 of this Ordinance;
 "Collector" includes a District Commissioner or District
 Officer and any person appointed by the Governor to assist in
 the collection of taxes leviable under this Ordinance;

2
Annually. In reference to the period for which the poll tax prescribed by this Ordinance is payable, means each period from the 1st day of January to the 31st day of December following.

Proclaimed tribes for poll tax.
3. The Governor may by proclamation order that the poll tax prescribed by section 4 of this Ordinance shall be paid by the tribesmen of any tribe or section of a tribe (hereinafter referred to as "a proclaimed tribe") which is ordinarily resident in the Northern Frontier Province.

Poll tax.
4. Every tribesman of the apparent age of sixteen years or over who is residing with his tribe shall pay annually to a collector a tax (hereinafter referred to as "the poll tax") of such amount not exceeding twenty shillings as the Governor may by proclamation direct.

Tax to be paid in coin or notes current in the Colony.
5. (1) The poll tax shall be payable in coin or notes current in the Colony.

Receipt.
(2) A receipt for the amount of poll tax paid shall be delivered by the collector to the person paying the same.

Poll tax when payable.
6. The poll tax leviable under this Ordinance shall be payable on the first day of January in each year, and shall be recoverable at any time on conviction before a magistrate by distress, and in default of distress, the court may order imprisonment for any period not exceeding three months.

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

Power to remit tax in certain cases.
8. Whenever it shall be shown to the satisfaction of a collector that any person liable to pay the poll tax leviable under this Ordinance is without sufficient means to pay the whole amount of such tax, and is unable to obtain employment by reason of age or infirmity or any other good reason, such collector may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require, provided that in such case the collector shall give to such person a certificate in such form as may be prescribed, which certificate shall relieve the person in respect of whom the same shall have been given from liability to pay the poll tax leviable under this Ordinance for the period mentioned in such certificate. Provided that such exemption certificate may be annulled by or under the direction of a District Commissioner or District Officer.

Agreement with the representatives of a proclaimed tribe whereby such tribe shall pay annually a commuted amount in lieu of the poll tax payable by the tribesmen of such tribe, such amount in no case to be greater than the total of the poll taxes estimated to be payable by the tribesmen of such tribe.

3
10. (1) When an agreement has been entered into by the Governor with the representatives of a proclaimed tribe under section 9 and the commuted amount payable under such agreement is not paid within three months from the date on which demand for such amount is made to the tribe through the administrative officer in charge of the area such tribe shall be liable to pay double the amount in respect of which default has been made and in lieu thereof.

(2) The amount of any tax due under this section shall be recoverable on the conviction of the representatives of such proclaimed tribe before a magistrate by distress on the property of each and every tribesman of such proclaimed tribe.

11. (1) It shall be lawful for the Governor if he is satisfied that the collection of poll tax from the tribesmen of any proclaimed tribe cannot otherwise be effected, to fix a lump sum to be paid by such tribe, which sum shall in no case be greater than the total of the poll taxes estimated to be payable by the tribesmen of such tribe.

(2) When the Governor has fixed a lump sum under the preceding sub-section such fact shall be communicated to the tribe concerned through the administrative officer in charge of the area, and if such tribe fails to pay such sum within three months from the date of such communication such tribe shall be liable to pay double the amount in respect of which default has been made and in lieu thereof.

(3) The amount of any tax due under this section shall be recoverable in manner provided by sub-section (2) of section 10 of this Ordinance.

(4) No appeal shall be from the Governor's order fixing a lump sum under this section, which shall be final and shall not be liable to be contested by suit or otherwise.

12. The Governor may by writing under his hand exempt any person or class of persons or the members of any tribe from payment of the whole or any portion of any tax leviable under this Ordinance.

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

(2) Any person preventing or obstructing the entry of any collector or otherwise obstructing a collector in the lawful exercise of his duties under this Ordinance shall be guilty of an offence and shall be liable on conviction before a magistrate to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

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

Liability for double tax.

Governor may fix a lump sum payable by a proclaimed tribe in certain cases.

Power to Governor to exempt persons from payment of tax.

Collector may enter land in execution of duty.

Provision for remission of poll tax in certain cases.

15. The Governor in Council may make Rules for all or any of the purposes following —

- (a) Prescribing the forms of any receipt or certificate to be given under this Ordinance.
- (b) Prescribing the mode and time of collection of any tax levied under the provisions of this Ordinance.
- (c) Defining the duties of collectors.
- (d) Defining the duties and responsibilities of headmen in assisting in the collection of the said tax.
- (e) Generally for the better carrying out of the provisions of this Ordinance.

Persons paying tax under this Ordinance exempted from Hut or Poll Tax.
 Ord. 51
 Cap. 52.

16. Any tribesman who has paid poll tax prescribed by this Ordinance shall be exempt from payment of any of the taxes under the Native Hut and Poll Tax Ordinance and Non-Native Poll Tax Ordinance, and any tribesman who has paid the tax prescribed under the Non-Native Poll Tax Ordinance shall be exempt from payment of the poll tax prescribed by this Ordinance.

Expiry of Ordinance

17. This Ordinance shall be in force until the 31st day of December, 1933, and shall then expire, unless by resolution of the Legislative Council it is continued in force until a later date.

SCHEDULE

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

Passed in the Legislative Council the twenty-ninth day of November, in the year of Our Lord one thousand nine hundred and thirty.

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

G. R. SANDFORD,

Clerk of the Legislative Council.

Rules

15. The Governor in Council may make Rules for all or any of the purposes following—

- (a) Prescribing the forms of any receipt or certificate to be given under this Ordinance.
- (b) Prescribing the mode and time of collection of any tax levied under the provisions of this Ordinance.
- (c) Defining the duties of collectors.
- (d) Defining the duties and responsibilities of headmen in assisting in the collection of the said tax.
- (e) Generally for the better carrying out of the provisions of this Ordinance.

Persons
paying tax
under this
Ordinance
exempted from
payment of
 Hut or Poll
Tax.
CAP. 51
Cap. 52.

16. Any tribesman who has paid poll tax prescribed by this Ordinance shall be exempt from payment of any of the taxes under the Native Hut and Poll Tax Ordinance and Non-Native Poll Tax Ordinance, and any tribesman who has paid the tax prescribed under the Non-Native Poll Tax Ordinance shall be exempt from payment of the poll tax prescribed by this Ordinance.

Expiry of
Ordinance

17. This Ordinance shall be in force until the 31st day of December, 1933, and shall then expire, unless by resolution of the Legislative Council it is continued in force until a later date.

SCHEDULE

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

Passed in the Legislative Council the twenty-ninth day of November, in the year of Our Lord one thousand nine hundred and thirty

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

G. R. SANDFORD,

Clerk of the Legislative Council.

R E P O R T
O F
SELECT COMMITTEE OF LEGISLATIVE COUNCIL
APPOINTED TO CONSIDER AND REPORT ON THE
PROVISIONS OF A BILL TO MAKE PROVISION
FOR THE PAYMENT OF A BOLL TAX IN THE
NORTHERN FRONTIER PROVINCE.

Your Excellency,

We the members of the Select Committee on the above Bill have the honour to report that we recommend that the Bill be amended in the following respects:-

That there be added to the Bill the following clause as Clause 17 -

"17. This Ordinance shall be in force until the 31st day of December, 1933, and shall then expire, unless by resolution of the Legislative Council it is continued in force until a later date".

We have the honour to be,

Your Excellency's most obedient servants,

Sd. H. T. MARTIN.

Sd. A.D.A. MACGREGOR.

Sd. E. B. HORNE.

Sd. A. C. HOZE.

Sd. E.M.V. KENNELLY.

Sd. H. F. WARD.

Nairobi,

27th November, 1930.

GOVERNMENT NOTICE No. 562

HIS Excellency the Acting Governor has approved of the following Bill being introduced into the Legislative Council.

G. R. SANDFORD,

Clerk to the Legislative Council.

A Bill to make Provision for the Payment of a Poll Tax in the Northern Frontier Province.

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

Short title.

1. This Ordinance may be cited as "the Northern Frontier Province Poll Tax Ordinance, 1930."

Interpretation.

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

"Tribesman" means any male person who by birth or adoption belongs to any tribes which may be proclaimed under the provisions of section 3 of this Ordinance;

"Collector" includes a District Commissioner or District Officer and any person appointed by the Governor to assist in the collection of taxes leviable under this Ordinance;

"Annually" in reference to the period for which the poll tax prescribed by this Ordinance is payable, means each period from the 1st day of January to the 31st day of December following.

Proclaimed tribes for poll tax.

3. The Governor may by proclamation order that the poll tax prescribed by section 4 of this Ordinance shall be paid by the tribesmen of any tribe or section of a tribe (hereinafter referred to as "a proclaimed tribe") which is ordinarily resident in the Northern Frontier Province.

Poll tax.

4. Every tribesman of the apparent age of sixteen years or over who is residing with his tribe shall pay annually to a collector a tax (hereinafter referred to as "the poll tax") of such amount not exceeding twenty shillings as the Governor may by proclamation direct.

Tax to be paid in coin or notes current in the Colony.

5. (1) The poll tax shall be payable in coin or notes current in the Colony.

Receipt.

(2) A receipt for the amount of poll tax paid shall be delivered by the collector to the person paying the same.

Poll tax, when payable.

6. The poll tax leviable under this Ordinance shall be payable on the first day of January in each year, and shall be recoverable at any time on conviction before a magistrate by distress, and in default of distress, the court may order imprisonment for any period not exceeding three months.

Court costs.

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

8. Whenever it shall be shown to the satisfaction of a collector that any person liable to pay the poll tax leviable under this Ordinance is without sufficient means to pay the whole amount of such tax, and is unable to obtain employment by reason of age or infirmity or any other good reason, such collector may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require, provided that in such case the collector shall give to such person a certificate in such form as may be prescribed, which certificate shall relieve the person in respect of whom the same shall have been given from liability to pay the poll tax leviable under this Ordinance for the period mentioned in such certificate: Provided that such exemption certificate may be cancelled by or under the direction of a District Commissioner or District Officer.

Power to remit tax in certain cases.

9. The Governor may enter into an agreement with the representatives of a proclaimed tribe whereby such tribe shall pay annually a commuted amount in lieu of the poll tax payable by the tribesmen of such tribe, such amount in no case to be greater than the total of the poll taxes estimated to be payable by the tribesmen of such tribe.

Agreement with proclaimed tribe to commute tax.

10. (1) When an agreement has been entered into by the Governor with the representatives of a proclaimed tribe under section 9 and the commuted amount payable under such agreement is not paid within three months from the date on which demand for such amount is made to the tribe through the administrative officer in charge of the area such tribe shall be liable to pay double the amount in respect of which default has been made and in lieu thereof.

Liability for double tax.

(2) The amount of any tax due under this section shall be recoverable on the conviction of the representatives of such proclaimed tribe before a magistrate by distress on the property of each and every tribesman of such proclaimed tribe.

11. (1) It shall be lawful for the Governor if he is satisfied that the collection of poll tax from the tribesmen of any proclaimed tribe cannot otherwise be effected, to fix a lump sum to be paid by such tribe, which sum shall in no case be greater than the total of the poll taxes estimated to be payable by the tribesmen of such tribe.

Governor may fix a lump sum payable by a proclaimed tribe in certain cases.

(2) When the Governor has fixed a lump sum under the preceding sub-section such fact shall be communicated to the tribe concerned through the administrative officer in charge of the area, and if such tribe fails to pay such sum within three months from the date of such communication such tribe shall be liable to pay double the amount in respect of which default has been made and in lieu thereof.

(3) The amount of any tax due under this section shall be recoverable in manner provided by sub-section (2) of section 10 of this Ordinance.

(4) No appeal shall lie from the Governor's order fixing a lump sum under this section, which shall be final and shall not be liable to be contested by suit or otherwise.

12. The Governor may by writing under his hand exempt any person or class of persons or the members of any tribe from payment of the whole or any portion of any tax leviable under this Ordinance.

Power to Governor to exempt persons from payment of tax.

8. Whenever it shall be shown to the satisfaction of a collector that any person liable to pay the poll tax leviable under this Ordinance is without sufficient means to pay the whole amount of such tax, and is unable to obtain employment by reason of age or infirmity or any other good reason, such collector may, subject as hereinafter provided, allow the remission of the whole or a portion of such tax, as the case may require, provided that in such case the collector shall give to such person a certificate in such form as may be prescribed which certificate shall relieve the person in respect of whom the same shall have been given from liability to pay the poll tax leviable under this Ordinance for the period mentioned in such certificate: Provided that such exemption certificate may be cancelled by or under the direction of a District Commissioner or District Officer.

Power to remit tax in certain cases.

9. The Governor may enter into an agreement with the representatives of a proclaimed tribe whereby such tribe shall pay annually a commuted amount in lieu of the poll tax payable by the tribesmen of such tribe, such amount in no case to be greater than the total of the poll taxes estimated to be payable by the tribesmen of such tribe.

Agreement with proclaimed tribe to commute tax.

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Governor may fix a lump sum payable by a proclaimed tribe in certain cases.

40 (2) When the Governor has fixed a lump sum under the preceding sub-section such fact shall be communicated to the tribe concerned through the administrative officer in charge of the area, and if such tribe fails to pay such sum within three months from the date of such communication such tribe shall be liable to pay double the amount in respect of which default has been made and in lieu thereof.

45 (3) The amount of any tax due under this section shall be recoverable in manner provided by sub-section (2) of section 10 of this Ordinance.

50 (4) No appeal shall lie from the Governor's order fixing a lump sum under this section, which shall be final and shall not be liable to be contested by suit or otherwise.

12. The Governor may by writing under his hand exempt any person or class of persons or the members of any tribe from payment of the whole or any portion of any tax leviable under this Ordinance.

Power to Governor to exempt persons from payment of tax.

October 9, 1930.

OBJECTS AND REASONS.

The object of this Bill is to provide for the payment of a poll tax by the people of the Northern Frontier Province, without distinction between natives and non-natives.

The Governor may by Proclamation order that any tribe to be called a proclaimed tribe, shall pay an annual poll tax.

Provision is made in clause 9 for the Governor to enter into an agreement with the representatives of a proclaimed tribe, whereby such tribe shall pay annually a commuted amount in lieu of the poll tax payable by the tribesmen of such tribes.

Clause 11 provides that, when the Governor is satisfied that the collection of poll tax from the tribesmen of any proclaimed tribe cannot otherwise be effected he may fix a lump sum to be paid by such tribe in lieu of the poll tax payable. Provision is also made that, when the Governor has fixed a lump sum to be paid under this clause, and that such fact has been communicated to the tribe through the administrative officer in charge of the district, if such tribe fails to pay such lump sum within three calendar months from the date of such communication, such tribe shall be liable to pay double the amount in respect of which default has been made and in lieu thereof.

Clause 12 provides that the Governor may, by writing under his hand, exempt any person or class of persons or the members of any tribe from payment of the whole or any portion of the tax leviable under this Bill.

Clauses 8 and 14 provide for the remission of poll tax in certain cases.

Rule-making powers are conferred upon the Governor in Council by clause 15.

THE OFFICIAL GAZETTE

October 9, 1930.

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Clause 12 provides that the Governor may, by writing under his hand, exempt any person or class of persons or the members of any tribe from payment of the whole or any portion of the tax leviable under this Bill.

Clauses 8 and 14 provide for the remission of poll tax in certain cases.

Rule-making powers are conferred upon the Governor in Council by clause 15.

C.O.

16043/1930 Kenya.

Downing Street.

14 October, 1930.

Mr. Eastwood, to

Mr. Allen

Mr.

Sir C. Bottomley.

Sir J. Shackleton.

Sir G. Grindie.

Parnt. U.S. of S.

Parnt. U.S. of S.

Secretary of State.

C.O.
R 10 OCT
D 14

Sir,

I have, etc., to ack. the receipt of Sir Edward Grigg's Conf.

DRAFT.

KENYA

Confidential (2)

OAG

no 9.

no 10.

despatch No. 130 of the 8th September, and to confirm my telegram No. 213 of 9th October

which read as follows:

"In ~~the~~ ^{my} ~~despatch~~ ^{telegram} of 8th September

I approve introduction of Northern Frontier Province Poll Tax Bill as now amended. Shall be glad to

receive as soon as possible further despatch promised in paragraph 5.

2. ~~I am glad that the Governor~~ ^{is} ~~is~~ ^{glad} ~~that~~ ^{that} ~~the~~ ^{the} ~~Governor~~ ^{Governor} ~~found~~ ^{is} ~~it~~ ^{possible} ~~to~~ ^{to} ~~make~~ ^{make} ~~all~~ ^{all} ~~the~~ ^{the} ~~amendments~~ ^{amendments} ~~suggested~~ ^{suggested} in my Confidential

despatch No. 3 of the 3rd July; ⁽³⁾

3. ~~I agree~~ ^{with} ~~also~~ ^{the} ~~new~~ ^{new} Clause 10a ~~proposed~~ ^{proposed} ~~by~~ ^{by} the Governor.

it seems to me, however, that there will always be a possibility of error in

Whiting
should
in ~~forming~~ the amount which ^a the tribe
~~should~~ have paid in individual taxes,
and I ~~would~~ ^{desire} therefore suggest that
it should be laid down - not in the
Ordinance, but for administrative
guidance, - that any representations
made by Headmen as to an excessively
high levy made under Clause 10a, ~~should~~ ^{must}
be communicated to the Governor.

I have, &c

(Signed) PASSFIELD.



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

KENYA.

No 130

CONFIDENTIAL.

RECEIVED
29 SEP 1930
COLLECTOR GENERAL

8¹⁶ - September, 1930.

My Lord,

I have the honour to refer to Your Lordship's despatch Confidential (5) of the 3rd July last on the subject of the proposed Northern Frontier Province Poll Tax Ordinance.

In accordance with Your Lordship's telegram No. 108 of the 2nd July, the Acting Provincial Commissioner is now, in the course of a tour of the Province, asking a definite announcement from the tribesmen that taxation will be imposed in 1931. In this connection it is stated that it is desired that any proposed increase in the rate above Sh. 10/- should be referred to Your Lordship's approval before any announcement is made as to a forthcoming increase.

I append hereto a copy of amendments I propose, in reference to Your Lordship's despatch to be sent to the tribesmen published in the Government Gazette. I am advised by the Acting Provincial Commissioner and by the Chief Native Commissioner that it is necessary to take these amendments into consideration in order to guard against the possibility of a complete breakdown in the collection of tax, to

- empower -

*Amend Val - 2/10/30
For the Chief Commr*



GOVERNMENT HOUSE,
NAIROBI
KENYA

KENYA

No. 130

CONFIDENTIAL.

RECEIVED
29 SEP 1930
COL. OFFICE

8¹⁶ - September, 1930.

My Lord,

I have the honour to refer to Your Lordship's despatch Confidential (5) of the 3rd July last on the subject of the proposed Northern Frontier Province Poll Tax Ordinance.

(No. 8)

2. In accordance with Your Lordship's telegram No. 108 of the 2nd July, the Acting Provincial Commissioner is now, in the course of a tour of the Province, making a definite announcement to the tribesmen that taxation will be imposed in 1931. In this connection I note that it is desired that any proposals for increasing the rate above Shs. 10/- should be referred for Your Lordship's approval before any announcement is made as to a forthcoming increase.

(No. 7)

3. I append hereto a schedule of amendments which I propose, in deference to Your Lordship's wishes, to insert in the Bill before publication. The only clauses which would appear to call for further explanation are 10 and a proposed new 10a.

4. I am advised by the Acting Provincial Commissioner and by the Chief Native Commissioner that it is, in their opinion, absolutely necessary, in order to guard against the possibility of a complete breakdown in the collection of tax, to

*Amend. Vol - 3/10/30 (10)
In the Am. & Conf. (2) - 14/10/30.*

empower the Governor to levy commuted tax where there is reason to believe that there is, or is likely to be, organised evasion of poll tax, but the clause as re-drafted limits the amount of such commuted tax to a sum equal to the total of the poll tax estimated to be payable, and provides for due legal process. In the circumstances, I trust that Your Lordship will agree that provision for an appeal from such fixation is both unnecessary and undesirable.

5. The revised estimate of revenue and the possible revision of the programme of services consequent upon Your Lordship's decision to restrict the amount of poll tax to Shs. 10/- will require careful examination and I propose to address Your Lordship further on this aspect of the matter in a later despatch.

6. In view of the urgent necessity for introducing the Bill at the next session of Legislative Council I should be grateful if Your Lordship's approval of the introduction of the Bill as amended into Legislative Council may be communicated to me by telegram.

I have the honour to be,

My Lord,

Your Lordship's most obedient,
humble servant,

Edward Guinness

GOVERNOR.

3

AMENDMENTS TO THE NORTHERN FRONTIER PROVINCE

POLL TAX BILL.

- Clause 5 (1) to read - "The Poll Tax shall be payable
"in coin or notes current in the
"Colony."
- Clause 6 add - "and shall be recoverable at any
"time on conviction before a
"Magistrate by distress, and in
"default of distress the Court
"may order imprisonment for any
"period not exceeding three
"months."
- Clause 7 to read - "Whenever proceedings are taken
"for the recovery of any poll tax
"under this Ordinance, it shall
"be lawful for the magistrate to
"order the person in default to
"pay such sum for court costs not
"exceeding in any case six
"shillings as the magistrate in
"his discretion may determine.
"The sum so ordered to be paid in
"costs, together with the amount
"of poll tax unpaid, shall be
"recoverable by distress, and in
"default of distress the court may
"order imprisonment for any period
"not exceeding three months."
- at Poll Tax Ordinance
on 1880*
- Clause 9 add - "such amount in no case to be
"greater than the total of the
"poll taxes estimated to be
"payable by the tribesmen of such
"tribe."
- Clause 10 (1) to read- "When an agreement has been
"entered into by the Governor
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"proclaimed tribe under section 9
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"under such agreement is not paid
"within three months from the date
"on which demand for such amount
"is made to the tribe through the
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"of the area such tribe shall be
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"in respect of which default has
"been made and in lieu thereof."
- (2) "The amount of any tax due under
"this section shall be recoverable
"on the conviction of the
"representatives of such proclaimed
"tribe before a Magistrate by
"distress on the property of each
"and every tribesman of such
"proclaimed tribe."

New clause

C.O.

Mr. Eastwood 30/1

Mr. Parkinson 30.8.30

Mr. ...

X Sir C. Bottomley. 30.6

Sir J. Stuchburgh

Sir G. Grenville

+ Perm. ... 1.9.30

+ Party. U.S. of S. T.S.S. 1.7.30

+ Secretary of State. ... 2/9

X.16043/30 Kenya.

C.D.
R 2-JUL
4 3.

C.D. and Room 3 to note to send 12 copies.

Downing Street,

3 July, 1930.

Handwritten circle containing '15/1' and 'am 9'.

Sir,

DRAFT.

KENYA

CONFIDENTIAL (3)

Gov. Grigg.

Handwritten note: ...

I have the honour to refer to your confidential despatch of the 10th May on the subject of the institution of taxation in the Northern Frontier Province, and to confirm my telegram No. 108... of the 22 July, which read as follows:-

(Here insert text of draft herewith)

2. I have to thank you for the full details given in your despatch of the anticipated yield of the taxes, and ... the proposals for recurrent and capital expenditure. While I am prepared to accept Clause 4 of the Bill which will permit of ... tax up to a figure not exceeding 20/-, I do not feel justified

Send 12 copies to ...

KENYA

No. 130

CONFIDENTIAL.



GOVERNMENT HOUSE
NAIROBI

9
KENYA

RECEIVED
29 SEP 1930
COL. JOE

16 September, 1930.

My Lord,

I have the honour to refer to Your Lordship's despatch Confidential (5) of the 3rd July last on the subject of the proposed Northern Frontier Province Poll Tax Ordinance.

(No. 8)

2. In accordance with Your Lordship's telegram No. 108 of the 2nd July, the Acting Provincial Commissioner is now, in the course of a tour of the Province, making a definite announcement to the tribesmen that taxation will be imposed in 1931. In this connection I note that it is desired that any proposals for increasing the rate above Shs. 10/- should be referred for Your Lordship's approval before any announcement is made as to a forthcoming increase.

(No. 7)

3. I append hereto a schedule of amendments which I propose, in deference to Your Lordship's wishes, to insert in the Bill before publication. The only clauses which would appear to call for further explanation are 10 and a proposed new 10a.

4. I am advised by the Acting Provincial Commissioner and by the Chief Native Commissioner that it is, in their opinion, absolutely necessary, in order to guard against the possibility of a complete breakdown in the collection of tax, to

- empower -

Armed Vel - 3/10/30 (10)
14/10/30
In the Armed Conf (2)

THE RIGHT HONOURABLE
LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.1.

empower the Governor to levy commuted tax where there is reason to believe that there is, or is likely to be, organised evasion of poll tax, but the clause as re-drafted limits the amount of such commuted tax to a sum equal to the total of the poll tax estimated to be payable, and provides for due legal process. In the circumstances, I trust that Your Lordship will agree that provision for an appeal from such fixation is both unnecessary and undesirable.

5. The revised estimate of revenue and the possible revision of the programme of services consequent upon Your Lordship's decision to restrict the amount of poll tax to Shs. 10/- will require careful examination and I propose to address Your Lordship further on this aspect of the matter in a later despatch.

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I have the honour to be,

My Lord,

Your Lordship's most obedient,
humble servant,

Edward Gung

GOVERNOR.

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POLL TAX BILL.

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"in coin or notes current in the
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"The sum so ordered to be paid in
"costs, together with the amount
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"recoverable by distress, and in
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C.O.

C.D.
R 2-JUL
13

Mr. Eastwood 30/1
Mr. Parkinson 30.8.30

X.16043/30 Kenya.

Mr.

X Sir C. Bottomley 30-6

C.D. and Room 3 to note to send 12 copies.

Sir J. Shuckburgh

Sir G. Graham

+ Party U.S. of S. 1.7.30

+ Secretary of State 2.7.30

con. on 2/7

15
and
9

Downing Street,

3 July, 1930.

DRAFT.

KENYA

CONFIDENTIAL (3)

Gov. Briggs.

What is the effect of law

Sir,
I have the honour to refer to your confidential despatch of the 10th May on the subject of the institution of taxation in the Northern Frontier Province, and to confirm my telegram No 108... of the 2.7.30, which read as follows:-

(Here insert text of draft herewith).

2. I have to thank you for the full details given in your despatch of the anticipated yield of the taxes, and ~~and~~ the proposals for recurrent and capital expenditure. While I am prepared to accept Clause 4 of the Bill which will permit of ^{the imposition of} poll tax up to a figure ~~not~~ ^{not} exceeding 20/-. I do not feel justified

Sent 12 copies to [unclear]

in approving the imposition of a
tax exceeding 10/- upon members of
the Somali tribes, at least until it
can be seen what is the effect of
taxation, and until compensatory
expenditure has been incurred; and
I take this opportunity of saying
that I should wish any proposals
for increasing the rate above 10/-
for any of the tribes, Somali or
otherwise, to be referred to me for
approval before any announcement is
made as to a forthcoming increase. I
rather that if a reduction of the tax
from Somali tribes to 10/- will
involve a considerable reduction in
the estimated revenue, and I shall be
glad to ^{be informed under of the} ~~receive~~ revised estimates of
^{the} yield on the 10/- flat rate basis.
If it should be quite impossible then
to proceed with the full programme
at once

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the Somali tribes, at least until it
can be seen what is the effect of
taxation, and until compensatory
expenditure has been incurred; and
I take this opportunity of saying
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from Somali tribes to 10/- will
involve a considerable reduction in
the estimated revenue, and I shall be
glad to ^{be informed of the} ~~receive~~ revised estimates of
^{how} the yield on the 10/- flat rate basis.
If it should be quite impossible then
^{at once}
to proceed with the full programme

of services proposed in your despatch, you will no doubt advise me of the alterations ^{which} you would feel it desirable to make. But I hope that the financial situation will be such as would enable you to adhere to that programme, ^{as} I should be most unwilling to agree to the curtailment of the services proposed which should, I think, be regarded as a minimum.

7051 |
7051 |

3. As regards the ^{general} Draft Bill ~~provisions of the Bill~~ which was enclosed in your despatch

(1 on 15313/28).

~~No 376 of the 4th July 1938.~~ I would observe that on general grounds it would appear desirable that the procedure to be followed should differ as little as possible from that prescribed by the Native Hut and Poll Tax Ordinance (Cap.51). I have borne this in mind in examining the ~~Draft~~ Bill, and I have now to offer the following comments on particular clauses:-

Clause 5.

the point if for local reasons payment in kind is unavoidable in the earlier stages. I should be glad to have further information from you on the subject, and if payment in kind is resorted to, I should wish every effort to be made to limit its use and to discontinue it altogether at the earliest opportunity throughout the Colony.

Clause 7. The procedure in the event of non-payment of tax differs from that provided in Section 3 of the Native Hut and Poll Tax Ordinance, and I note from paragraph 6 of your despatch No. 325 of the 4th July 1928, that the reason is that it is considered ~~improper~~ ^{impracticable} to take proceedings against individual nomads, or to ascertain the ownership of their property for attachment. ^{But it is to the} This clause ^{case of individuals that the clause} applies, however, only in cases where ^{refers, and neither is actually} the tax is levied upon individuals, and if ^{as} contemplated in Subsection 3, the tax

In the circumstances,

can be recovered by distress, I am not clear why it should be impossible to follow the normal procedure, and I should prefer that this clause should be amended to correspond with the relevant part of Section 8 of Cap. 51.

Clause 9

~~Clause 9~~ empowers the Governor to "enter into an agreement" with the representatives of a tribe for the payment of a lump sum in lieu of individual payments by the members of the tribe.

Under ~~Clause 9~~ Clause 10, the Governor is further empowered to levy a lump sum in lieu of individual payments (1) when he is satisfied that there has been collusion to evade payment of poll tax, and (2) when negotiations for agreement under Clause 9 are unsuccessful.

(A) I find myself unable to agree to the provision that the Governor can, if negotiations for an agreement under Clause 9 are unsuccessful, nevertheless

proceed

proceed to commute a tax for a lump sum
without agreement. I cannot but think
that its effect is to render the provi-
sions of Clause ⁹ nugatory, and if ~~such~~
~~provision~~ is to be retained it would
seem better to omit altogether the pro-
vision for negotiations for an
agreement, and to empower the Governor
to levy a commuted tax in suitable cases

As at present advised, ^{however} I should not
regard ^{even} this as satisfactory, and I
should prefer that tax should not be
levied in a lump sum except with the
agreement of the representatives of the

*Thus, ~~clauses 9~~
tribes concerned. ~~In fact, I should~~
~~would think, clause 10 would need~~
prefer that ~~clauses 9 and 10~~ (1) should
~~survive so as to provide machinery for~~
be replaced by a clause giving power to
~~decide with whom in which the tax~~
the Governor to make arrangements with
~~agreed under clause 7, is not paid.~~
any tribe for the commutation of the
poll tax by payment of a lump sum per
annum.*

(6.) I observe, moreover, that no

maximum is ^{laid down for} fixed to the lump sum
which ^{was} ^{fixed} ^{to} be paid. You will no doubt
agree that this should be limited to a
maximum not exceeding the total of the
individual taxes estimated to be due.

(c) I note that Subsection 3 of Clause 10
provides (as also does Subsection 3 of
Clause 7) for recovery of the amount of
tax by distress, but it does not appear
that provision is made for any legal
process, and I observe that there is
to be no appeal from any order under
this section. These subsections appear
to be open to serious objection, and I
should be glad if you would consider the
possibility of amending them so as to
provide at least for due legal process.

(d) I presume that the word "order"
which is used for the first time in
Subsection 4 refers to the fixing of a
lump sum by the Governor, and the communi-
cation of that fact to the tribe concerned

through the Administrative Officer in charge of the area, or to any order to pay double the amount. It would be desirable in revising the Bill to make the position quite clear.

Clause 14. Specific penalties appear to be prescribed for every offence against the Ordinance, except for an offence under Clause 12(2). In any event, ~~The~~ penalties under Clause 14 are in my opinion excessive, and I would suggest that ~~the clause~~ might be omitted, and a suitable penalty added to Clause 12(2).

4. The above comments on the Draft Bill affect its terms so materially that I was left with no alternative but to request you to delay publication pending the receipt of my despatch. I shall be glad if the Bill could be redrafted in the light of these observations and forwarded with any comments which

you

you may have to make. I trust that
I shall then be in a position to
approve of its introduction in the
Legislative Council in time for its
passage before the end of the year.

I have, etc.

(Signed) PASSFIELD.

C.O.

Mr. Eastwood 28/6

16043/30 Kenya

Mr. Parkinson 30/6/30

Mr.

Sir C. Bottomley 30.6

Sir J. Shackburgh

Sir G. Grindle

+ Perm. Sec. of S. 11.7.30

+ Parly. U.S. of S. 1.05.27.30

+ Secretary of State

Coded receipt
2.35 p.m. 2/7/30

No. 108

CONFIDENTIAL

DRAFT. bel.

code for caution

GOVERNOR

NAIROBI

(6)

& a desp.

h. l. n.
15/7/30

Your despatch of 10th May
Conf. I approve of your announcing
that taxation will be introduced
generally in the Northern Frontier
Province as from the 1st January next
but I am only able to agree to a flat
rate of 10/- a head for all concerned
including Somalis. ~~Despatch~~ Despatch
follows containing many comments
on the draft bill forwarded in your
despatch of 4th July 1928 No. 375 and
requesting that bill may be redrafted
in the light of them. I regret
therefore that I have no alternative
but to request you to delay
publication of bill.

S. C. C.

6a 34

Note.

As regards para.2 and 3, no doubt some form of taxation is ultimately inevitable, and further delay ~~is~~ from certain points of view undesirable in view of the Governor's declaration of 1928, but the difficulties ~~so arising~~ are the Governor's own creation in committing himself without the prior approval of the Secretary of State.

Par.4. The argument that other tribes have been taxed without corresponding benefits is not convincing, and the Governor's reference to the diversion of money which might be used for other purposes seems hardly justified in view of the terms of the ^{Sot} Governor's telegram No.15 of 15313/28 which contemplated that the initial cost of skeleton services might be debited as a loan to be repaid out of taxation in the Province when levied. There seems to be nothing in that telegram to justify the idea that the Secretary of State contemplated expenditure ^{of} special services in excess of the revenue raised.

As regards par.5, no doubt it is the case that Somalis are legally non-natives, but it is difficult to accept the argument in this paragraph that the whole reason for special legislation is the necessity for communal levies to deal with evasions of payment. Is it really suggested that they would simply deal with the Somalis under the Non-Native Poll Tax Ordinance, and thus have two systems of taxation in the Province. "Natives" being dealt with under the Native Hut and Poll Tax Ordinance. This really does seem absurd, seeing that the tax payable under the Non-Native Poll Tax Ordinance

* This is so under the interpretation given at the Department in the 51 + 52 cases a new para into para 4 does not seem necessary to
20. 11/22

is definitely 30/-, whereas the present Bill following the proposal in par.9 of No.4 of 1533/28 provides for a maximum tax of 20/-, and this maximum only to apply to the Somali tribes. It is obvious, therefore that the system is comparable to the native poll tax under which there is a maximum of 20/- which in practice only applies to the Masai. The following compares revenue and expenditure as given in the Governor's telegram of the 14th of March (No.2), and as now estimated in this despatch.

	Governor's Tel. in No.2.		Present despatch	
<u>REVENUE</u>	£15,646		£17,617 rising to £20,000 in five years.	
<u>EXPENDITURE</u>	Recur- rent £	Captl. £	Recur- rent. £	Captl. £
Medical	3,000	-	2,000	-
Hospitals				
Wajir)			(a)	
Lamu)	Not stated		1,000	2,500
Water boring	-	3,000 (b)	-	3,000 (b)
Veterinary	2,587	8,030	2,587	8,030
	<u>£ 5,587</u>	<u>£ 11,030</u>	<u>£ 5,587</u>	<u>£ 13,530</u>

Notes. (a) This figure is based on the assumption that as in the case of the capital expenditure, half is attributable to the Northern Frontier Province.

(b) It is not clear whether any part of this recurrent expenditure

On the above basis, we get the figure of £23,290 for capital expenditure, and £5,587

for

"Compensation"
Expenditure &
possible development
fund expenditure
seems irrelevant.
JAH

KENYA.

No.

CONFIDENTIAL.



GOVERNMENT HOUSE,
NAIROBI
KENYA.

RECEIVED
- 2 JUN 1930
COL. OFFICE

10 May, 1930.

My Lord,

I have the honour to refer to my

- (No 2) Cablegram of the 14th March 1930, and your Cable-
 - (No 3) gram of the 28th March 1930, regarding the institu-
- tion of taxation in the Northern Frontier Province.

2. In paragraph 14 of my Confidential despatch No. 72 of 29th August 1926, I emphasised the need for making good my declaration to the tribes in 1926 that taxation would be instituted in 1929 and the serious consequences that would ensue from any deviation from this course. The arguments for the step were detailed at length and I need not recapitulate them here. The delay that has since occurred can, for the present, be satisfactorily explained to the natives concerned by a reference to the difficulties they have recently experienced as a result of drought and locusts and Government's consequent reluctance to impose taxation at such a time. The economic prospects for 1930, have, however, so much improved that this argument can no longer be adduced; and the effect of any further delay on the native mind will not only be disastrous ...

Our tel. No 108 2 July 30

*5 July 1930
Further Bureau - Conf (5)*

THE RIGHT HONOURABLE
LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

disastrous but will increase the difficulties of collection when, sooner or later, as Your Lordship will agree is inevitable, a decision to impose taxation is reached.

(No 4 in 15313/21)

3. I would refer Your Lordship to paragraph 4 of my above mentioned despatch and to the seriousness of the situation therein described. This is the situation in the Northern Frontier today. It cannot be justified either on the ground of equity or expediency. It is damaging to British prestige and is the germ of potential trouble in the future. As was then pointed out it is intolerable that loyal and law-abiding tribes should not only be harassed and driven from their grazing grounds by Somali aliens but should also contribute to the administration and protection of those aliens under British rule by the payment of taxation from which the latter are exempt.

To a lesser degree it is inequitable that the rest of the communities in Kenya of any race or colour should bear the financial burden of the administration and defence of the Northern Frontier Province without any direct contribution from its Somali inhabitants.

4. I feel some difficulty in accepting unreservedly the principle enunciated in Your Lordship's telegram of the 23rd January that the imposition of taxation can be justified only on the basis that the tribes concerned are simultaneously provided with beneficial services such as the extension of veterinary and medical services. In the earlier stages of our administration of this Province...

Province the absence of communications made the provision of any service other than military protection, impossible: but this duty alone has inflicted a burden for many years out of all proportion to the numbers of the population of the Province and the extent of its contribution to revenue.

Further it is only within recent times that the finances of the Colony have permitted the expenditure of funds for the provision of beneficial services to many tribes that have loyally and peacefully contributed their quota of taxation to the country's revenue since the earliest days of administration. While, therefore, I fully agree that the imposition of taxation should as a corollary postulate the provision of beneficial services to the taxpayer, I cannot agree that the diversion of money that might otherwise be used to promote the progress of law-abiding taxpayers to provide services substantially in excess of those enumerated in my cablegram of the 14th March, 1930, for Somalis who have so far evaded taxation, is a course of action that could be adopted without detriment to the interests of other more deserving tribes.

5. I wish to emphasise that the tribesmen who would be affected by the proposed measure are already liable to taxation under the existing law of the Colony (Cap. 52 of the Laws of Kenya) and that the present proposal so far from being one to impose taxation on people hitherto exempt is rather to discontinue exemptions which have never been legally made under section 14 of that law. What has taken place in the past is that by a mixture of cunning and

truculence ...

truculence these Somali tribes have taken advantage of the peculiar conditions of the area and the absence of means to compel payment, whilst other tribes in the West and North who come within the provisions of Cap. 51 loyally fulfilled their obligations. The whole reason for special legislation lies in the necessity for legal machinery to impose communal levies where there is a general tendency or concerted action to evade payment.

6. I now proceed to furnish the details of Revenue asked for in Your Lordship's Confidential telegram of the 28th March which it is anticipated will be derived from the imposition of taxation on the general basis of £1 per head on members of Somali tribes and Shs. 10/- per head on members of the more primitive native communities of the Province, and take this opportunity to revise the figures given in my Confidential telegram of the 14th March as a result of closer scrutiny of the proposals. The estimated Revenue is as follows:-

ISIOO DISTRICT.

x Turkana	...	...	...	...	£1,000.	
x Samburu	...	...	...	...	2,000.	
x Galla	...	...	...	...	800.	£3,800.

MAUNDALE.

x Gabbra	....	....	....	....	£1,534.	
x Rendile	...	...	...	...	749.	
x Samburu	...	...	...	...	58.	£2,341.

OLIVE.

x Boran	...	...	...	...	400.	
x Aguran.	...	...	...	...	500.	
x Gurra	...	...	...	...	1,200.	
x Merille	...	...	...	...	160.	
x Degodia	...	...	...	...	140.	
x Ashraf	...	...	...	...	10.	
x Leisain	...	...	...	...	50.	
Misc. Tribes	...	...	...	...	40.	
Burji	...	...	...	...	40.	
x Gurra Maro	...	...	...	...	50.	£2,570.

BURA.

✓ Abd Wak	...	...	...	£1,000.	1,000
✓ Abdulla	...	...	...	400.	200
✓ Rer Mohamed	...	...	...	600.	300
✓ Aulihan	...	...	...	1,000.	500
✓ Galla	...	...	...	171.	150
✓ Korokoro	...	...	...	134.	60
✓ Malalu	...	...	...	188.	40
✓ Bor	...	...	...	315.	150
✓ Malakote	...	...	...	315.	150
				<u>£4,106.</u>	<u>1940</u>

WAJIR.

... .. £5,000.

No accurate details of the population of Wajir District which is very fluctuating are available.

£17,317.

I would also correct the figure for the present annual expenditure on Medical Services in the Province which amounts approximately to £2,000 and not to £5,000 as stated in the above mentioned telegram.

7. It is estimated that the collection of tax in five years time will be approximately £20,000. It should be understood that these figures are approximate only and also that it is not intended that in the first instance at any rate, the basis of taxation throughout the Province shall be uniform. It is probable that a number of the community will prefer and will be permitted to avail themselves of the provisions in Clause 9 of the proposed Bill to enter into an agreement with the Government to pay annually a committed amount.

8. I regret that the services which I proposed to render to the population contingent on the introduction of taxation appear to Your Lordship to be inadequate but I trust that the following elaboration of my proposals will be sufficient to remove the impression which was apparently conveyed by ...

by my Confidential telegram of the 14th March 1930.

As the result of a more searching examination of the available data than was possible at the time the telegram was despatched, I am able to outline a programme of expenditure, subject of course to the exigencies of the financial situation, which is greater than that previously detailed.

9. MEDICAL EXPENDITURE.

Expenditure on Medical Services in the Northern Frontier Province which, as stated above, amounts approximately to £2,000 per annum, includes the following items:-

Salary of Medical Officer.
Salary of Sub-Assistant Surgeon.
Salary of Native Staff.
Upkeep of Hospitals.
Local Travelling.
Medical Stores.
Contingencies.

10. As I informed Your Lordship in my Confidential telegram of the 14th March, I hope to extend these services by the establishment of hospitals at Wajir and at Lamu. It is intended that each of these hospitals should provide accommodation for 15 beds. The estimated capital cost of the hospital at Wajir is £1,500 and that at Lamu, £3,500, of which one half is estimated as the contribution of the Northern Frontier Province. The recurrent expenditure on Medical Services as a result of the establishment of the two hospitals will be increased by about £2,000. Wajir is the centre of the Somali population and although this population is not large and is, moreover, not generally subject to the ravages of disease, I am confident that the establishment of a hospital at Government headquarters, at which not only the members of the military and civil garrison but also such indivi-

- 7 -

47

duals of the neighbouring tribes as are occasionally victims of accident or sickness, may be treated, will be cordially welcomed by all concerned. I am of opinion that in its initial stages 15 beds should suffice for all ordinary needs but provision will of course be made for the possibility of an extension should occasion arise.

11. Lamu is the port which serves not only that city but also the scattered population of the Coast, the Archipelago and the Tana River. This population comprises not only Arabs and Swahilis, but also Bajans, Somalis, Galla, Pokomo, Boni, Wasanya and a few other small and very primitive communities. The recent opening of a road from Meru to Lamu has greatly facilitated access to the latter place from the interior. There is at present a small hospital at Lamu in charge of a Sub-Assistant Surgeon which has sufficed for the needs of the town population which is normally healthy. The Riverine population, however, is not so healthy and I now propose, if finances admit, to replace the available accommodation by the establishment of a new 30 bed hospital with a Medical Officer in charge with the particular object of providing facilities for the Riverine Tribes.

12. WATER SUPPLY.

As Your Lordship is aware the provision of water throughout the Northern Frontier Province is one of the major problems with which this administration is faced. The money which we received from the Ethiopian Government in compensation for raids perpetrated by its subjects will, it is hoped, go far to relieve the situation, and the details of my proposals for expenditure on water

boring ...

(Not in
11/25/30)
(11/25/30)

boring to be charged against the sum received in compensation have been communicated to Your Lordship in my Confidential despatch No. 7 of the 17th January 1930. If I can realise an adequate Revenue from taxation I propose to increase this provision by setting aside the sum of £3,000 for the improvement and in some cases the extension of the existing system of wells. These improvements will commonly take the form of redesigning the well tops, mechanical devices for raising the water, pipes to convey the water to places outside the immediate vicinity of the wells themselves and in some cases, perhaps, lining the sides of wells.

13. VETERINARY CENTRES.

As Your Lordship is aware inhabitants of the Northern Frontier Province are pastoral nomads whose economic and social progress is dependent upon the improvement of their cattle and sheep, more particularly the latter, and on the development of facilities for stock trade; I propose, therefore, to devote a considerable proportion of the amount, which it is hoped will result from taxation, on the establishment and maintenance of a Veterinary centre the capital cost of which is estimated at £8,030 with an annual recurrent expenditure of £2,587.

14. Leaving aside the proposals in regard to future services, I would remind Your Lordship of the improvements which have been effected up to date in the communications of this Province.

No 74

In my Confidential despatch No. 72 of 29th August, 1928, mention was made of the fact that my tour in the Province covered a distance of 1900 miles. At that time the roads were little better than tracks necessitating the expenditure of considerable work and money for their improvement and for the construction ...

struction of permanent bridges.

During 1929, £6,575 were expended out of the Colony's estimates and in 1930, it is proposed to spend £9,760 against the Colony's estimates on this service. This latter sum includes expenditure of £2,400 on the improvement of the Nanyuki-Isiolo road which only serves this Province.

15. In this connection it is appropriate to mention that the construction of a track to Lamu has already resulted in a considerable improvement of trade to and from that port, and this, when transformed by further outlay into a permanent road, will insure a steady development of trade in the future.

The closing of the former trade route via Kismayu as a result of the refusal of the Italian Authorities at Kismayu to grant bonding privileges has provided an opportunity for the trade through Lamu which should be seized without delay.

Proposals are being submitted for the improvement of this and other roads in the Province under the Colonial ^{Development} ~~works~~ Funds.

16. Your Lordship will therefore see that in the event of taxation being generally imposed throughout the Province with a consequent estimated Revenue of £17,000, I hope, if the financial situation allows, to extend existing services and to initiate new ones at an estimated cost of £25,000, Capital Expenditure, and £6,000 Annual recurrent expenditure.

I do not consider that I should be justified under the existing conditions of the Colony's finances in allocating any larger sums than these to the Province which has hitherto been a continuous burden and drain on Revenue provided by the peoples of other areas, and I trust that Your Lordship will be able to agree that the proposed provision is a generous return for the tardy imposition of taxation from which the beneficiaries have been for so long unjustifiably immune.

17. I have recently received from the Acting Provincial Commissioner a recommendation with which I concur that collection of tax should commence on January 1st, 1951, as by that date the Sotho would have completely recovered from the effects of the 1929 drought and be in a good position to pay their tax.

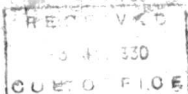
18. In the circumstances I trust that Your Lordship will not any longer withhold your consent to the publication and introduction of the Northern Frontier Province Poll Tax Bill, and that any communication may be communicated to me by telegraph, that during the remaining months of the year, the Administrative Officers may announce the definite decision of Government to all concerned.

I have the honour to be,

My Lord,

Your Lordship's most obedient,
humble servant,

Edward Gigg.



Cancelled.

4
51

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

Dated 2nd April, 1930.

(Received Colonial Office 7.35 p.m. 2nd April, 1930.)

N^o 2

Confidential 112 Your telegram of 26th March
Confidential Northern Frontier taxation. In all the
circumstances which I have set out in full in despatches
and in view of the terms of my oath as Governor I have
no alternative but to enforce mandate provisions
Section 3 (Chapter 52 of Law of Kenya and to exercise
under Section 14 power to remit tax(es) in full or in
part in cases of proved poverty or where full collection
may be considered oppressive. Natives as defined in
Section 2 Chapter 51 will be dealt with under latter
Ordinance.

C. O.

Mr.

Mr. A. B. 21/3/20

Mr.

X Mr. Bottomley 24.3.20

~~St. A. Churchburgh~~

~~St. A. Churchburgh~~

X Permt. U.S. of S. 24/3/20

X Early U.S. of S. 24.3.20

X Secretary of State. 24/3

DRAFT. Code telegram

Important
Governor
Mumbai

X. (Box 2) 20 News

3
52

Room 40

Booked 24/3
3.45 pm 24/3



26th March - confidential
You confidential telegram
of 1st March No. 824
I note that detailed
dispatch is being
sent and I wish to
await this before
deciding whether
reference is to be
introduced in the
Northern Frontier
Province & to any
extent certain

Acare for dispatch

provisions of the Bill in
your despatch No 375 of

[1 in 15313/28

12 July 1938 ~~from a~~
~~to indicate to~~ ~~to require~~
~~further explanation~~
~~in the circumstances~~
~~I fear that I cannot~~
~~use authentic publication as~~
~~proposed introduction of the~~
~~Bill as I will send despatches~~
~~concerning regarding provisions~~
~~in the Bill as to which~~
~~I am doubtful~~

+ 2028

Confer. after the following instances
are open to objection and other remarks
Central source proposed ^{apply} inadequate
introduction of introduction
I will communicate on subject ^{proposed}
despatch is received.

MEMORANDUM on the Draft Bill
Subject in no. 1 of 15-3-1928

No. 1 on
15313/28

The necessity for a special Ordinance is explained in the Governor's despatch No. 375 of the 4th July 1928. Briefly the reasons are:

(1) That the Native Hut and Poll Tax Ordinance does not cover Somalis (of whom there are many in the Northern Frontier Province) since Somalis are not "natives" as the word is defined in the Kenya Laws.

(2) That the Native Hut and Poll Tax Ordinance provides primarily for a tax to be paid by individuals. It would be practically impossible to collect any form of individual tax from the nomads who roam over the greater part of the 96,000 square miles of the Northern Frontier Province. It is therefore proposed that communal payments shall be the general rule, but that individual payments should be imposed "where there is a likelihood of its being collected without difficulty".

In these circumstances it is curious that the emphasis of the Bill appears to be on individual payments.

Classes 1, 2, 6 and 12 to 16 may be regarded as non-controversial. Clause 5 provides for the payment of the tax in coin or notes, or in kind; elsewhere in Kenya it may only be paid in coin or notes.

1. Classes relating to individual payments.
Clauses 3 and 4.

The Governor may by proclamation:

- (a) Order that a Poll Tax shall be paid by every tribesman of the apparent age of 16 years or over, of a specified tribe or section of a tribe.

This is not
correct
See § 16 of Native
H. & P. Tax Ord.

§

(b) Fix the amount of tax to be paid.

This shall not exceed Shs.20/-

[Under the Native Hut and Poll Tax Ordinance every native owning a hut pays Hut Tax of not less than Shs.6/- or more than Shs.20/- for each hut, and a similar sum for each additional wife living in the same hut. Every able-bodied male native of the apparent age of 16 who lives in an area or tribe "proclaimed" by the Governor and does not pay Hut Tax pays a Poll Tax of not less than Shs.6/- and not more than Shs.20/-.

The normal rate of tax at present is Shs.12/- a hut or adult male Poll. The Masai pay Shs.20/-, the Wapoto pay Shs.10/-, and there are other minor variations.]

Clause 7.

Defaulters are liable on conviction by a magistrate to imprisonment for not more than 3 months, or to a fine of not more than £25, or to both. The tax may be recovered by distress.

[Under Section 8 (1) of the Native Hut and Poll Tax Ordinance, tax may be recovered on conviction by a magistrate by distress, and failing that, the defaulter may be imprisoned for not more than 3 months. In addition any hut or huts may be liable to forfeiture. The Governor

explains that in the case of nomads it would be impracticable to take civil proceedings against individuals, or to ascertain the ownership of property for attachment. *Provision for nomads is retained.*

In Tanganyika when any native who is liable for tax has not paid it or has not, in the opinion of the collector, "taken such reasonable steps to procure the means of payment as may have been ^{within} his power", he is required

by the Administrative Officer "to work within the district on any Government undertaking or on any ordinary public works and services authorised by the Government". If he wishes he may be given rations for such work. If he fails to work he is then (and only then) liable on conviction to imprisonment for not more than 3 months.

(Tanganyika Hut & Poll Tax Ordinance, No. 12 of 1922)

Sir Donald Cameron in a recent despatch regarding the proposed Forced Labour Convention has indicated that he regards these ~~provisions~~ ^{provisions} as valuable, and that he would consider it most undesirable that imprisonment should be the only penalty for non-payment of tax. Under Section 11 of the existing Kenya Native Hut and Poll Tax Ordinance, the Governor may make arrangements with any tribe for the commutation of Hut Tax by payment of a lump sum per annum to be taken either in money, kind, or labour. In certain backward districts in Uganda work on the roads is accepted as an alternative to the payment of tax (under Section 7 of the Poll Tax Ordinance, Chapter 63).

It is not within the possibility of a fine. No doubt because of the nature of the penalties in all circumstances contemplated.

It would be possible to introduce into this bill provision for work on Government undertakings as a penalty for non-payment of tax. It will be seen that there would be ample precedents for this. ~~the objection to the general objection~~ ^{the objection to the general objection} to the introduction of anything remotely savouring of forced labour, and there is in addition the rather remote possibility that the proposed Convention will not allow compulsory labour as a penalty. This, however, is unlikely as the proposal is to be resisted by H.B.G.

On the other hand a labour penalty would be specially suited to backward districts such as the Northern Frontier Province, in which moreover there are none of the possibilities of abuse consequent on the presence of European settlers.

It may be thought desirable to suggest the inclusion of some such provision.

As to the liability ~~to~~ to a fine, there is no similar provision in the Native Hut and Poll Tax Ordinance. In Tanganyika a fine up to £10 (increased to £20 in the event of fraud) may be imposed for failure to produce a receipt or furnish information as to the office at which tax was last paid. In Uganda a fine of three times the amount due may be imposed on anyone refusing to pay tax within 8 months of the date on which it becomes payable.

Over in Nigeria there is a fine max. £5 for Ch. 74 § 21. *all*
Section 11.

§ 9
In Nigeria the fine is £100. *A*
all

The maximum fine of £25 proposed in the Bill seems unnecessarily heavy. The Governor might be asked to reduce it to £10.

In Nigeria it is six years. *all*

As to the liability ~~to~~ imprisonment: the maximum term is 3 months in the rest of Kenya and in Tanganyika, and 2 months in Uganda. The maximum of 3 months proposed ~~is~~ therefore ^{to be} reasonable.

Clause 8.

Collectors have power to remit all or part of the fine to those unable to pay owing to age, infirmity, "or any other good reason". [The Clause follows substantially the similar Section in the Native Hut and Poll Tax Ordinance, with the addition of the words "or any other good reason".]

II. Clauses relating to Collective Payments.

Clause 9.

"The Governor may enter into an agreement with the representatives of a proclaimed tribe whereby such tribe shall pay ~~only~~ ^{annually} a commuted amount in lieu of the Poll Tax payable by ^{the} tribesmen of such a tribe."

Clause 10.

Clause 10.

"(1) When the Governor is satisfied that the tribesmen, or any of them, of any proclaimed tribe have colluded to evade payment of the Poll Tax, or that negotiations for an agreement ^{under the last preceding section} have been unsuccessful, the Governor may fix a lump sum to be paid by such tribe in lieu of the Poll Tax payable. The amount due under this Clause (but not Clause 9) may be recovered by distress. There will be no appeal from an order under this Clause."

[It is apparently under these two Clauses that the greater part of the taxation will be raised. Various points may be noted :-

(1) Under Section 11 of the Native Hut and Poll Tax Ordinance the Governor may make arrangements with any tribe or village for the commutation of the Hut Tax by payment of a lump sum per annum, either in money, kind or labour. Under Clause 5 of this Bill it could only be paid in the Northern Frontier Province in money or in kind.

(2) No maximum sum is fixed for the collective payment under either Clause 9 or Clause 10. Presumably the intention is that such collective payment shall in no case exceed the estimated amount that would have been paid had the tax been levied on individuals.

? It is desirable to specify this.

(3) If a tax imposed under Clause 10 (1) is not paid within 3 months the tribe ^{shall} be liable to pay double. The payment may be recovered by distress. Apart from this there appears to be no penalty at all for non-payment of a collective tax. Apart from Clause 9, the

only penalty clause is Clause 14, which provides that a person who contravenes any provision of the Ordinance for which no other penalty is prescribed shall be liable on conviction to imprisonment for not more than 6 months, or to a fine of not more than £25, or both. This is clearly inapplicable to collective payments.

? A special penalty clause is necessary.

Clause 11.

The Governor may exempt any person, class of persons or tribe from payment of the whole or part of the Tax.

Clause 14.

is a penalty clause (see above). ~~It~~ provides a penalty of imprisonment for not more than 6 months, or a fine of not more than £25 for any contravention of the Ordinance for which no other penalty is provided. Penalties, however, seem to be provided for ~~any~~ ^{other} contravention except non-payment of collective tax, to which this Clause would clearly be inapplicable. There seems therefore to be no particular point in it, and in any case the maxima are very high, and might ? be reduced to 3 months, or £10, or both.

But ? the whole Clause might be omitted.

E. Paulson

8.3.30

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

(Dated 14th March Received Colonial Office 5.2.p.m. 14th March, 1930.)

Confidential. No. 84.

(No. 1) — Further to my telegram 21st February Northern Frontier taxation. Estimated receipts from taxation £16,645. Details will follow by post. Present medical expenditure £3,000 in addition to which I propose if taxation applied to establish hospital at Wajir which is centre of Somali population also hospital at Lamu which would serve some Galla and Fokoro in the Tana River District. Medical Officer for the latter can be made available this year and some Arab houses can be purchased for conversion. I further propose water boring £3,000 apart from expenditure against Abyssinian compensation also capital expenditure on veterinary centre £5,030 and recurrent expenditure of £2,587 chiefly to promote trade by providing outlet for livestock at present hampered by disease.

In view of the extreme urgency of passing the bill at the April Session to enable collection of taxes this year I request your telegraphic sanction to publication and introduction.

Handwritten: 20/3/30 (C)