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1920

27th March

previous Paper.

The copies--will fwd explanatory despatch by next mail

18337

sent part by  
19/3/20

*W.B. Murray*

? copy to Sir E. Hartley for info,  
as he may like to have this  
early - & then see what

all

24/4/20

*W.B. Murray*

previous Paper.

250

Wheo

AFRICA PROTECTORATE

no 345

GOVERNMENT HOUSE

425

BRITISH EAST AFRICA

20264  
RECEIVED  
27 March, 1920.  
REV. 22 APR 20

My Lord,

So  
69783  
79

Bill.

I have the honour to refer to Your Lordship's telegram of January 19th and to enclose copies for Your Lordship's consideration of the Land Tax Bill which it is proposed to bring before Legislative Council at its next meeting.

2. An explanatory despatch is in preparation and will be forwarded to Your Lordship by the next mail.

I have the honour to be,  
Your Lordship's  
humble, obedient servant,

ACTING GOVERNOR.

THE RIGHT HONOURABLE

VISCOUNT MILNER, P.C., G.C.B., G.C.M.G., &c., &c.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.

RECORD OFFICE LONDON

C. O.  
20264  
REC  
APR 22 1929

426

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## A Bill

**Intituled**

An Ordinance relating to the Imposition, Assessment  
and Collection of Land Tax and Land Transfer Tax.

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PRINTED BY THE GOVERNMENT PRINTER, SINGAPORE.

## A Bill

## Intituled

**An Ordinance relating to the Imposition, Assessment and Collection of Land Tax and Land Transfer Tax.**

## PART I

## PREFATORY.

1. This Ordinance may be cited as "The Land Tax Ordinance, 1929." Short title.
2. This Ordinance is divided into parts, as follows: Division of Ordinance.
- Part I. Introduction.
- Part II. Administration of Ordinance.
- Part III. Land Tax and Land Transfer Tax.
- Part IV. Returns and Assessment.
- Part V. Objections.
- Part VI. Collection and Recovery of Taxes.
- Part VII. Miscellaneous.
3. In this Ordinance, unless the context otherwise requires: Interpretation.
- "Agent" includes every person who in the Protectorate or on behalf of any other person outside of the Protectorate (hereinafter called "the principal") has the control or disposal of any land belonging to the principal, or the control or disposal of any rents, issues, or proceeds derived from such land.
- "Local Authority" means a Municipal Council constituted under the Municipal Corporation Ordinance, 1905, or any other body or other authority appointed under the East Africa Townships Ordinance, 1905, for the purposes of the said Ordinance.
- "Owner" in relation to land includes every person who, jointly or severally, whether in law or in equity:
- (a) is entitled to land for any estate in possession;
- (b) is entitled to receive, or in receipt of, or if the land were let to a tenant would be entitled to receive, the rents or profits thereof; whether as beneficial owner, trustee, mortgagee in possession, or otherwise; and includes every person who by virtue of this Ordinance is deemed to be the owner. "Owned" has a meaning corresponding with that of "owner".

A BILL

introduced

An Ordinance relating to the Imposition, Assessment and Collection of Land Tax and Land Transfer Tax.

PART I

Interpretation.

- 1. This Ordinance may be cited as "The Land Tax Ordinance, 1929". Short title.
- 2. This Ordinance is divided into parts, as follows: Division of Ordinance.
  - Part I. Introduction.
  - Part II. Administration of Ordinance.
  - Part III. Land Tax and Land Transfer Tax.
  - Part IV. Returns and Assessment.
  - Part V. Objections.
  - Part VI. Collection and Recovery of Taxes.
  - Part VII. Miscellaneous.

3. In this Ordinance, unless the context otherwise requires: Interpretation.  
 "Agent" includes every person who in the Protectorate or on behalf of any other person outside of the Protectorate (hereinafter called "the principal") has the control or disposal of any land belonging to the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such land.

"Local Authority" means a Municipal Council established under the Municipal Corporation Ordinance, 1926, or any Commission or other authority appointed under the Municipalities Ordinance, 1926, for the purposes of this Ordinance.

"Owner" in relation to land includes every person who jointly or severally, whether in law or in equity:

- (a) is entitled to land for any estate or possession, or
- (b) is entitled to receive, or is receipt of, or if the land were let to a tenant would be entitled to receive, the rents or profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; and includes every person who by virtue of this Ordinance is deemed to be the owner. "Tenant" has a meaning corresponding with that of owner.

(vii) All land owned by or in trust for a religious society, the proceeds whereof are devoted solely to the support of the said or other clergy or ministers of the society or their wives or widows or children or to religious, charitable or educational purposes.

(viii) All land owned by or in trust for any person or society and used or occupied by that person or society solely as a site for:

- 10 (1) A place of worship for a religious society, or a place of residence for any clergy or ministers or order of a religious society.
- 15 (2) A school, college, university or other educational institution not carried on for pecuniary purposes.
- 20 (3) A library, museum and gallery, or a society, club or association, not carrying on pecuniary purposes.
- (4) A public library, institute or museum.
- (5) A public cemetery or public burial ground.
- (6) A public park, public recreation ground or public reserve.
- (7) A public beach.

Land tax shall be levied and paid by every owner of land in respect of all land of which he is the owner. Provided that in the case of an owner of several estates or parcels of land (not being a trustee of different estates for the benefit of different 25 estates *que trust*) the aggregate of the values of such several estates or parcels shall be regarded for the purpose of taxation as if such aggregate represented the unimproved value of a single estate or parcel.

7. (1) The land tax shall be charged on land as owned at noon on the thirty-first day of December immediately preceding the financial year for which the tax is levied.

(2) Every person whose name appears at noon on the thirty-first day of December immediately preceding the financial year in and for which such tax is assessed and levied in any register under any Ordinance relating to the registration of deeds or instruments affecting title to land, shall for the purposes of this Ordinance be deemed to be the owner of that land, unless before such date he:-

(i) Gives express notice in writing to the Commissioner that he has parted with or disposed of the land of which he is shown to be owner in such register, whether by sale, conveyance, assignment, or transfer of any kind, or that he has been deprived thereof by operation of law; and

(ii) Furnishes the Commissioner with full particulars in writing, of the transaction, the price obtained for the land, the name and address of the purchaser or transferee thereof, or of such facts as relieve him from liability as law, such particulars to be verified by statutory declaration in the prescribed manner.

Provided that any person who shall pay the land tax for any year in respect of any land which he has parted with or disposed of by sale, conveyance, assignment, or transfer, before the thirtieth day of June in that year, shall be entitled to receive from the purchaser or transferee in any Court of competent jurisdiction a fair and proper proportion of the amount of any tax so paid or assessed, so paid by the use of such purchaser or transferee.

8. Persons owning land as joint tenants, tenants in common, co-partners, co-trustees or on a joint account shall, in respect of land so owned and for the purposes of the land tax thereon, be deemed to be a single taxpayer, and shall be jointly and severally liable for the payment of the tax without regard to the relative shares or interests in the land.

9. The account of every taxpayer as to the tax payable in his representative capacity shall be kept separate and distinct from the account of the tax payable in his individual right; and the account of taxpayers jointly entitled to or interested in, whether as partners or otherwise, the same land, as regards tax payable in respect of such land, shall be kept jointly and separate and distinct from the sole accounts of such taxpayers.

Every map person

Date at which ownership determined for purpose of tax.

Person shown as owner in any register relating to the registration of deeds or instruments affecting title to land deemed owner under Ordinance, unless Commissioner of Lands notified.

Joint tenants

Keeping of accounts

LAND TRANSFER TAX

15. Subject to the provisions of this Ordinance and the regulations hereunder, there shall be paid to the Commissioner upon the first transfer of any land after the commencement of this Ordinance a land transfer tax of twenty per cent on the consideration expressed in such instrument over and above the unimproved value of the land according to the first valuation made under this Ordinance and on every subsequent transfer anything hereto to the contrary notwithstanding a like tax at the same rate on the difference between the consideration expressed in such transfer and the consideration expressed in the transfer prior thereto.

Land transfer tax.

16. No tax shall be payable under this section on any transmission of land of a deceased person or upon any transfer from executors or administrators to the devise or devisees of such land or to the persons entitled thereon upon a distribution of the estate and any value ascertained upon any such transmission or transfer shall not be deemed to be a value for the purposes of this Ordinance.

No tax payable on transmission by death.

17. No transfer of land shall be registered in any register under any Ordinance relating to the registration of deeds or instruments affecting title to land until after the payment of any land transfer tax payable under this Ordinance.

Transfer not to be registered until tax paid.

18. Unless otherwise agreed upon between the parties, any land transfer tax payable under this Ordinance shall be payable by the transferee.

Unless otherwise agreed tax payable by transferee.

19. If any land transfer tax payable under this Ordinance is paid by any person other than the person liable for the payment thereof, it shall be recoverable from the person so liable in as much as the debt of the person by whom it was paid is a debt of contract.

Tax payable on transfer of a part of the whole estate, etc., etc.

20. Where part only of an original holding is transferred the amount of land transfer tax payable on such transfer shall be ascertained by determining what proportion such part bears to the original holding and the land transfer tax payable on such transfer shall be in the proportion so ascertained.

PART VI

RETURNS, AGREEMENTS AND RECEIPTS

Returns

21. (1) For the purposes of assessment and levy of land tax, every taxpayer shall each financial year, in the prescribed manner, and within the prescribed time, furnish returns setting forth a full and complete statement of all land owned by him at noon on the thirty-first day of December then next past, and of the improved and unimproved value of every parcel thereof.

taxpayer to furnish returns

(2) Nothing, except as otherwise required by the Commissioner or provided by taxpayer who in any financial year has furnished the full returns above mentioned may in each of the two succeeding years furnish, in lieu of such full returns as above mentioned, supplementary returns setting out a full and complete statement of so much of such as the taxpayer or owner to be the owner since the thirty-first day of December preceding the last full returns, and of the improved and unimproved value of every parcel thereof, with such other particulars as are prescribed.

(3) In addition to the returns required by the last preceding section every person, whether a taxpayer or not, shall be and when required by the Commissioner make such further or other returns as the Commissioner requires for the purposes of this Ordinance, if such returns are not, by necessary for the purposes of ascertaining the land transfer tax payable upon the first transfer of any land after the commencement of this Ordinance.

22. Any return purporting to be made or signed by or on behalf of any taxpayer or person shall be deemed to have been duly made, if duly made and signed by him until the contrary is proved.

(9) Be conclusive evidence that the amount and all the particulars of such assessment are correct; except in proceedings on objection against the assessment when it shall be *prima facie* evidence only.

(2) The production of any document under the hand of the Commissioner purporting to be a copy of or extract from any return or assessment shall for all purposes be sufficient evidence of the matters therein set forth without producing the original.

(3) (F) As soon as conveniently may be after any taxpayer's assessment is made the Commissioner shall cause to be given to him a notice in writing of such assessment.

Notice of assessment to be given.

(4) The omission to give any such notice shall not invalidate any assessment.

(5) No deduction from the unimproved value of any land shall be allowed in respect of any mortgage to which the land is subject, or in respect of any unpaid purchase money, and a mortgagee shall be assessed and liable for land tax as if he were the owner of the unencumbered estate.

Mortgages.

(6) A mortgagee or other person whose duty exists or interest in land by way of security for money, shall not be liable to land tax in respect of that mortgage estate or interest.

Mortgagee's right of deduction.

Provided that a mortgagee in possession of land, or any other person in possession of land by way of security for money, shall so long as such possession continues (though not to the exclusion of any other person) be deemed to be the owner of the land, and the mortgagee shall be deemed to be the primary taxpayer, and the mortgagee in possession to be the secondary taxpayer, and there shall be deducted from the tax payable by the latter in respect of the land such amount (if any) as is necessary to prevent double taxation, but any such mortgagee or person in possession shall if the mortgagor makes default in the payments of land tax in respect of the land, be responsible for the payments of the tax due by the mortgagor which payment shall be deemed to be made by him on behalf of the mortgagor.

PART V

OBJECTIONS

35

(1) All objections to the assessment of land shall be heard and determined by an Assessment Court constituted under this Ordinance.

Objections to be heard by Assessment Court.

(2) Each Assessment Court shall consist of three members of whom one shall be the Magistrate exercising jurisdiction in the Magistrate's Court situated in or near the locality in which the subject matter of the objection arises.

(3) Such Magistrate shall be the President of the Court.

(4) The other two members of the Court shall be appointed by the Governor-in-Council.

(5) The Clerk of such Court shall be appointed by the Magistrate.

(6) In any public notification or advertisement of an intended sitting of an Assessment Court the names of the members of whom the Court is composed may be stated, and the production of a copy of any such public notification or advertisement purporting to be signed by or on behalf of the Commissioner shall be prima facie proof that the members of the Court so named are duly appointed and qualified.

(7) The Clerk of such Court shall prepare and lay before the Assessment Court, prior to the opening of the Court, a list of all objections to the assessment of land which are to be heard, and the President of the Court shall sign all documents given by such Court in such list, and shall sign all such returns, and the Commissioner shall correct the assessment from such list and sign it, and shall make all such consequential alterations as are necessary.

List of objections.

(8) Subject to the provisions of Section 50 hereof, the decision of the Assessment Court shall be final, and the quantum of land shall rest with the objector.

Decision of Court final.



45. The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full and complete returns:—

Provision when tax not paid during lifetime.

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(a) The Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect of the estate of the taxpayer as he would have had against the taxpayer in his lifetime.

(b) The executors and administrators shall make such returns as the Commissioner requires for the purpose of a full assessment.

(c) The assessment shall be at the rates payable in respect of the years for which the rate ought to have been paid, and the amount payable shall (where the taxpayer's default was intentional) be treble the amount of the difference between the tax so assessed and the amount actually paid by the taxpayer, and shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators.

(d) Nothing in this section shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the treble tax as in the case of ordinary assessment and taxation.

46. No statute of limitations at any time in force shall bar recovery of land tax.

47. (1) Land tax shall, by force of this Ordinance, and whether registered or not, be a first charge on the land in respect of which it is payable, and such charge shall have priority over all other liabilities whatsoever, and notwithstanding any position of any land, it shall continue to be liable in the hands of any purchaser or holder thereof, for the payment of such tax so long as the same remains unpaid.

(2) Where the Commissioner deems it advisable to register the charge, he may deposit with the proper Registrar a certificate under his hand describing the land charged, and stating that there is an arrear of land tax payable in respect thereof, and the Registrar shall register such certificate accordingly.

48. Every person who, under the provision of this Ordinance, pays any tax for or on behalf of any other person, shall be entitled to recover the same from that other person as to debt, together with the costs of recovery, or to retain or deduct some out of any money in his hands belonging or payable to that other person.

Recovery of tax paid on behalf of another person.

## PART VII

### MISCELLANEOUS.

49. Every company which is a taxpayer and which carries on business in the Protectorate shall at all times be represented by a person residing in the Protectorate duly appointed by the company or by its duly authorized agent or attorney, and with respect to every such company and person the following provisions shall apply:—

(a) The person so appointed shall for all purposes of this Ordinance be deemed the public officer of the company.

(b) The company shall keep the office of public officer permanently open, and the appointment of a public officer shall be subject to the approval of the Commissioner, and the name of the public officer and address for service, shall be given to the Commissioner.

(c) If the company fails or omits to duly appoint a public officer when and as aforesaid, or when appointment becomes necessary, it shall be liable, as an offence, and shall be liable to a penalty not exceeding £1,000 for every day during which the failure or neglect continues.

(d) Service of any document at the address for service of the public officer of a company shall be deemed service upon the company for all the purposes of this Ordinance or the Regulations, and if at any time there is no public officer then service upon any person acting or appearing to act in the business of the company shall be sufficient.

Fine for obstructing officer or breach of Ordinance

Every person is liable to a fine not exceeding Rs. 750/

(a) Obstructs or hinders any officer acting in the discharge of his duty under this Ordinance; or

(b) Commits any breach of this Ordinance or of any regulation thereunder for which no specific penalty is imposed elsewhere than by this section.

34. All fines and penalties under this Ordinance may be recovered as a civil debt recoverable summarily.

55. The Governor in Council may make Regulations not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or expedient to be prescribed for giving effect to the Ordinance.

LAND TAX.

The following scale of Land Tax is suggested for introduction for the first year under section 5 of the Bill—

On the first Rs. 7,500 of value at tax of	5%
" " next 15,000 " " " "	6%
" " " 22,500 " " " "	7%
" " " 30,000 " " " "	8%
" " " 37,500 " " " "	9%
" " " 45,000 " " " "	10%
" " " 75,000 " " " "	15%
" " " 150,000 " " " "	20%
On any additional part of value	25%

The following instances show the tax payable according to the scale above on land of certain values—

On Land of which the total value is Rs. 7,500 a tax of Rs. 375 which is	5%
" " " 22,500 " " " "	6%
" " " 45,000 " " " "	7%
" " " 75,000 " " " "	8%
" " " 112,500 " " " "	9%
" " " 150,000 " " " "	10%
" " " 225,000 " " " "	15%
" " " 300,000 " " " "	20%
up to maximum which is less than	25%

for obstructing  
any breach of  
Ordinance

34. Every person is liable to a fine not exceeding Rs. 750/-  
who

(a) Obstructs or hinders any officer acting in the discharge  
of his duty under this Ordinance.

(b) Commits any breach of this Ordinance or of any regula-  
tion thereunder for which no specific penalty is imposed else-  
where than by this section.

Recovery of fines

All fines and penalties under this Ordinance may be  
recovered as a civil debt recoverable summarily.

35.

The Governor-in-Council may make Regulations which are  
inconsistent with this Ordinance prescribing all matters which by  
this Ordinance are required to be prescribed, and  
necessary or convenient to be prescribed for giving effect to  
this Ordinance.

### LAND TAX

The following scale of Land Tax is suggested for introduc-  
tion for the first year under section 10 of the Bill

On the first Rs. 2,000 of value at tax of	1%
" " " " 20,000	2%
" " " " 22,500	3%
" " " " 30,000	4%
" " " " 37,500	5%
" " " " 45,000	6%
" " " " 75,000	7%
" " " " 150,000	8%
On any additional part of value	2 1/2%

The following instances show the tax payable according to the scale above on land of  
certain values:-

On Land of which the total value is Rs. 2,500 a tax of Rs. 25.00 which is 1%	
" " " " 22,500	427.50
" " " " 45,000	230
" " " " 75,000	325
" " " " 112,500	802.50
" " " " 157,500	1,312.50
" " " " 202,500	2,407.50
" " " " 302,500	6,437.50

up to maximum which is less than

20 250/100

9th

436

29

*[Handwritten signature]*

DRAFT.

To S. W. Harkley, Albany, N. Y.

30 April 1890

MINUTE.

In

Presence of Warrant to you

W. C. Canning 28. 4. 90

W. C. Canning  
28/4

for your information the acc. copy

W. C. Canning

of a Corp. dated the 27<sup>th</sup> of April from the 27<sup>th</sup>

H. Lambert

Gov. of that date with enclosure was

H. Read

A bill entitled "An Ordinance relating to the

G. Fiddle

inery.

Disposition, Assessment & Collection of

Mills.

Land Tax & Land Transfer, etc.

10284

*[Handwritten signature]*  
(Signed) H. J. READ.