

EAST AFR. PROT.

C J
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POLL TAX
PAYMENT BY NON-NATIVES

Encloses copy of Bill now being dealt with by the Legislative Council. For reasons stated is opposed to the exclusion of Government servants from the operation of the present proposals but this should not be looked upon as a precedent for subjecting them to any taxation of a burdensome nature which it may hereafter be found desirable to impose.

Sir G. Piddell

I think that we may concur
with the views expressed by the Committee
to the deep.

With regard to the Bill, I see that
the Committee have given a final
31 days, but I suppose that this will
be put right by the Council.

H. J. R.

* It would be a most serious matter
to exclude officials from any form of personal tax. I
should consider the reply to concurrence in non-execution
from the Government

Part 20

I agree

20.3

Soder. 8

6 22.3

FT. 0

Conf
Board 17

Date
1912

February

Previous Paper

38680

Subsequent Paper

13634

I agree as to the immediate answer.
But where (as in E.A.P.) we forbid
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H 22 3.12

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H 22.3.12

GOVERNMENT HOUSE
NAIROBI.

BRITISH EAST AFRICA

20th February, 1912.

EAST AFRICA PROTECTORATE.

CONFIDENTIAL No. 17.

Sir,

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I have the honour to acknowledge the receipt of your Confidential despatch of the 4th January authorising the introduction of a measure providing for the levy of a Poll Tax and to inform you that a Bill, a copy of which I enclose, is now being dealt with by the Legislative Council and was read a first and second time at the last Session.

Bill.

2. I would take this opportunity of expressing my views in regard to paragraph 5 of your despatch Confidential of July 13th in which the question of exempting officials from the tax is raised.

3. So far as the present proposal is concerned it is not thought desirable to provide for any such exemption on the grounds (a) that the suggested tax of Rupees fifteen per annum is so inconsiderable that its incidence could scarcely be deemed burdensome, and (b) that any differentiation between the official and unofficial classes would be injudicious at this juncture as emphasizing

THE RIGHT HONOURABLE

LEWIS HARCOURT, F.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON.

a distinction which I am particularly anxious not to accentuate. Undue stress has, in certain quarters, been laid on the supposed divergence of interests affecting these two sections of the community. Personally I am of opinion that it has never existed to anything like the extent claimed and tends to diminish daily, but I should nevertheless deprecate the introduction of a Government measure tending to perpetuate any feeling of the kind in the absence of strong reasons in its favour.

4. Such reasons cannot, I think, be urged in the present instance, as the proposed tax is so small, but the case would be widely different, if in the future it should be deemed desirable to levy an income tax. The official class would then, I submit, have strong claims to special consideration. An income tax would presumably be justified by such an advance in the material prosperity of the Protectorate as would make it only fair to expect those who profited by it to bear a larger proportion of the expense of administration.

5. Now Government officials, who are debarred from holding land or having any commercial interests locally, could have no share in the honorary advantages accruing as a result of the general progress and development of the country. On the contrary they
would

would probably be adversely affected by the enhanced cost of living, which has already become noticeable and tends to increase as the community grows wealthier. The purchasing power of their fixed salaries would be reduced and they would become both relatively and absolutely poorer than the members of the general public.

6. I would earnestly beg therefore that, while for the reasons which I have stated I am opposed to the exclusion of Government servants from the operation of the present proposals, the action taken in this case may not be regarded as a precedent for subjecting them to any taxation of a burdensome nature which it may be found desirable to impose in future years.

I have the honour to be,

Sir,

Your humble, obedient servant,


GOVERNOR

INCLOSURE

In Despatch No. 17 of 25th February 1912 302
Confidential

C O
8073
REC'D
RECEIVED MAR 11

A Bill

intituled

An Ordinance to make provision for the Payment of a Poll Tax
by Non-Natives.

A Bill

Intituled

An Ordinance to make Provision for the Payment of a Poll Tax by non-natives.

This Ordinance may be cited as "The Non-Native Poll Tax Ordinance, 1912."

2. In this Ordinance unless inconsistent with the context

"The Tax" means the Non-Native Poll Tax prescribed by this Ordinance.

"District Commissioner" includes an Assistant District Commissioner.

"Non-Native" means a male person other than a Native within the meaning of the Native Hut and Poll Tax Ordinance, 1910.

"Magistrate" means a Magistrate holding a Subordinate Class of the first, second or third class, and the powers conferred upon a Magistrate by this Ordinance may be exercised by any such Magistrate notwithstanding any law regarding the jurisdiction of such Magistrate over Europeans or other Non-Natives.

"Year" means each period from the 1st day of April to the 1st day of March following.

3. From and after the first day of April, 1912, there shall be paid in every year by every Non-Native a tax of fifteen rupees, to be called the Non-Native Poll Tax.

4. The tax payable in any year shall be paid between the first and thirtieth day of April in such year. Provided, however, that in the case of any Non-Native who is not residing in the Protectorate on the first day of April or who although residing in the Protectorate on such date leaves the Protectorate during the month of April without having read the tax payable in that year, such Non-Native shall pay the tax within one month of his coming or returning to the Protectorate, as the case may be. And provided further that any Non-Native who shall come to the Protectorate after the 30th day of September in any year and who shall not have previously resided in the Protectorate in the same year, shall pay a tax of seven rupees and fifty cents within of the tax before prescribed.

5. The tax shall be paid by the person liable to pay the same to a District Commissioner at the Office of the Officer to whom payment is made.

6. A District Commissioner shall give to the person paying the tax a receipt in the prescribed form.

7. Every person paying the tax shall furnish to the Officer to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if required by such Officer, attend personally at the office of such Officer for such purpose.

8. Any person, who shall wilfully furnish a District Commissioner with false particulars as to any of the information required by such Officer in preparing a receipt, or who, on being required to attend at the Office of a District Commissioner, shall neglect or refuse to attend or attending shall neglect or refuse to furnish any information required as aforesaid, shall, on conviction, be liable to a fine not exceeding one hundred and fifty rupees or imprisonment for a term not exceeding two months.

9. Whenever any person shall make default in the payment of the tax due payable by him any Magistrate having jurisdiction in the district or place to which the person in default is for the time being staying or residing may issue summonses directing the defaulters to attend before him, at a time to be named in the summonses, to show cause why he should not be ordered to pay the amount due as a judgment debt.

10. If a summons for enabling a defaulter to show cause as mentioned in the last preceding Section is issued, it shall be lawful for the Magistrate to

the date named in the summons or at any other date to which the hearing may be adjourned, to order him to pay into Court the amount of the unpaid tax, and such costs and expenses as are for this purpose from time to time fixed by the Governor, or to order him to pay into Court any part of such amount which the Magistrate may deem the defaulter able to pay or arrange for paying, within seven days of the order or within such extended time as may be determined by the Magistrate, and either in a lump sum or by instalments.

11. (1) If the person summoned as aforesaid fails to comply with the summons without lawful excuse or if he makes default in payment into Court in the manner aforesaid, it shall be lawful for the Magistrate to commit such person to prison, without hard labour, for a term not exceeding six weeks or until payment of the sum ordered to be paid (if paid before the expiration of such term): Provided that no such committal shall be ordered for default in payment as aforesaid unless it be proved to the satisfaction of the Magistrate that the person making default either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses and neglects, to pay the same.
- (2) Proof of the means of the person making default may be given in such manner as the Magistrate thinks just, and, for the purpose of such proof, the debtor and any witnesses may be summoned and their attendance enforced by the same processes as in cases in which the Magistrate has jurisdiction in criminal matters, and such debtor and witnesses may be examined on oath.
- (3) Every order of committal under this Section shall be issued, obeyed, and executed in manner similar to commitments by Magistrates in the exercise of jurisdiction in criminal cases.
- (4) Imprisonment under this Section shall not operate as a satisfaction, or extinguishment of the judgment debt.
- (5) The amount of any tax due and unpaid, and the sum (if any) ordered to be paid for costs and expenses under Section 10, may, at any time, be levied by the attachment and sale, under the orders of a Magistrate, of the movable property of the defaulter in like manner as if the same were payable under a decree of a Civil Court, and a Magistrate is hereby empowered to issue such order either on his own motion or on the application of any District Commissioner.

12. In the event of the defaulter paying the whole amount ordered to be paid as aforesaid and the cost and expenses of or in connection with any attachment ordered, the Magistrate, if a District Commissioner, shall grant to the person paying a receipt in the prescribed form for the amount of the tax paid, or, if not a District Commissioner, shall remit to a District Commissioner the amount, so paid after deducting therefrom such part thereof as may represent the Court costs, and the District Commissioner on the receipt of such sum shall grant to the person who shall have paid the same a receipt in the prescribed form.

13. (1) A District Commissioner may, at any time, require any Non-Native to produce the receipt granted to such Non-Native for the payment of the tax last payable and a District Commissioner may retain any receipt produced for such time as he may consider necessary for the purpose of identifying the person named therein with the person producing the same.
- (2) A District Commissioner may require any Non-Native who refuses or neglects to produce his receipt when requested to furnish him with information as to the office at which he has paid his tax last payable, and with such further information as the District Commissioner may require for the purpose of ascertaining whether such Non-Native has paid such tax.
- (3) Any Non-Native, who without lawful excuse, shall neglect or refuse to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, shall fail to furnish the information which may be required of him under the preceding Sub-section, shall, on conviction, be liable to a fine not exceeding seventy-five rupees or to imprisonment for a term not exceeding one month.

- (4) Any Non-Native who, being required by a District Commissioner to produce his receipt, shall produce a receipt granted to some other person, or, who, having failed or refused to produce his receipt, shall furnish a District Commissioner with any false particulars as to any of the information which may be required of him under Sub-section (2) of this Section, shall, on conviction, be liable to a fine not exceeding four hundred and fifty rupees or to imprisonment of either description for a term not exceeding six months.

Penalty for producing a receipt granted to some other person or for giving false information.

14. The Governor may remit, wholly or in part, the tax on the ground of poverty of the person liable to pay the same, or on the ground that the tax is oppressive, and may also, for good cause, refund the tax or any part of the

General power of Governor to remit or refund the tax.

15. There shall be exempted from the payment of the tax under this Ordinance the persons following:

Persons exempt.

(a) Every persons under the age of eighteen.

(b) Any person who, by virtue of any treaty to which the British Government or the Sultan of Zanzibar is a party, is exempted from the payment of the tax throughout the Protectorate, or to that part of the Protectorate in which he is residing when payment of the tax is demanded of him.

(c) A person on a temporary visit to the Protectorate, provided that he is not the owner or lessee of land in the Protectorate, and is not engaged in any employment or business in the Protectorate, and has not any pecuniary interest in any business or enterprise conducted or carried on in the Protectorate.

16. The burden of proof of exemption from the tax shall lie on the party claiming the exemption, and no person shall be entitled to exemption from the tax under paragraph (b) of the last preceding section unless he shall produce a certificate of exemption granted by or under the authority of the Governor.

Burden of proof of exemption.

17. The Governor may, from time to time, make rules prescribing the form of the receipt to be granted under this Ordinance, and generally for the better carrying out of the purposes of this Ordinance, and may attach penalties not exceeding a fine of seventy five rupees, for the breach of any such rule.

Power to make rules.

18. The Native Hut and Poll Tax Amendment Ordinance, 1910, is hereby repealed.

Repealed.

Pro Capt.
8078

306



27 March 1912

Li

DRAFT.

Ans'd 36407

I have the honor to
ack. the receipt of yours
Lieut. P. G. Edwards capt. Insp.
of the 20th of Feb. forwarding
a copy of a Bill, as
introduced into the Legislative
Council, providing for the
payment of a Poll Tax by

Non-natives

2. I concur in ^{the provision} ~~the provision~~

Opinion that it is not
desirable to ~~introduce~~
speculate here payment of
the tax

2nd Capt.

2nd Lt.

478. 26/3

to Reas 27/3

notice that the former
is dropped the proposal
that non-Europeans should
pay tax 1/2 lb.