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Colony and Protectorate of Kenya

GOVERNMENT NOTICE No. 396

The following despatch from the Secretary of State is published for general information.

A. DE V. WADE,
Acting Colonial Secretary.

Secretariat, Nairobi,
14th June, 1933.

KENYA.

No. 397.

DOWNING STREET,
7th June, 1933.

SIR,

The necessity of taking adequate and immediate steps to restore the financial position in Kenya is universally accepted. It is also generally and rightly accepted that this position must be met by a combination of economy and taxation. Both subjects have engaged and are engaging the earnest attention of yourself, your officers, and the Legislative Council. Great economies have already been made, and I appreciate the constant consideration which is being given to this side of the question. But when every step has been taken, which is practicable, to ensure economical administration in every field, it is clear that the finances of the Colony cannot be restored without resort to fresh taxation. You have referred for my consideration and decision what further measures of taxation can best be taken.

2. The financial situation of Kenya was inquired into by Lord Moyne in 1932, and in his report he advised that "there is no present indication that the financial difficulties of Kenya will solve themselves . . . Kenya can only ensure its escape from present difficulties by following the example of the rest of the world and by taking action without delay to restore her position . . . I am forced to the conclusion that fresh taxation is called for".

3. After an exhaustive examination of the situation Lord Moyne expressed the opinion, which has been generally endorsed, that the native community of Kenya cannot be called upon to bear any increased financial burden. He accordingly advised that the necessary new revenue would have to be found by some contribution from the non-native sections of the population; and he set out the arguments in favour of income tax as the most appropriate form of taxation. It is fair to state that the alternative proposals which are now before me were not submitted to Lord Moyne for his consideration.

4. Lord Moyne's forecast of the financial position at the end of the year 1932 proved in the event to be remarkably accurate, and financial and economic developments during the

GOVERNOR,

BRIGADIER GENERAL,

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

months following the publication of his report have justified and reinforced his conclusion that further taxation was inevitable.

5. In these circumstances it was decided that income tax must be introduced. Accordingly, an Income Tax Ordinance was prepared at my request and in January of this year the Ordinance was published in draft for general information, with the intention that the public should be made aware of its provisions at an early date, and that Government might be in a position to deal with such criticisms and suggestions as might be put forward.

6. There has always been much opposition to income tax in Kenya, and the Bill inevitably received a hostile reception. At this stage, however, no practicable alternative method of raising additional revenue had been suggested; and so long as the choice lay between income tax or no fresh taxation, the only course open to the Government of Kenya was to proceed with the income tax proposal.

7. A wholly new situation arose towards the end of March, when you informed me that alternative proposals for raising the necessary revenue had been put forward. I agreed at once to your proposal to appoint a strong and experienced committee consisting of officials and unofficials to examine the practicability of these proposals and the amount of revenue which they might reasonably be expected to produce. I also agreed readily to the proposal which you made that the report of this committee, together with the Income Tax Ordinance as amended after consideration in committee by the Legislative Council, should be submitted to me for my decision.

8. After considering many proposals the committee have concentrated upon the following as practicable and calculated to produce substantial revenue :—

- (1) A graduated non-native poll tax based on income.
- (2) An extension of the system of trade licences.
- (3) A landing tax on passengers.
- (4) A package tax.
- (5) An increased tax on the registration of companies.
- (6) An increased stamp duty on bills and promissory notes.

The first two of these proposals are at present in force in Tanganyika, where they are now working satisfactorily and bring in substantial revenue. In regard to some of these measures it is recognized that it will be necessary to invite action by, or to make arrangements with, adjacent Governments, in order that their application may be fully effective.

9. It therefore falls to me to decide whether the interests of Kenya can best be served by the adoption of a system of income tax or by the adoption of the alternative proposals. In forming an opinion between one system of taxation and another it is seldom useful or practical to compare them in the abstract. It may be claimed for income tax that, assuming it could be applied effectively to all income tax payers, it is the most scientifically and equitably adjusted form of direct taxation. But the operation of any system of taxation can in fact only be tested by experience; and this is particularly true when a new system is being applied in a field hitherto largely untried. When, therefore, a decision has to be taken as between two fresh systems, the test of experience is denied to us.

except in so far as a comparison is possible with similar systems working under similar conditions. In such circumstances the practical course is to try to find the system which appears most likely to conform to the following practical tests: The system must yield an adequate revenue; that revenue must become available at the earliest possible moment; and where the choice lies between alternative means of taxing particular sections of the community, that method is to be preferred which is the more acceptable to those upon whom the tax is to be levied.

10. In the present case I appreciate that the alternative proposals have been put forward as a genuine effort to aid Government by constructive suggestions. I am also impressed by the fact that there is a *prima facie* case for supposing that they will produce a total of new revenue falling not far short of the anticipated yield of income tax. It has been estimated that income tax may produce £130,000 in a full year, while the yield expected from the alternative proposals varies from £111,000 to £94,000 in a complete financial year. Moreover, some at any rate of the alternative proposals are capable of immediate application, and should bring in a considerable revenue during the current year when it is urgently needed, whereas no substantial yield could be expected from income tax until the latter part of the year 1934.

11. In all the circumstances which I have reviewed I think it right that a full and fair trial should be given to the alternative measures, which I have reason to believe will be the more acceptable to the taxpayers.

12. If expectations are fulfilled and the alternatives produce adequate revenue and prove generally acceptable in operation, their introduction will have been justified, and the needs of the financial situation will have been met. If, on the other hand, these hopes are falsified by events, and if it is found in practice that the alternative taxes do not yield an adequate revenue, or are felt by the majority of the taxpayers to be less acceptable than an income tax, then these alternatives will have failed in their purpose. But in that event they will have failed after a full trial of their adequacy and convenience as a substitute for a system of income tax.

13. It is important that there should be no avoidable delay in the passage of the necessary legislation to give effect to the alternative proposals, and you should therefore proceed at once with the preparation and introduction of the necessary Ordinances.

14. I am addressing you separately in regard to certain points of detail which should be considered in giving effect to the proposals, but I wish in this despatch to draw attention to three points in connexion with the graduated non-native poll tax.

(a) I observe that the scale set out by the Committee on page 13 of their report envisages a flat rate of tax (at the rate of Sh. 2,000) on all incomes in excess of £2,500. I see no justification for exempting those in enjoyment of a higher income from a proportionately increased contribution to the revenue. The report itself proposes that this principle should be followed in regard to incomes between £1,500 and £2,500. It appears to me both fair and consistent that the same principle should be observed in the higher ranges of income.

(b) I note that the minimum tax payable under the scale is placed at Sh. 40. I suggest that it is a matter for further consideration whether the rate appropriate to persons whose taxable income does not exceed £100 should not remain at the present figure of Sh. 30.

(c) It is clear that in the interests of the taxpaying community at large, Government should possess adequate powers to prevent evasion of the poll tax by inaccurate declarations of income, and in framing the Ordinance you will no doubt insert provision for the most practical powers which can be devised in this regard.

15. The adoption of the alternative proposals is an experiment which will have to stand the test of time. I hope sincerely that they will succeed; and I am convinced that those who will be charged with their administration can count on the fullest co-operation of the unofficial community in their task.

I have the honour to be,

Sir,

Your most obedient humble servant,

P. CUNLIFFE-LISTER.
