1940

Nigeria

1

No. 30192/1

SUBJECT.

Forestry Deptartment.

Reports

Previous	
1939	
Subsequent	
1941	

FILE C

Wt. 25337 5819 10m 10/51 TCP/JR

C. I. Forestry.

1. Gh. Sec. 3 p.m. 27. 11. 39.

Ins. copies of the appendices to the 1938 annual Report.
(Spares to Lilly).

? No need to revise report, so put by.
F. D. Webb 27/1

alone
O.G.R. Wilson
7/2/40

No reply to 6 on 1939 ppr.
M.L. Jones 12/2/40.

? Reminder to Major Oliphant.
C. Howlett
12/2

Mr. Boyce.
I am not quite sure how far Major O is officially concerned any more.
Can you say pl.
J.B. Swift
13/2

Major Oliphant is still on the strength - up to end May 1940 & can be referred to.
H.L. Boyce
13/2

Then remind him.
J.B. Swift
13/2

2. To Maj. Oliphant 3/n - Cons - 22.2.40.

(22-4)

Major Oliphant came to see me yesterday to explain why he had not yet replied to our letter at (6) on the 1939 file. He said that owing to personal attacks that had been made upon him by Mr. John Oliphant, relations between them were very unsatisfactory and he was afraid that any comments that he might make on Mr. Weir's Forestry Report for 1939 would provoke a spirit of contradiction in Mr. John Oliphant when he received them. He showed me some manuscript notes which he had made and I suggested that if he did not wish to comment formally on the Report, he might send me a copy of his notes in a semi-official letter and we could embody them so far as we thought fit in a despatch to the Governor, but would not state that the despatch was based upon Major Oliphant's advice. I understood him to accept this suggestion.

The whole thing seems rather a fuss about nothing because, so far as I could make out from Major Oliphant, there was no real difference as regards fundamentals between him and his namesake in Nigeria.

As regards the policy ~~of~~ of encouraging an African saw-milling industry, Major Oliphant apparently only differed from Major Chipp to the extent that his experience led him to be much more sceptical than Major Chipp about the capacity of the African to work such an industry satisfactorily as compared with the saw-milling industry in Malaya, which is largely run, I gather, by Chinese. He also thought that Major Chipp was biased in his attitude towards the U.A.C.

We

We can now wait for Major Oliphant to write in.

Mr. Boyse to see
O G R Williams
26.2.40

Seen, thanks
29/2/40

Seen thanks
R S Fuse
1/3/40

3. Major Oliphant. (S/o) — 1.3.40.
Submits some informal comments on the 1938 Report.

RSG

4. To Major Oliphant. (S.) (Attached.) — 4.3.40.

Pl. attach file containing Major Chipp's report.

RHHH 5.3

15301/14

As Mr. Webber has been dealing with this report, he has kindly agreed to take ~~this~~ further action on this file as may be required.
C Thomley
9.3.

No.3 should be circulated to Mr. Boyse and ~~Sir Frank Stockdale~~ Mr. Jeffery for their consideration.

The report behind No.4 on 30192/1/39 clearly, I think, calls for acknowledgment and comments, and I would reply on the following lines:-

? Acknowledge receipt and note the obvious effort which is being made by the Department to balance science and practice; express satisfaction as at 'X' in Sir F.Stockdale's minute of 3/11/39 on the -/39 file

? omit [ ] - I may be mistaken as to what is meant, but many areas have never yet had an enumeration survey often?
15/3

file: hope that the importance of providing adequate (and up-to-date) surveys (continually) will not be overlooked since surveys are necessary for the reasons given at 'A' in No.3: concur in the views expressed in para.41, and add the substance of 'B' in No.3.

I would be reluctant to bring into the despatch Major Oliphant's comments on para.26, para.49 or para.67. Incidentally Mr. Boyse may like to record his reactions to Major Oliphant's comments on para.67 and also advise whether the despatch to Nigeria should make any mention of the matter raised in his own minute of 24/10/39 on the -/39 file.

Ref (4)? we may assume that Major Oliphant has no objection to our using his comments.

H.D. Webber

11.3.1940

as to of Mr. Webber's minute. I think paras 26 & 49 are chameleon enough. para 67 is not so easy!

I should be grateful for your comments pl.

12/3.

Japan, so far as I am competent to judge. If Major O. is right it should be mentioned. It is 67 which might give the show away!
12/3

Which the comment refers to conditions which are common to many, if not most, Colonies eg. the shortcomings of local products which are having a serious effect on Colonial timber usage. It is a commonplace that P.W.D.'s and other Colonial authorities prefer imported timber to locally produced timber despite the very considerable difference in price (which) in favour of the local product. I am afraid that there is much to be said for the attitude particularly in view of the claim so often advanced that the final cost of

of works in which local timber is used is greater than would have been the case had imported timber been used. (I have recently asked the C.F.R.D.D. to advise on this aspect of Colonial tember in the Sierra Leone Railway Report for 1938). This is the more strange in e.g. West Africa, where, generally, local woods (or hard woods) should theoretically be better than the imported soft woods for many purposes, though curiously the latter seem generally to be preferred. This is possibly partly due to slightly increased costs of working, but I think is probably more due to inefficient local methods by the local, and not always, native producer, both in sawing and seasoning. This aspect of the local timber is of great importance in view of the large timber resources of many Colonies and the present difficultes in importing, viz. shipping, exchange, etc. and I think it would be well to include some reference to the comments on paragraph 67. ~~and~~ I suggest that it might take the form of suggesting to the Governor that some encouragement should be given to local saw mills. In this connection, ~~where~~ we could refer to the confidential despatch of the 11th March enclosing comments on Mr. W. D. Macgregor's report on the type of forest mill most suitable to Nigeria, and we might also suggest to the Governor that he might like to consider a scheme of training for saw millers, similar to that recently put forward for C.D.F. grant to train native forest officers.

unpaid e.g. pitch pine was preferred in Freetown to local hardwood for a wharf

5/18401/5/40

J.H. Boyse

14.3.40.

Major Oliphant's comments are interesting & they useful to have on record. Nigeria is hoping to get a saw-mill expert with CO7 help (a telegram ~~[illegible]~~ shortly went out on it)

(15401/5/40 Vol.)

on 23.2.40 saying that the S. of S. was satisfied the affl.). This may obviate the necessity for saying what Mr. Boyce has proposed re saw-mills?

It seems to me that if no comment is made regarding para. 67 which is likely to raise controversy the hard opinion T.T.O. will not be recognised & no harm will be done; but is it worth commenting at all, since a new Director with strong views as to forest exploitation has gone out since the Report was written? It seems to me that the time when comments addressed to the Foreign Office might have been worth while has gone by?

Gilly 15/3/40.

On the whole, on further consideration I am inclined to agree with Mr. Gilly; and I think we should, in all the circs.

J.B. Swift
18/3.

I agree let us see not comment. Forestry people are such sensitive plants, & I don't want to upset Miss Oliphant – it won't do us any good.

Pulley

O.G.R. Williams
23.3.40

Mr. Boyce – you may wish to note that the suggestion [illegible]

W. Glenn Gibbons Boyce 30/3/40

S. of S. Dig. no 668 — 9.9.40

Library

Has the encls. to 5 been received yet.
Wm. 22/3

N.B. If so pl. annexe copy.

Copy h.w.
E.A. Reed.
24/3/41

END

This report which is for the year 1939 is, of course, considerably out of date. The copies of the report were not sent with the despatch (No. 5) and have only been recently, I gather, received.

I attach a note to which I call attention to the points which appear to me to be of interest.

I doubt whether we need send this report to Major Oliphant* more especially in view of the correspondence which has already gone on on 15401/5/40/41 Econ. (papers in circulation) on major policy issues, and unless there are any particular points on which it is desired to comment to the Governor I should be inclined to put it by.

J.B. Swift
4/4/41.

* I am not even sure whether he is still officially concerned at all.

I am rather surprised to see no mention of the climatological aspect. I have heard a lot at different times about the encroachment of the desert in the north.

A.E. Forrest
8.4.41

This although somewhat out of date strikes me as a very good and interesting report, even although the subject matter has had to be considerably pruned.

It is obvious that Mr. Oliphant has been getting to grips with the problems of Nigerian Forestry and is making his ideas felt.

I am very pleased indeed to see the appreciation which exists that the work of the Forestry Dept. must be correlated to the work of other Depts. concerned with rural questions (para 31) and the proposal for an interdepartmental conference under the chairmanship of the Resident of Kano to discuss the problems of Kano, Katsina and Sokoto is very welcome. (paras 3 and 73 to 76)

Ref.

It is interesting also to notice the swing over which is taking place towards natural regeneration methods as opposed to plantation. Mr. Oliphant has always been one of those who advocated natural regeneration so far as possible. (paras 41 to 58)

The notes on the probable future of the export trade in timber are also interesting. One cannot help feeling that the policy of directing exploitation

RST towards filling local requirements primarily is correct. It is the policy adopted in Malaya. (para 65)

The point mentioned in para, 20 is also of interest and is essentially a practical one.

Mr.Forrest's point is dealt with in para 74, the Anti Desiccation Survey which arose as a result of Professor Stebbing's paper/has now led to plans for rural development. I think I am right in stating that in many quarters it is felt that the dangers of desert encroachment may have been somewhat overstressed.

Major Oliphant is no longer at the Colonial Forest Resources Development Bureau, the work is I believe now in charge of Major Cosgrove.

9.4.41.

Para 93 is interesting. I hope we may hear more of it. Though the dangers which it follows from the termite getting out of control are obvious! Recirc. for Major Forrest to see on 24. Apl

OGRW
16.4.41

Seen thanks
RST.

Reports transferred
Library

1940

Nigeria.

No. 30192/2.

SUBJECT.

Forestry.

Establishment of a Forestry Training School.

Application for C.D.F. Assistance.

Previous	
1939	
Subsequent	
1948	

FILE C

Wt. 25317 5819 10m 10/51 TCP/JR

B.S. Forestry
C.D.F.

2

1. Gov. No. 62. 2.2.40.

Jn. 1 copy of applcn. for C.D.F. assistance of £3,300 to meet the cost of the establishment of a Forestry Training School.

Mr. Cohen.
Major Tyler } Lord
Sir F. Stewart-Wilson

Unless you have any further comments, we can now go ahead & prepare a submission to the C.D.A.C. which Sir J. Campbell has in his minute of 12.12.39 stated will receive his full support.

J.B. Scrivener
21/2.

Agree W.L. Rogers 21/2

T.J. R. Stum 23/2

R.A. Stewartson 23/2

Then D/F submission.

J.B. Scrivener
24/2 attn.

1st Draft memo: Mr Forcester.

C.H. Bromley
5/3

2. BR. Sec. 3 p.m. ——— 5. 2. 40.
Tr. 12 copies of application (1 copy to Accts. 11 copies to Mr. Scarlett.)

Dup of No 1 will be sent to Accts on return from Dept

3. CDAC 267/44 — 18. 3. 40
A application will come before the CDAC at their meeting on 2/4/40

21/3

This was recommended at today's C.D.A.C. meeting
Wait for CDAC letter.

16/4/40

2/4 above

Entered 1A 3 in Cdf
Regd

4. CDAC. ——— 8. 4. 40
Grant of £3,300 recommended.
This is submitted.
? Usual letter to Treasury seeking their approval of the grant.

11. 4

11/4 above

To Treasury 17. 4. 40 3

174

UNDER STATUTE

6. Treasy. (S. 34609/0533) ——— 26. 4. 40.
approves of a free grant of £3,300 from C.D.F.

Please dft ~~[illegible]~~ to O.A.G. Nigeria informing him that a free grant of £3,300 has been appd by the Treasury and transmitting for info: copies of this memo enclosed with (3) and of the letter at (4). Despatch shd go by air mail.

29.4

7. To Nigeria. 271. (1 Avid) (Yellow: 3) (Yellow: 4) - 6.5.40.

See A of 1st Williams minute of 30.5 on 31059/1/40.

~~Send~~ Please dft varying ptd to O.A.G. Nigeria ref: 12 Jan -/38 and subsequent cores: stating that SofS will be glad to receive information regarding the curriculum prepared for the Forest Schools at Ibadan when these are available.

13-6

To Nigeria Tel 79 —— cons 19/6/40

Economic Dept

Sir F. Stockdale

This scheme has come up for certain details & should be regarded as modifying a view of the present situation: it is clearly an approved scheme in respect of which commitments have probably not yet been incurred

In view of the statement in the last para of memo. enclosed in 3 I think that this should be allowed to proceed as expeditiously in view of its value from the point of view of the war - assuming that we are allowed to think of the war as possibly lasting a fairly long time. (If it is to be over by 1st Aug - of course a different question!)

Do you agree?

O.G.R. Williams

24.6.40

I think the Economic Dept. will have no hesitation in saying that this scheme should be allowed to proceed. Big demands are being made upon Nigeria for timber on account of the war and it is essential that there should be trained staff for adequate supervision of the forest resources. It should be noted that, according to the memo in 3, the African staff trained at the Forestry Training School will replace European staff.

N. H. Smith
24/6/40.

I agree.

H.T. Bourdillon. 25/6.

This file ~~MS.~~ to be sent in the course of Mr. Scoullar's note decision.

J.J.P.

This scheme for training African personnel for a Technical Dept. should certainly proceed.

F. Stockdale
25/6.

O.G.R. Williams
27.6.40

J.J. Paxman
29/6.

UM 27.6

9. Nigeria 705. 26.9.40

Dr Tempany

Subject to your comments if any we should send a copy of this draft to the Director of the I. F. Institute inviting his comments on the provisional syllabus.

Major Fuse
Esq.

J B Swift
28/11

I have no observat ons on the syllabus which has obviously been very carefully drawn up by Mr.Oliphant.

I agree that it should go ~~to~~ the I.F.Institute.

A Tempany
28,11,40,

and I
R.S. Fuse
29/11

Send accordingly.

J B Swift
(6/1/41) 29/11 abstract

To Imp. Forestry Inst. (W/C 9) 5.12.40.

DESTROYED UNDER STATUTE

11 Dept. of Forestry 10.12.40.

Dr Tempany

Major Fuse

Unless you have any doubts, we can put the substance of this letter in a despatch to Gov. in reply W/9 covering that we have taken note of para 4 of that desp.

J B Swift
13/12.

5

Major
A Tempany
16/12

Major Fuse is away. I think we can assume he would have had no comments on the points raised by Mr. Champion.

L. Tempany
20.12

Dft comm.

J B Swift
20/12 abstract

12 to Nig 1 (9 answ) — 2/1/41

DRAFT MEMORANDUM.

Mr. Thornley. 5/3/40.
Mr. Sidebotham. /3/40.
Yes modified Off:

The Governor of Nigeria applies for a free grant of £3,300 in order to provide buildings and equipment for a Forestry Training School at Ibadan for the training of African technical staff of the Forestry Department.

The need for having a more highly trained African technical staff in the Forestry Department of Nigeria was stressed in the Report of the Forest Conference ~~which was~~ convened in 1937 to discuss the forestry problems of Nigeria and to advise generally on future policy and the steps necessary to give effect thereto. ~~This was followed~~ Early in 1938 ~~by the preparation of a~~ comprehensive scheme of training for African personnel of the technical staff of the Department was prepared, which ~~made provision~~ provides for three distinct courses of instruction:-

(a) For selected members of the junior staff of the Southern Provinces at Ibadan;

(b) For the senior staff in the Northern Provinces at Samaru; and

(c)

(c) For the senior staff of the Southern Provinces at Ibadan.

Since then, the scheme has undergone some modification in points of detail and as now submitted, has commended itself to ~~the~~ Director of the Imperial Forestry Institute, the late Professor Troup, a former and Mr. J.W. Oliphant, ~~the new~~ also a former Director of the Imperial Forestry Institute and now Conservator of Forests in Nigeria.

The first of these courses will be a reorganised form of a similar course for selected Forest Guards which has been given for some years and will aim at giving a somewhat higher standard of instruction. The second, which should be regarded as an intermediate rather than as a senior course, is necessary as a temporary expedient only, to provide training for men who are urgently needed in the North to undertake certain of the less responsible duties which are now of necessity carried out by the European staff, but whose education at present falls short of the standard required for entrance to the Senior School at Ibadan, although it is much in advance of that expected for the Junior School.

This

This course will be run in conjunction with the Agricultural School at Samaru until such time as the standard of education in Northern Nigeria has risen up to a point at which students will qualify for acceptance at Ibadan. The additional expenditure required for both this and the first course is small and can be met from local resources.

The third course, for the senior staff in the Southern Provinces, is designed to provide a class of African officers who will be able, in due course, to undertake duties, 80% of which are now performed by Europeans. They will be responsible for much of the preliminary investigation for Working Plans (e.g. topographical and enumeration surveys of reserve, calculation of statistics and demarkation of compartments), the carrying out of Working Plans (including the skilled work of regeneration, cleaning, thinning and felling), the preparation and management of sample plots, the supervision of Forest Guards and the control of labour.

Although in the first instance only students from the Southern Provinces of Nigeria will be

be accepted at this School, it is hoped in the course of time not only that, as forecast earlier in this Memorandum, students from the Northern Provinces will be accepted for training, but also that this Institution may eventually develop into a Forestry Training School for the whole of British West Africa. In this connection it is significant that enquiries have already been received from the Gold Coast as to whether the Nigerian Government would be prepared to admit students from that Colony. It is to provide buildings and equipment for the establishment of this School that the Committee is now being asked to recommend a grant of £3,300 to be spent during the financial year 1940/41, which in its present financial circumstances, the Government of Nigeria is unable to provide from the funds at its disposal.

The Secretary of State attaches great importance to the adoption of this scheme as an essential preliminary step to the expansion of the Forestry Department in Nigeria which has now become a matter of urgent necessity, and in particular to

that

that part of it in respect of which assistance is now being sought from the Colonial Development Fund and strongly recommends the application for favourable consideration by the Committee.

311

C.D.A.C. 2674.

COLONIAL DEVELOPMENT ADVISORY COMMITTEE.

Nigeria. Forestry Training School at Ibadan.

I circulate, for consideration, an application submitted on behalf of the Government of Nigeria for a free grant of £3,300 from the Colonial Development Fund to provide buildings and equipment for a Forestry Training School at Ibadan, for the training of African technical staff.

The usual financial summary is attached.

C.G. EASTWOOD

Secretary to the Committee.

Copy Memo to Nig. (2)

COLONIAL OFFICE,

18th March, 1940.

FINANCIAL SUMMARY.

1.	Dependency.	Nigeria.
2.	Description of scheme.	Forestry Training School at Ibadan.
3.	Date of commencement.	As soon as approved.
4.	Period of scheme.	One year.
5.	Total cost.	£3,300.
6.	Allocation of cost.	Local: £2,840 U.K. £ 460
7.	Assistance desired.	Free grant of £3,300.
8.	Probable yearly amounts required.	1940/41 £3,300.

MEMORANDUM.

The Governor of Nigeria applies for a free grant of £3,300 in order to provide buildings and equipment for a Forestry Training School at Ibadan for the training of African technical staff. The need for a more highly trained African staff in the Forestry Department was stressed in the Report of the Forestry Conference of 1937. Early in 1938 a comprehensive scheme of training for African personnel was prepared, which provided for three courses of instruction:-

(a) For selected members of the junior staff of the Southern Provinces at Ibadan;

(b) For the senior staff in the Northern Provinces at Samaru; and

(c) For the senior staff of the Southern Provinces at Ibadan.

This scheme, though modified on points of detail, had the support of the late Professor Troup, the original Director of the Imperial Forestry Institute, and also is recommended by Mr. J.N. Oliphant, formerly Director of that Institute, and now Conservator of Forests in Nigeria.

Courses (a) and (b) above provide respectively for a somewhat higher standard of instruction than is available at present for selected Forest Guards, and for the training of men whose standard of education will not qualify them for acceptance at the Senior School at Ibadan, but who are specially required in the North to replace European staff. The additional expenditure for these two courses is modest, and can be met from local resources.

Course (c) is designed to provide a class of African officers in the Southern Provinces who will undertake

undertake more advanced technical routine and supervisory duties, at present largely performed by Europeans. At the outset, students from the South only will be accepted at the School, though later it is hoped that students from the North will also become qualified for admission; and that, eventually, the School may become a Forestry Training School for the whole of British West Africa. The Government of the Gold Coast has already enquired whether students from that territory can be admitted.

To provide the necessary buildings and equipment for the School, the Committee is invited to recommend a grant of £3,500 to be spent during 1940/41, as desired by the Governor of Nigeria in the despatch of the 2nd of February of which a copy is annexed. Prior to the outbreak of war, Nigeria had been feeling the effect of the economic depression during the last few years very severely, and the Dependency's surplus funds have now been reduced below the normal margin for safety and the Government is faced with a probable deficit of about £700,000 on the current year's working, and is unable to finance the building of the School.

The Secretary of State attaches great importance to the adoption of this scheme as an essential preliminary step to the expansion of the Forestry Department, and the development of the forest resources of Nigeria, which has now become a matter of especial urgency in view of the increasing demand for Colonial timbers during the war, and Mr. MacDonald accordingly strongly recommends the application for favourable consideration by the Committee.

Colonial Office,

18th March, 1940.

NIGERIA.

No. 82.

Government House,

Nigeria,

2nd February, 1940.

Sir,

I have the honour to refer to my despatch No. 1043 of the 21st October, 1938, dealing with the establishment of a Forestry Training School at Ibadan and to subsequent correspondence ending with your telegram No. 741 of the 14th December, 1939, in which you were good enough to assure me of your strong support should I decide to seek assistance for this project from the Colonial Development Fund.

2. The scheme has now been closely re-examined by Mr. Oliphant, Chief Conservator of Forests, who warmly endorses it and considers that it should be put in hand without delay; I am in entire agreement with him since it is obvious that the need for a more highly trained African Staff will become progressively more urgent both on account of the war and of the unsettled conditions which are likely to follow in its wake. No less important is it, to my mind, that in its early days the School should have the benefit of Mr. Oliphant's guidance and for this reason alone I should be loth to defer its inauguration, through dictates of economy, to a time when his services may no longer be available to Nigeria.

3. The fact remains, however, that owing to circumstances of which you are fully aware, the capital cost

of

THE RIGHT HONOURABLE

MALCOLM MACDONALD, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

etc., etc., etc.

4.

of the scheme amounting to £3,300 (as now revised by the Director of Public Works) is such as this Government can ill afford to meet from its own resources and it would appear to be a particularly suitable object for assistance, by way of a free grant to that extent, from the Colonial Development Fund. The consideration that it is intended to admit pupils from neighbouring Colonies and that the institution may eventually develop into a Forestry Training School for the whole of British West Africa may serve to recommend the undertaking still further in your view and in that of the Committee.

4. It is desired that the School should be ready to open on the 1st of January, 1941, and funds would therefore need to be made available for completion of the work during the Financial year 1940/41. Copies of the current Nigerian Estimates have already been supplied to the Members of the Advisory Committee and I am forwarding 12 copies of the Memorandum of Application under separate cover.

I have, etc.

(Sgd.) B.H. BOURDILLON

Governor.

(5282—150) Wt. 38415—61 10,000 12/39 T.S. 695
(5444—150) Wt. 41767—68 30,000 2/40 T.S. 695

30192/2/40.

C. O.

Mr. Miss Saward. 27/12

Mr. Whitcombe. 30/12.

C. S. McTovey 31/12

Sir A. Burnett Dr Tinsharry 31/12

Mr. G. L. M. Clauson. Mr Lidderdale 1/1/41

Mr. C. J. Jeffries. (9)

Mr. A. J. Dawe.

Sir J. Shuckburgh.

Perm. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

NIGERIA.

NO. 1

GOVERNOR.

FURTHER ACTION.

12
17

~~C.S.~~ 2 Jan 1941.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 705 of the 25th September, forwarding an outline of a provisional curriculum prepared for the Forestry School at Ibadan, and to inform you that copies of the despatch and curriculum were referred to the Director of the Imperial Forestry Institute for his observations.

2. The Director has examined the curriculum, together with earlier correspondence concerning the School, and considers it to be well adapted to the apparent requirements, but emphasises the point that success will depend very largely on the extent to which the training given is a practical one, not only for obvious subjects such as silviculture and surveying, but also for soil science and engineering etc. This, he notes is evidently appreciated but he observes that its importance can hardly be over emphasised.

Another practical point which, he observes, will arise, is the increased demand on the time of the research staff, which will increase with the longer time given to instruction in the laboratory and field. He adds that the principle of having an Assistant Instructor to ensure

continuity

continuity and to help with the field work, is very desirable and will prove to be of considerable advantage. He is also of the opinion that the syllabus for the first year may prove too comprehensive and ambitious in view of the educational standard of the men under training, and he recommends that the transfer of some items from the first year to the second year, with a possible reduction in the amount attempted in the second year, should be considered. He appreciates, however, that this question can best be decided in the Colony and will depend largely on the manner in which the teaching is actually done. Soil mapping, systematic botany, and surveying are specifically mentioned in this connection.

The Director agrees with Mr. Oliphant that a more detailed syllabus would serve little purpose at present, and he has noted only the following points as calling for mention :-

First-year Silviculture "Artificial and natural systems" is probably an error for "Artificial and natural methods" advisedly leaving silvicultural systems to the second-year.

Management Soil mapping is doubtfully suitable for first year work as it must be done thoroughly to be of any use.

Second-year Botany "Complete" use of botanical keys is included; the meaning of this is not clear and there appears to be some mistake. Silvicultural sample plot work ought really to be treated with "Determination of increment" in Economics and Management but is probably placed under Silviculture as the silviculturist usually has the sample plots in his charge.

Surveying. It is suggested that theodolite and tacheometer surveys should be omitted.

Ecology. The climatology instruction should be very largely practical.

3. I note that the project for a separate Forestry School

School in the Northern Provinces has now been abandoned in favour of a single school at Ibadan.

I have, etc.

(Signed) LLOYD

continuity and to help with the field work, is very desirable and will prove to be of considerable advantage. He is also of the opinion that the syllabus for the first year may prove too comprehensive and ambitious in view of the educational standard of the men under training, and he recommends that the transfer of some items from the first year to the second year, with a possible reduction in the amount attempted in the second year, should be considered. He appreciates, however, that this question can best be decided in the Colony and will depend largely on the manner in which the teaching is actually done. Soil mapping, systematic botany, and surveying are specifically mentioned in this connection.

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Second-year Botany "Complete" use of botanical keys is included; the meaning of this is not clear and there appears to be some mistake. Silvicultural sample plot work ought really to be treated with "Determination of increment" in Economics and Management but is probably placed under Silviculture as the silviculturist usually has the sample plots in his charge.

Surveying. It is suggested that theodolite and tacheometer surveys should be omitted.

Ecology. The climatology instruction should be very largely practical.

3. I note that the project for a separate Forestry School

School in the Northern Provinces has now been abandoned in favour of a single school at Ibadan.

I have, etc.

(Signed) LLOYD

TELEPHONES: OXFORD
2931 SECRETARY
3131 GENERAL

DEPARTMENT OF FORESTRY
IMPERIAL FORESTRY INSTITUTE
UNIVERSITY OF OXFORD

11/19

10th December, 1940.

The Under-Secretary of State.
Colonial Office,
Downing Street,
S.W.1.

Sir,

10 Your letter of 5th December, 30192/2/40.
I have examined the provisional syllabus for the two-year course of instruction at the Ibadan Forest School, together with the earlier correspondence concerning this school, and that projected for Northern Nigeria.

I find very little on which to comment and consider the syllabus to be well adapted to the requirements as these appear on the file. As has already been stressed, success will depend very largely on the extent to which the training is a practical one, not only for obvious subjects such as silviculture and surveying, but also for soil science and engineering, etc. This is evidently realised but its importance can hardly be over emphasized. Another practical point which will arise is the demand on the time of the research staff; this will be the greater the more the time given to instruction in the laboratory and field. I do not know whether the principle of having an Assistant Instructor to ensure continuity, and helping with the field work, has been adopted or not, but this is very desirable and will make much difference.

I am also of the opinion that the syllabus for the first year may prove too comprehensive and ambitious in view of the educational standard of the men under training, and would recommend the transfer of some items from the first year to the second, with a possible reduction in the amount attempted in the second year, to be considered. This point, however, is best decided by those on the spot and will depend largely on the way the teaching is actually done. Soil mapping, systematic botany, and surveying may be specifically mentioned in this connection.

As Mr. Oliphant has pointed out, a more detailed syllabus would serve little purpose at present, and I have noted only the following points as calling for mention: -

First-year Silviculture. "Artificial and natural systems" is probably in error for "Artificial and natural methods", advisedly leaving silvicultural systems to the second-year.

Management. Soil mapping is doubtfully suitable for first-year work as it must be done thoroughly to be of any use.

Second-year Botany. "Complete" use of botanical keys is included; the meaning of this is not clear to me and there appears to be some mistake. Silvicultural sample plot work ought really to be treated with "Determination of increment" in Economics and Management, but is probably placed under Silviculture as the silviculturist usually has the sample plots in his charge.

Surveying. I should have thought that theodolite and tacheometer surveys might be omitted.

Ecology. The climatology instruction should be very largely practical.

I am, Sir,

Your obedient Servant,

Peofessor of Forestry.

NIGERIA.

NO. 705

Government House,
Nigeria.

25 September, 1940.

My Lord,

30192/2/40

I have the honour to refer to your Saving telegram No.79 of the 19th of June and to forward in duplicate an outline of a provisional curriculum which has been prepared for the Forestry School at Ibadan. Mr. Oliphant does not consider that any useful purpose would be served at this stage by attempting to frame a more detailed syllabus as, for the first year at least, methods of teaching will necessarily be somewhat experimental. He is fully alive to the importance attaching to practical instruction in the field and the danger of too much reliance on the study of text-books and formal lecturing, and in the course of a year or two it should be possible to lay down more precisely the lines on which instruction should proceed.

2. It is intended that the full course should be restricted to students who enter the Forestry School from the Yaba Higher College where they will already have undergone a course in Chemistry, Physics, Zoology and Botany while students admitted direct from secondary schools will take the first year course only.

3. It is presumed that the syllabus which is now submitted will be referred to the Director of the Imperial

THE RIGHT HONOURABLE
LORD LLOYD OF DOLOBRAN, P.C., G.C.S.I., G.C.I.E., D.S.O.,
SECRETARY OF STATE FOR THE COLONIES,
LONDON, S. W. 1.

21

Imperial Forestry Insitute whose advice Mr.Oliphant would be glad to have.

4. With regard to the suggested school at Samaru, referred to in your telegram, I have to inform you that the project for a separate Forestry School in the Northern Provinces has now been abandoned in favour of a single school at Ibadan which will serve as an instruction centre for both Northern and Southern candidates.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble Servant,

B.H. Bourdillon

GOVERNOR.

IBADAN FOREST SCHOOL

Outline of First Year Syllabus.

ZOOLOGY
(Instructor)

Classification of the animal kingdom. Recognition of commoner mammals, birds and reptiles and their relation to forestry. General structure of insects and recognition of the main families. Life history of one or more important species (e.g. powder post beetle or termite).

BOTANY
(Forest Botanist)

Plant morphology and physiology. Systematic botany. Characteristics of the chief families and recognition of the more important trees, shrubs, climbers and herbs. The appearance of seedlings of important species. The ecology of West African forests and grasslands and the idea of succession and retrogression.

GEOLOGY AND SOIL SCIENCE
(Instructor)

Igneous, sedimentary and metamorphic rocks. The general geology of Nigeria. Recognition of the commoner rocks. Formation of soils and recognition of the chief types. Biology of the soil. Soil water.

SILVICULTURE
(Silviculturist)

Definition of silviculture. Its objects. Natural regeneration. Artificial regeneration. Nurseries. The "taungya" system. Merits and demerits of artificial and natural systems. Pure and mixed crops. Tending operations. Root competition. Light demanders and shade bearers. Silviculture of commoner indigenous and exotic trees.

LAW
(Instructor)

Study of Forestry Ordinance, Regulations and Native Administration Rules, emphasizing important points and basic principles. Wild Animals Protection Ordinance. Application and enforcement of the law. Revenue collection and checking of timber. Court Procedure. Reservation procedure. Rights and privileges. Powers and duties of staff.

SURVEYING
(Instructor)

Use of compass and chain. Measuring wheel. Pacing.

23

Timing. Sound and compass. Judging distances. Rough contouring. Plotting and draughtsmanship. Map reading. Area measurement by planimeter and acre grid. Reserve demarcation and survey. Preparation of boundary description and reserve maps.

UTILIZATION AND FOREST ENGINEERING

(Utilization Officer and Forest Engineer) Timber measurement. Felling and conversion. Extraction by forest roads, tramways, sledgeways &c. Simple bridges. Concrete work. Use of blasting powder. Pit-sawing and simple sawmilling. Air seasoning and simple kiln seasoning. Preservation. Treatment of poles. Wood and its uses. Identification of common woods. Principal minor forest products. (Essentially a practical course, few lectures.)

PROTECTION

(Instructor) Effects of and prevention of damage to forests by man, farming, mining, bush firing, grazing etc. Damage to growing trees by insect and fungal attack.

POLICY

(Instructor) Place of forestry in the life of the community. Government and Native Administrations in relation to forestry. Brief outline of development of tropical forestry in West Africa. Direct and indirect benefits. Land tenure and reservation. Relations between forestry, agriculture and the pastoral industry. Land planning. Water and wind erosion and their control. Sleeping sickness control. Organization of Forestry Department.

MANAGEMENT

(Plans officer and Instructor) Simple regional survey, including enumeration, vegetation and stock mapping, soil mapping, topographical survey, leading up to the preparation of simple working and management plans and the co-ordination of work done under other heads of study.

ECONOMICS

ECONOMICS

(Plans officer)

A general introduction to the economic factors (e.g. transportation) governing forest exploitation and the profitable growing of forest crops.

Outline of Second Year Syllabus.

BOTANY
(Forest Botanist)

Complete use of botanical keys, including punched card keys. Use of Flora of West Tropical Africa. Some knowledge of commoner grasses and non-flowering plants. Collection and preparation of botanical specimens. Work in Herbarium.

RECORDS AND OFFICE ROUTINE
(Instructor)

Report writing. Keeping of diaries. Correspondence. Filing systems. Returns. Simple accounting. Plantation records.

SILVICULTURE
(Silviculturist)

Study of the different silvicultural systems applicable to West Africa. Relation of silviculture to exploitation and ecology. More detailed studies of the silviculture of important timber species. Silvicultural experiments. Sample plots and the recording of experimental data.

SURVEYING
(Instructor)

Use of levels, clinometers, ghat tracer, topo abney and trailer tape. Methods of contouring. Road alignment. Theodolite and tacheometer surveys. Plotting by co-ordinates. River survey by rangefinder method. Draughtsmanship.

UTILIZATION
(Utilization officer)

Wood structure. Gross features of wood. Identification of timber by lens. Use of card key. Properties of wood. Timber testing and its application. Timber-destroying insects and fungi. Seasoning. Preservation of timber. Utility classes of timber and wider use of Nigerian timbers. Charcoal manufacture. Cellulose and paper pulp. Oils, gums, resins and other minor forest produce.

FOREST ENGINEERING.
(Forest Engineer)

More advanced methods of extraction. Saws and sawmilling. Use of tackle and handling of heavy weights. Timber constructional work.

ECOLOGY
(Forest Botanist)

Relationship between soil, vegetation and climate. Effect of

26

of vegetation on local and microclimates, and its function in maintaining the environment needed for the successful cultivation of economic crops. Climatic effect of shade trees, cover crops, hedgerows and shelter belts. Climatological instruments and their use. Effect on soil of interference with plant cover. Effect on soil fertility of shifting cultivation and bush fallows. Regenerative effect of certain plant covers. Root nodules and mycorrhiza. Termite action in relation to soil fertility. Effect of mechanical action of roots. Study of natural successional processes and their application to economic ends and to the maintenance of soil fertility.

ECONOMICS AND MANAGEMENT.

(Plans officer) Determination of increment. Conception of normal forest. Study of existing working and management plans. More advanced studies of economic factors bearing on silviculture and forest utilization.

the "Protectorate" has been brought into a closer relationship to the economic and commercial life of the country and the Colonial Office is now in a position to consider the question of the extension of the Protectorate Land Court to the Protectorate.

Mr. Ormsby-Gore and Mr. Cunliffe-Lister have been informed of the proposed extension of the Protectorate Land Court and have no objection to it

(9359—150) WL 46262—29 30,000 3/39 T.S. 886
(9549—150) WL 25498—38 20,000 9/39 T.S. 886

C. O.

30192/2/40 Nig

27

Mr. Whitehouse 30/4

Mr.

Mr.

Mr. A. J. Dawe.

Sir H. Moore.

Sir G. Tomlinson.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

AIR MAIL

C.D. 30 APR 1/5

S.S.

Sir,

May 1940.

I have etc. to refer to Sir Bernard Bourdillon's desp. No. 82 of the 2nd. of Feby. in which he submitted an application for assistance from the Col. Develpt. Fund in providing buildings & equipment for a Forestry Training School at Ibadan for the training of African technical staff, and to inform you that a free grant from the Fund for this purpose has now been sanctioned.

2. I transmit, for your information, a copy of a

DRAFT.

Nigeria.

No. 271.

6.A.G.

Memorandum (copy of memo. annex. no. 3) 8.4.40 (No. 4)

FURTHER ACTION.

Memorandum which was submitted to the Colonial Development Advisory Ctee, together with a copy of a letter containing the Ctee's recommendations. The Lords Commissioners of the Treasury duly sanctioned the free grant of £3,300 recommended by the Committee.

I am &c.

Telephone No.: WHITEHALL 1234.

27 APR 1940

Any reply to this letter should be addressed to—
THE SECRETARY,
TREASURY,
WHITEHALL, LONDON, S.W.1.
and the following number quoted:

S. 34609/0533.

TREASURY CHAMBERS.

26th April, 1940.

Sir,

I have laid before the Lords Commissioners of His Majesty's Treasury Mr. Williams' letter of the 17th instant 30192/2/40, signifying Mr. MacDonald's concurrence in the recommendation of the Colonial Development Advisory Committee, conveyed in the Secretary's letter of the 8th April, 1940, that a free grant of £3,300 should be made from the Colonial Development Fund to the Government of Nigeria to provide buildings and equipment for a Forestry Training School at Ibadan, for the training of African technical staff.

I am now to request you to inform the Secretary of State that My Lords sanction a free grant of £3,300 from the Colonial Development Fund in accordance with the recommendation of the Committee.

A copy of this letter has been sent to the Secretary of the Colonial Development Advisory Committee.

I am,

Sir,

Your obedient Servant,

R. V. Nicholson

The Under Secretary of State,
Colonial Office.

4.

29

Communications on this subject should be addressed to—
THE SECRETARY.
Telephone: Abbey 5644.

COLONIAL DEVELOPMENT ADVISORY COMMITTEE,
COLONIAL OFFICE,
29, Queen Anne's Gate,
S.W.1.

RECEIVED
10 APR 1940
C. O. REG.

8th April, 1940.

C.D.A.C. 2688.

Sir,

I am directed by the Colonial Development Advisory Committee to request you to inform Mr. Secretary MacDonald that, at their 122nd meeting on the 2nd of April, 1940, they had before them an application (C.D.A.C. 2674) submitted on behalf of the Government of Nigeria for a free grant of £3,300 from the Colonial Development Fund to provide buildings and equipment for a Forestry Training School at Ibadan, for the training of African technical staff.

2. It is intended that the school should provide a course of instruction designed to produce a class of African officer in the Southern Provinces who would undertake more advanced technical routine and supervisory duties which are at present largely performed by Europeans. The course would be limited at first to students from the South only, but later on it is hoped that students from the North also will qualify for admission, and that eventually the

THE UNDER SECRETARY OF STATE,
COLONIAL OFFICE.

the school will become a forestry training school for the whole of British West Africa.

3. The Committee recognise the importance of the scheme as being an essential preliminary step to the expansion of the Forestry Department and the development of and proper utilization of the forest resources of Nigeria, which is now a matter of real urgency. They recommend a free grant of £3,300 accordingly.

4. The serial number allotted to this scheme is 592.

5. A similar letter is being sent to the Treasury.

I am,

Sir,

Your obedient servant,

Assistant Secretary to the Committee.

38

2

NIGERIA.

The Chief Secretary to the Government of Nigeria presents his compliments to the Under Secretary of State for the Colonies and, with reference to paragraph 4 of the Governor's despatch No.82 of the 2nd of February, is directed to forward herewith twelve copies of the Memorandum of Application on the subject of the establishment of a Forestry Training School at Ibadan.

Nigerian Secretariat,

Lagos, 5 February, 1940.

1A 31

FINANCIAL SUMMARY

1. Dependency. Nyasa

2. Description of scheme. Forestry Training School at Stadam

3. Date of commencement. As soon as approved.
~~..... months after approval~~.
~~On~~ .....

4. Period of scheme. One year

5. Total cost. £.3,300.....

6. Allocation of cost. Local: £.2840...
U.K. £...460..
~~or Nearly all expenditure will be(local)(in U.K.)~~

7. Assistance desired. ~~Loan of £.~~.....
Free grant of £.3,300....

~~8.~~ Suggested terms of loan.

~~9.~~ Probable yearly amounts required.

~~1938/39~~	£.....
~~1939/40~~	£.....
1940/41	£.3,300
~~Subsequently.~~	£.....

NOTES.

Question 2. A very brief description only of the scheme is required.

Questions 3, 6 & 7 - delete words not required.

Question 8.
If a loan is not applied for, write "not applicable".

If application is being made for a loan state suggested period within which the loan should be repaid, suggested terms of repayment and whether application is made for a loan free of interest for any period.

In the absence of special considerations to the contrary the rate of interest usually recommended at present on loans from the Colonial Development Fund is 5%, and the method of repayment that of equated annual instalments covering principal and interest.

Question 9. Assuming that the scheme is begun on the date given in Question 3 state the estimated sums which will be required from the Fund during each financial year (ending 31st March) during the currency of the scheme.

my small "amendments" are based on Green Paper
A. J. B. Rat

32

Mr. Thurley. 5/3
Mr. Lushington 6/3
Mr. Boyce. 7/3
Mr. Jones 7/3
Sir J. Campbell 8/3
Mr. Williams 8/3
Mr. Eastwood. 12/3

The Governor of Nigeria applies for a free grant of £3,300 in order to provide buildings and equipment for a Forestry Training School at Ibadan for the training of African technical staff. The need for a more highly trained African staff in the Forestry Department was stressed in the Report of the Forestry Conference of 1937. Early in 1938 a comprehensive scheme of training for African personnel was prepared, which provided for three courses of instruction:-

(a) For selected members of the junior staff of the Southern Provinces at Ibadan;

(b) For the senior staff in the Northern Provinces at Samaru; and

(c) For the senior staff of the Southern Provinces at Ibadan.

This scheme, though modified on points of detail, had the support of the original Director of the Imperial Forestry Institute, the late Professor Troup, who recommended it, and also Mr. J. N. Oliphant, formerly Director of that Institute, and now Conservator of Forests in Nigeria.

Courses (a) and (b) above provide respectively for a somewhat higher standard than is available at present of instruction for selected Forest Guards, and for the training of men whose standard of education will not qualify them for acceptance at the Senior School at Ibadan, but who are specially required in the North to replace European staff. The additional expenditure for these two courses is modest, and can be met from local resources.

Course (c) is designed to provide a class of African officers in the Southern Provinces who will undertake more advanced ~~a~~ technical duties, routine and supervisory, at present largely performed by Europeans. At the outset, students from the South only will be accepted at the School, though later it is hoped that

that students from the North will also become qualified for admission, and that, eventually, the School may become a Forestry Training School for the whole of British West Africa. The Government of the Gold Coast has already enquired whether students from ~~there~~ the Territory can be admitted.

To provide the necessary buildings and equipment for the School, the Committee is invited to recommend a grant of £3,300 to be spent during 1940/41, as decided by the Governor of Nigeria in the Disp. of the 2nd Feb. Prior to the outbreak of war, Nigeria had been feeling the effect of the economic depression during the last few years very severely, and the Dependency's surplus funds have now been reduced below the normal margin for safety, and the Government is faced with a probable deficit of ~~£674,000~~ about £700,000 on the current year's working, and is unable to finance the building of the School.

(publication of is assumed.)

(See Sec. of State's minute of 28/12 on 30037/6/40)

The Secretary of State attaches great importance to the adoption of this scheme as an essential preliminary step to the expansion of the Forestry Department, and the development of the forest resources of Nigeria, which has now become a matter of especial urgency in view of the increasing demand for Colonial timbers during the war, and Mr. MacDonald accordingly strongly recommends the application for favourable consideration by the Committee.

E.O.
[illegible]/40

AIR MAIL.

34

NIGERIA.

NO. 82

Government House,
Nigeria.

2 February, 1940.

Sir,

9 on 30192/2/38

3 on 30192/2/39

I have the honour to refer to my despatch No.1043 of the 21st October, 1938, dealing with the establishment of a Forestry Training School at Ibadan and to subsequent correspondence ending with your telegram No.741 of the 14th December, 1939, in which you were good enough to assure me of your strong support should I decide to seek assistance for this project from the Colonial Development Fund.

2. The scheme has now been closely re-examined by Mr. Oliphant, Chief Conservator of Forests, who warmly endorses it and considers that it should be put in hand without delay; I am in entire agreement with him since it is obvious that the need for a more highly trained African Staff will become progressively more urgent both on account of the war and of the unsettled conditions which are likely to follow in its wake. No less important is it, to my mind, that in its early days the School should have the benefit of Mr.Oliphant's guidance and for this reason alone I should be loth to defer its inauguration, through dictates of economy, to a time when his services may no longer be available to Nigeria.

3.

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
etc., etc., etc.

35

3. The fact remains, however, that owing to circumstances of which you are fully aware, the capital cost of the scheme amounting to £3,300 (as now revised by the Director of Public Works) is such as this Government can ill afford to meet from its own resources and it would appear to be a particularly suitable object for assistance, by way of a free grant to that extent, from the Colonial Development Fund. The consideration that it is intended to admit pupils from neighbouring Colonies and that the institution may eventually develop into a Forestry Training School for the whole of British West Africa may serve to recommend the undertaking still further in your view and in that of the Committee.

4. It is desired that the School should be ready to open on the 1st of January, 1941, and funds would therefore need to be made available for completion of the work during the Financial year 1940/41. Copies of the current Nigerian Estimates have already been supplied to the Members of the Advisory Committee and I am forwarding 12 copies of the Memorandum of Application under separate cover.

Not received in air mail.

I have the honour to be,

Sir,

Your most obedient, humble Servant,

B.H. Burdillon

GOVERNOR.

Description of Scheme, stating its objects and advantages, together with any plan or specification that may be available.

1. Object of the Scheme.

The object of the scheme is to provide buildings and equipment for the establishment of a Forestry Training School at Ibadan. The purpose of the training to be given at the school is to make possible the employment of educated Africans in those branches of the work of the Forestry Department which call for a higher degree of technical training than has been hitherto available, and thus to relieve the European staff of a large burden of routine duties.

2. Estimated cost.

Capital	£3,300
Recurrent	Nil
Total	£3,300

3. Earliest estimated date of commencement.

As soon as funds become available: 1940-41 if possible to allow of the school being opened in January, 1941.

4. Approximate estimated date of completion.

Within 12 months after approval.

5. Approximate estimate of allocation of cost between -

(a) Local expenditure	£2,840
(b) Expenditure in Great Britain	460
	£3,300

Capital

(a) Local expenditure	£2,840
(b) Expenditure in Great Britain	460
	£3,300

Recurrent Nil

No

3. The fact remains, however, that owing to circumstances of which you are fully aware, the capital cost of the scheme amounting to £3,300 (as now revised by the Director of Public Works) is even as this Government can ill afford to meet from its own resources and it would appear to be a particularly suitable object for assistance, by way of a free grant to that extent, from the Colonial Development Fund. The consideration that it is intended to admit pupils from neighbouring Colonies and that the institution may eventually develop into a Forestry Training School for the whole of British West Africa may serve to recommend the undertaking still further in your view and in that of the Committee.

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I have the honour to be,

Sir,

Your most obedient, humble servant,

GOVERNOR.

No grant is being sought for recurrent expenditure.

5a. Classification of Expenditure in Great Britain.

Building Materials	£200
Machinery	-
Scientific apparatus and Laboratory Equipment	220
Books and Library equipment	40
	£460

6. What circumstances have prevented the work being put in hand before ?

Lack of funds.

7. Proposed method of financing Capital Expenditure.

See (10)

8. The advantages to be derived, and the additional yearly net revenue estimated to be earned, as a result of the proposed expenditure.

See (1). The establishment of a higher African Staff is necessary for the proper development of the country's forest estate and organization of the greatly increased area of forest reserves. The ultimate gain in revenue is likely to be considerable, but is not measurable.

9. Have detailed estimates, based where necessary on technical advice, been prepared.

Yes. The estimates have been prepared in consultation with the Public Works Department. The high ratio of local expenditure to expenditure in Great Britain is due to the desire to employ local timber as far as possible in the construction of the buildings.

10. In what form is assistance under the Act required.

By a direct grant from the fund of the capital cost of £3,300 in one year.

38
END

11. (Security for advances).

Not applicable.

12. If the application is recommended by the Committee without alteration, and approved by the Treasury within two months from the date on which it is due to reach the Colonial Office, what amount do you estimate will be required from the Colonial Development Fund during

(a) The current financial year ending 31st March, 1940. Nil.

(b) The financial year ending 31st March, 1941

Capital £3,300 (see note below)

Recurrent Nil.

If the capital sum of £3,300 under (b) is made available early in 1940-41 it is anticipated that it can be spent before the 31st March, 1941.

30206/2

1940

NIGERIA

30206/2

HARBOURS

FORCADOS BAR.

Previous

1939.

Subsequent

R98 29/2/40

Library 20/2/40

Mr Thorlop 21/2

Mr J.B. Williams 22/2

Mr P.G. Williams 23/2

R98

R(29/5)

98

FILE A.

(1345). Wt. 23737/35. 24,000. 8/39. N.P.Co. G.x82,77.

U.S. Maritime. | Gov. No. 78. ——— 2. 2. 40.

States that the Escravos river entrance will be opened to shipping on Feb. 12th.

Lib.

Pl. attach a copy of the Convention referred to. RHH

file this. B.A.H. 20/2/40 A

This is all very satisfactory. It might be as well to send a copy of 1 to the Admiralty L.F. for info. & ? also to the Ministry of Shipping.

Commercial circles are being dealt with locally & no further action appears to be called for this end.

As to the first sentence of the desp. no action is called for at present.

? Return now as at A above & seek receipt noting contents with satisfaction.

J.B. Williams 21/2.

J.B. Williams
22.2.40

Yes: this is good news. As proposed

O.G.R. Williams

2.3.40

Nigeria. 133. (Amdt.) — 9/3/40.

3 To Ang. } 4 m/s } 9/1 ——— 3/4 — 12.3.40.

AIR MAIL.

NIGERIA.

NO. 78

Government House,
Nigeria.

2 February, 1940.

Sir,

Referring to my despatch No.217 of the 14th of February, 1939, on the subject of the silting of the Forcados bar, I have the honour to inform you that among the experiments referred to in paragraph 7 of that despatch was an investigation into the possibility of finding an alternative entrance from the sea to the ports served by the Forcados entrance. Experimental dredging was carried out early last year on the Escravos river bar and since that time the conditions at the approach from the seaboard have been kept under observation. I am glad to be able to report that a recent detailed survey of the Escravos river entrance shows no change to have taken place in the draught of the river bar since the previous survey was made a year ago, the present draught being 14 feet, which is the same as that on the Forcados bar. Though it is probable that shortage of officers will for some time prevent our undertaking further dredging to increase the draught, the Director of Marine is of the opinion that the frequent passage of ships over this entrance should in itself bring about a continual improvement in this respect.

2. A Notice to Mariners has therefore now been issued opening the Escravos river entrance to navigation as from the 12th of February next. It may be that periodical dredging for the maintenance of its present draught will not be required if the movement of ships produces the expected result. If on the other hand dredging

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
etc., etc., etc.

4
END

dredging does prove necessary from time to time the imposition of harbour dues, which would be permissible under Article 6 of the Convention of Saint-Germain, of 1919, would need consideration.

I have the honour to be,

Sir,

Your most obedient, humble Servant,

B. H. Bourdillon

GOVERNOR.

[illegible] of [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [

30231

1940

NIGERIA

30231

Income Tax Legislation

Previous

1939

Subsequent

1941

R98 = 3a.
R302 27/9
Legal Library (Old) 24/9
Rm 302.

FILE A.

(1345). Wt. 23737/35 24,000. 8/39.
N.P.Co. G 662/77a.

C.-J Taxation.

2

1. Nigeria — 1294 — 29. 12. 39.
Tns. cfs. Ordinance No 28 of 1939
Income Tax (Supplementary) Ordinance, 1939.

2 Nigeria — 1291 — 29. 12. 39.
Tns. cfs. Ordinance No 29 of 1939.
Non-Natives Income Tax (Protectorate)
(Amendment No 3) Ordinance, 1939.

3 Nigeria — Tel. 111 — 3.2.40.
Enquiries re/ further points raised
in preparing Ordinance

3. The answers to questions 2 & 3 are,
if the Co. is regd. in Nigeria
yes.
I cannot find that the points
raised in questions 1 & 11 have
ever been raised before
and I think we ~~have~~
may ~~better~~ in the first place
ask B.I.R. for their views.

Hemming
7/2

I have explained to Mr. Williams that this has been registered General owing to some misunderstanding in the Registries, and we have agreed that pending a final decision as to the registration of papers relating to income tax, which is at present being considered by higher authority, this may remain where it is and be transferred to geographical registration if necessary later.

2. I shall be glad of Sir G. Bushe's views on the points raised in (3). As I understand them, the question at issue is as follows. If the model Ordinance were adopted in Nigeria, companies registered there would be entitled to deduct tax at the Nigeria rate (as reduced by any relief granted by Nigeria under Sections 46 and 47 of the Model Ordinance) from the income out of which such dividend is paid. Any tax so deducted could, if such dividend were included in the chargeable income of such shareholder be set off, for purposes of collection, against the total tax leviable on such chargeable income. A shareholder resident out of Nigeria of a company registered in Nigeria is liable to tax under the Ordinance in respect of income derived from Nigeria, but if tax has already been deducted from such part of his income derived from Nigeria as is received in dividends from companies registered in Nigeria, he may claim when he receives his assessment on total income derived from Nigeria a rebate in respect of any tax which has already been deducted at the source, i.e. if all the income he receives from Nigeria is in the form of dividends of companies registered in

in Nigeria he would pay no further tax in Nigeria and, alternatively, if he has further income derived from Nigeria other than dividends of companies registered in Nigeria, and which has not therefore been subjected to tax at the source, he will, in fact, pay only on that portion of his chargeable income from which tax has not already been deducted.

And all this is subject to adjustment if the rate of tax applicable to Coys is higher than the rate of tax applicable to his case. See §54

3. If the words "who is resident in Nigeria" were added after the word "person" in the penultimate line of Section 24, the effect would apparently be that a person resident out of Nigeria would not be able to claim a rebate in respect of tax to which he was assessed in Nigeria, but which had already been deducted at the source, while a person resident in Nigeria would be able to claim such a rebate. This would be manifestly unfair and, indeed, absurd. It would not only be to subject income derived from Nigeria by persons not resident there to a special discriminatory tax (namely twice the standard rate of income tax on companies in Nigeria) not levied on a shareholder of the same company resided in Nigeria but it would also involve singling out one special form of income derived from Nigeria by a person resident out of Nigeria for such discrimination.

4. In any event, I should have thought there could be little doubt that the United Africa Company was registered in the United Kingdom and, if that is so (West African Department will doubtless be able to confirm this) neither Section 23 nor Section 24 of the Ordinance applies, as is made quite clear in paragraph 30 of the report of the Inter-Departmental Committee prefaced to the Model Ordinance.

If

5. If the Legal Adviser agrees with my view as regards the effect of the proposed alteration in Section 24 of the Model Ordinance, I should have thought we were quite capable of telling Nigeria that the proposed addition was open to the gravest objection without wasting time consulting the Board of Inland Revenue. As regards questions 2 and 3, surely it is clear that the answer to both questions is "yes" if the United Africa Company is a company registered in Nigeria, and "no" if, as I suspect, it is not, the answer to question 2 is "no" & to question (3) that such dividends are chargeable under § 5(d) but that § 24 does not apply.

K. E. Robinson.
8.2.40.

Recvd for ① & ②
K E

Received in Nigeria
HB

Quite so
HB
9/2

The parent company United Africa Company is, I have confirmed from the Companies Registration Dept of the B.I.R., registered in England in 1929. Whether there are subsidiaries registered in W. Africa I cannot say. But this control is certainly exercised from the London Office at the Lever House. We can I think proceed as proposed on 3 vice for 1 & 2.
J. M. Sirkett
9/2

I understand from Mr Mervis McPherson that in some time ago that some of the U.A.C's subsidiaries were registered in Nigeria. & that was one of the reasons why the U.A.C. was rather peeved about the Company tax.

alone
O. G. R. Adelman
9. 2. 40

4 To Gov Nigeria – tel 128 – 10/2/40

Mr. Kennedy

Recvd. for 1 and. 2.

L. J. Humphreby
12. 2. 40.

5. Nigeria – tel 136 secret – 8. 2. 40.
Comments on scale of tax.

6. Nigeria – tel 144 secret – 8. 2. 40.
Ref. 3. Enquires if revenue might be preserved if there were a limitation to Section 21 of model I.T. Ordinance.

7. Nigeria – tel 16 saving – 9. 2. 40
Ref. 5. Ths. details of provisions which are being included in the Consolidated Income Tax Ordinance.

No. 6. This has been delayed to obtain from Elstree the papers* about the Trinidad Ordinance 10 of 1926, and also on account of the extreme pressure of work on account of Mr. Robinson's absence on sick leave.

The Trinidad file (C.14786/26 Trinidad) shows that the B.I.R.† raised no objection to the inclusion in the Trinidad legislation of a provision under which family and insurance deductions may be granted to non-resident British subjects, provided they render a return of their income from all sources both within and outside the Colony; the chargeable income of such persons being arrived at in the ratio that their local income bears to their total income from all sources.

There is clearly no reason why Nigeria should not include a similar provision in their Consolidated Ordinance if they wish to do so (British Guiana have a similar provision).

A shareholder who is not resident in Nigeria of a company registered in Nigeria may, if tax has already been deducted from such part of his income derived from Nigeria as is received in dividends from companies registered in Nigeria, claim when he receives his assessment on total income derived from Nigeria, a rebate in respect of any tax which has already been deducted at the source. The Governor now enquires whether it would be possible to treat this deduction in the same way as family, etc., deductions, by the addition ~~of a similar proviso~~ to Section 24 of the model, for similar proviso.

The effect of such a proviso would be to preclude certain non-residents from claiming rebate in respect of part or all of the tax which has been deducted at source in the Colony ~~to~~ ~~which has~~ ~~was assessed~~ in Nigeria and for the reasons mentioned at 'A' in Mr. Robinson's minute of 8/2/40, is

definitely

5

definitely open to similar objection. I think, therefore, that we must reply as in dft. herewith.

Remi. regrets for 12.5.27

27th February, 1940.

I agree.

K.E. Robinson

28. II. 40.

I think we should get the legal advisers views on this. I am not clear how of the Kennedy's minute operates vis-a-vis Dominion I.T. Relief. arrangements here which clearly should not be disturbed. If the Governor's proposal would do this it should be rejected as purposes, I think.

J. B. Whitburn

29/2

1. So far as the question in the Gov's tel^m. at (6) is concerned, the position is that the Govr. suggests that S 24 of the Model order should be amended so as to read:

"Any tax which a Coy. has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder, & any tax applicable to the share to which any person is entitled in the income of a body of persons assessed under this ordinance, shall, when such dividend or share is included in the chargeable income of such shareholder or person, be set off for the purposes of collection against the tax charged on that chargeable income, so however that no such allowance or relief as aforesaid

shall be given so as to reduce the amount of income tax payable by that individual below an amount which bears the same proportion to the amount which would be payable by him by way of tax if the tax were chargeable on his total income from all sources, including income which is not subject to income tax charged in the Colony, as the amount of the income subject to income tax so charged bears to his total income from all sources".

2. The object of § 24 of the Model Ordinance is to enable an individual who, owing to the fact that part or as all of his income is in the form of dividends from a company or companies registered in ~~Nigeria~~ the Colony is subject to tax deducted at the source at the standard rate on companies, to take into account the amount so deducted in arriving at his proper liability to income tax having regard to his total income, & any allowances to which he may be entitled, or to the fact that the rate at which he is liable as an individual may be less than the rate at which tax has been deducted at the source. (See as to this para 2 of my minute of 8.11.40 above & Sir G. Bushe's marginal note thereto).

3. The effect of the Governor's proposal is to limit the ~~effect~~ extent to which this adjustment may be effected - i.e. to subject some persons who receive part of their Nigerian income ~~from~~ in the form of dividends on shares of a company reg^d in Nigeria to a higher rate of tax than they would pay if they received no part of their Nigerian income in that particular form. As such it is manifestly inequitable, & is open to objections similar to those set out in my earlier minute to the proposal made in (3). The objections would not be quite the <u>same</u> as this arrangement would discriminate against persons part of whose income was derived from shares of companies reg^d in Nigeria, whether resident or non-resident.

4. The proviso proposed is in any case inappropriately used in this case. It is based on § 24 of the U.K. Finance Act of 1924, & as the Gov^t. proposes to include provision on the lines of § 4 of Trinidad Ordn No 10 of 1928, the tax payable by a non-resident part of whose income was derived from shares of companies resident in Nigeria would in any case be adjusted in the manner provided in that proviso. This would in some cases increase the total tax payable — i.e. the effect would be similar to what the Gov^t. proposes to effect by amending

§ 24 of the Model order, only instead of reducing the deduction allowed in respect of tax deducted at the source, the result would be achieved by increasing the total tax payable in certain cases.

6. The objections to the Governor's proposed amendt. to § 24 of the Model are therefore that, quite apart from any Double Tax effect, it would unfairly discriminate against recipients of one form of income.

I have received Mr. Kennedy's offer to bring this out.

K. Robinson.
1. iii. 40

I have spoken to Mr. Duncan. He would be glad if Mr. Dale would look at this in the first instance, & pass it on to him.
H.P.

I am most grateful to Mr. Robinson for his further elucidation of this complicated point. Legal advisers should say whether he agrees with the O/T M.

J B Sweetman
1/3.

Mr. Duncan

I agree with the views in these minutes. But there is a bitter awkwardness which I have felt bound to mention to Mr. Robinson, namely Art. 6 of the Commissions mandate. The effect of the proposed addition of a section equal to s. 4 of the Trinidad 1928 Ordinance would be to confer relief on non-residents who are British subjects only, and this looks contrary to the "complete economic commercial and industrial" equality stipulated for in Art. 6. The same can be said of the discriminatory provisions in clause 27 of the Model. I think there is an argument against the applicability of the clause in the Mandate, namely that this clause is dealing with rights within the territory only (the first para. is expressly so limited), whereas the income tax provisions apply only to persons outside the territory. But it is a difficult point because, if it is decided that the Mandate is against us, it will not be at all easy to frame a provision so as to meet the objection. The point is likely to arise in proposed Tanganyika legislation also. We cannot deal with it without full consideration with the F.O. and possibly the B.O.T.R. I would be inclined to

say nothing to Nigeria, and amend letter if necessary.

W. Dale.
2.3.

Mr. Sidebotham.

In view of the urgency of this matter, I agree that we should telegraph in terms of the attached draft.

We obviously cannot settle at a moment's notice any point there may be as regards the Mandate for the Cameroons — and this can be gone into more at our leisure.

4/3/40 H. Duncan.

Get the tel off & record in Red
See minutes pp 1, 2, 5, 7.
& also Mr. Dale's point re the Cameroons Mandate.

J. Sidebotham
4/3 a letter

8. To Gov Nigeria Tele No 210 Secret 4/3/40

9 BR. Sec. Conf 3 p.n. — 23. 2. 40.
Th. annotated copies of draft Bills relating to Income Tax & Native Direct Taxation, which will be presented to Leg. Co. on 4th March

10 Gov. Tel. No. 216 Secret. — 1. 3. 40.
Gives details of certain omissions from and inclusions in the Income Tax Ordinance. Requests early reply

Received in red. as directed on draft No 8.
RHH

Mr. Sidebotham.

I am afraid that action on a number of items on this file has been, quite unavoidably, delayed, before the papers were transferred to Geographical registration. It was obviously essential to deal with 3 and 6 urgently and although action on the latter was delayed owing to my absence on leave, I feel bound to say that reference to the Board of Inland Revenue would have involved at least an equal delay.

As regards 1 and 2 on this file, I have no comments, and subject to the views of the Department and of the Legal Advisers, whose attention I would invite to Section 10 of Ordinance 28 of 1939 enclosed in 1, I think non-disallowance should be signified.

A

As regards 5, this telegram was presumably sent for information and principally in order to inform us that the Governor intended (as usual!) to introduce the legislation before it had been submitted to the Secretary of State. No action seems to be required on this telegram.

As

As regards 7, this may now be considered in connection with the examination of the Bills which are enclosed in 9 and the point in paragraph 4 of 10, which is the only one outstanding, should be dealt with at the same time. The Mandate point, which is dealt with in Mr. Dale's minute of 2.3.40 above, could also no doubt be taken up in connection with the Bills enclosed in 9.

You may think it preferable to clear off the action on 1 and 2 and then deal with the examination of the Bills in 9 and the connected points, but I would suggest that what really requires early consideration is the examination of the Bills, so that if there are any major amendments which are necessary the Governor may be informed while the legislation is before the Legislative Council.

K. E. Robinson.

6/3/40.

11. Gov. Tel. No. 236 Secret. ——————— 7.3.40.
States that the I.T. Bill will be amended to include natives of Lagos. Explains why the attempt to standardise rate of tax in the Protectorate have been dropped.

Pl. arrange copies of relevant Budget Legn. RHH

Actg. Legal

(1) and (2). Subject to the views of the Legal Advisers, I see no reason why non-disallowance should not be signified in respect of these two Ordinances, both of which will be repealed on the enactment of the Income Tax Ordinance, 1940, the draft of which is enclosed with (9) on this file.

As

As regards (5), I agree with Mr.Robinson that no action seems to be required.

(7) is primarily explanatory of the Bills enclosed with (9) and the only point which requires separate action is at 'A' in paragrph 8. The point in question is dealt with in circular despatch of 4th of May, 1936, in which it was recommended that consideration should be given to the desirability of including provisions for personal reliefs on the lines of sections 19, 20 and particularly 22 of the United Kingdom Finance Act, 1920 (i.e. for widowers, or widows' children; widowed mothers, etc; and dependant relatives). The Governor's attention might be drawn to this circular despatch, and perhaps Mr. Thompson will be good enough to state whether provisions similar to these sections of the United Kingdom Finance Act, 1920 have been included in the provisions of any Colonial Income Tax legislation.

(9). These two Bills have already been introduced to Legislative Council, and it seems from the telegram at (11) that modifications of both Bills are certain to have been made by the Select Committee to which they were referred prior to enactment. In these circumstances detailed examination of the Bills would hardly be profitable now. I have assumed that we are only concerned now with important points of principle which may be involved. The Income Tax Ordinance closely follows the model prepared by the Interdepartmental Committee and it may be useful if I draw attention to the major variations from that model, and indicate the particular Colonial legislation which has been followed where any important departure from the model occurs.

It

It is assumed from section 8 (a) that it is not intended that the official emoluments received by the Governor when on leave should be exempt from income tax (see circular despatch of 13/5/36). It is also noted that sub-section (h) of section 8 of the model exempting from tax gratuities granted to members of H.M. Forces in respect of services rendered during the ~~late~~ last war has been omitted from the Ordinance and a new subsection (i) included.

Sections 15 and 16 regarding deductions for wives and children are taken verbatim from Trinidad Ordinance No. 1 of 1935, sections 4 and 5, and the proviso to section 17 regarding deductions in respect of life insurance and contributions to the Widows' and Orphans' scheme is taken from section 32 (iii) (a) and (c) of the Income Tax Act, 1918. Section 18 is new, but one to which I don't think exception need be taken. Section 19 is taken from Trinidad Ordinance No.10 of 1928, section 4.

It seems from the telegram at (11) that section 21 regarding the minimum rate of tax is likely to be deleted and I will refrain from comment. There are no other important variations from the model up to section 53, and it will be sufficient to note the inclusion of a new section 34 making similar provision for Companies dissolved during the year of assessment or in the year preceding assessment, as in the case of persons dying during that period; and of the inclusion, as sub-section (7) of section 46, of section 7 of the Trinidad Ordinance No.10 of 1928.

It seems from the telegram at (11) that section 21 regarding the minimum rate of tax is likely to be deleted and I will refrain from comment. MJ.

Section 53 regarding the time within which payment is to be made is new, and I do not

not think that exception can be taken ~~for~~ to this payment of tax ~~to be payable~~ in two equal instalments.

Provision for the

Section 54 is taken verbatim from section 8 of ~~the~~ Trinidad Ordinance No.10 of 1928.

The Governor is empowered under sub-section (2) of Section 65 to make special rules for the recovery of tax by instalments, etc. from monies in the hands of the Government which is due to officers of the Governor or pensioners, to which I do not think exception can be taken.

With regard to the first schedule, I would only comment that I should have thought that the rate of tax could have been raised more steeply for the higher incomes, but I am really not competent to state an opinion on this matter.

Native Direct Taxation Ord^n.— It appears from the telegram at (11) that the whole of Part 3 is to be deleted from the native Direct Taxation Ordinance, ~~and this~~ which will involve further amendments to Parts 2 and 4, and as the Governor considers that other modifications in the Bill also are certain to have been made by the Select Committee, there is really no point in commenting upon it in the form in which it has been presented to us. Suffice it to say, that there does not appear to be anything in Parts 1, 2 and 4 of the Bill which need be taken up with the Governor now as a matter of urgency. The same, in my view, applies to the Income Tax Ordinance, ~~except that~~ and, in answering the point at 'A' of (7), I would simply say that the Secretary of State proposes to withhold any

any comment that may be necessary, until after the Ordinances have been transmitted to him in their final form.

With regard to (10), I am not clear as to what reply should be sent to paragraph 4, and perhaps Mr. Robinson will advise as to this. No.11 does not appear to me to call for any specific reply, and I think we can only wait until copies of the Ordinances are received in their final form, but I must note that Sir George Gater wishes to see any reply that may be sent to (11) in draft form.

In reading over this minute I see that I have omitted to note that no ~~deductions~~ provision has been included in the Income Tax Ordn. for deductions in respect of earned income or in the case of Protected and British Subjects. These matters are dealt with in Sections 14 and 15 of the model which have been omitted from the Ordinance.

Copies of all the relevant laws have been collected and are attached enclosed with this file.

J. Thornley
16.3

I do not wish to delay this file by adding greatly to the minutes.

As to Nos. 1, 2 and ~~3~~ 5? I agree generally with Mr. Thornley.

As to No.7 so far as the point raised in paragraph 8 is concerned, I agree that we should proceed generally on the lines which he suggests and if library (Mr. Thompson) can trace examples of what is done elsewhere which we could send to the Governor, it might be useful. Myself I am inclined to doubt how far conditions in Nigeria make this a paractical proposition at any rate at this stage.

A

Paragraph 14. The machinery etc. for appeals has not yet apparently been decided upon. Appeals not infrequently involve I think, complicated legal points, and the Legal Adviser should say whether in the case of the Northern Provinces, appeal to the Chief Commissioner is likely to be adequate.

As to No.9 I agree that the important thing to decide at once is whether there are any points of principle on which the Bills have gone wrong and if so, to let the Governor know without delay.

As regards Section 8(a) of the Non-natives Income Tax Bill (Tax) means "Income Tax imposed by this Ordinance" i.e. the Nigerian Income Tax. If the Governor stays sufficiently long in this country when on leave to become liable to Tax here, he would no doubt be assessed to United Kingdom Income Tax like that of other Colonial Civil Servants in similar circumstances.

Section 34. I do not know if in practice similar arrangements exist in this country though perhaps not specifically laid down by law. If they do exist I see no objection to the new provision provided that it cannot lead to any jiggery pokery by Companies. It may be desirable to get B.I.R. views on this.

Section 5

Section 53. Some such arrangement has recently been made in this country I fancy in certain cases.

So far as the omissions of provisions for deduction in respect of earned income is concerned I conclude that this omission has been made for the sake of simplicity and in view of the low rate of tax imposed. I am very doubtful, however, whether we should allow this to pass but G.D. should advise in the light of what is done in other ~~countries~~ colonies.

As regards the last paragraph of No.11 ~~selling~~ Ceylon is I understand in many respects a bad ~~pre~~ precedent and the Governor's proposals will require to be scrutinised carefully. Mr. Robinson will no doubt examine them in the light of minutes etc. on Ceylon papers. We should be grateful at this stage now for his views and then for the views of the Legal Adviser.

J.B. Sidebotham
18/3/40.

I am afraid I have slightly delayed these papers mainly owing to difficulty in securing the Ceylon income tax papers in order to examine the sections of the Ceylon legislation which Nigeria now proposes to include.

Mr. Thornley's minute includes a very careful examination of the new Consolidated Ordinance which has been most useful.

As regards 1 and 2, I agree that subject to the views of the Legal Adviser, non-disallowance of these Ordinances may now be signified, and in this connection

connection I invite attention to 'A' of my minute of 6.3.40 above.

As regards 7, paragraph 8, I agree with what Mr.Thornley proposes and also with Mr.Sidebotham's comment at 'A' in his minute of 18.3.40 above. I think it is important that we should not press upon Nigeria too many refinements until they have acquired further experience in income tax administration, and I suggest that in drawing their attention to the circular despatch to which Mr. Thornley refers and to any provisions which may have been included in Colonial income tax legislation on the lines suggested we should say to the Governor that if he considers it desirable to defer further consideration of the possibility of including similar provisions in the Nigeria legislation until further experience of the working of the new Consolidated Ordinance has been secured. the Secretary of State would have no objection.

As regards 9, I shall deal only with the Income Tax Bill and not with the Native Direct Taxation Bill.

<u>Clause 8 (a)</u>. The Secretary of State's circular despatch of the 13th of May, 1936 states that he considers that the emoluments drawn by the Governor himself while on leave should be exempted from Colonial income tax, i.e. in addition to the emoluments of the Officer Administering the Government, and if my recollection is correct, I think we have recently

recently urged that provision to meet this point should be included in the Gambia Income Tax Ordinance. This is, however, a matter more for C.S.O. and the West African Department than for G.D. In any event this point does not appear to me to be one which requires immediate action and I should think it could certainly be dealt with if necessary by subsequent amendment at a convenient opportunity.

Sections 15, 16, proviso to 17, 18 and 19. I see no objection to any of these, all of which except 18 are based either on Trinidad legislation or U.K. Income Tax Acts. Section 18 is new and provides for allowances in respect of income for part only of the year preceding the year of assessment to be deducted in proportion to the number of completed months in the part of the year in question. Prima facie this seems an eminently reasonable arrangement and I think we need not consult the Board of Inland Revenue until the Ordinance as finally passed has been received, but when the Ordinance is referred to them we should invite attention to this section.

Section 21. I note that the minimum tax of £2. 10. is likely to be ~~charged~~ omitted and on the whole I think this is a good thing.

Section 34. I see no objection to this provision, which enables tax to be secured from the person representing a company which is dissolved during the year of assessment and which would, but for its dissolution, have been chargeable for tax for that year or if the company is dissolved during the year

year of assessment as within 2 years of the end of that year, and no assessment has been made upon the company in respect of the year of assessment. The Legal Adviser should however see as this may be open to objection on general principles.

Section 46(7) and Section 54. These are taken from Ordinance No. 10 of 1928 of Trinidad, which was examined by the Board of Inland Revenue prior to its enactment.

Section 65(2) empowers the Governor to make special rules for the recovery of tax by instalments from Government officials or pensioners. This is no doubt intended to enable arrangements to be made to meet the grievances in particular of pensioners from whom tax is at present deducted by the Crown Agents in one instalment, which imposes a considerable burden, since the whole instalment is taken by the Crown Agents from one month's pension. We have asked the Governor to consider the possibility of arrangements for tax to be deducted by instalments in these cases.

As regards the various improvements which it is proposed in the last paragraph of 11 to incorporate when the Bill is in Select Committee, Sections 7(1)(a), 9(1)(f) and 9(1)(g) of the Ceylon Ordinance did not arouse any criticism when this Ordinance was examined, and prima facie appeared entirely unobjectionable. As regards the second proviso to Section 43(1) and the second proviso to Section 44(1) of the Ceylon Ordinance, I am not clear what exactly it is proposed to

to insert as the corresponding provision in Nigeria. The Ceylon income tax legislation imposes a rate of tax called the unit rate on all chargeable income not exceeding Rs.6,000; upon the next Rs. 30,000 the tax is twice the unit rate and upon the remainder, three times the unit rate. These two provisos enable the Commissioner to require deductions to be made at source from dividends payable to a particular shareholder in a resident company or from sums paid or credited to a particular person or partnership out of Ceylon at a rate exceeding twice the unit rate, provided that such rate does not exceed three times the unit rate. Presumably in the Nigeria legislation the provision would enable such tax to be deducted at a rate exceeding the companies' rate, but not exceeding the maximum rate imposed under the Ordinance. Neither of these provisos were criticised by the Board of Inland Revenue in their letter at 89 on 92097/32 Ceylon, and I see no reason why we should object to their inclusion in a suitable form in the Nigerian legislation. Section 44(3) of the Ceylon Ordinance would presumably be included in the Nigerian legislation in such a form as to cover the tax deducted in accordance with the provisions of the two provisos mentioned above, and on that assumption there seems no reason to object. In any case none of these provisions is of a character which would necessitate telegraphing to Nigeria pending the receipt of the Ordinance in its final form. Subject therefore to the Legal Adviser's observations, I should propose to inform the Governor that a

preliminary

preliminary examination of the Income Tax Bill has been made but there are no comments on matters of principle which the Secretary of State wishes to make at this stage and that he proposes to defer detailed comment pending the receipt of the Ordinance in its final form, and promise further information in regard to the point raised in paragraph 4 of 10 as soon as possible. The papers should be recirculated to me to consider the enquiry in paragraph 4 of 10 and consult the Board of Inland Revenue.

It is also for consideration whether we should not now raise the Mandate point dealt with in Mr. Dale's minute of the 2nd of March above with the Foreign Office.

K. E. Robinson.

27/3/40.

1+2 on this file I agree we can allow these Ordinances. The provisions of s. 10 (2) (6) and (4) of the Order at 1 seem to me to be much too severe. But as the Ordinances are to be repealed by the same ordinance, and these provisions are not repeated, we need not think twice of the point.

As for the new Bills, it is impossible to deal with them adequately without expert reports. As regards appeals, certainly I should think they ought to lie to the Supreme Courts; but I don't know what is the reason for making this exception that in the Northern Provinces the appeal should go to the Chief Commissioner.

Clause 34 of the Income Tax Bill requires consideration. I have no idea who is meant by "the person representing such company": and it looks as if they intend to make him personally responsible. This is clearly wrong. The analogy with cl. 33 would be to make the Liquidator of the company responsible out of the assets — and to this I would see no objection. But we clearly want B.I.R. advice. We had better put this comment.

Mandate point. I would leave this until we see exactly what provisions they have.

W.D.O.
28.3.

(I am not sure whether Mr Robinson considered Mr Thomley's point — that clauses 14 & 15 of the Model have been omitted: his reference to British subjects in cl. 15 would have to be omitted so far as the Commissions are concerned)

As regards x/ above, I think Cls. 14 & 15 are omitted because of the provisions of cl 21 of the Nigeria Bill under which the intention was that everyone should pay a minimum tax of £2.10.0. — i.e. a sort of Poll Tax incorporated into the main I.T. law. If this part of cl 21 is omitted (see para 5 of (ii)) the effect, unless they adjust the rates at present provided, will be to produce an allowance of £800. I do not think we can (or need) comment on this until we can see the ordinance as enacted.

K.E. Robinson
28.11.40

Then we should now telegraph as in draft conson. herewith and recirc. file very early for further action as indicated on draft.

J.B. Sutcliffe
29.3.40.

12 Tel No 293 Secret to Gov Lagos 1/4/40.

Notice H.S.O. Lib 17/8 — Nigeria. 180. (2 Addressees) } 4..3.- 2/4 £0.
Notice H.S.O. Lib 11/6 — Nigeria. 181. (1 Addressee) }
12

Mr. Thompson. (Library (Legal))

Can you say whether any Regulations have been made in Trinidad under S 24 of Order No 34 of 1938 [illegible]. If so, please annex a copy & return these pp. to Mr. Kennedy.

Mr. Kennedy.

If (as I suspect) there are no Reg^ns in T'dad on this point, (& I can't see what they would regulate) we had better ask Mr. Willis (B.I.R) for his advice, explaining that we can't have any such regulations.

K. Robinson
3.10.40.

No such Regs have been made in Trinidad
J. H. Thompson
4 10 40

Mr. Willis w/c ends as draft 11.4.40

16. Nigeria Secret. ——— 30. 3 40.

The copy Bill w/ report of Select Cmtee.

Library legal
Pl. put up
c/relevant legn.

There are quite a number of alterations in the Income Tax Bill as presented to the Legislative Council (see enclosure to (16)) from that which was forwarded to us at (9). Perhaps the most important of these have been necessitated by the decision to bring natives of Lagos within the scope of the Bill. It is difficult to examine the Ordinance without a legal report, but it may be useful if I set out at this stage the alterations which have been made from the terms of the Bill at (9), section by section.

Section 5(c) in the Bill at (9) has been omitted from the Ordinance - see paragraph 12 of (16).

A number of new exemptions [(d), (e), (f), (g), (i), (l), (m), (o)] have been included in Section 8 for the reasons given in paragraphs 10 and 11 of (16). The form of sub-sections (k) and (p) has been altered.

Section 10(f) and (g) are new, reproducing Section 9(1)(f) and (g) of Ceylon Ordinance No.2 of ~~1932~~ 1932.

Section 12(h) is new.

The form of Section 15(1) has been altered and does not now follow the Trinidad model which was used in the first draft.

Section 16 has been altered both in form and substance. The allowance which may ordinarily be claimed in respect of each child has been reduced to £25 and may under no circumstances exceed £100 for each child.

Section 17 has been altered by the removal of that part of it relating to contributions to Widows' and Orphans' Provident Funds to Section 10(f). See also paragraph 8 of (16).

Section 18. The calculation is to be made on the basis of days instead of months, ~~[illegible]~~

Section 19. I should not have thought it necessary to include 18 in this section, but it can do no harm.

Section 21 reverts to the principle of Part III of the Colony Taxation Ordinance, 1937, and is, I think, a definite improvement on the provision made in this section of the Bill at (9).

Section 22 has been altered by including a proviso adopting the idea contained in Section 20(2) of Ceylon Ordinance No.2 of 1932. The purpose of this is fully and adequately explained in paragraphs 6 and 7 of (16).

Section 24. Proviso (ii) (cf. Section 43(1)(ii) of the Ceylon Ordinance) has been added for the reasons stated

stated in paragraph 14 of (16) and would seem to be necessary as a safeguard.

Section 28. The words "either directly or" have been inserted in the fourth line.

Section 35. See remarks under Section 24 above which also apply to this section.

Section 37(4) has been introduced anew since the draft at (9) was prepared.

Section 45(2). Persons assessed to pay tax under Section 21 are excluded from the provisions of this section as provision for objection in their case is included in that section.

Section 46. Sub-section (1) (j) was struck out during the Committee stage in Council and sub-section (2) has been added for the reason stated in paragraph 18 of (16).

Section 53. Provision for the payment of tax in instalments naturally only applies now to tax levied under Sections 22 and 23.

Section 60. Slightly altered in form only.

Section 63(2). Power to remit a penalty imposed under Section 55(1)(a) is included.

Section 65(1)(b). The revenue of the Nigerian Railway and of any Native Authority has been added.

Section 65(1). (d) and (e) have been added.

First Schedule. Tax at the rate of 3d. shall be paid for every £. of the first £200.

In other respects the Bill as presented to Council (which, with the exception of Section 46(1)(j), is presumably in the form in which it became law) follows verbatim the Bill enclosed with (9).

Before we can properly compare, as we shall have to, the rates of tax imposed by this Ordinance and the rates imposed by the Native Direct Taxation Ordinance, we shall have to await the receipt of the latter Ordinance. Personally, I think the arrangements now made for the inclusion of natives of Lagos within the scope of this Bill and for a flat rate of 5/- on incomes not in excess of £50 are an improvement, and that the Ordinance in this form will be less likely to give offence to African opinion in Lagos.

I suggest that we await the Legal Report before sending to the Legal Advisers for examination, and that after examination by them we should send the Bill and such comments as they suggest to the B.I.R. for further examination. You may like to see yourself in the meantime.

I

I see that no action has been taken to send the O.A.G. a reply to the point raised at 'A' on page 3 of (7). This being so, I think it will be better now to wait and to include the reply suggested in my minute of 16/3 in the despatch which we shall have to send to the O.A.G. in reply to his asking that non-disallowance may be signified.

C. W. Thomley
19.4.40.

I am afraid I have held this up. I agree generally with Mr. Thomley, & so far as I can judge, the various changes made in the Bill are unobjectionable. I still do not understand the Govt's difficulty about deductions at source & subsequent adjustment. (vide para 16).

I wonder if, if the Order has not yet been received, it would not be useful to send a copy of (16) & of the Bill s.o. to Mr. Weeks at the B.I.R., explaining that we have not yet received authenticated copies of the Order or a Legal Report, & are proposing to examine the Order on their receipt. In the meantime, he may like to have a preliminary examn. of the leg^n., on which we shall be asking for B.I.R. comments officially in due course. (If Mr. Maslow is still in this country, we should also suggest a meeting with the B.I.R. if this could be done at the same time).

K. E. Robinson
26. v. 40

17

I submit a draft on the lines proposed.

The Personnel Section tell me that Mr. Marlow is due to return to Nigeria on or about the 24th of August.

C. W. Thomley
28.5.1940

Proceed as proposed, & receive with ordinance & legal report when received.

J. B. Watt
29/5 about

17 To Willis (v/c 16 & enc) 30/5 30/5/40.

Recd. No reply to No 15.

W. Nonnington 11/6

Mr. K. E. Robinson

Sir, I think we had better deal with this question when the Ord^ce under examination. Mr. Willis may deal with it at the same time as (17). I wld not worry him about it yet.

Put by
C. W. Thomley
13.6.

very wise.
K. E. Robinson.
B. VII. 40

at once

18. Ag. Ch. Sec. Secret 3 pp. 25. 5. 60.
Tel. 10 plain copies of Ordnance No. 3 of 60. (Spares to Files).

We have still not received the authenticated original of this Income Tax Ordn. from Nigeria or a legal report. It is difficult to understand why these ordinary copies have been sent by first – unless it is that the B.O. is having difficulty with the legal report! As the ordinance is now law and as the B.I.R. are presumably getting on with a preliminary examination of the copy of the bill (an ordinance form) which we sent to them I suggest that we await the next sea-mail from ~~mail~~ Nigeria & unless the authenticated copy & legal report are included in that mail we shd. then telegraph the D.A.G. enquiring what has happened to them.

C. Relph Leigh
26.5

Let us by all means wait for the present!

K. Robinson
26. V.

Bring up in 1 month
J. Macpherson
Quite right in your opinion.
27/6 [illegible]

To S.R. Marlow Tel. Cons. 14/7/60

18

Mr. Sidebotham

You will see that the reply to (19) is at (115) (on 7/31 W.A. attached and that Mr. Marlow will be coming at the office at 11 am on Monday (8th Inst.) and that he hopes to discuss with the B.I.R. on Monday afternoon.

Mr. Sinclair (B.I.R.) told me last week that he would be glad to see Mr. Marlow any day and I promised to let him know the date suggested as soon as we had a reply to our telegram. We fortunately this week only reached me at lunch time today – too late to try catch Mr. Sinclair at the B.I.R. before he left for the week-end.

As I shall be in the Office on Monday, will you please ring up Mr. Sinclair at the B.I.R. early and warn him for Monday afternoon and see Mr. Marlow when he arrives in the morning. All I think that is necessary is to show him para 23 of (16), so that he shall know what the Governor wishes, leaving it to talk about it & give him copy of it from the Library.

Mr. R.E. Robinson has told me that there is nothing he would wish to say to Mr. Marlow and I don't think it is necessary to trouble him further with this matter.

See over / C. Relph Leigh 6.7

The B.I.R have also asked to be furnished with copies of our despatch No. 1431 of the 3rd September 1937 & the Governor's despatch No. 214 of 28th February 1938 (both ref: is made in para 12 of (16)) (6) on - /37

Perhaps copies might be prepared in time for Mr. Marlow to take them with him to the discussion — otherwise they can be sent later under cover of a complimentary slip to Mr. Willis ref: (7).

C. W. Dawley
6.7.

I have arranged with Mr. Marlow (after speaking to Mr. Sinclair B.I.R) for him to call on Mr. Sidebotham B.I.R at 3 pm this afternoon. I read the Marlow paras 23 of the Gov's desp (No 16) to him second.

Mr. Willis with compts slip the duplicate copies of the desp[s] the B.I.R. need (1431 of 3rd Sept 1937. 214 of 28th Feb 1938.) vide No 17. (Copies are attached)

J. B. Sidebotham
8/7 absence

21 To Willis (w/c desp. as in minutes) - (B/12c) - 8.7.40.

22. Marlow (Conf.) ——— " . 110 19
Reports result of interview at Somerset House.

Interim legal opn. Pl. attach rel. despatches. [illegible]

We shall have to take (22) into consideration when we come to examine the Ordinance with the help of the legal report not yet received. In the meantime ? we should send a copy of (22) to Governor Nigeria LF/ [illegible] inf: reference para 23 of (16)

C. W. Dawley
18.7.

K. E. Robinson
18/7/40

J. B. Sidebotham
18/7 absence

J. Marlow (16) (22 Add'd) ——— 18.7.40

DESTROYED UNDER STATUTE

To Nigeria Sec. (w/c 22) - A/P.C. 20 JUL 1940

B.V. vide min. of 27/1
[illegible] 27/7.

B.V. in 2 months if nothing in the meantime.
Mr. Sidebotham agrees.
A. D. Loch. 29/7 ab

Now to 26.
28/9/40
26/11

25 Cd. of Inland Revenue. 8.8.40.
To a news. dealing with Nig. Ordnce. 3 of 40.

I don't think we can do anything about (25) until the authenticated copies of the Ordinance and the legal report have been received. We might ~~therefore~~ now send a 3PN to Nigeria asking for these as soon as possible rather than a despatch enclosing a copy of (25), since many of the points will no doubt be dealt with in the legal report and until this has been received we are not in a position to comment on the B.I.R.'s observations. Mr.Sidebotham and Mr.Roberts-Wray agree.

A.J.Cole.
19.8.40.

To Chief Secretary, Nigeria (3pn) 20.8.40.

27. To gov. Tel. ~~286~~ 1051 Secret a 30344/40 31.8.40.
28. Gov. Tel. 1144 4.9.40.
A copy of (26) sent - so 30344/40 below.
Mr. Cole to see
Then to put up.
E. Caine 6.9
A.J.Cole, 6/9.

alone O.G.R.Vilkian 9.9.40

Copy of 28 to 30344/40 RHH 10.9.

N.B. No reply to 26 yet vonMallan 20/11

Remind
J.B.Sidebotham
20/11 alone

con 3PN 29/11/40

2028.

CYPHER TELEGRAM

FROM Governor NIGERIA.

D. 4th September, 1940.
R. 4th " " 23.59 hrs.

No. 1144.

27. Your telegram No. 1051. Ordinance increasing rate of Companies income tax to four shillings passed by Legislative Council.

21 27

draft on
30344/40.

CYPHER TELEGRAM

TO Governor NIGERIA.

Sent 31st August 1940. 23.30hrs.

IMPORTANT.

No. ~~996~~ 1051 Secret.

Your telegram No.1016 of 22nd August. Proposal in paragraph 4 is open to objection that it would be aimed specially at Mining Industry. This must be carefully avoided as explained in note by my Legal Adviser, sent to you on 3rd May, when you were in England. I suggest that the solution should be to increase rate of Income Tax on all companies. Practice of the U.K. affords precedent for increase of Income Tax in middle of Financial Year and no administrative difficulties should be caused by mere increase in rate of Tax. I suggest, therefore, that rate on companies should be increased to 4/- which would still be a fairly moderate rate by comparison with this Country. There is no reason why this should not be done without similarly increasing rate on private individuals.

T.2015/5/40

19 .

[The above number and letter should be quoted in any reply, addressed to—

The Secretary,
Inland Revenue,
Somerset House,
London, W.C.2,

[illegible] the word Taxes [illegible] left-hand corner of the envelope.]

? R98 22

25

INLAND REVENUE,

SOMERSET HOUSE, LONDON, W.C.2.

Received on 1940 12/8

8th August, 1940.

Sir,

Nigeria Income Tax Ordinance
No.3 of 1940

17

I am directed by the Board of Inland Revenue to refer to Mr. Robinson's letter of 30th May to Mr. Willis and to Mr. Marlow's call at this office and to say that the Board have now received from Mr. Marlow a copy of the above Ordinance as published in the Nigeria Gazette of 28th March 1940. The Board's comments on the Ordinance are contained in the enclosed memorandum: all the points raised therein were

discussed/

discussed with Mr. Marlow, with the exception of the comments on Section 8 (b).

In connection with No.2 in the memorandum there is also forwarded an excerpt from one of the Board's publications which sets out in detail the provisions in force in the United Kingdom for various kinds of income where the source of income is newly acquired or ceases, and which might be of assistance to the Nigeria Authorities when framing such provisions.

The Board with to record that the interview with Mr. Marlow greatly helped them in studying the provisions of the Ordinance.

I am, Sir,
Your obedient Servant,

The Under Secretary
of State,
Colonial Office,
[illegible]

23

Nigeria Income Tax Ordinance

No.3 of 1940

Memorandum by the Board of Inland Revenue

General

1. The Ordinance makes no provision for relief in respect of earned income. The Board understand that provision of the Model Ordinance (Clause 14) was omitted because the amount of unearned income in Nigeria (arising mainly from rents and mortgages) is relatively small.

2. The Board would have no objection to an amendment to Section 6 of the Ordinance to provide that there should be liability to tax in periods, and in those periods only, in which a taxpayer is resident or carries on a trade, profession etc., so that, for example, a company would be taxed in the first year in which it traded and would not have any liability for the year after it ceased trading. Such a scheme in general makes collection easier, but has disadvantages. These result from the inclusion in assessment more than once of some profits and the complete exclusion from assessment of others, so that over the whole period of assessment the total assessments may differ from the total profits by a considerable margin. The advisability of adopting such a scheme depends upon the numbers of persons taking up and ceasing residence, the numbers of companies and persons starting, and ceasing, to trade and the variations in their profits, and other local factors.

Comments on particular sections

3. Section 8(b). The official emoluments of consuls (whether foreign nationals or British subjects) were, in the first place, exempted from United Kingdom Income Tax following international usage: this exemption was later made statutory by Section 20, Finance Act, 1928. It is not usual, nor in the Board's view necessary, to extend the exemption to any other types of income. If, however, consuls' non-Nigerian income is to be exempted, the exemption might, perhaps, be specifically limited to nationals of the countries represented, as in Section 7(c) of the Ceylon Ordinance No.2 of 1932. It would be possible for a British subject to be established in Nigeria as a consul of a foreign country, being paid a salary and devoting his whole time to the work. It would be difficult to contend that he was not a member of the "permanent consular service" of a foreign country and there is no reason why he should escape liability on his non-Nigerian income.

4. Section 8(e). This sub-section is, the Board understand, designed to avoid the necessity for collecting tax on small pensions, of which there are a substantial number, paid to non-residents. It also reduces to nil the tax which need be borne by a non-resident whose entire income is derived from dividends from Nigerian companies.

5. Section 8(o) is unnecessary in view of the provisions of Section 5, which omits "annual value" of land etc. from the subjects of charge, and Section 8 (j).

6. Section 11. The words "profession" and "vocation" should be included in the second line. They appear in the seventh. In the proviso "it" in the third line should read "he". Also the wording does not clearly carry out the evident intention of the Section because "to lease" may mean "to take a lease"" or "to grant a lease of".

rhaps some form of words such as the following would be better :-

"Provided that where any such person is the lessee of property, including plant and machinery, and is responsible for restoring and maintaining it, he shall be deemed for the purpose of this section to be the owner of such property".

7. Section 12(g). "Sur-tax" should be substituted for "Super-tax".

8. Section 14, (3) and (4) should relate to "persons", and not to "companies" only, who are shipowners. Sub-section 4(c) would be neater if it commenced with the words "In this sub-section".

9. Section 16(1). The giving of a deduction "in respect of each such child" does not in strictness gear in well with the earlier wording, which refers to "an unmarried child". This would be corrected if the section were to end "in respect of that child, and where he had more than one such child, a deduction of £25 in respect of each such child."

10. Section 18. This section may prove difficult to operate where there is more than one source of income. For example, if in the year preceding the year of assessment an individual is in receipt of £200 from half a year's employment and £100 spread over the whole year from his investments, what proportion is he to be given of the deductions ? Moreover, the section would give more allowances to a man who received £300 spread over the whole year than to a man who was unemployed for half the year and received £300 during the other half. Yet each has only the £300 and it would be difficult to contend that one is more able to pay than the other.

The Board understand that the main purpose of the section is to restrict the allowances of persons taking up or ceasing residence. This might be attained by a provision, on the lines of Section 17 of the Ceylon Ordinance, Number 2 of 1932, that where a person is resident in Nigeria for only part of the year preceding the year of assessment, he shall receive only part of the allowances.

12. Sections 33 and 34. The words "preceding the year" should be inserted after "year" where it first occurs.

13. Section 40 makes no provision for serving notices on bodies of persons other than companies.

14. Section 65(1). The Board understand that the usual provision that the rules should be published in the Gazette has been omitted as being unnecessary, in view of a general provision to that effect in the law of the Colony.

24

BASES OF ASSESSMENT, RELIEFS, ETC.

SCHEDULE D: CASES I AND II. (Trades & professions)

1926-27 and Earlier Years.

Normal Basis:— Average of three preceding years.

New Business, etc.:—

Year of commencement — Case VI basis.
Second to fourth years — Average for one year from date of commencement.
Reliefs (1) Where business set up on 6 April, adjustment to actual profits in each of first three years.
(2) Where business set up on any other date, adjustment to actual profits in year of setting up and in each of three following years.

Cessations:—

Year of cessation — Average of three preceding years.
Reliefs (1) Adjustment to actual profits of year of cessation, if less than assessment.
(2) If aggregate tax paid for three years preceding year of cessation greater than aggregate tax computed on actual profits of those years, repayment of difference.

Successions:—

Relief to predecessor (Rule 3, Miscellaneous Rules).
Apportionment of assessment (Rule 9, Cases I and II).
Relief to successor (Rule 11, Cases I and II).

1927-28 Onwards.

Normal Basis:— Preceding year.
(In certain cases, average of three preceding years applied for 1927-28 and 1928-29, F.A. 1926, S. 29 (3).)

New Business, etc. (1928-29 onwards, includes business deemed to be newly set up, F.A. 1926, S. 32) :—

Year of commencement — Case VI basis. (in practice, the actual profits of the year)
Second year — Profits for one year from date of commencement.
Third year — Preceding year.

Reliefs : Business commenced in—
(1) 1926-27 or 1927-28, reduction to actual profits of second year.
(2) 1928-29, relief (1) or (3) may be claimed.
(3) 1929-30 onwards, adjustment of *both* second and third years to actual profits.

Cessations (1928-29 onwards, includes business deemed to be discontinued, F.A. 1926, S. 32) :—

Year of cessation — Year of assessment.
Penultimate year — Preceding year or year of assessment, whichever greater.

Successions:—

1927-28 only, apportionment of assessment (Rule 9, Cases I and II).
" " , relief to successor (Rule 11, Cases I and II).
1928-29 only, relief to successor where change of proprietorship took place in 1927-28 and relief under Rule 11 granted for that year (F.A. 1926, S. 32 (2)).
1928-29 onwards, *total change of proprietors*, business treated as discontinued and newly set up.
" " , *partial change of proprietors*, apportionment of assessment (Rule 9, Cases I and II); "discontinuance option" may be exercised by predecessors and successors jointly (F.A. 1926, S. 32 (2)).

SCHEDULE D: CASE III. (interest, annuities & other income etc)

Normal Basis:— Preceding year.

Income First Arising (*a*) :—

	1921-22 and earlier years.	*1922-23 onwards.*
First year	Nil	Year of assessment
Second year	Preceding year	Year of assessment (*b*)
Third year	Preceding year	Preceding year (*c*)

(*a*) 1927-28 onwards, "income first arising" includes income from an addition to an existing source.
(*b*) If income first arose on 6 April, preceding year basis, subject to reduction to income of year of assessment.
(*c*) Cases not within (*b*), reduction to income of year of assessment.

Cessation (*d*) :—

	1926-27 and earlier years.	*1927-28 onwards.*
Year of cessation	Preceding year (*e*)	Year of assessment
Penultimate year	Preceding year	Preceding year or year of assessment, whichever greater.

(*d*) 1927-28 onwards, "cessation" includes cessation of part of a source of income
(*e*) Adjustment to actual year [illegible] than assessment.

RATES OF TAX AND PERSONAL RELIEFS: 1920-21 to 1938-39.

	1920 and 1921	1922	1923	1924	1925 to 1927	1928 and 1929	1930	1931 to 1933	1934	1935	1936	1937	1938
Standard Rate ...	6/-	5/-	4/6	4/6	4/-	4/-	4/6	5/-	4/6	4/6	4/9	5/-	5/6
Reduced Rate ...	225 at 3/-	225 at 2/6	225 at 2/3	225 at 2/3	225 at 2/-	225 at 2/-	250 at 2/-	175 at 2/6	175 at 2/3	135 at 1/6	135 at 1/7	135 at 1/8	135 at 1/8
Exemption: Income Limit	*See* Personal Allowance.									125 (*a*)	125 (*a*)	125 (*a*)	125(*a*)
Personal Allowance:													
Single	135	135	135	135	135	135	135	100	100	100	100	100	100
Married ...	225	225	225	225	225	225	225	150	150	170	180	180	180
Wife's earned income	45	45	45	45	45	45	45	45	45	45	45	45	45
Earned Income:													
Fraction ...	$\frac{1}{10}$	$\frac{1}{10}$	$\frac{1}{10}$	$\frac{1}{10}$	$\frac{1}{8}$	$\frac{1}{8}$	$\frac{1}{8}$	$\frac{1}{6}$	$\frac{1}{5}$	$\frac{1}{5}$	$\frac{1}{5}$	$\frac{1}{5}$	$\frac{1}{5}$
Maximum ...	200	200	200	200	250	250	250	300	300	300	300	300	300
Age (*a*)	—	—	—	—	$\frac{1}{8}$	$\frac{1}{8}$	$\frac{1}{8}$	$\frac{1}{4}$	$\frac{1}{3}$	$\frac{1}{3}$	$\frac{1}{3}$	$\frac{1}{3}$	$\frac{1}{3}$
Children (*b*) (*c*):													
One	36	36	36	36	36	60	60	50	50	50	60	60	60
Others	27	27	27	27	27	50	50	40	40	50	60	60	60
Limit of child's income	40	40	40	40	40	60	60	50	50	50	60	60	60
Housekeeper (*d*)	45	45	45	60	60	60	60	50	50	50	50	50	50
Dependent Relative (*e*)	25	25	25	25	25	25	25	25	25	25	25	25	25
Life Insurance ...	*See* below.												

NOTES

(*a*) Marginal relief allowable.
(*b*) 1920–1927: not applicable to child born in year of assessment.
(*c*) 1938–1939 onwards, includes children undergoing training for a trade, etc.
(*d*) 1920–1923: widower or widow, for care of children only.
(*e*) 1938–1939 onwards, includes a relative (not satisfying normal conditions for allowance) living with claimant and denied unemployment allowance *or* public assistance; deduction not to exceed amount "deemed to have been paid" towards maintenance, or £25, whichever less.

LIFE INSURANCE RELIEF.

Rates of Allowance (1920 onwards).

Policies before 22 June, 1916:—

Income not exceeding £1,000 — one-half standard rate (*a*) (*b*) (*c*).
" " " £2,000 — three-quarters standard rate (*a*) (*c*).
" over £2,000 — standard rate.

Policies after 22 June, 1916:— one-half standard rate (*b*) (*c*).

NOTES (*a*) Marginal relief allowable.
(*b*) In some cases, *1930–31 only*, wholly or partly at four-ninths standard rate.
(*c*) In some cases, *1935–36 onwards*, wholly or partly at "reduced rate".

Restrictions.

1915–16 [illegible] allowances not allowed [illegible]
[illegible] of total income during war, or 1915 in [illegible], if larger).
[illegible] per cent. of capital sum assured.
[illegible] premium limit, where no capital sum assured.
[illegible] 22 June 1916 [illegible]

25

BASES OF ASSESSMENT, RELIEFS, ETC. (Contd.).

SCHEDULE E. (Salaries etc.)

1927-28 and Earlier Years.

Normal Basis:— Year of assessment (*a*) (*b*).

(*a*) Weekly wage-earners assessed quarterly from 1916–17; half-yearly 1925–26 onwards.

(*b*) 1921–22 and earlier years, employments other than "public offices" assessed Case II, Schedule D.

1928-29 Onwards.

Normal Basis:— Preceding year (*c*) (*d*).

(*c*) Year of assessment basis applies to weekly wage-earners and in certain other cases (F.A. 1927, S. 45 (1)).

(*d*) In certain cases, year of assessment basis applied for 1928–29 and 1929–30 (F.A. 1927, S. 45 (3)).

New Employment:—

First year	Year of assessment
Second year	Year of assessment (*e*)
Third year	Preceding year (*f*).

(*e*) Employment commencing on 6 April, preceding year basis, subject to reduction to income of year of assessment.

(*f*) Cases not within (*e*), reduction to income of year of assessment.

Cessation:—

Year of cessation	Year of assessment
Penultimate year	Preceding year or year of assessment, whichever greater.

BASES OF ASSESSMENT, RELIEFS, ETC. (Contd.).

SCHEDULE D: CASES IV AND V. (income from sources abroad)

1926-27 and Earlier Years.

Normal Basis (*a*) (*b*) :—

Case IV	Year of assessment
Case V	Average of three preceding years (*c*) (*d*).

(*a*) 1913–14 and earlier years "remittance basis" only. 1914–15 onwards, "arising basis" applies generally to Case IV income, and income within Rule I, Case V.

(*b*) 1926–27, separate provisions as regards income arising in Eire.

(*c*) If aggregate tax paid for first three complete years of assessment greater than aggregate tax computed on actual income of those years, repayment of the difference (F.A. 1924, S. 26).

(*d*) Case V, year of cessation; adjustment to actual year, if less than assessment.

1927-28 Onwards.

	Case IV.	*Case V.*
Normal Basis (*a*) :—	Preceding year	Preceding year (*b*).

(*a*) Separate provisions as regards income arising in Eire.

(*b*) In certain cases, average of three preceding years applied for 1927–28 and 1928–29 (F.A. 1926, S. 29 (3)).

Income First Arising (*c*) (*d*) :—

First year	Year of assessment
Second year	Year of assessment (*e*)
Third year	Preceding year (*f*).

(*c*) In "remittance basis" cases, "income arising" is to be construed as "income received in U.K."

(*d*) "Income first arising" includes cases in which income previously taxed by deduction becomes payable without deduction of tax, and income from an addition to an existing source.

(*e*) If income first arose on 6 April, preceding year basis, subject to reduction to income of year of assessment.

(*f*) Cases not within (*e*), reduction to income of year of assessment.

Cessation (*g*) :—

Year of cessation	Year of assessment
Penultimate year	Preceding year or year of assessment, whichever greater.

(*g*) "Cessation" includes cases in which income previously received without deduction of tax becomes payable under deduction of tax, and cessation of part of a source of income.

CONFIDENTIAL.

26/22

Norchamberlain.

The Under Secretary of State,
Colonial Office,
LONDON.

July 1940

Sir,

I have the honour to report the result of my interview with the Inland Revenue authorities at Somerset House, as arranged by you at the request of the Governor of Nigeria on the subject of the Nigeria Income Tax ordinance.

2. The method of computing "dominions relief" from United Kingdom income tax charged on Colonial pensions was explained to me and I am now sufficiently acquainted with those methods for the purposes required by the Colonial Government in Lagos. As the law stands it is unavoidable that the relief afforded cannot equal the Colonial tax and, except for special legislation, which is inadvisable, there is nothing that Colonial Governments can do to remove the additional taxation which, naturally, pensioners resident in the U.K. regard as unfair.

3. My discussion with Mr. Sinclair of the Board of Inland Revenue was most helpful, and the opportunity was taken of examining together Nigeria's new Income Tax Ordinance. I was able to explain certain provisions of local application which were not clear to Mr. Sinclair and the information I obtained from comparison with methods practiced in the U.K. and elsewhere was invaluable.

4. Two questions in particular arose, which I wish to record. First, the apprehension which was felt (and referred to in the Governor's telegrams) that the Shareholders' relief from double taxation afforded by Section 25 of the Ordinance offered a loophole for serious loss of revenue, was removed. The opinion was expressed that a company incorporated in the United Kingdom is not in a position (because of contractual obligations) to deduct Colonial income tax from dividend payments to shareholders. It appears instead that in practice the company would be given "dominions relief" from United Kingdom taxation according to such Colonial tax as it might be called upon to pay quite apart from any adjustment with its shareholders which the company might make in consequence of such relief. Incidentally, the question arose whether the last sentence of Section 25 does or does not authorise any refund of tax.

Cons & Nigeria

There seems to be some ambiguity here; it is my opinion that a refund is intended.

Finance Act 1927 Sections 17 and 45 (iv) and (v).

Finance Act 1930 Section 15.

Rules applicable to cases under Schedule D.

5. The second question is of more urgent importance; it arises from Section 6, concerning the basis of assessment. Adoption of the income of the preceding year as the basis of assessment leads to obvious difficulties and anomalies in the cases of newly formed companies, deceased persons, and persons entering and leaving Nigeria, and this question is I believe referred to in the Governor's despatch. I am convinced that it would be advisable to amend Section 6 of the Nigerian Ordinance at an early opportunity on the lines of Section 11 of Ceylon Ordinance No.2 of 1932, possibly also allowing the options given in such circumstances by the United Kingdom authorities, as marginally noted. Before I left Nigeria a suggestion on these lines had been received from a trading company through the Crown Agents acting as agents of the Nigerian Income Tax Commissioner, and the fact that such a suggestion came from a principal trading company in Nigeria, and its adoption would presumably facilitate what is sure to be a difficult assessment, is an added reason in its favour. An early amendment of the Nigeria Ordinance on these lines is in my opinion desirable, but I see no reason why assessment of this particular company's profits accruing in and from Nigeria for tax due in respect of the year 1939/40 should not proceed forthwith (based on the preceding year) rather than await the outcome of any contemplated change of the law, as it cannot but be a matter of urgent importance to the Nigerian revenue that an early assessment should be made.

6. I trust that this report will be of service and I shall be glad to attend at any time for further discussion before returning to Nigeria if desired.

I have the honour to be, Sir,

Your humble and obedient Servant,

Deputy Finance Secretary,
Nigeria.

(5282—150) WL 38813—61 10,000 12/39 T.S. 693
(5444—150) WL 45767—68 30,000 2/40 T.S. 693

30231/40 Nigeria.

28 19

C. O.

Mr. Thornley. 4.7 Hance Sent 2-15 pm 4/7

Mr.

Mr.

Sir A. Burns.

Mr. G. L. M. Clauson.

Mr. C. J. Jeffries.

Mr. A. J. Dawe.

Sir J. Shuckburgh.

Permd. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT. TELEGRAM

S.R.MARLOW.

Inglenook,

Dallington,

Northampton.

Reply paid.

Governor has suggested you should discuss income tax problems with Board Inland Revenue before returning ~~to~~ Nigeria. Please telegraph whether possible and day you propose. You should call here for details before discussion.

Under Secretary of State.

R 98

FURTHER ACTION.

Copy to 7431 W.A.

29 18

NIGERIA.

Secret

The Acting Chief Secretary to the Government of Nigeria presents his compliments to the Under Secretary of State for the Colonies and, with reference to the Officer Administering the Government's Secret despatch of the 30th of March, is directed to forward ten ordinary copies of Ordinance No.3 of 1940, entitled "An Ordinance to impose a tax upon incomes and to regulate the collection thereof."

16.

S/ures to Fly.

Nigerian Secretariat,
Lagos, 25th May, 1940.

30

Assented to in His Majesty's name in so far as the provisions hereof relate to the Colony and to the Southern Provinces of the Protectorate, and enacted by me in so far as the provisions hereof relate to the Northern Provinces of the Protectorate this 28th day of March, 1940.

C. C. WOOLLEY,
Officer Administering the Government.

(L.S.)

No. 3. 1940.

Colony and Protectorate of Nigeria.

IN THE FOURTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE VI.

C. C. WOOLLEY, C.M.G., O.B.E., M.C.
Officer Administering the Government.

AN ORDINANCE TO IMPOSE A TAX UPON INCOMES AND TO REGULATE THE COLLECTION THEREOF. Title.

[*1st April, 1940.*] Date of commencement.

BE IT ENACTED by the Governor of the Colony and Protectorate of Nigeria, with the advice and consent of Enactment.

the Legislative Council so far as the provisions hereof relate to the Colony and to the Southern Provinces, as follows:—

Short title and commencement.

1. This Ordinance may be cited as the Income Tax Ordinance, 1940, and shall come into operation on the 1st day of April, 1940.

Definitions.

2. Definitions:—

" Commissioner " means the Commissioner charged with the administration of this Ordinance;

" company " means any company incorporated or registered under any law in force in Nigeria and any company which, though incorporated or registered outside Nigeria, carries on business, or has an office or place of business therein;

" person " includes a body of persons;

" body of persons " means any body politic, corporate or collegiate and any company, fraternity, fellowship or society of persons whether corporate or not corporate;

" incapacitated person " means any infant, married woman, lunatic, idiot, or insane person;

" tax " means the income tax imposed by this Ordinance;

" year of assessment " means the period of twelve months commencing on the 1st day of April, 1940, and each subsequent period of twelve months;

" chargeable income " means the aggregate amount of the income of any person from the sources specified in section 5 remaining after allowing the appropriate deductions and exemptions under this Ordinance.

31

Administration.

Administrative authority.

3. (1) For the due administration of this Ordinance the Governor may by notice in the Gazette appoint a Commissioner and such other officers and persons as may be necessary. The Commissioner shall be responsible for the assessment and collection of the tax and shall pay all amounts collected in respect thereof into the Treasury to the credit of the general revenue of Nigeria.

(2) The Commissioner may by notice in the Gazette or in writing authorise any person to perform or to assist in the performance of any specified duty imposed upon the Commissioner by this Ordinance.

(3) Subject to such conditions as the Commissioner may specify the Commissioner may by notice in the Gazette direct that any information, return or document required to be supplied, forwarded or given to the Commissioner may be supplied to such other person as the Commissioner may direct.

Official secrecy.

4. (1) Every person having any official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or items of the income of any person, as secret and confidential.

(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the income or items of income of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person:—

(*a*) other than a person to whom he is authorised by the Governor to communicate it; or

(*b*) otherwise than for the purposes of this Ordinance, shall be guilty of an offence against this Ordinance.

(3) Any proceedings for an offence against this section may be taken by or in the name of the Commissioner but not by any other person except with the consent of the Attorney-General.

Imposition of Tax.

Charge of Income Tax.

5. The tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for the year of assessment commencing on the 1st day of April, 1940, and for each subsequent year of assessment upon the income of any person accruing in, derived from, or received in Nigeria in respect of:—

(*a*) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession, or vocation may have been carried on or exercised;

(*b*) gains or profits from any employment;

(*c*) dividends, interest or discounts;

(*d*) any pension, charge or annuity;

(*e*) rents, royalties, premiums and any other profits arising from property.

Basis of assessment.

6. Tax shall be charged, levied and collected for each year of assessment upon the chargeable income of any person for the year immediately preceding the year of assessment.

Special period of assessment.

7. Where the Commissioner is satisfied that any person usually makes up the accounts of his trade or business on some day other than that immediately preceding any year of assessment, the Commissioner

may permit the gains or profits of that trade or business to be computed for the purposes of this Ordinance upon the income of the year terminating on that day in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up:

Provided that, where permission has been given for any year of assessment, tax shall be charged, levied and collected for each subsequent year upon the gains or profits for the full year terminating on the like date in the year immediately preceding the year of assessment, subject to any such adjustment as, in the opinion of the Commissioner, may be just and reasonable. Proviso.

Exemptions.

Exemptions.

8. There shall be exempt from the tax:—

(*a*) the official emoluments received by the Officer Administering the Government;

(*b*) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity and any income derived by them from sources outside Nigeria;

(*c*) the emoluments payable from Imperial Funds to members of His Majesty's Forces and to persons in the permanent service of the Imperial Government in Nigeria in respect of their offices under the Imperial Government;

(*d*) the income of any person who is subject to tax under the Direct Taxation Ordinance, 1940 in so far as such income is derived in the Protectorate or in the Colony elsewhere than in the township of Lagos; No. 4 of 1940.

(*e*) the income of any non-resident individual whose chargeable income does not exceed fifty pounds;

(*f*) subject to the provision of section 20 the income of any woman whose chargeable income does not exceed fifty pounds;

(*g*) the income of any local authority, native authority, or Government institution;

(*h*) the income of any statutory or registered building or friendly society in so far as such income is not derived from a trade or business carried on by such society;

(*i*) the income and profits of any co-operative society registered under the Co-operative Societies Ordinance, 1935; No. 39 of 1935.

(*j*) the income of any ecclesiastical, charitable or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution;

(*k*) the income of any body of persons formed for the purpose of promoting social or sporting amenities not involving the acquisition of gain by the body of persons or by its individual members, subject to such conditions as the Commissioner may prescribe;

(*l*) capital sums received by way of retiring or death gratuities or as consolidated compensation for death or injuries;

(*m*) capital sums withdrawn by individuals on retirement from any provident society or fund approved by the Commissioner under section 10 (1) (*g*);

(*n*) wound and disability pensions granted to members of His Majesty's Forces;

(*o*) the annual value of any place of worship and its premises;

(*p*) interest paid or credited to any individual by the Nigeria Post Office Savings Bank:

Provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interest, bonuses, salaries or wages paid wholly or in part out of the income so exempted. Proviso.

9. The Governor may by notice in the Gazette provide that the interest payable on any loan charged on the public revenue of Nigeria shall be exempted from the tax, either generally or in respect of interest payable to persons not resident in Nigeria or to companies other than a company as defined by section 2, and such interest shall as from the date and to the extent specified by such notice be exempt accordingly. Government loans.

Ascertainment of chargeable Income.

10. (1) For the purpose of ascertaining the chargeable income of any person there shall be deducted all outgoings and expenses wholly and exclusively incurred during the year preceding the year of assessment by such person in the production of the income, including:— Deductions allowed in respect of outgoings and expenses.

(*a*) sums payable by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was payable on capital employed in acquiring the income;

(*b*) rent paid by any person in respect of land or buildings occupied by him for the purpose of acquiring the income;

(*c*) where any person engaged in any trade, business, profession or vocation has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession or vocation and which has become obsolete, an

amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as shall represent the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof;

(*d*) any sum expended for repair of premises, plant and machinery employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed;

(*e*) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during the said year notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year:

Proviso. Provided that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Ordinance be treated as receipts of the trade, business, profession or vocation for that year;

(*f*) any contribution or abatement deducted from the salary or pension of a public officer under the Widows' and Orphans' Pensions Ordinance or under any approved scheme within the meaning of that Ordinance; Chapter 28.

(*g*) any contribution to a pensions, provident or other society or fund which may be approved by the Commissioner subject to such conditions as he may prescribe:

(*h*) such other deductions as may be prescribed by any rule made under this Ordinance.

(2) The Governor in Council may by rules provide for the method of calculating or estimating the deductions allowed or prescribed under this and the next following section.

Allowance for wear and tear.

11. In ascertaining the chargeable income of any person engaged in a trade or business, there shall be allowed as a deduction a reasonable amount for the exhaustion, wear and tear of property owned by him, including plant and machinery, arising out of the use or employment of such property in the trade, business, profession or vocation, during the year immediately preceding the year of assessment:

Proviso. Provided that where property, including plant and machinery, is leased by any such person subject to the condition that it shall replace wear and tear of such property, the lessee shall be deemed for the purpose of this section to be the owner of such property leased.

Deductions not to be allowed.

12. For the purpose of ascertaining the chargeable income of any person no deduction shall be allowed in respect of:—

(*a*) domestic or private expenses;

(*b*) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;

(*c*) any capital withdrawn or any sum employed or intended to be employed as capital;

(*d*) any capital employed in improvements;

(*e*) any sum recoverable under an insurance or contract of indemnity;

(*f*) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income;

(*g*) any amounts paid or payable in respect of the United Kingdom income tax or super-tax or Empire income tax as defined by section 49;

(*h*) any payment to any provident, savings, widows' and orphans' or other society or fund, except such payments as are allowed under section 10 (1) (*f*) and (*g*).

Allowance of trade losses.

13. Where the amount of a loss incurred in the year preceding any year of assessment in any trade, business, profession or vocation, carried on by any person either solely or in partnership is such that it cannot be wholly set-off against his income from other sources for the same year, the amount of such loss shall to the extent to which it is not allowed against his income from other sources for the same year be carried forward and shall, subject as is hereinafter provided, be set-off against what would otherwise have been his chargeable income for the next five years in succession:

Provisoes.

Provided that the amount of any such loss allowed to be set-off in computing the chargeable income of any year shall not be set-off in computing the chargeable income of any other year; and

Provided also that in no case shall such set-off be allowed to an extent which would reduce the tax payable for any year of assessment to less than one-half of the amount which would have been payable had the set-off not been allowed.

Special provisions as to certain companies and businesses:—

Insurance companies other than life insurance companies.

14. Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that:—

(1) In the case of an insurance company (other than a life insurance company) where the gains or profits accrue in part outside Nigeria, the gains or profits on which tax is payable shall be ascertained by taking the gross premiums and interest

and other income received or receivable in Nigeria (less any premiums returned to the insured and premiums paid on re-insurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the year preceding the year of assessment, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year preceding the year of assessment, and from the net amount so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company.

Life insurance companies.

(2) In the case of a life insurance company, whether mutual or proprietary, the gains or profits on which tax is payable shall be the investment income less the management expenses (including commission):

Proviso.

Provided that where such a company received premiums outside Nigeria, the gains or profits shall be the same proportion of the total investment income of the company as the premiums received in Nigeria bore to the total premiums received after deducting from the amount so arrived at the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company.

Business as shipowner.

(3) (*a*) In the case of a company which is a shipowner, the gains or profits of its business as shipowner shall, if it produces or causes to be produced to the Commissioner the certificate mentioned in paragraph (*b*) of this sub-section,

be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods or mails shipped in Nigeria as the company's total profits for the relevant accounting period shown by that certificate bear to the gross earnings for that period.

(*b*) The certificate shall be a certificate by the taxing authority of the place in which the principal place of business of the company is situated and shall state

(*i*) that the company has furnished to the satisfaction of that authority account of the whole of its business; and

(*ii*) the ratio of the gains or profits for the relevant accounting period as computed according to the income tax law of that place (after deducting interest on any money borrowed and employed in acquiring the gains and profits) to the gross earnings of the company's fleet or vessel for that period.

(*c*) If the gains or profits of a shipowning company have for the purpose of assessment in Nigeria under this Ordinance been computed on any basis other than the ratio of the gains or profits shown by a certificate as aforesaid and an assessment has been made accordingly, the company shall upon production of such a certificate at any time within two years from the end of the year of assessment be entitled to such adjustment as may be necessary to give effect to the said certificate and to have any tax paid in excess refunded.

(*d*) In this sub-section:—

Definition of "shipowner".

"shipowner" means an owner or charterer of ships whose principal place of business is

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situated outside Nigeria, but in a part of His Majesty's Dominions or in territory under His Majesty's protection.

Business of shipping.

(4) (*a*) Gains or profits arising from the business of shipping carried on by a company not resident in Nigeria shall be exempted from the tax:

Proviso.

Provided that the Governor is satisfied that an equivalent exemption from income tax is granted by the country in which such company is resident to persons resident in Nigeria and, if that country is a country other than the United Kingdom, to persons resident in the United Kingdom.

(*b*) For the purposes of this section a company shall be deemed to be resident in that country only in which the central management and control of its business is situate.

(*c*) In this section:—

Definition of "business of shipping".

"business of shipping" means the business carried on by an owner of ships, and for the purposes of this definition the expression "owner" includes any charterer.

Deduction for wife.

15. (1) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that at any time during the year preceding the year of assessment he had a wife there shall be allowed a deduction of £200:

Deduction for alimony.

(2) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the year immediately preceding the year of assessment, paid alimony to a previous wife whose marriage with him has been dissolved by any court of competent jurisdiction, there shall be allowed a deduction of the amount of such alimony.

(3) The total deductions allowed to any individual under this section shall not exceed £200.

Deduction for children.

16. (1) In ascertaining the chargeable income of any individual who proves to the satisfaction of the Commissioner that he had living at any time during the year preceding the year of assessment an unmarried child who at the commencement of that year was either under the age of sixteen years or who was receiving full time instruction at any university, college, school or other educational establishment, there shall be allowed a deduction of £25 in respect of each such child:

Proviso.

Provided that:—

(*i*) where such individual satisfies the Commissioner that a sum exceeding £25 was, during the year preceding the year of assessment, expended directly on the maintenance and education of such child elsewhere than in Nigeria there shall be allowed a deduction equal to the total amount so expended but not exceeding £100 in respect of each such child;

(*ii*) no deduction shall be allowed in respect of any child whose chargeable income for the year preceding the year of assessment exceeded the amount of the deduction which would otherwise be allowed under this section;

(*iii*) in calculating the chargeable income of the child for the purpose of the foregoing proviso no account shall be taken of any income to which the child is entitled as the holder of a scholarship, bursary or other similar educational endowment;

(*iv*) no deduction under this section shall be allowed to any individual in respect of more than three children.

(2) The expression child in this section includes a step child but does not include an adopted or illegitimate child.

Deduction in respect of life insurance.

17. In ascertaining the chargeable income of any person who shall have made insurance on his life or on the life of his wife with any insurance company there shall be allowed a deduction of the annual amount of the premium paid by him for such assurance as aforesaid:

Provisoes

Provided:—

(*i*) that in the case of any policy securing a capital sum on death (whether in conjunction with any other benefit or not) the amount of the deduction allowed shall not exceed seven *per centum* of that capital sum, exclusive of any additional benefit by way of bonus or otherwise;

(*ii*) that no such deductions shall be allowed in respect of any such annual amount of premium beyond an amount equal to one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this section and in sections 15 and 16.

Proportionate deductions for part of year.

18. Where an individual is assessed for tax on income which is in respect of a part only of the year preceding the year of assessment the amount of any deduction allowed under sections 15, 16 and 17 shall bear the same proportion to the amount of deduction allowable annually as the number of days in the said part of the year bears to one year.

Deductions to be made only in the case of residents and non-resident British subjects.

19. Subject as hereinafter provided, no allowances under sections 15, 16, 17 and 18 shall be made in the case of any individual who is not resident in Nigeria:

Proviso.

Provided that the foregoing provision shall not apply in the case of any individual who satisfies the Commissioner that he is a British subject or a British protected person; so, however, that no such allowance or relief as aforesaid shall be given so as to reduce the amount of the income tax payable by that individual below an amount which bears the same proportion to the amount which would be payable by him by way of tax if the tax were chargeable on his total income from all sources, including income which is not subject to income tax charged in Nigeria, as the amount of the income subject to income tax so charged bears to the amount of his total income from all sources.

Wife's income.

20. (1) The income of a married woman living with her husband shall, for the purposes of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee:

Proviso.

Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

(2) In this section :—

Definition of "income".

" income " means income accruing in, derived from, or received in Nigeria.

Rates of Tax.

Minimum flat rate for adult males.

21. (1) There shall be due from, payable by and collected from every male individual above the age of sixteen years at the commencement of the year preceding the year of assessment who was not in that year in receipt of an income exceeding fifty pounds a tax of five shillings:

Proviso.

Provided that:—

(*a*) there shall be exempt from tax under this section:—

(*i*) *bona fide* students in full time attendance at any school, college or training centre;

(*ii*) any individual who in the opinion of the Commissioner cannot reasonably be called upon to pay on account of old age, infirmity, permanent or partial disablement or other cause whatsoever;

(*iii*) any individual who satisfies the Commissioner that he had paid tax in respect of the year of assessment under the Direct Taxation Ordinance, 1940;

(*iv*) any person who, before the 1st of April, 1937, was awarded the Victoria Cross, the Medal of the Order of the British Empire, the Distinguished Conduct Medal, the Military Medal, the Distinguished Service Medal or the Meritorious Service Medal.

Appeal against minimum flat rate assessment.

(*b*) any individual assessed for tax under this section who objects that by reason of age, infirmity or other cause he is unable to pay the tax may appeal either in person or in writing to the Commissioner whose decision shall be final. Such appeal shall be made within forty-two days of the service of notice of assessment.

(2) Where the Commissioner is satisfied that an individual is subject to tax under the preceding sub-section he may assess such individual with tax accordingly without calling upon him to render a return of his chargeable income.

(3) Any individual who, without lawful justification or excuse, the proof whereof shall lie on the person charged, fails to pay such tax within three months after

he shall have been informed by the Commissioner of his assessment, shall be guilty of an offence and shall be liable to a fine of ten pounds or to imprisonment for one month or to both.

Rate of tax upon individuals.

First Schedule.

22. There shall be levied and paid for each year of assessment upon the chargeable income of every person, other than a company, whose chargeable income exceeds fifty pounds tax at the rate set forth in the First Schedule:

Proviso.

Provided that where the amount of tax levied for any year of assessment upon the chargeable income of an individual resident in Nigeria would amount to less than 3d. on every pound of his chargeable income before the deductions allowed under sections 15, 16, 17 and 18 are made, tax shall be levied and paid for that year in respect of the income of such individual at the rate of 3d. on every pound of his chargeable income before those deductions aforesaid are made.

Rate of tax upon companies.

23. There shall be levied and paid upon the chargeable income of every company tax at the rate of two shillings and sixpence on every pound of the chargeable income thereof.

Deduction of tax from dividends of companies.

24. (1) Every company which is registered in Nigeria shall be entitled to deduct from the amount of any dividend paid to any shareholder tax at the rate paid or payable by the company (as reduced by any relief granted under sections 48 and 49) on the income out of which such dividend is paid:

Provisoes.

Provided that:—

(*i*) where tax is not paid or payable by the company on the whole income out of which the dividend is paid the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company;

(*ii*) the Commissioner may give notice in writing for any year of assessment to a company registered in Nigeria requiring it to deduct tax from dividends payable to a particular shareholder at a rate greater than the rate paid or payable by the company and the company shall thereupon deduct tax from all dividends paid during that year of assessment to that shareholder at the rate mentioned in the notice and the excess tax so deductible shall be a debt due from the company to the Government and shall be recoverable forthwith as such or may be assessed and charged upon the company in addition to any other tax otherwise payable by it.

(2) Every such company shall upon payment of a dividend whether tax is deducted therefrom or not furnish each shareholder with a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend.

Shareholder's relief from double taxation.

25. Any tax which a company has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder, and any tax applicable to the share to which any person is entitled in the income of a body of persons assessed under this Ordinance, shall, when such dividend or share is included in the chargeable income of such shareholder or person, be set off for the purposes of collection against the tax charged on that chargeable income.

Temporary residents.

26. Tax shall not be payable in respect of any income arising out of Nigeria and received therein by any person who is in Nigeria for some temporary purpose

only and not with any intent to establish his residence therein and who has not actually resided in Nigeria at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

Trustees, Agents, and other Representatives.

Chargeability of trustees and other representations.

27. A receiver appointed by the court, trustee, guardian, curator, or committee, having the direction, control, or management of any property or concern on behalf of any incapacitated person shall be chargeable to tax in like manner and to the like amount as such person would be chargeable if he were not an incapacitated person.

Chargeability of agent of person residing out of Nigeria.

28. (1) (*a*) A person not resident in Nigeria (hereinafter in this section referred to as a non-resident person), whether a British subject or not, shall be assessable and chargeable either directly or in the name of his trustee, guardian, or committee, or of any attorney, factor, agent, receiver, branch, or manager, whether such attorney, factor, agent, receiver, branch, or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in Nigeria and in the actual receipt of such income:

Proviso.

Provided that in the case of any individual who is not resident in Nigeria, and who is not a British subject, no deduction shall be allowed in respect of wife or child or in respect of life insurance.

(*b*) A non-resident person shall be assessable and chargeable in respect of any income arising, whether directly or indirectly, through or from any attorneyship, factorship, agency, receivership, branch, or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent, receiver, branch, or manager.

(2) Where a non-resident person, not being a British subject or a firm or company whose principal place of business is situated in His Majesty's Dominions or in territory under His Majesty's protection, or a branch thereof, carries on business with a resident person and it appears to the Commissioner that owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person the course of business between those persons can be so arranged and is so arranged, that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where it appears to the Commissioner by whom the assessment is made, or to the judge by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained, the Commissioner or judge may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provision of this Ordinance relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident

person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged:

Proviso.

Provided that the amount of the percentage shall in each case be determined, having regard to the nature of the business and shall, when determined by the Commissioner, be subject to an appeal to the Supreme Court as provided by section 46.

(4) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent or agent is not an authorised person carrying on the regular agency of the non-resident person, or a person chargeable as if he were an agent in pursuance of sub-sections (2) and (3), in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(5) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of sub-sections (2) and (3) in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.

(6) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of Nigeria by the non-resident person, the person in whose name the non-resident person is so chargeable may, if he thinks fit, apply to the Commissioner or, in the case of an appeal, to the judge, to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits

which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner or the court of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

Acts to be done by trustees and certain others.

29. The person who is chargeable in respect of an incapacitated person, or in whose name a non-resident is chargeable, shall be answerable for all matters required to be done by virtue of this Ordinance for the assessment of the income of any person for whom he acts and for paying the tax chargeable thereon.

Lists to be prepared by representative or agent.

30. Every person who in whatever capacity is in receipt of any money or value being income arising from any of the sources mentioned in this Ordinance of or belonging to any other person who is chargeable in respect thereof, or who would be so chargeable if he were resident in Nigeria and not an incapacitated person shall, whenever required to do so by any notice from the Commissioner, prepare and deliver within the period mentioned in such notice a list in the prescribed form, signed by him, containing:—

(*a*) a true and correct statement of all such income;

(*b*) the name and address of every person to whom the same shall belong,

and the provisions of this Ordinance with respect to the failure to deliver lists or particulars in accordance with a notice from the Commissioner shall apply to any such list.

Manager of corporate bodies of persons.

31. The manager or other principal officer in Nigeria of every corporate body of persons shall be answerable

for doing all such acts, matters and things as are required to be done by virtue of this Ordinance for the assessment of such body and payment of the tax.

Indemnification of representative.

32. Every person answerable under this Ordinance for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax; and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Ordinance.

Deceased persons.

33. When any person dies during the year of assessment and such person would but for his death have been chargeable to tax for the year of assessment or when any person dies during the year of assessment or within two years after the expiration thereof and no assessment has been made upon him for that year the personal representative of such person shall be liable to and charged with the payment of the tax with which such person would have been chargeable, and shall be answerable for doing all such acts, matters and things as such person if he were alive would be liable to do under this Ordinance:

Proviso.

Provided that in the case of a person dying during the year preceding the year of assessment if his personal representative distributes the estate before the commencement of the year of assessment such personal representative shall pay the tax at the rate or rates in force at the date of distribution of the estate, if the rate of tax for the year of assessment has not been varied at that date.

Dissolved companies.

34. Where a company is dissolved during the year of assessment and such company would but for its dissolution have been chargeable to tax for the year of

assessment or when any company is dissolved during the year of assessment or within two years after the expiration thereof and no assessment has been made upon the company for that year the person representing such company shall be liable to and charged with the payment of the tax with which such company should have been chargeable, and shall be answerable for doing all such acts, matters and things as the manager or other principal officer in Nigeria of such company, if such company had not been dissolved, would be liable to do under this Ordinance:

Proviso.

Provided that in the case of a company dissolved during the year preceding the year of assessment if the person representing such company distributes the assets of such company before the commencement of the year of assessment such person shall pay the tax at the rate or rates in force at the date of the distribution of the assets of the company, if the rate of tax for the year of assessment has not been varied by that date.

Deduction of and accounting for tax on mortgage and debenture interest.

35. (1) Where any person pays mortgage or debenture interest to a person not resident in Nigeria and is entitled to deduct such interest under section 10 (1) (*a*), he shall upon paying the interest deduct therefrom tax at the rate of two shillings and sixpence on every one pound of such interest, and shall forthwith render an account to the Commissioner of the amount so deducted and every such amount shall be a debt from him to the Government and shall be recoverable as such:

Proviso.

Provided that the Commissioner may give notice in writing for any year of assessment to any person in Nigeria as regards a particular person out of Nigeria requiring him to deduct tax from any sums paid or credited by him to that person as aforesaid at a rate

greater than two shillings and sixpence on every pound and the tax so deductible shall be recoverable as a debt to the Government as aforesaid.

(2) In the case of a company the account aforesaid shall be rendered by the manager or other principal officer of the company.

(3) Any person who fails or neglects to render an account due under this section, shall be guilty of an offence against this Ordinance.

(4) Where the chargeable income of a person includes a sum from which tax has been deducted in accordance with sub-section (1) he shall be entitled to a set-off against the tax payable by him of the amount of tax so deducted.

General Powers of Commissioner.

Notices of chargeability and returns.

36. (1) It shall be the duty of every person chargeable with tax to give notice to the Commissioner within three months after the commencement of any year of assessment that he is so chargeable.

(2) The Commissioner may by notice in writing require any person to furnish him within a reasonable time with a return of income and such particulars as may be required for the purposes of this Ordinance with respect to the income for which such person is chargeable.

(3) Any person who fails or neglects to give such notice of chargeability or to furnish such return or particulars shall be guilty of an offence against this Ordinance.

Official information and official secrecy.

37. (1) The Commissioner may require any officer in the employment of the Government or any local authority or other public body to supply such particulars as may be required for the purposes of this Ordinance and which may be in the possession of such officer;

Proviso.

Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

(2) Every employer when required to do so by notice from the Commissioner shall, within the time limited by the notice, prepare and deliver for any year a return containing:—

(*a*) the names and places of residence of all persons employed by him; and

(*b*) the payments and allowances made to those persons in respect of that employment,

and the provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any such return.

(3) Where the employer is a body of persons the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

(4) Every head of a family, every householder and every person who may be so required by the Commissioner shall give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner for the purpose of enabling the Commissioner to make an assessment or to collect the tax.

Partnerships.

38. Where a trade, business, profession or vocation is carried on by two or more persons jointly:—

(1) The income of any partner from the partnership shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership

(such income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return of income to be made by such partner under the provisions of this Ordinance.

(2) (*a*) The precedent partner, that is to say, the partner who of the partners resident in Nigeria—

(*i*) is first named in the agreement of partnership; or

(*ii*) if there be no agreement is named singly or with precedence to the other partners in the usual name of the firm; or

(*iii*) is the precedent acting partner if the partner named with precedence is not an acting partner;

shall, when required by the Commissioner, make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Ordinance, and declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year.

(*b*) Where no partner is resident in Nigeria, the return shall be made and delivered by the attorney, agent, manager or factor of the firm resident in Nigeria.

(*c*) The provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any return required under this section.

Signature of notices.

39. (1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time authorised by him for that purpose under section 3, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon:

Proviso.

Provided that any notice in writing under this Ordinance to any person to furnish particulars to the Commissioner, or any notice under this Ordinance requiring the attendance of any person or witness before the Commissioner, shall be personally signed by the Commissioner or by any person duly authorised by him.

(2) A signature attached to any notice and purporting to be the signature of any person so authorised shall be taken to be the signature of that person until the contrary be shown.

Services of notices.

40. (1) Notice may be served on any company or individual by registered post in addition to any other manner permitted by law and shall be deemed to have been served on the day succeeding the day on which the notice would have been received in the ordinary course by post if the notice is addressed:—

(*a*) in the case of a company incorporated in Nigeria, to the registered office of the company, and

(*b*) in the case of a company incorporated outside Nigeria, to the individual authorised to accept service of process under the Companies Ordinance at the address filed with the Registrar of Companies, and

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(*c*) in the case of an individual, to the last known business or private address of such individual,

and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

(2) Where the person to whom there has been addressed a registered letter containing a statement of the amount at which he has been assessed for tax is informed of the fact that there is a registered letter awaiting him at a post office and such person refuses or neglects to take delivery of such registered letter he shall be deemed to have had notice of the amount of the tax at which he has been assessed on the date on which he was informed that there was a registered letter awaiting him at a post office.

Assessments.

Commissioner to make assessments.

41. (1) The Commissioner shall proceed to assess every person chargeable with the tax as soon as may be after the expiration of the time allowed to such person for the delivery of the return provided for in section 36.

(2) Where a person has delivered a return the Commissioner may—

(*a*) accept the return and make an assessment accordingly; or

(*b*) refuse to accept the return and, to the best of his judgment, determine the amount of the chargeable income of the person and make an assessment accordingly.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax, he may, according to the best of his judgment, determine the amount of the chargeable income of such person and make an assessment accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

Additional assessments.

42. Where it appears to the Commissioner that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within two years after the expiration thereof, assess such person at such amount or additional amount, as according to his judgment ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

Lists of persons assessed and notices of assessment.

43. (1) The Commissioner shall as soon as possible prepare lists of persons assessed to tax.

(2) Such lists (herein called the assessment lists) shall contain the names and the addresses of the persons assessed to tax, the amount of the chargeable income of each person, the amount of tax payable by him, and such other particulars as may be prescribed.

Appointment of agents in the United Kingdom.

44. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Governor may appoint agents in the United Kingdom any one of whom shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Ordinance and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner on receipt of the report shall enter the amount reported in the assessment list:

Proviso.

Provided that:—

(*a*) if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration;

(*b*) nothing in this section shall affect the right of appeal conferred by section 46.

Service of notice of assessment.

45. (1) The Commissioner shall cause to be served personally on or sent by registered post to each person whose name appears on the assessment lists a notice addressed to him at his usual place of abode or business, stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under the next sub-section.

Revision of assessment in case of objection.

(2) If any person other than an individual assessed under section 21 disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within forty-two days from the date of the service of the notice of assessment:

Proviso.

Provided that the Commissioner, upon being satisfied that owing to absence from Nigeria, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in sub-section (2), the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to such income, and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and may examine such person (except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such person:

Proviso.

Provided that in the event of any person who, under sub-section (2), has applied to the Commissioner for a revision of the assessment made upon him failing to agree with the Commissioner as to the amount at which he is liable to be assessed his right of appeal under the provisions of this Ordinance, against the assessment made upon him, shall remain unimpaired.

Appeals.

Appeals to the Supreme Court against assessments.

46. (1) (*a*) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (4) of the preceding section may appeal against the assessment to the Supreme Court upon giving notice in writing to the Commissioner within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired:

Proviso.

Provided that, notwithstanding the lapse of such period of fifteen days, any person may appeal against the said assessment if he shows to the satisfaction of a judge that, owing to absence from Nigeria, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(*b*) Every person appealing shall attend before the court in person on the day and at the time fixed for the hearing of his appeal:

Proviso.

Provided always that if it be proved to the satisfaction of the judge that owing to absence from Nigeria, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the judge may postpone the hearing of the appeal for such reasonable time as he thinks necessary for the attendance of the appellant, or he may admit the appeal to be made by any agent, clerk or servant of the appellant, on his behalf.

(*c*) Seven clear days' notice shall, unless rules made hereunder otherwise provide, be given to the Commissioner of the date fixed for the hearing of the appeal.

(*d*) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(*e*) If the judge is satisfied that the appellant is overcharged he may reduce the amount of the assessment by the amount of the overcharge, and if he is satisfied that the appellant is undercharged he may increase the amount of the assessment by the amount of the undercharge.

(*f*) Notice of the amount of tax payable under the assessment as determined by the judge shall be served by the Commissioner upon the appellant.

(*g*) Notwithstanding anything contained in section 53 if in any particular case the judge, from information given at the hearing of the appeal, is of the opinion that the tax may not be recovered he may on application

being made by or on behalf of the Commissioner require the appellant to furnish within such time as may be specified security for payment of the tax and if such security is not given within the time specified the tax assessed shall become payable and recoverable forthwith.

(*h*) All appeals shall be heard *in camera*, unless the judge shall, on the application of the appellant, otherwise direct.

(*i*) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the judge.

(*j*) The Chief Justice may make rules providing for the method of tendering evidence before a judge on appeal, the conduct of such appeals and the procedure to be followed by a judge upon stating a case and the procedure upon the hearing of the case stated.

Appeals to the Board of Commissioners against assessments.

(2) (*a*) In lieu of an appeal to the court under sub-section (1) a person aggrieved may appeal against the assessment to a Board of Commissioners to be appointed by the Governor; such Board shall consist of three persons being non-officials who shall be appointed for such period and at such remuneration as may be prescribed:

Proviso.

Provided that:—

(*i*) notice of such appeal shall be given in writing to the Commissioner within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired:

(*ii*) notwithstanding the lapse of such period of fifteen days, any person may appeal against the said assessment if he shows to the satisfaction

of the Board that, owing to absence from Nigeria, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(*b*) The provisions of paragraphs (*b*), (*d*), (*e*), (*f*), (*g*) and (*h*) of the preceding sub-section shall apply to appeals to the Board under this sub-section in the same way that they apply to appeals under sub-section (1) as if references to a judge in the said paragraphs were references to the Board.

(*c*) The decision of the Board hearing the appeal shall be final.

(*d*) The Governor may make rules prescribing the procedure to be followed in the conduct of appeals before the Board.

Errors in assessments and notices.

47. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Ordinance shall be quashed, or deemed to be void or voidable, for want of form, or be affected by the reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance or any Ordinance amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected:—

(*a*) by reason of a mistake therein as to—

(*i*) the name or surname of a person liable; or

(*ii*) the description of any income; or

(*iii*) the amount of tax charged;

(*b*) by reason of any variance between the assessment and the notice thereof:

Proviso.

Provided that in cases of assessment the notice thereof shall be duly served on the person intended to be charged and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Relief in Cases of Double Taxation.

Relief in respect of United Kingdom income tax.

48. (1) Any person who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income and who proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, income tax in the United Kingdom for that year in respect of the same part of his income, shall be entitled to relief from tax under this Ordinance paid or payable by him on that part of his income at a rate equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds half the appropriate rate of United Kingdom income tax. If, however, the rate of tax appropriate to his case under this Ordinance exceeds the appropriate rate of United Kingdom income tax he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom income tax.

(2) For the purposes of this section a certificate issued by or on behalf of the Commissioners of Inland Revenue in the United Kingdom shall be receivable in evidence to show what is the appropriate rate of United Kingdom income tax in any particular case.

(3) For the purposes of this section:—

Definition of "rate of tax."

"rate of tax" when applied to tax paid or payable under this Ordinance means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of the relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Ordinance has been charged for that year except that where the income which is the subject of a claim to relief under this section is computed by reference to the provisions of section 28 on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

Relief in respect of Empire income tax

49. (1) If any person resident in Nigeria who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Empire income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in Nigeria paid or payable by him on that part of his income at a rate thereon to be determined as follows:—

(*a*) if the Empire rate of tax does not exceed one-half of the rate of tax appropriate to his case under this Ordinance in Nigeria the rate at which relief is to be given shall be the Empire rate of tax;

(*b*) in any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Ordinance.

(2) If any person not resident in Nigeria who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any

part of his income proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay Empire income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Ordinance on that part of his income at a rate thereon to be determined as follows:—

(*a*) if the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax;

(*b*) if the Empire rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds one-half of the Empire rate of tax.

(3) For the purposes of this section:—

Definition of "Empire income tax"

"Empire income tax" means any income tax charged under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's protection (other than the United Kingdom or Nigeria):

Proviso.

Provided that the legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and Nigeria in a manner similar to that provided in this section.

(4) For the purposes of this section the rate of tax under this Ordinance shall be computed in the manner provided by sub-section (3) of the last preceding section and the Empire rate of tax shall be computed in a similar manner.

(5) Where a person is for any year of assessment resident both in Nigeria and in a part or place in which Empire income tax is charged, he shall for the purposes of this section be deemed to be resident where during that year he resides for the longer period.

Time limit of relief claims.

50. A claim for relief under section 48 or section 49 shall be made within two years from the end of the year of assessment to which it relates:

Proviso.

Provided that such a claim, though not made within the said period of two years, shall be admitted if made within six years from the end of the said year and within six months from the date upon which the relevant amount of United Kingdom income tax or of Empire income tax, as the case may be, has been ascertained.

Disclosure of information to authorised officers.

51. Where, under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's protection, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Nigeria, the obligation as to secrecy imposed by section 4 of this Ordinance shall not prevent the disclosure to the authorised officers of the Government in that part of His Majesty's Dominions or in that place under His Majesty's protection of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in Nigeria or from income tax in that part or place aforesaid.

Collection and repayment of tax.

Procedure in cases where objection or appeal is pending.

52. Collection of tax shall in cases where notice of an objection or an appeal has been given remain in abeyance until such objection or appeal is determined:

Proviso.

Provided that the Commissioner may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

Time within which payment is to be made.

53. Tax levied in accordance with sections 22 and 23 shall be payable in two equal instalments the first of which shall be payable within forty-two days after the service of notice of assessment under section 45 and the second instalment shall be payable within six months after the service of such notice:

Proviso.

Provided that:—

(*a*) regulations may be made under paragraph (*b*) of sub-section (1) of section 65 for deductions of tax at the source in respect of emoluments and pensions paid out of the revenue of Nigeria;

(*b*) if the first instalment due from any person is not paid by him within the prescribed period the whole amount of the tax with which such person has been assessed shall become payable forthwith and subject to the provisions of section 55 the Commissioner may proceed to enforce payment thereof as hereafter provided;

(*c*) when any person dies after having paid the first instalment and before the second instalment is due the amount of the latter shall be recoverable from the personal representative of the deceased person.

Payment of tax in special cases.

54. (1) If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave Nigeria before such tax becomes payable without having paid such tax, he may by notice in writing to such person demand payment of such tax within the time to be limited in such notice. Such tax shall thereupon be payable at the expiration of

the time so limited and shall in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith.

(2) If in any particular case the Commissioner has reason to believe that tax upon any chargeable income may not be recovered, he may at any time and as the case may require:—

(*a*) forthwith by notice in writing require any person to make a return and to furnish particulars of any such income within the time to be specified in such notice;

(*b*) make an assessment upon such person in the amount of the income returned, or if default is made in making such return or if the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable;

(*c*) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to the Commissioner's satisfaction.

(3) If in any particular case the Commissioner has reason to believe that tax upon any income chargeable to such tax may not be recovered, he may at any time:—

(*a*) by notice in writing to the person by whom the tax would be payable determine a period for which tax shall be charged and require such person to render within the time specified therein returns and particulars of such income for that period;

(*b*) make an assessment upon such person in the amount of the income returned, or if default is

made in making a return or if the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable.

(4) Notice of assessment made in accordance with the provisions of sub-sections (2) and (3) shall be given to the person assessed, and any tax so charged shall be payable on demand made in writing under the hand of the Commissioner, and shall in default of payment, unless security for the payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith.

(5) Any person who has paid the tax in accordance with a demand made by the Commissioner or who has given security for such payment under this section shall have the right of objection and appeal conferred by sections 45 and 46, and any amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

(6) The provisions of this section shall not affect the powers conferred upon the Commissioner by section 42.

Penalty for non-payment of tax; and enforcement of payment.

55. (1) If any tax is not paid within the periods prescribed in section 53:—

(*a*) a sum equal to five *per centum* of the amount of the tax payable shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such sum;

(*b*) the Commissioner shall serve a demand note upon the person assessed, and if payment is not made within one month from the date of the service of such demand note, the Commissioner may proceed to enforce payment as hereafter provided.

(2) Any individual who without lawful justification or excuse, the proof whereof shall lie on the individual charged, fails to pay the tax within the period of one month prescribed in sub-section (1) (*b*), shall be guilty of an offence against this Ordinance.

Collection of tax after determination of objection or appeal.

56. Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on such objection or appeal as the case may be shall be payable within one month from the receipt by the person assessed of the notification of the tax payable, and if such tax is not paid within such period the provisions of the last preceding section shall apply.

Suit for tax by Commissioner.

57. Tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner in his official name with full costs of suit from the person charged therewith.

Repayment of tax.

58. (1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded. Every claim for repayment under this section shall be made within two years from the end of the year of assessment to which the claim relates. The Commissioner shall give a certificate of the amount to be repaid and upon the receipt of the certificate the Accountant-General shall cause repayment to be made in conformity therewith.

(2) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of assessment as regards which that

person has failed or neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return, provided that the person has received notice of the assessment made upon him for that year.

(3) The provisions of sub-section (2) shall not apply if it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

General.

Penalties for offences.

59. Any person guilty of an offence against this Ordinance shall be liable to a fine of one hundred pounds and in default of payment to imprisonment for six months.

False statements and returns.

60. (1) Any person who, for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representation, forges or fraudulently alters or uses or fraudulently lends or allows to be used by any other person any receipt or token evidencing payment of the tax under this Ordinance and,

(2) Any person who aids, abets, assists, counsels, incites or induces another person:—

(*a*) to make or deliver any false returns or statement under this Ordinance;

(*b*) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Ordinance;

(*c*) unlawfully to refuse or neglect to pay tax,

shall be guilty of an offence against this Ordinance.

Penalties for offences by authorised and unauthorised persons.

61. Any person who:—

(1) being a person appointed for the due administration of this Ordinance or any assistant employed in connection with the assessment and collection of the tax who—

(*a*) demands from any person an amount in excess of the authorised assessment of the tax;

(*b*) withholds for his own use or otherwise any portion of the amount of tax collected;

(*c*) renders a false return, whether verbal or in writing, of the amounts of tax collected or received by him;

(*d*) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully either with the Commissioner or any other individual; or

(2) not being authorised under this Ordinance to do so, shall collect or attempt to collect the tax under this Ordinance,

shall be guilty of a felony and liable on conviction to a fine of three hundred pounds or to imprisonment for three years or both.

Saving for criminal proceedings.

62. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law.

Remission of tax.

63. (1) The Commissioner may remit, wholly or in part, the tax payable by any person on the ground of poverty and may also for like reason refund the tax or any part thereof.

(2) The Governor in Council may remit, wholly or in part, the tax payable by any person and any penalty imposed under section 55 (1) (*a*) if he is satisfied that it will be just and equitable to do so.

Power to alter rate of tax by Resolution and Order.

First Schedule.

64. The Legislative Council, by Resolution, in so far as such resolution relates to the Colony and to the Southern Provinces, and the Governor, by order, in so far as such order relates to the Northern Provinces, may add to, vary or revoke the whole or any part of the First Schedule and substitute a new schedule therefor.

Rules.

65. (1) The Governor in Council may from time to time make rules generally for carrying out the provisions of this Ordinance and may, in particular, by those rules provide:—

(*a*) for the form of returns, claims, statements and notices under this Ordinance;

(*b*) for the deduction and payment of tax at the source in respect of emoluments and pensions payable out of the revenue of Nigeria, the Nigerian Railway or any native authority;

(*c*) any such matters as are authorised by this Ordinance to be prescribed;

(*d*) for the registration of the wives and children of individual taxpayers;

(*e*) prescribing any forms which may be necessary for carrying the provisions of this Ordinance into effect.

(2) Rules made under paragraph (*b*) of the preceding sub-section may provide:—

(*a*) for the recovery of the tax by monthly deductions, such deductions being in equal amounts spread over the full period of a year or varying amounts for such lesser periods as may be provided therein either generally or in any particular case;

(*b*) for the recovery out of any monies in the hands of the Government due to any officer or pensioner

of the amount of tax not yet recovered by instalments where the Commissioner on information received believes that such person is about to leave Nigeria and not return;

(*c*) for the recovery of the amount of the tax subject to such general or special exemptions as may be provided therein out of any gratuity payable by Government in respect of the service or death of a public officer.

(3) If any person fails to comply with or contravenes the provisions of any rule made under this Ordinance he shall be guilty of an offence against this Ordinance.

Repeal. Second Schedule.

66. The Ordinances set out in the Second Schedule are hereby wholly repealed.

FIRST SCHEDULE.

(SECTION 22.)

Chargeable Income.	Rate of Tax.		
	£	s.	d.
For every pound of the first £200	0	0	3
For every pound of the next £200	0	0	6
,, ,, ,, ,, ,, ,, £200	0	0	9
,, ,, ,, ,, ,, ,, £200	0	1	0
,, ,, ,, ,, ,, ,, £200	0	1	3
,, ,, ,, ,, ,, ,, £400	0	1	6
,, ,, ,, ,, ,, ,, £600	0	1	9
,, ,, ,, ,, ,, ,, £1,000	0	2	0
,, ,, ,, ,, ,, ,, £2,000	0	2	6
,, ,, ,, ,, ,, ,, £5,000	0	5	0
For every pound exceeding £10,000	0	10	0

SECOND SCHEDULE.

(SECTION 66.)

No. and Year.	Short Title.
No. 21 of 1931	The Non-Natives Income Tax (Protectorate) Ordinance, 1931.
No. 32 of 1933	The Non-Natives Income Tax (Protectorate) (Amendment) Ordinance, 1933.
No. 7 of 1936	The Non-Natives Income Tax (Protectorate) (Amendment) Ordinance, 1936.
No. 3 of 1939	The Non-Natives Income Tax (Protectorate) (Amendment) Ordinance, 1939.
No. 18 of 1939	The Non-Natives Income Tax (Protectorate) (Amendment) (No. 2) Ordinance, 1939.
No. 29 of 1939	The Non-Natives Income Tax (Protectorate) (Amendment) (No. 3) Ordinance, 1939.
No. 4 of 1937	The Colony Taxation Ordinance, 1937.
No. 23 of 1938	The Colony Taxation (Amendment) Ordinance, 1938.
No. 30 of 1938	The Colony Taxation (Amendment No. 2) Ordinance, 1938.
No. 2 of 1939	The Colony Taxation (Amendment) Ordinance, 1939.
No. 17 of 1939	The Colony Taxation (Amendment No. 2) Ordinance, 1939.
No. 14 of 1939	The Companies Income Tax Ordinance, 1939.
No. 28 of 1939	The Income Tax (Supplementary) Ordinance, 1939.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and in so far as the provisions thereof relate to the Colony and to the Southern Provinces of the Protectorate, is found by me to be a true and correctly printed copy of the said Bill.

A. G. DALGLEISH,
Clerk of the Legislative Council.

Printed and Published by the Government Printer, Lagos. 455/40 1s. 3d. per copy.

30231/40 Nigeria.

17.5.

C.O.

Mr. Thornley. 28.5
Mr. K.E.Robinson. 29/5
Mr. Sidebotham. 29/5
Sir A. Burns.
Mr. G. L. M. Clauson.
Mr. C. J. Jeffries.
Mr. A. J. Dawe.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

DRAFT.

J.R.McKAY WILLIS, ESQ.
Board of Inland Revenue.

copy (16) and enclosures

THER ACTION.

DOWNING STREET.
30 May, 1940.

Answered 25.

S.O. for Mr. K.E.Robinson's signature.

.....

I enclose a copy of a despatch (& Enclosures) which we have received from the Acting Governor of Nigeria together with a copy of the Nigeria Income Tax Bill in the form in which it was presented to the Legislative Council. We have not yet received authenticated copies of the Ordinance or a Legal Report, and are proposing to examine the Ordinance on their receipt. In the meantime you may like to make a preliminary examination of the legislation on which we shall be asking for your comments officially in due course.

In the last para. of the despatch the Acting Governor suggests that

that it might be useful if Mr. S.R.Marlow, Deputy Financial Secretary, Nigeria, who has been responsible for the Ordinance throughout, could be given an opportunity of discussing certain questions in connection with "Dominions Relief" ~~Income tax relief~~ with the Inland Revenue Authorities and we should be most grateful if either Firth or yourself could arrange to see him some time. Perhaps you will be good enough to let me know if and when either of you could see him in the course of the next month or so, and we will gladly make the necessary arrangements. I understand that he is due to return to Nigeria about the middle of August.

Yours sincerely,

(sgd) H.L. Robinson

AIR MAIL.

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Government House,
Nigeria.

NIGERIA.

SECRET

dupl

30 March, 1940.

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Sir,

I have the honour to inform you, with reference to your Confidential despatch of the 4th of January and to subsequent telegraphic correspondence ending with my Secret telegram No.236 of the 7th of March, that the Income Tax Ordinance, 1940, having effect from the 1st April, 1940, was duly enacted by Legislative Council on the 15th of March, after examination in Select Committee.

2. A copy of the Bill as submitted to Council from the Select Committee is attached hereto, together with a copy of the Report of the Select Committee. Copies of the Ordinance will be despatched to you in accordance with Colonial Regulation 156 in due course.

3. The Income Tax Ordinance, 1940, which follows closely the Model Income Tax Ordinance, repeals the Non-Natives Income Tax (Protectorate) Ordinance, No.21 of 1931, the Colony Taxation Ordinance No. 4 of 1937, the Companies Income Tax Ordinance, No. 14/1939, and all relative amending Ordinances, and re-enacts the provisions of those Ordinances in accordance with the terms of the Model Ordinance and so as to meet local requirements; the opportunity has been taken also to include within the new Ordinance certain modifications an additions taken from the Income Tax Ordinances of Trinidad and Ceylon.

Copy to Willis Rec. — 30/5/40.

4. A

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
etc., etc., etc.

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4. A comparative table, prepared by the Attorney-General, of the provisions of the Ordinance as compared with those of the Model will follow by a later despatch, indicating the origin of special provision and changes. The following explanation in general terms is, however, given of the principal new provisions.

5. In my Confidential telegram No.16 Saving of the 9th of February, I outlined my proposals for the graduated rates of tax and deductions to be allowed from chargeable income to be included in the new Bill, but it was then intended that the scope of the Native Revenue Ordinance should be extended to include natives in Lagos township, and the provisions of the proposed new Income Tax Bill were therefore to be limited, practically, to non-natives and companies, mainly for the reason that it was extremely difficult to provide for family allowances from chargeable income in terms applicable to natives and non-natives alike, having regard to the wide disparity in the average cost of living of both classes, and to different standards of marriage.

This proposed exclusion of natives from the application of the Bill provoked some opposition, so far as natives in Lagos were concerned, on the grounds that racial discrimination was thereby introduced. I sympathised with those objections, although, as the mover of the Bill in Council quite rightly pointed out, they took little or no account of the fact that the direct taxation laws of Nigeria as a whole have always been and still are based on a racial differentiation in their application throughout the Protectorate. Nevertheless it could well be held that it would be retrogressive to

subject

subject a community, such as the native population of Lagos, to another form of direct taxation after they had for several years become accustomed to income taxation under modern methods, even though in a restricted form.

6. I was willing, therefore, to accept the recommendation of the Select Committee to leave the people of Lagos within the scope of the income tax system particularly as I had by then come to the conclusion, after discussion in Executive Council with the Chief Commissioners, that the intention in the revised draft Direct Taxation Ordinance of standardising rates of direct tax on higher incomes of natives throughout Nigeria, was premature, and financially risky, and I was myself anxious on this account to alter the basis of application, territorially, of both Bills. This change of plans made it necessary, however, to find a way of overcoming the difficulties which I have mentioned of applying family allowances to natives and non-natives alike and I welcomed the suggestion of the Deputy Financial Secretary, who was responsible for the Bill in Council, and Chairman of the Select Committee, that provision should be adopted having an effect similar to that in Section 20(2) of the Ceylon Income Tax Ordinance No. 2 of 1932, whereby the effect of allowing family and other deductions could be so limited as not to reduce the rate of tax of any individual below a predetermined amount.

7. This provision has therefore been included as a proviso to Section 22 of the Ordinance, and the minimum rate of tax for resident individuals has been set at 3d in the Pound of gross chargeable income, a rate which is less than that obtaining before the income surtax was imposed in December last, and to which exception could not

there

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therefore be taken. It will be observed that this proviso applies only to resident persons; this is because the benefits of the deductions allowed in Sections 15, 16 and 17 are already limited as regards non-resident persons, by the terms of Section 19, approval to include which was given in your Secret telegram No.210 of the 5th of March, and for the reasons given in your Confidential despatch of the 4th of January I am anxious that pensioners in England should derive as full a benefit as possible from family allowances. Another reason, in support of the proviso to Section 22 is that a rate of 3d in Pound is the lowest that can be adopted for the direct taxation in the Protectorate of clerks and natives who are members of professions without falling far below rates paid by peasant farmers and others, and it is undesirable that taxes in Lagos should be at lower rates than elsewhere.

8. I should here point out that in order to remove the deductions allowed in respect of contributions to the Widows' and Orphans' Pension Scheme from the limitation imposed by the proviso to Section 22, the provision for those deductions has been separated from Section 17, relating to insurance premiums, and removed to Section 10(f), alongside a similar allowance for contribution to approved provident funds, in precisely the same way as is provided in Section 9(1) (f) and (g) of the Ceylon Ordinance.

9. I have already informed you in my Confidential telegram No. 16 Saving of the 9th of February of the rates of deductions for wives and children, namely £200 for a wife and £100 for each child, subject to a maximum of three children, and I have assumed that those rates meet with your approval. The rate for children has since been

modified

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modified in its application to children in Nigeria, for whom a deduction of £25 only is allowed because of the very much lower cost of maintenance and education of children in Nigeria. Section 15, relating to wives, allows a deduction for alimony, on the lines of Section 4 of Trinidad Ordinance, No. 1 of 1935, but with a reservation that £200 only can be allowed to any one individual under Section 15.

c/attention

10. Reverting now to the subject of the earlier and more general sections of the Ordinance, it will be seen that several new exemptions from tax are allowed under Section 8, such as those relating to Co-operative Societies, interest on Post Office Savings Bank deposits, and the income of non-resident persons, of £50 or less, the latter to obviate the pursuit abroad of trifling amounts of tax. It has also been made clear that payments of a capital nature such as service or death gratuities and withdrawals from approved provident funds are not liable to tax.

11. The exemptions to which I invite especial attention are those in Section 8(d) and (f). Inclusion of the former makes it possible for the Ordinance to apply to Nigeria as a whole without any necessity for a special application clause, a feature of the Bill as at first drafted to which objection was taken. Exemption 8(f) is of importance because it is necessary to provide elsewhere in the Ordinance, as is done in Section 21, for the preservation of the minimum flat rate tax of 5/- on adult males in Lagos provided in Part III of the Colony Taxation Ordinance, No. 4 of 1937. While there is no reason at all why native women should not pay income tax, and every reason why they should do so, I have no desire to impose a per capita tax on the women

folk.

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folk of Lagos, large numbers of whom are engaged in petty trading in the markets. Such a move would be bound to prove unpopular and the attendant difficulties of administering such a tax can well be left to the imagination; for these reasons I have accepted the recommendation of the Select Committee to exempt the income of all women whose income does not exceed £50. I may add that one of the main reasons for imposing a minimum flat rate for adult males in Section 21 is to check the influx into Lagos of unemployed and undesirable people trying to avoid the direct taxation imposed in the neighbouring provinces of the Colony and Protectorate.

Section 21 is self contained as regards provision for rates of tax, exemptions, assessments, appeals, date of payment and penalties, and suitable qualifications are contained in Sections 22, 45 and 53 to show that those Sections do not apply to minimum flat rate assessments.

12. It will be observed that Section 5 of the Ordinance does not make "virtual income" chargeable to tax, nor the annual value of land and improvements used by owners for residence. This question was raised in your despatch No.1431 of the 3rd of September, 1937, and in my despatch No.214 of the 28th of February 1938 I explained the practical difficulties of applying locally the provision of Sections 5(b) and (c) of the Model Ordinance. I have no reason now to modify those views.

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13. The rates of tax imposed, as set forth in the First Schedule are based on the existing rate plus surtax, with three upward modifications. In the first place there is a gradual rise in rate throughout the scale instead of the sudden jump from 4% to 11% at £3,000 per annum as in the First Schedule to the Income Tax (Supplementary) Ordinance No.29 of 1939.

Second/

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Secondly, the rates have been upgraded to compensate generally for the reduction in revenue which would otherwise result from the allowance of family deductions. The result of this adjustment is that the tax payable by married persons without children will, on medium incomes, approximate to existing tax plus surtax, and the tax payable by bachelors will be substantially higher than is at present payable so as to offset the lower rates to be paid by married persons with children. This is in effect a substantial raising of the income tax, particularly on higher incomes, as compared with existing tax plus surtax, but is offset to some extent by allowances. Thirdly the rate of tax on very large incomes is made to rise very steeply, even as high as 10/- in the Pound on income over £10,000 per annum; this is done primarily with the object of taxing excess war time profits, should there be any, arising from controlled quotas and prices of produce imposed by the Ministry of Food. This is partly the outcome of a suggestion made by you, at the time when controlled prices including a fixed margin of profit were introduced, that the way to control any excess profits which might thereby accrue to individual traders was by taxation.

14. Provisos have been added to Sections 24 and 35, which relate to deduction of tax at the source from dividends and mortgage and debenture interest, giving power to the Commissioner to require a Company to deduct tax at a higher rate than 2/6d in the Pound from payments to particular persons. This follows Section 43(1)(ii) of the Ceylon Ordinance, and is included as a precautionary measure now that the rate of tax for individuals rises above the rate for Companies. These provisos were recommended by the Select Committee on a majority vote, the members for Commerce, Banking, Shipping and Mining, being in opposition.

15. As

15. As regards Section 35, it will be noted that the rate of tax to be deducted at the source from mortgage and debenture interest paid to non-resident persons is raised to the same rate as that which applies to Companies. Sub-section (4) allows amounts so deducted to be set off against the tax payable on the chargeable income of persons concerned, where such interest is included in their chargeable incomes. This is a departure from Section 33 of the Model Ordinance. I do not know why a distinction is made in the Model Ordinance between dividends and mortgage or debenture interest paid to non-resident persons, and in the absence of any reason, and taking into account the fact that Section 44(3) of the Ceylon Ordinance makes such provision, I decided to include it in the Nigeria Ordinance.

16. On this subject of claims for recovery of tax deducted at the source I made a suggestion to you in my Secret telegram No.144 of the 9th of February, 1940, that claims for such rebates or set-offs by non-resident persons should be limited with relation to their gross incomes from all sources, in the manner defined in what is now Section 19 of this new Ordinance, but I have since received your Secret telegram No.210 of the 5th of March, 1940, in which you comment that such a course would be inequitable. There seems every reason however for Section 19 to apply to any claims such persons may make for deduction from chargeable income on account of family allowances and it now occurs to me that the proviso to Section 20(1)(a) ought to be amended to have reference to Section 19 instead of to non-British subjects only, otherwise the proviso to Section 22 will apply and might lead to some confusion. I am noting this for amendment on the first suitable opportunity, or as experience of its operation may require.

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17. Section 34 is new, and was drafted on the lines of Section 33, relating to deceased persons, so as to enable the Commissioner to assess a Company for tax when such Company is dissolved during the year of assessment. In this connection I have had in mind that the basis of assessment for tax as defined in Section 6, though sound in principle, has some disadvantages and attendant difficulties when applied without modification to newly formed Companies and newly arrived persons who are in consequence not required to pay tax in the first year because their chargeable income for the preceding year was nil. The converse occurs after a person leaves Nigeria in so far as he can be assessed for tax in the succeeding year based on chargeable income in the year of departure. I find that special provision is made in Section 11 of the Ceylon Income Tax Ordinance No.2 of 1932 to meet these difficulties and to enable assessments to be made in respect of the year of commencement of any business or employment based on actual receipts during the year of assessment. In a letter to the Crown Agents for the Colonies recently the United Africa Company, Limited, has made some suggestions for improvement of the Nigeria Income Tax Ordinance on these lines, which follow practice in the United Kingdom I understand, and if you see no objection I propose to suggest such amendments in due course, in view of the obvious advantages of such provision where companies and businesses are started, or change hands, or are liquidated, during any year of assessment.

18. Section 46 governing appeals has been expanded so as to keep in being the Board of Commissioners for Appeals which is at present constituted under Section

12 of the Colony Taxation Ordinance No.4 of 1937. Unofficial members of Council were strongly in favour of its retention, offering as it does an inexpensive means of appeal. Section 46 (i)(j) as submitted to Council was struck out in the Committee stage on the motion of the Commercial Member for Lagos, in order that there shall be no room for doubt that appeal from a judgment of the Supreme Court to higher authority is not forbidden.

19. Section 53 provides for payment of tax in two equal instalments, and permits regulations to be made for deductions at the source from the emoluments and pensions of public officers, provision which goes all the way to meet the representations conveyed in the fourth paragraph of your Confidential despatch of the 4th of January, 1940.

20. Section 54 is new and is taken from Section 8 of Trinidad Income Tax (Amendment) Ordinance No.10 of 1928, and empowers the Commissioner to assess and collect tax at short notice when there is reason to believe that it might not otherwise be paid; security for payment may also be accepted.

21. The provision in Section 55(1)(a), for the addition of five per centum of the amount due as a penalty for failure to pay within the prescribed time, provoked a good deal of discussion in Select Committee but opposition was withdrawn on the inclusion in Section 63(2) of power of remission of such a penalty. Section 55(2) has been preserved in a modified form from Section 30(1) of the Colony Taxation Ordinance. Such provision exists in the Direct Taxation Ordinance, 1940 (which replaces the Native Revenue Ordinance Chapter 74) and I should prefer not to have it removed. Section 64 provides for changes to be made in the Schedule of rates of income tax by Resolution and Order, and

comprehensive

comprehensive power is given in Section 65 for the making of any necessary Regulations.

22. Viewed as a whole I regard the new Income Tax Ordinance, 1940, as a marked step forward and a great improvement on the very complicated existing laws on this subject. Complimentary comments were made in Council on its mode of presentation, and the Press has acclaimed it as a very fair measure. It reflects great credit upon Mr. S.R.Marlow the Deputy Financial Secretary who has been responsible for it throughout, and I might also mention that the complete absorption of his time by this work threw a heavy burden upon the Financial Secretariat, the staff of which was not augmented so as to replace him. I trust that it will meet with your approval.

23. I should like to add a final reference to the subject of claims for relief of dual taxation particularly as regards claims for relief from United Kingdom income tax by individuals subject to Nigeria tax. A number of representations and enquiries has been received both from pensioners and serving officers and I find myself in need of an authoritative statement as to the manner and extent to which "Dominions relief" is actually granted. It occurs to me that it might be possible to obtain from the Special Commissioners of Income Tax in the United Kingdom a brief exposition of the method of applying the law regarding such relief, for the information of Colonial Governments, or that an official of this Government might be given facilities for a discussion of the question with Inland Revenue Authorities. Mr. Marlow has now left for the United Kingdom on leave and I suggest that he might be given an opportunity of discussing this question, and others

arising

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arising from the adoption of the Model Ordinance in Nigeria. As I have said in paragraph 7 of this despatch, the introduction of family deductions from chargeable income will afford a welcome relief to pensioners in England and will probably remove many of them from the disadvantages of dual taxation, but there is still the position of serving officers to consider.

I have the honour to be,

Sir,

Your most obedient, humble Servant,

C.C. Wookey

OFFICER ADMINISTERING THE GOVERNMENT.

Report of the
Select Committee of the Legislative Council appointed
to consider and report on
two Bills entitled
The Income Tax Ordinance, 1940, and
The Native Direct Taxation Ordinance, 1940.

The Select Committee, having considered the two Bills clause by clause, together with certain proposals for additions and amendments placed before the Committee by the Chairman, recommends that in the process of consolidation of the income tax and direct taxation laws the present territorial basis of application of the existing laws should be preserved and that the Bills should be revised in so far as they were intended to change that basis of application. In particular the Committee recommends that the African population of the township of Lagos should continue to be subject to income tax and that the provision of the Direct Taxation Ordinance should not be extended so as to include Lagos township within its scope.

2. The Committee recommends also that the proposal to standardise rates of tax on higher incomes chargeable with tax under the Direct Taxation Ordinance should not be proceeded with as was intended, but that rates of tax for natives throughout the Protectorate should continue to be determined by executive direction by the Governor, such rates to be fixed according to local circumstances and having regard to the fact that the individuals and communities concerned are not allowed deductions from profits and gains as is the case for persons subject to income tax.

3. These two important changes involve considerable amendment of both Bills, and in view of this, and of the several other amendments and additions recommended, the Committee submits two

revised

revised draft Bills incorporating these changes and additions, and recommends their presentation anew to Legislative Council for enactment, under certificate of urgency if necessary.

4. In addition to these two principal changes referred to above the Committee recommends the following major changes and additions, which have been incorporated in the revised draft Bills :-

Income Tax Bill.

A. Imposition of Tax.

The removal of clause 5(c) which would have made tax payable in respect of the annual value of land and improvements thereon used by or on behalf of the owner for the purpose of residence. The practical difficulties involved in the application of this clause under local conditions make its enactment inadvisable.

B. Exemption from Tax.

(1) Local authorities, native authorities and Government institutions, without any reservation.

(2) Co-operative Societies.

(3) Capital sums received such as service gratuities and provident fund withdrawals.

(4) The income of any woman whose chargeable income is £50 or less.

(5) The income of persons non-resident in Nigeria, whose chargeable income is £50 or less.

(6) Individuals who are subject to the Direct Taxation Ordinance, in so far as their income is derived from sources outside the township of Lagos.

(7) The interest receivable by individuals on Post Office Savings Bank deposits.

(8) The annual value of any place of worship and its premises.

C. Deductions from chargeable income.

(1) Contributions made by public officers to the Widows' and Orphans' Pensions Scheme.

(2) Contributions made to a pension, provident or other society or fund approved by the Commissioner, but no other form of payment to such society or fund.

(3) A deduction of £200 to be allowed in respect of a wife. A deduction also to be allowed in respect of alimony but the total deduction allowed under the relevant clause to any individual should not exceed £200.

(4) A deduction of £25 for each child in Nigeria under the age of sixteen years or undergoing full time instruction at a recognised educational establishment.

(5) A deduction for each child elsewhere than in Nigeria, up to an amount not exceeding £100.

(6) Deductions from the chargeable income of any individual in respect of children to be limited to three children.

(7) Deductions in respect of insurance premiums to be allowed.

(8) Provision that family and insurance deductions to non-resident individuals shall be limited to British Subjects and British Protected persons and so as to bear relation to gross income where the individual is in receipt of

of income from other sources.

D. Rates of Tax.

(1) Provision to be included in the Bill for the preservation of the rate of 5/- per annum for all adult males whose income does not exceed £50, subject to certain specified exemptions.

(2) The inclusion of a proviso limiting the effect of deductions from the chargeable income of resident individuals so as to ensure that a rate of not less than three pence in the pound is payable upon gross chargeable income.

(3) Provision to be included giving the Commissioner power to require a company registered in Nigeria to deduct tax from dividends at a higher rate than two shillings and sixpence in the pound in special cases. Similar provision is recommended in respect of deductions at source from mortgage and debenture interest paid to non-resident persons.

E. Schedule.

Delete the rate of tax shown as £2.10.0d on the first £200 of chargeable income and substitute therefor a rate of three-pence in the pound.

F. Miscellaneous.

(1) The Committee recommend the adoption of a number of textual and other minor amendments consequent upon the re-drafting of the Bill, as they now appear in the printed copy attached to this report.

(2)

(2) Representations were made to the Committee, by Honourable Members in Committee and by letters from the general public, that the Income Tax Bill should include provision for deductions from chargeable income in respect of dependent relatives of taxpayers, possibly in lieu of married or children's allowances. The Committee recommends that the proposal should receive careful consideration with a view to the inclusion of suitable provision later, if practicable.

(3) A particular suggestion was made to the Committee by the European Civil Service Association of Nigeria for alternative provision in the Income Tax Bill as regards family and other deductions from the chargeable income of individuals resident in the British Empire, in order that the deductions allowed in those circumstances might be identical with those in force in the particular country of residence, so as to facilitate claims for relief from double taxation. The Committee recommends that this suggestion be examined by Government to ascertain whether such provision is desirable or practicable. It appeared to the Committee to possess merits of simplicity, if it were practicable.

(4) All of the foregoing recommendations have received the unanimous assent of the Committee with the exception of the recommendations enumerated below which are made on a majority vote of the Committee ;

B. Recommendation (7)

C. Recommendation (8)

D. Recommendation (3)

Native Direct Taxation Ordinance.

(1) The Committee recommend that the title be amended to read "Direct Taxation Ordinance" omitting the word "native" from the original draft.

(2) The Committee recommend the deletion, in its entirety, of Part III, and the Schedule, as set forth in the published Bill, thus restoring in effect, of the addition of suitable amendments, the principles and practice established by the existing Native Revenue Ordinance, whilst including also certain improvements contained in the Native Direct Taxation (Colony) Ordinance.

(3) The Committee recommend the adoption of a number of consequential drafting amendments necessitated by the excision of Part III of the original draft.

(4) The conclusions of the Committee as regards this Bill are unanimous and it was not necessary to take a vote on any of the individual clauses under examination.

Printed copies of both Bills, incorporating the amendments and additions recommended, are attached to this report.

(Sgd) S.R. MARLOW
Deputy Financial Secretary.
Chairman of Select Committee.

Lagos,
15th March, 1940.

The original of this Report is signed by all the members of Select Committee, comprising all unofficial members of council present at the meeting held

held in March, 1940, the Chief Secretary to the Government, the Chief Commissioners of the Northern, Western and Eastern Provinces, the Attorney-General and the Comptroller of Customs.

ibab:

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SUBSCRIPTION.

Added by the Honourable the Comptroller of Customs.

While it may be reasonable to make special provision for the treatment for purposes of direct taxation of persons whose means cannot be expressed adequately or with certainty in terms of money, I regret that I cannot support the application of the provisions of the proviso to clause 22 of the Bill to persons whose real means can be so expressed. It is not equitable that a person who has to maintain a family on a salary of £500 should be restricted in effect to allowances totalling £150, while a person with a smaller family on a salary of £1,050 may in certain circumstances receive allowances totalling £500.

However, it is necessary that the Bill should be passed before Council adjourns, and it is not possible in the time available to consider whether or what compensating adjustments ought to accompany any modification of the proviso referred to. This subscription is made in the hope that the matter will receive attention that will be effective during the year of assessment 1940-41.

(Sgd.) A. E. V. Barton.

(4452—160) Wt. 35515—61 10,000 12/39 T.S. 695
(5444—150) Wt. 45767—66 30,000 2/40 T.S. 695

30231/40 Nigeria

76/5

C. O.

Mr. Kennedy 9/4
Mr.
Mr.
Sir A. Burns.
Mr. G. L. M. Clauson.
Mr. C. J. Jeffries.
Mr. A. J. Dawe.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

10

DRAFT.

J.R. McK. Willis, Esq.

(Board of Inland Revenue).

(3)
(4)
(6)
(8)
(10)

Trinidad Ordinance 34/38

FURTHER ACTION.
Sir G. Gater still to see 12 - see 'X' in Mr. Thornley's minute of 16/3

In my signature

11 April, 1940.

Dear Willis,

In Robinson's absence on leave, I enclose herewith copies of telegraphic corres. with the Governor of Nigeria from which you will see that the authorities there are rather concerned as to the safety of revenue from income tax on companies, part of which may be lost in rebates.

2. As you will see from para. 4 of the Governor's telegram dated the 1st of March, the particular point on which he asks for guidance is the method of setting off tax deductions at source on receipt of claims for rebates by non-resident shareholders. We have been unable to trace any Trinidad regulations on the subject.

See; it's difficult to see what they can replied?

3. We should be grateful for any advice you could give us arising out of experience in this country which ~~would~~ might be of assistance to the Governor in dealing with this question.

Yours sincerely,

(Sgd) D. Kennedy

[illegible] WL 38815—61 10,000 12/39 T.S. 695
[illegible] WL 45767—68 30,000 3/40 T.S. 695

30231/40.

APR. 1940

R98

C. O.

Mr. Sidebotham. 1/3/40.
Mr. R Robinson. 29/3/40
Mr. M. Dale 30.3.
Mr. Williams 1.4.40 alone
Sir A. Burns.
Mr. G. L. M. Clauson.
Mr. C. J. Jeffries.
Mr. A. J. Dawe.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

(11)

DRAFT. CONFCODE TELEGRAM.

GOVERNOR

LAGOS.

No. 293 Secret.

Your secret telegram 236 Income Tax.

(1) After preliminary examination here, which has necessarily taken some time, I have no comments on points of principle in Consolidated Income Tax Bill and Native Direct Taxation Bill at this stage.

(2) As to former Ordinance further communication will be sent on point raised in paragraph 4 of your secret telegram 216.

(10)

Clause 34 appears to make person representing company personally responsible. (It is not clear who this person is, and such a liability would anyhow be unjustifiable, but on analogy with Clause 33 there would appear prima facie to be no objection to

~~this would be~~

FURTHER ACTION.

Recirc. to Room 96 in red to get C/3s off very quickly on (1) and (2); and then recirc. in red again to Mr. Robinson for action as at 'X' in his minute of 27/3.

making liquidator of company responsible

out of company's assets. ~~Expert advice~~

~~is being sought on this and~~ Point will be

considered further when Bill as enacted is

before me.

(3) As to latter Ordinance and paragraph 14

of my saving telegram No.16 appeals should, I am (7)

advised, lie to Supreme Court, and I should wish

for further explanation why in case of Northern

Provinces appeals should lie to Chief Commissioner

if that proposal ~~is adopted~~.

11.

COPY FOR REGISTRATION

TELEGRAM From the Governor of Nigeria to the Secretary of State for the Colonies.

Dated 7th March - Received at 3.35 p.m. on 7/3/40.

No. 236.

SECRET.

Consolidated Income Tax Bill and Native Direct Taxation Bill referred to Select Committee and some modifications of draft Bill(s) sent to you under third personal note dated 23rd February are certain to be made.

9.

I am now convinced after discussion with the Chief Commissioner(s) that the attempt in Direct Taxation Bill to standardise the rate of tax throughout the Protectorate went too far and I have decided that it should drop both for administrative and financial reasons. In consequence the whole of part 3 and the schedule to the Bill will be struck out.

This means preservation of existing position but still leaves the method of taxing the natives in Lagos to be settled.

It is probable that the select committee now sitting will recommend amendment of application to the Clause of the Income Tax Bill so as to include the natives of Lagos. They were excluded in the draft partly because of the difficulty concerning family deductions, but inclusion of an overiding clause similar to 20 (2) of Ceylon No. 2 1932 would solve that difficulty and would preserve the tax from lower incomes at not less than was payable before the sur-tax was imposed.

Clause 21 of the Draft Bill would then be deleted and instead provision would be included for flat rate tax of 5/- on all adult male natives in Lagos whose incomes do not exceed £50 at present imposed by section 6 of the Colony's taxation Ordinance.

One new result would be that incomes exceeding £50 of native women in Lagos would become subject to Tax, but I see no objection and it must come sooner or later.

Opportunity

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Opportunity will probabl' be taken to include some minor improvements from Ceylon Ordinance such as 7 (1) (a), 9 (1) (f) and (g), proviso (2) of 43 (1), proviso (2) of 44 (1), and 44 (3).

COPY

40 10.

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

Dated 1st March 1940 - Received at 6.49 p.m. 1st March.

No. 216.

SECRET.

6 Reference to my telegram No. 144. May I expect reply in time for Legislative Council. If not I propose to omit any special provisions for treatment of claims by non-resident shareholders for rebates of tax deducted at source subject to further examination of the matter.

2. Unless I hear to the contrary I propose to adopt section 4 of the Trinidad Income Tax Amendment Ordinance No. 10/1928 as regards treatment of claims from non-resident persons for family and insurance deductions.

4 3. Reference to your telegram No. 128. All companies trading in Nigeria are required to be registered vide section 233 of the Companies Ordinance Chapter 138.

4. I am apprehensive concerning the safety of revenue from Companies Tax large portion of which may be lost in rebates. Apart from sections24, 27 (i) and 54 of the Model Ordinance, both Interdepartmental Committee Report and the Model are silent as to the method of setting tax deductions at source on receipt of claim for rebates by non-resident shareholders and I can find no guidance in the Trinidad Ordinance. It is possible that procedure of those is governed by regulations.

AIR MAIL.

819.

NIGERIA.

CONFIDENTIAL.

The Chief Secretary to the Government of Nigeria presents his compliments to the Under Secretary of State for the Colonies, and is directed to forward herewith as a special measure of urgency annotated copies of the draft Bills relating to Income Tax and Native Direct Taxation, which will be presented for enactment on 4th March 1940. Governor's telegram No.136 of 8th February and Saving telegram No.16 of 9th February refer.

6
7

A full report by the Attorney-General will follow in the ordinary course.

The Secretariat,

Lagos.

23rd February, 1940.

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The following Bills, which will in due course be presented to the Legislative Council for enactment, are published for general information.

By His Excellency's Command,

C. C. WOOLLEY,
Chief Secretary to the Government.

Lagos, 15th February, 1940.

New provisions shown :— _____

Variations from model ordinance shown :— _____

A BILL ENTITLED

AN ORDINANCE TO IMPOSE AN INCOME TAX UPON NON-NATIVES, NON-RESIDENT NATIVES AND COMPANIES AND TO REGULATE THE COLLECTION THEREOF. Title.

[ ] Date of commencement.

BE IT ENACTED by the Governor of the Colony and Protectorate of Nigeria, with the advice and consent of Enactment.

the Legislative Council so far as the provisions hereof relate to the Colony and to the Southern Provinces of the Protectorate, as follows:—

Short title, commencement and application.

1. (1) This Ordinance may be cited as the Income Tax Ordinance, 1940, and shall come into operation on the 1st day of April, 1940.

(2) The provisions of this Ordinance shall apply to non-natives, to non-resident natives, and to companies.

Definition of certain general terms.

2. (1) In this Ordinance, unless the context otherwise requires:—

" Commissioner " means the Commissioner charged with the administration of this Ordinance;

" company " means any company incorporated or registered under any law in force in Nigeria; any company which, though incorporated or registered outside Nigeria, carries on business, or has an office or place of business therein;

" person " includes a body of persons;

" body of persons " means any body politic, corporate or collegiate and any company, fraternity, fellowship or society of persons whether corporate or not corporate;

" incapacitated person " means any infant, married woman, lunatic, idiot, or insane person;

" tax " means the income tax imposed by this Ordinance;

" year of assessment " means the period of twelve months commencing on the 1st day of April, 1940, and each subsequent period of twelve months;

" chargeable income " means the aggregate amount of the income of any person from the sources specified in section 5 remaining after allowing the appropriate deductions and exemptions under this Ordinance.

(2) For the purposes of this Ordinance " non-native " includes all individuals not subject to tax under the Native Direct Taxation Ordinance, 1940.

Administration.

Administrative authority.

3. (1) For the due administration of this Ordinance the Governor may by notice in the Gazette appoint a Commissioner and such other officers and persons as may be necessary. The Commissioner shall be responsible for the assessment and collection of the tax and shall pay all amounts collected in respect thereof into the Treasury to the credit of the general revenue of Nigeria.

(2) The Commissioner may by notice in the Gazette or in writing authorise any person to perform or to assist in the performance of any specified duty imposed upon the Commissioner by this Ordinance.

(3) Subject to such conditions as the Commissioner may specify the Commissioner may by notice in the Gazette direct that any information, return or document required to be supplied, forwarded or given to the Commissioner may be supplied to such other person as the Commissioner may direct.

Official secrecy.

4. (1) Every person having any official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or items of the income of any person, as secret and confidential.

(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the income or items of income of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person:—

(*a*) other than a person to whom he is authorised by the Governor to communicate it; or

(*b*) otherwise than for the purposes of this Ordinance,

shall be guilty of an offence against this Ordinance.

(3) Any proceedings for an offence against this section may be taken by or in the name of the Commissioner but not by any other person except with the consent of the Attorney-General.

Imposition of Tax.

Charge of Income Tax.

5. The tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for the year of assessment commencing on the 1st day of April, 1940, and for each subsequent year of assessment upon the income of any person accruing in, derived from, or received in Nigeria in respect of:—

(*a*) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession, or vocation may have been carried on or exercised;

(*b*) gains or profits from any employment;

omitting free quarters.

(*c*) the annual value of land and improvements thereon used by or on behalf of the owner for the purpose of residence or enjoyment, and not for the purpose of gain or profit, such annual value being deemed to be five *per centum* of the capital value of such land and improvements;

(*d*) dividends, interest or discounts;

(*e*) any pension, charge or annuity;

(*f*) rents, royalties, premiums and any other profits arising from property.

Basis of assessment.

6. Tax shall be charged, levied and collected for each year of assessment upon the chargeable income of any person for the year immediately preceding the year of assessment.

Special period of assessment.

7. Where the Commissioner is satisfied that any person usually makes up the accounts of his trade or business on some day other than that immediately preceding any year of assessment, the Commissioner may permit the gains or profits of that trade or business to be computed for the purposes of this Ordinance upon the income of the year terminating on that day in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up:

Proviso.

Provided that, where permission has been given for any year of assessment, tax shall be charged, levied and collected for each subsequent year upon the gains or profits for the full year terminating on the like date in the year immediately preceding the year of assessment, subject to any such adjustment as, in the opinion of the Commissioner, may be just and reasonable.

vide Cameroons Income Tax Ord. No. 14/1939 & model as revised by Circ. dated 14/1/40

Exemptions.

Exemptions.

8. There shall be exempt from the tax:—

(*a*) the official emoluments received by the Officer Administering the Government;

(*b*) the income of any local authority in so far as such income is not derived from a trade or business carried on by the local authority;

(*c*) the income of any statutory or registered building or friendly society in so far as such income is not derived from a trade or business carried on by such society;

(*d*) the income of any ecclesiastical, charitable or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution;

(*e*) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity and any income derived by them from sources outside Nigeria;

(*f*) the emoluments payable from Imperial Funds to members of His Majesty's Forces and to persons in the permanent service of the Imperial Government in Nigeria in respect of their offices under the Imperial Government;

(*g*) wound and disability pensions granted to members of His Majesty's Forces;

(*h*) the income of the Post Office Savings Bank;

(*i*) the income of any company formed for the purpose of promoting social or sporting amenities not involving the acquisition of gain by the company or by its individual members:

Proviso.

Provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interest, bonuses, salaries or wages paid wholly or in part out of the income so exempted.

Government loans.

9. The Governor may by notice in the Gazette provide that the interest payable on any loan charged on the public revenue of Nigeria shall be exempted from the tax, either generally or in respect of interest payable to persons not resident in Nigeria or to companies other than a company as defined by section 2, and such interest shall as from the date and to the extent specified by such notice be exempt accordingly.

Ascertainment of chargeable Income.

Deductions allowed in respect of outgoings and expenses.

10. (1) For the purpose of ascertaining the chargeable income of any person there shall be deducted all outgoings and expenses wholly and exclusively incurred during the year preceding the year of assessment by such person in the production of the income, including:—

(*a*) sums payable by such person by way of interest upon any money borrowed him, where the Commissioner is satisfied that the interest was payable on capital employed in acquiring the income;

(*b*) rent paid by any person in respect of land or buildings occupied by him for the purpose of acquiring the income;

(*c*) where any person engaged in any trade, business, profession or vocation has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession or vocation and which has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as shall represent the total depreciation which has occurred by reason of exhaustion or wear and tear

since the date of purchase of such plant and machinery and any sum realised by the sale thereof;

(*d*) any sum expended for repair of premises, plant and machinery employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed;

(*e*) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during the said year notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year:

Provided that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Ordinance be treated as receipts of the trade, business, profession or vocation for that year;

(*f*) such other deductions as may be prescribed by any rule made under this Ordinance.

(2) The Governor in Council may by rules provide for the method of calculating or estimating the deductions allowed or prescribed under this and the next following section.

Allowance for wear and tear.

11. In ascertaining the chargeable income of any person engaged in a trade or business, there shall be allowed as a deduction a reasonable amount for the exhaustion, wear and tear of property owned by him,

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including plant and machinery, arising out of the use or employment of such property in the trade, business, profession or vocation, during the year immediately preceding the year of assessment:

Provided that where property, including plant and machinery, is leased by any such person subject to the condition that it shall replace wear and tear of such property, the lessee shall be deemed for the purpose of this section to be the owner of such property leased.

Ord. 14/1939

Deductions not to be allowed.

12. For the purpose of ascertaining the chargeable income of any person no deduction shall be allowed in respect of:—

(*a*) domestic or private expenses;

(*b*) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;

(*c*) any capital withdrawn or any sum employed or intended to be employed as capital;

(*d*) any capital employed in improvements;

(*e*) any sum recoverable under an insurance or contract of indemnity;

(*f*) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income;

(*g*) any amounts paid or payable in respect of the United Kingdom income tax or super-tax or Empire income tax as defined by section 49.

Allowance of trade losses.

13. Where the amount of a loss incurred in the year preceding any year of assessment in any trade, business, profession or vocation, carried on by any person either solely or in partnership is such that it cannot be wholly set-off against his income from other sources for the same year, the amount of such loss shall

to the extent to which it is not allowed against his income from other sources for the same year be carried forward and shall, subject as is hereinafter provided, be set-off against what would otherwise have been his chargeable income for the next five years in succession:

Provisoes.

Provided that the amount of any such loss allowed to be set-off in computing the chargeable income of any year shall not be set-off in computing the chargeable income of any other year; and

Provided also that in no case shall such set-off be allowed to an extent which would reduce the tax payable for any year of assessment to less than one-half of the amount which would have been payable had the set-off not been allowed.

Special provisions as to certain companies and businesses:—

14. Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that:—

Insurance companies other than life insurance companies.

(1) In the case of an insurance company (other than a life insurance company) where the gains or profits accrue in part outside Nigeria, the gains or profits on which tax is payable shall be ascertained by taking the gross premiums and interest and other income received or receivable in Nigeria (less any premiums returned to the insured and premiums paid on re-insurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the year preceding the year of assessment, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year preceding the year of assessment, and from the net amount so arrived at deducting the actual

losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company.

Life insurance companies.

(2) In the case of a life insurance company, whether mutual or proprietary, the gains or profits on which tax is payable shall be the investment income less the management expenses (including commission):

Proviso.

Provided that where such a company received premiums outside Nigeria, the gains or profits shall be the same proportion of the total investment income of the company as the premiums received in Nigeria bore to the total premiums received after deducting from the amount so arrived at the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company.

Business as shipowner.

(3) (*a*) In the case of a company which is a shipowner, the gains or profits of its business as shipowner shall, if it produces or causes to be produced to the Commissioner the certificate mentioned in paragraph (*b*) of this sub-section, be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods or mails shipped in Nigeria as the company's total profits for the relevant accounting period shown by that certificate bear to the gross earnings for that period.

(*b*) The certificate shall be a certificate by the taxing authority of the place in which the principal place of business of the company is situated and shall state

(*i*) that the company has furnished to the satisfaction of that authority account of the whole of its business; and

(*ii*) the ratio of the gains or profits for the relevant accounting period as computed according to the income tax law of that place (after deducting interest on any money borrowed and employed in acquiring the gains and profits) to the gross earnings of the company's fleet or vessel for that period.

(*c*) If the gains or profits of a shipowning company have for the purpose of assessment in Nigeria under this Ordinance been computed on any basis other than the ratio of the gains or profits shown by a certificate as aforesaid and an assessment has been made accordingly, the company shall upon production of such a certificate at any time within two years from the end of the year of assessment be entitled to such adjustment as may be necessary to give effect to the said certificate and to have any tax paid in excess refunded.

(*d*) In this sub-section:—

Definition of "shipowner".

"shipowner" means an owner or charterer of ships whose principal place of business is situated outside Nigeria, but in a part of His Majesty's Dominions or in territory under His Majesty's protection.

Business of shipping.

(4) (*a*) Gains or profits arising from the business of shipping carried on by a company not resident in Nigeria shall be exempted from the tax:

Proviso.

Provided that the Governor is satisfied that an equivalent exemption from income tax is granted by the country in which such company is resident to persons resident in Nigeria and, if that country is a country other than the United Kingdom, to persons resident in the United Kingdom.

(*b*) For the purposes of this section a company shall be deemed to be resident in that country only in which the central management and control of its business is situate.

(*c*) In this section:—

Definition of "business of shipping".

"business of shipping" means the business carried on by an owner of ships, and for the purposes of this definition the expression "owner" includes any charterer.

Deduction for wife.

15. (1) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the year immediately preceding the year of assessment, his wife living with him or wholly maintained by him and that he is not entitled in computing the amount of his income for that year for the purposes of this Ordinance to make any deduction in respect of the sums paid for the maintenance of his wife under sub-section 2 (*a*) there shall be allowed a deduction of £200.

(2) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the year immediately preceding the year of assessment, paid:—

(*a*) a maintenance or separation allowance to his wife in accordance with the terms of a registered deed of separation or an order of any court of competent jurisdiction, or

(*b*) alimony to a previous wife whose marriage with him has been dissolved by any court of competent jurisdiction, or

(*c*) an allowance towards the maintenance of his wife who is not living with him or who is not wholly maintained by him and who does not come within paragraphs (*a*) and (*b*) of this sub-section,

vide
Trinidad Ordce No 1/1935
Section 4. excl [illegible]
[illegible]

there shall be allowed a deduction of such maintenance or separation allowance or such alimony:

Provided that the amount allowed under paragraph (*c*) shall not exceed the sum of £200.

Deduction for children.

16. (1) In ascertaining the chargeable income of any individual who proves to the satisfaction of the Commissioner that he had the custody of and maintained at his own expense any child living at the commencement of the year immediately preceding the year of assessment who at the commencement of that year was either under the age of sixteen years or who was receiving full time instruction at any university, college, school or other educational establishment, there shall be allowed a deduction of £100 in respect of every such child. No deduction shall be allowed under this section in respect of any child who is entitled in his own right to an annual income exceeding £100:

Trinidad 1/1935 Sec. 5.

Provided that in calculating the income of the child for the purpose of the foregoing provision no account shall be taken of any income to which the child is entitled as the holder of a scholarship, bursary or other similar educational endowment.

Maximum deduction.

(2) The total deductions to be allowed to any individual under this section and the last preceding section shall not together exceed £500.

(3) The expression "child" in this section includes a step-child but does not include an illegitimate child.

Deduction in respect of life insurance, and contribution to Widows' and Orphans' Pensions scheme.

17. In ascertaining the chargeable income of any person who:—

(*a*) shall have made insurance on his life or the life of his wife with any insurance company; or

(*b*) shall have made annual contribution as required under the Widows' and Orphans' Pensions

Ordinance or as required by such other fund or scheme for the granting of pensions to widows and children as the Governor may consider as equivalent to the scheme to which that Ordinance relates,

there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance or contribution as aforesaid:

Provided:—

Provisoes.

(*i*) that in the case of any policy securing a capital sum on death (whether in conjunction with any other benefit or not) the amount of the deduction allowed shall not exceed seven *per centum* of that capital sum, exclusive of any additional benefit by way of bonus or otherwise;

U.K. Income Tax Act. S. 32 (3)(a)+(c)

(*ii*) that no such deductions shall be allowed in respect of any such annual amount of premium or contribution beyond an amount equal to one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this section and in sections 15 and 16.

Proportionate deductions for part of year.

18. Where an individual is assessed for tax on income which is in respect of a part only of the year preceding the year of assessment the amount of any deduction allowed under sections 15, 16 and 17 shall bear the same proportion to the amount of deduction allowable annually as the number of completed months in the said part of the year bear to one year.

Deductions to be made only in the case of residents and non-resident British subjects.

19. Subject as hereinafter provided, no allowances under sections 15, 16 and 17 shall be made in the case of any individual who is not resident in Nigeria:

Trinidad Ordn. No 10/1928 Sec. 4.

Provided that the foregoing provision shall not apply in the case of any individual who satisfies the Commissioner that he is a British subject; so, however, that no such allowance or relief as aforesaid shall be given so as to reduce the amount of the income tax payable by that individual below an amount which bears the same proportion to the amount which would be payable by him by way of tax if the tax were chargeable on his total income from all sources, including income which is not subject to income tax charged in Nigeria, as the amount of the income subject to income tax so charged bears to the amount of his total income from all sources.

Wife's income.

20. (1) The income of a married woman living with her husband shall, for the purposes of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee:

Proviso.

Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

(2) In this section :—

Definition of "income".

"income" means income accruing in, derived from, or received in Nigeria.

Minimum rate of tax.

21. There shall be levied and paid upon the chargeable income of every individual whose chargeable income is nil or does not exceed £200 a tax of two pounds ten shillings:

Provided that :—

(*a*) The tax upon the chargeable income of—

(*i*) any woman of or above the age of sixteen years;

21. is for resident foreigners.
are for broken periods.

(*ii*) any child below the age of sixteen years at the commencement of the year preceding the year of assessment;

(*iii*) any individual not resident in Nigeria for any part of the year preceding the year of assessment;

(*iv*) any individual whose chargeable income is in respect of a part only of the year preceding the year of assessment,

whose chargeable income does not exceed £200 shall be charged at the rate of threepence for every pound of chargeable income; and

(*b*) Provided further that the tax payable under proviso (*a*) (*iv*) by any male individual of or above the age of sixteen years resident in Nigeria for a part only of the year preceding the year of assessment shall not be less than an amount bearing the same proportion to two pounds ten shillings as the number of completed months of his residence in Nigeria during the year preceding the year of assessment bears to one year.

Rate of tax upon individuals.

22. There shall be levied and paid upon the chargeable income of every person, other than a company, whose chargeable income exceeds £200 tax at the rate set forth in the First Schedule.

First Schedule.

Rate of tax upon companies.

23. There shall be levied and paid upon the chargeable income of every company tax at the rate of two shillings and sixpence on every pound of the chargeable income thereof.

Deduction of tax from dividends of companies.

24. (1) Every company which is registered in Nigeria shall be entitled to deduct from the amount of any dividend paid to any shareholder tax at the rate paid or payable by the company (as reduced by any relief granted under sections 48 and 49) on the income out of which such dividend is paid:

Trinidad 1/1931. Sec. 8.

Proviso.

Provided that where tax is not paid or payable by the company on the whole income out of which the dividend is paid the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company.

(2) Every such company shall upon payment of a dividend whether tax is deducted therefrom or not furnish each shareholder with a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend.

Shareholder's relief from double taxation.

25. Any tax which a company has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder, and any tax applicable to the share to which any person is entitled in the income of a body of persons assessed under this Ordinance, shall, when such dividend or share is included in the chargeable income of such shareholder or person, be set off for the purposes of collection against the tax charged on that chargeable income.

Temporary residents.

26. Tax shall not be payable in respect of any income arising out of Nigeria and received therein by any person who is in Nigeria for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Nigeria at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

Trustees, Agents, and other Representatives.

Chargeability of trustees and other representations.

27. A receiver appointed by the court, trustee, guardian, curator, or committee, having the direction, control, or management of any property or concern on behalf of any incapacitated person shall be chargeable to tax in like manner and to the like amount as such person would be chargeable if he were not an incapacitated person.

Chargeability of agent of person residing out of Nigeria.

28. (1) (*a*) A person not resident in Nigeria (hereinafter in this section referred to as a non-resident person), whether a British subject or not, shall be assessable and chargeable in the name of his trustee, guardian, or committee, or of any attorney, factor, agent, receiver, branch, or manager, whether such attorney, factor, agent, receiver, branch, or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in Nigeria and in the actual receipt of such income:

Proviso.

Provided that in the case of any individual who is not resident in Nigeria, and who is not a British subject, no deduction shall be allowed in respect of wife or child or in respect of life insurance.

(*b*) A non-resident person shall be assessable and chargeable in respect of any income arising, whether directly or indirectly, through or from any attorneyship, factorship, agency, receivership, branch, or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent, receiver, branch, or manager.

(2) Where a non-resident person, not being a British subject or a firm or company whose principal place of business is situated in His Majesty's Dominions or in territory under His Majesty's protection, or a branch thereof, carries on business with a resident person and it appears to the Commissioner that owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person the course of business between those persons can be so arranged and is so arranged, that the business done by the resident person in pursuance of his connection with

the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where it appears to the Commissioner by whom the assessment is made, or to the judge by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained, the Commissioner or judge may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provision of this Ordinance relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged:

Proviso.

Provided that the amount of the percentage shall in each case be determined, having regard to the nature of the business and shall, when determined by the Commissioner, be subject to an appeal to the Supreme Court as provided by section 46.

(4) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent or agent is not an authorised person carrying on the regular agency of the

non-resident person, or a person chargeable as if he were an agent in pursuance of sub-sections (2) and (3), in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(5) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of sub-sections (2) and (3) in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.

(6) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of Nigeria by the non-resident person, the person in whose name the non-resident person is so chargeable may, if he thinks fit, apply to the Commissioner or, in the case of an appeal, to the judge, to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner or the court of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

Acts to be done by trustees and certain others.

29. The person who is chargeable in respect of an incapacitated person, or in whose name a non-resident is chargeable, shall be answerable for all matters required to be done by virtue of this Ordinance for the assessment of the income of any person for whom he acts and for paying the tax chargeable thereon.

Lists to be prepared by representative or agent.

30. Every person who in whatever capacity is in receipt of any money or value being income arising from any of the sources mentioned in this Ordinance of or belonging to any other person who is chargeable in respect thereof, or who would be so chargeable if he were resident in Nigeria and not an incapacitated person shall, whenever required to do so by any notice from the Commissioner, prepare and deliver within the period mentioned in such notice a list in the prescribed form, signed by him, containing:—

(*a*) a true and correct statement of all such income;

(*b*) the name and address of every person to whom the same shall belong,

and the provisions of this Ordinance with respect to the failure to deliver lists or particulars in accordance with a notice from the Commissioner shall apply to any such list.

Manager of corporate bodies of persons.

31. The manager or other principal officer in Nigeria of every corporate body of persons shall be answerable for doing all such acts, matters and things as are required to be done by virtue of this Ordinance for the assessment of such body and payment of the tax.

Indemnification of representative.

32. Every person answerable under this Ordinance for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax; and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Ordinance.

Deceased persons.

33. When any person dies during the year of assessment and such person would but for his death have been chargeable to tax for the year of assessment or when any person dies during the year of assessment or within

two years after the expiration thereof and no assessment has been made upon him for that year the personal representative of such person shall be liable to and charged with the payment of the tax with which such person would have been chargeable, and shall be answerable for doing all such acts, matters and things as such person if he were alive would be liable to do under this Ordinance:

Proviso.

Provided that in the case of a person dying during the year preceding the year of assessment if his personal representative distributes the estate before the commencement of the year of assessment such personal representative shall pay the tax at the rate or rates in force at the date of distribution of the estate, if the rate of tax for the year of assessment has not been varied at that date.

Dissolved companies.

34. Where a company is dissolved during the year of assessment and such company would but for its dissolution have been chargeable to tax for the year of assessment or when any company is dissolved during the year of assessment or within two years after the expiration thereof and no assessment has been made upon the company for that year the person representing such company shall be liable to and charged with the payment of the tax with which such company should have been chargeable, and shall be answerable for doing all such acts, matters and things as the manager or other principal officer in Nigeria of such company, if such company had not been dissolved, would be liable to do under this Ordinance:

Proviso.

Provided that in the case of a company dissolved during the year preceding the year of assessment if the person representing such company distributes the assets of such company before the commencement of the year of assessment such person shall pay the tax

34. is new and follows from 33.

at the rate or rates in force at the date of the distribution of the assets of the company, if the rate of tax for the year of assessment has not been varied by that date.

Deduction of and accounting for tax on mortgage and debenture interest.

35. (1) Where any person pays mortgage or debenture interest to a person not resident in Nigeria and is entitled to deduct such interest under section 10 (*i*) (*a*), he shall upon paying the interest deduct therefrom tax at the rate of two shillings and sixpence on every one pound of such interest, and shall forthwith render an account to the Commissioner of the amount so deducted and every such amount shall be a debt from him to the Government and shall be recoverable as such.

(2) In the case of a company the account aforesaid shall be rendered by the manager or other principal officer of the company.

(3) Any person who fails or neglects to render an account due under this section, shall be guilty of an offence against this Ordinance.

General Powers of Commissioner.

Notices of chargeability and returns.

36. (1) It shall be the duty of every person chargeable with tax to give notice to the Commissioner within three months after the commencement of any year of assessment that he is so chargeable.

(2) The Commissioner may by notice in writing require any person to furnish him within a reasonable time with a return of income and such particulars as may be required for the purposes of this Ordinance with respect to the income for which such person is chargeable.

(3) Any person who fails or neglects to give such notice of chargeability or to furnish such return or particulars shall be guilty of an offence against this Ordinance.

Official information and official secrecy.

37. (1) The Commissioner may require any officer in the employment of the Government or any local authority or other public body to supply such particulars as may be required for the purposes of this Ordinance and which may be in the possession of such officer:

Proviso.

Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

(2) Every employer when required to do so by notice from the Commissioner shall, within the time limited by the notice, prepare and deliver for any year a return containing:—

(*a*) the names and places of residence of all persons employed by him; and

(*b*) the payments and allowances made to those persons in respect of that employment,

and the provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any such return.

(3) Where the employer is a body of persons the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

Partnerships.

38. Where a trade, business, profession or vocation is carried on by two or more persons jointly:—

(1) The income of any partner from the partnership shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership

(such income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return of income to be made by such partner under the provisions of this Ordinance.

(2) (*a*) The precedent partner, that is to say, the partner who of the partners resident in Nigeria—

(*i*) is first named in the agreement of partnership; or

(*ii*) if there be no agreement is named singly or with precedence to the other partners in the usual name of the firm; or

(*iii*) is the precedent acting partner if the partner named with precedence is not an acting partner;

shall, when required by the Commissioner, make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Ordinance, and declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year.

(*b*) Where no partner is resident in Nigeria, the return shall be made and delivered by the attorney, agent, manager or factor of the firm resident in Nigeria.

(*c*) The provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any return required under this section.

Signature of notices.

39. (1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time authorised by him for that purpose under section 3, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon:

Proviso.

Provided that any notice in writing under this Ordinance to any person to furnish particulars to the Commissioner, or any notice under this Ordinance requiring the attendance of any person or witness before the Commissioner, shall be personally signed by the Commissioner or by any person duly authorised by him.

(2) A signature attached to any notice and purporting to be the signature of any person so authorised shall be taken to be the signature of that person until the contrary be shown.

Services of notices.

40. (1) Notice may be served on any company or individual by registered post in addition to any other manner permitted by law and shall be deemed to have been served on the day succeeding the day on which the notice would have been received in the ordinary course by post if the notice is addressed:—

(*a*) in the case of a company incorporated in Nigeria, to the registered office of the company, and

(*b*) in the case of a company incorporated outside Nigeria, to the individual authorised to accept service of process under the Companies Ordinance at the address filed with the Registrar of Companies, and

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(*c*) in the case of an individual, to the last known business or private address of such individual,

Ord. 14/1939 Sec. 25.

and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

Colony Tanganyika ordn. 4/1937 Sec. 30(2).

(2) Where the person to whom there has been addressed a registered letter containing a statement of the amount at which he has been assessed for tax is informed of the fact that there is a registered letter awaiting him at a post office and such person refuses or neglects to take delivery of such registered letter he shall be deemed to have had notice of the amount of the tax at which he has been assessed on the date on which he was informed that there was a registered letter awaiting him at a post office.

Assessments.

Commissioner to make assessments.

41. (1) The Commissioner shall proceed to assess every person chargeable with the tax as soon as may be after the expiration of the time allowed to such person for the delivery of the return provided for in section 36.

(2) Where a person has delivered a return the Commissioner may—

(*a*) accept the return and make an assessment accordingly; or

(*b*) refuse to accept the return and, to the best of his judgment, determine the amount of the chargeable income of the person and make an assessment accordingly.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax, he may, according to the best of his judgment, determine the amount of the chargeable income of such person and make an assessment accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

Additional assessments.

42. Where it appears to the Commissioner that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within two years after the expiration thereof, assess such person at such amount or additional amount, as according to his judgment ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

Lists of persons assessed and notices of assessment.

43. (1) The Commissioner shall as soon as possible prepare lists of persons assessed to tax.

(2) Such lists (herein called the assessment lists) shall contain the names and the addresses of the persons assessed to tax, the amount of the chargeable income of each person, the amount of tax payable by him, and such other particulars as may be prescribed.

Appointment of agents in the United Kingdom.

44. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Governor may appoint agents in the United Kingdom any one of whom shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Ordinance and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner on receipt of the report shall enter the amount reported in the assessment list:

Provided that:—

(*a*) if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration;

(*b*) nothing in this section shall affect the right of appeal conferred by section 46.

Service of notice of assessment.

45. (1) The Commissioner shall cause to be served personally on or sent by registered post to each person whose name appears on the assessment lists a notice addressed to him at his usual place of abode or business, stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under the next sub-section.

Revision of assessment in case of objection.

(2) If any person disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within forty-two days from the date of the service of the notice of assessment:

Proviso.

Provided that the Commissioner, upon being satisfied that owing to absence from Nigeria, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in sub-section (2), the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or

under his control relating to such income, and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and may examine such person (except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such person:

Proviso.

Provided that in the event of any person who, under sub-section (2), has applied to the Commissioner for a revision of the assessment made upon him failing to agree with the Commissioner as to the amount at which he is liable to be assessed his right of appeal under the provisions of this Ordinance, against the assessment made upon him, shall remain unimpaired.

Appeals against assessments.

46. (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (4) of the preceding section may appeal against the assessment to the Supreme Court upon giving notice in writing to the Commissioner within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired:

Proviso.

Provided that, notwithstanding the lapse of such period of fifteen days, any person may appeal against the said assessment if he shows to the satisfaction of a judge that, owing to absence from Nigeria, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(2) Every person appealing shall attend before the court in person on the day and at the time fixed for the hearing of his appeal:

Provided always that if it be proved to the satisfaction of the judge that owing to absence from Nigeria, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the judge may postpone the hearing of the appeal for such reasonable time as he thinks necessary for the attendance of the appellant, or he may admit the appeal to be made by any agent, clerk or servant of the appellant, on his behalf.

(3) Seven clear days' notice shall, unless rules made hereunder otherwise provide, be given to the Commissioner of the date fixed for the hearing of the appeal.

(4) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(5) If the judge is satisfied that the appellant is overcharged he may reduce the amount of the assessment by the amount of the overcharge, and if he is satisfied that the appellant is undercharged he may increase the amount of the assessment by the amount of the undercharge.

(6) Notice of the amount of tax payable under the assessment as determined by the judge shall be served by the Commissioner upon the appellant.

(7) Notwithstanding anything contained in section 53 if in any particular case the judge, from information given at the hearing of the appeal, is of the opinion that the tax may not be recovered he may on application being made by or on behalf of the Commissioner require the appellant to furnish within such time as may be

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specified security for payment of the tax and if such security is not given within the time specified the tax assessed shall become payable and recoverable forthwith.

(8) All appeals shall be heard *in camera*, unless the judge shall, on the application of the appellant, otherwise direct.

(9) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the judge.

(10) The decision of the judge hearing the appeal shall be final:

Provided that the judge hearing such appeal may, if he so desires, and shall, on the application of the appellant or the Commissioner, state a case on a question of law. Proviso.

(11) The Chief Justice may make rules providing for the method of tendering evidence before a judge on appeal, the conduct of such appeals and the procedure to be followed by a judge upon stating a case and the procedure upon the hearing of the case stated.

Errors in assessments and notices.

47. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Ordinance shall be quashed, or deemed to be void or voidable, for want of form, or be affected by the reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance or any Ordinance amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected:—

(*a*) by reason of a mistake therein as to—

(*i*) the name or surname of a person liable; or

(*ii*) the description of any income; or

(*iii*) the amount of tax charged;

(*b*) by reason of any variance between the assessment and the notice thereof:

Proviso.

Provided that in cases of assessment the notice thereof shall be duly served on the person intended to be charged and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Relief in Cases of Double Taxation.

Relief in respect of United Kingdom income tax.

48. (1) Any person who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income and who proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, income tax in the United Kingdom for that year in respect of the same part of his income, shall be entitled to relief from tax under this Ordinance paid or payable by him on that part of his income at a rate equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds half the appropriate rate of United Kingdom income tax. If, however, the rate of tax appropriate to his case under this Ordinance exceeds the appropriate rate of United Kingdom income tax he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom income tax.

(2) For the purposes of this section a certificate issued by or on behalf of the Commissioners of Inland Revenue in the United Kingdom shall be receivable in evidence to show what is the appropriate rate of United Kingdom income tax in any particular case.

(3) For the purposes of this section:—

Definition of "rate of tax."

"rate of tax" when applied to tax paid or payable under this Ordinance means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of the relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Ordinance has been charged for that year except that where the income which is the subject of a claim to relief under this section is computed by reference to the provisions of section 28 on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

Relief in respect of Empire income tax.

49. (1) If any person resident in Nigeria who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Empire income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in Nigeria paid or payable by him on that part of his income at a rate thereon to be determined as follows:—

(*a*) if the Empire rate of tax does not exceed one-half of the rate of tax appropriate to his case under this Ordinance in Nigeria the rate at which relief is to be given shall be the Empire rate of tax;

(*b*) in any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Ordinance.

(2) If any person not resident in Nigeria who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay Empire income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Ordinance on that part of his income at a rate thereon to be determined as follows :—

(*a*) if the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax;

(*b*) if the Empire rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds one-half of the Empire rate of tax.

(3) For the purposes of this section :—

Definition of "Empire income tax"

"Empire income tax" means any income tax charged under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's protection (other than the United Kingdom or Nigeria):

Proviso

Provided that the legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and Nigeria in a manner similar to that provided in this section.

(4) For the purposes of this section the rate of tax under this Ordinance shall be computed in the manner provided by sub-section (3) of the last preceding section and the Empire rate of tax shall be computed in a similar manner.

(5) Where a person is for any year of assessment resident both in Nigeria and in a part or place in which Empire income tax is charged, he shall for the purposes of this section be deemed to be resident where during that year he resides for the longer period.

Time limit of relief claims.

50. A claim for relief under section 48 or section 49 shall be made within two years from the end of the year of assessment to which it relates:

Proviso.

Provided that such a claim, though not made within the said period of two years, shall be admitted if made within six years from the end of the said year and within six months from the date upon which the relevant amount of United Kingdom income tax or of Empire income tax, as the case may be, has been ascertained.

Disclosure of information to authorised officers.

51. Where, under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's protection, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Nigeria, the obligation as to secrecy imposed by section 4 of this Ordinance shall not prevent the disclosure to the authorised officers of the Government in that part of His Majesty's Dominions or in that place under His Majesty's protection of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in Nigeria or from income tax in that part or place aforesaid.

Collection and repayment of tax.

Procedure in cases where objection or appeal is pending.

52. Collection of tax shall in cases where notice of an objection or an appeal has been given remain in abeyance until such objection or appeal is determined:

Proviso.

Provided that the Commissioner may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

Time within which payment is to be made.

53. Tax shall be payable in two equal instalments the first of which shall be payable within forty-two days after the service of notice of assessment under section 45 and the second instalment shall be payable within six months after the service of such notice:

Provided that:—

(*a*) regulations may be made under paragraph (*b*) of sub-section (1) of section 65 for deductions of tax at the source in respect of emoluments and pensions paid out of the revenue of Nigeria;

(*b*) if the first instalment due from any person is not paid by him within the prescribed period the whole amount of the tax with which such person has been assessed shall become payable forthwith and subject to the provisions of section 55 the Commissioner may proceed to enforce payment thereof as hereafter provided;

(*c*) when any person dies after having paid the first instalment and before the second instalment is due the amount of the latter shall be recoverable from the personal representative of the deceased person.

Payment of tax in special cases.

54. (1) If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave Nigeria before such tax becomes payable without having paid such tax, he may

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by notice in writing to such person demand payment of such tax within the time to be limited in such notice. Such tax shall thereupon be payable at the expiration of the time so limited and shall in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith.

(2) If in any particular case the Commissioner has reason to believe that tax upon any chargeable income may not be recovered, he may at any time and as the case may require:—

(*a*) forthwith by notice in writing require any person to make a return and to furnish particulars of any such income within the time to be specified in such notice;

(*b*) make an assessment upon such person in the amount of the income returned, or if default is made in making such return or if the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable;

(*c*) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to the Commissioner's satisfaction.

(3) If in any particular case the Commissioner has reason to believe that tax upon any income chargeable to such tax may not be recovered, he may at any time:—

(*a*) by notice in writing to the person by whom the tax would be payable determine a period for which tax shall be charged and require such person to render within the time specified therein returns and particulars of such income for that period;

(*b*) make an assessment upon such person in the amount of the income returned, or if default is made in making a return or if the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable.

(4) Notice of assessment made in accordance with the provisions of sub-sections (2) and (3) shall be given to the person assessed, and any tax so charged shall be payable on demand made in writing under the hand of the Commissioner, and shall in default of payment, unless security for the payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith.

(5) Any person who has paid the tax in accordance with a demand made by the Commissioner or who has given security for such payment under this section shall have the right of objection and appeal conferred by sections 45 and 46, and any amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

(6) The provisions of this section shall not affect the powers conferred upon the Commissioner by section 42.

Penalty for non-payment of tax; and enforcement of payment.

55. (1) If any tax is not paid within the periods prescribed in section 53:—

(*a*) a sum equal to five *per centum* of the amount of the tax payable shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such sum;

(*b*) the Commissioner shall serve a demand note upon the person assessed, and if payment is not made within one month from the date of the

service of such demand note, the Commissioner may proceed to enforce payment as hereafter provided.

(2) Any individual who without lawful justification or excuse, the proof whereof shall lie on the individual charged, fails to pay the tax within the period of one month prescribed in sub-section 1 (*b*), shall be guilty of an offence against this Ordinance.

Colony Taxation Ord. 4/1937 Sect. 30(1).

Collection of tax after determination of objection or appeal.

56. Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on such objection or appeal as the case may be shall be payable within one month from the receipt by the person assessed of the notification of the tax payable, and if such tax is not paid within such period the provisions of the last preceding section shall apply.

Suit for tax by Commissioner.

57. Tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner in his official name with full costs of suit from the person charged therewith.

Repayment of tax.

58. (1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded. Every claim for repayment under this section shall be made within two years from the end of the year of assessment to which the claim relates. The Commissioner shall give a certificate of the amount to be repaid and upon the receipt of the certificate the Accountant-General shall cause repayment to be made in conformity therewith.

(2) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of assessment as regards which that person has failed or neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return, provided that the person has received notice of the assessment made upon him for that year.

(3) The provisions of sub-section (2) shall not apply if it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

General.

Penalties for offences.

59. Any person guilty of an offence against this Ordinance shall be liable on summary conviction to a fine of one hundred pounds and in default of payment to imprisonment for six months.

False statements and returns.

60. (1) Any person who, for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representations and,

(2) Any person who aids, abets, assists, counsels, incites or induces another person:—

(*a*) to make or deliver any false returns or statement under this Ordinance;

(*b*) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Ordinance;

(*c*) unlawfully to refuse or neglect to pay tax; or

(*d*) forges or fraudulently alters or uses or fraudulently lends or allows to be used by any other person any receipt or token evidencing payment of the tax under this Ordinance,

shall be guilty of an offence against this Ordinance.

Penalties for offences by authorised and unauthorised persons.

61. Any person who:—

(1) being a person appointed for the due administration of this Ordinance or any assistant employed in connection with the assessment and collection of the tax who—

(*a*) demands from any person an amount in excess of the authorised assessment of the tax;

(*b*) withholds for his own use or otherwise any portion of the amount of tax collected;

(*c*) renders a false return, whether verbal or in writing, of the amounts of tax collected or received by him;

(*d*) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully either with the Commissioner or any other individual; or

(2) not being authorised under this Ordinance to do so, shall collect or attempt to collect the tax under this Ordinance,

shall be guilty of a felony and liable on conviction to a fine of three hundred pounds or to imprisonment for three years or both.

Ord. No. 4/1937 Sec. 28.

Saving for criminal proceedings.

62. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law.

Remission of tax.

ord. 4/1937 Sec. 26.

63. (1) The Commissioner may remit, wholly or in part, the tax payable by any person on the ground of poverty and may also for like reason refund the tax or any part thereof.

(2) The Governor in Council may remit, wholly or in part, the tax payable by any person if he is satisfied that it will be just and equitable to do so.

Power to alter rate of tax by Resolution and Order.

First Schedule.

64. The Legislative Council, by Resolution, in so far as such resolution relates to the Colony and to the Southern Provinces, and the Governor, by order, in so far as such order relates to the Northern Provinces, may add to, vary or revoke the whole or any part of the First Schedule and substitute a new schedule therefor.

Regulations.

65. (1) The Governor in Council may from time to time make rules generally for carrying out the provisions of this Ordinance and may, in particular, by those rules provide:—

(*a*) for the form of returns, claims, statements and notices under this Ordinance;

(*b*) for the deduction and payment of tax at the source in respect of emoluments and pensions payable out of the revenue of Nigeria;

(*c*) any such matters as are authorised by this Ordinance to be prescribed.

(2) Rules made under paragraph (*b*) of the preceding sub-section may provide:—

(*a*) for the recovery of the tax by monthly deductions, such deductions being in equal amounts spread over the full period of a year or varying amounts for such lesser periods as may be provided therein either generally or in any particular case;

(*b*) for the recovery out of any monies in the hands of the Government due to any officer or pensioner of the amount of tax not yet recovered by instalments where the Commissioner on information received believes that such person is about to leave Nigeria and not return;

(*c*) for the recovery of the amount of the tax subject to such general or special exemptions as may be provided therein out of any gratuity payable by Government in respect of the service or death of a public officer.

(3) If any person fails to comply with or contravenes the provisions of any rule made under this Ordinance he shall be guilty of an offence against this Ordinance.

Repeal. Second Schedule.

66. The Ordinances set out in the Second Schedule are hereby wholly repealed.

FIRST SCHEDULE.

(SECTION 22.)

Chargeable Income.		Rate of Tax.		
		£	s.	d.
For the first	£200	2	10	0
For every pound of the next	£200	0	0	6
,, ,, ,, ,, ,, ,,	£200	0	0	9
,, ,, ,, ,, ,, ,,	£200	0	1	0
,, ,, ,, ,, ,, ,,	£200	0	1	3
,, ,, ,, ,, ,, ,,	£400	0	1	6
,, ,, ,, ,, ,, ,,	£600	0	1	9
,, ,, ,, ,, ,, ,,	£1,000	0	2	0
,, ,, ,, ,, ,, ,,	£2,000	0	2	6
,, ,, ,, ,, ,, ,,	£5,000	0	5	0
For every pound exceeding	£10,000	0	10	0

(Chairman)

DATE:

SECOND SCHEDULE.

(SECTION 66.)

No. and Year.	Short Title.
No. 21 of 1931	The Non-Natives Income Tax Protectorate Ordinance, 1931.
No. 32 of 1933	The Non-Natives Income Tax Protectorate (Amendment) Ordinance, 1933.
No. 7 of 1936	The Non-Natives Income Tax Protectorate (Amendment) Ordinance, 1936.
No. 3 of 1939	The Non-Natives Income Tax Protectorate (Amendment) Ordinance, 1939.
No. 18 of 1939	The Non-Natives Income Tax Protectorate (Amendment) (No. 2) Ordinance, 1939.
No. 29 of 1939	The Non-Natives Income Tax Protectorate (Amendment) (No. 3) Ordinance, 1939.
No. 4 of 1937	The Colony Taxation Ordinance, 1937.
No. 23 of 1938	The Colony Taxation (Amendment) Ordinance, 1938.
No. 30 of 1938	The Colony Taxation (Amendment No. 2) Ordinance, 1938.
No. 2 of 1939	The Colony Taxation (Amendment) Ordinance, 1939.
No. 17 of 1939	The Colony Taxation (Amendment No. 2) Ordinance, 1939.
No. 14 of 1939	The Companies Income Tax Ordinance, 1939.
No. 28 of 1939	The Income Tax (Supplementary) Ordinance, 1939.

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Objects and Reasons.

The enactment of the Companies Income Tax Ordinance, 1939, and of the Income Tax (Supplementary) Ordinance, 1939, revealed the necessity for the several income tax ordinances to be consolidated into one comprehensive Ordinance, both for convenience of reference and facility of administration. A recommendation to this effect was made by the Select Committee of the Legislative Council appointed to consider the introduction of Companies Income Tax. Furthermore, the rate of the tax having been raised above what had hitherto been little more than a nominal rate, it is now desirable to introduce as early as possible provisions for statutory allowances from chargeable income in respect of wives, children and insurance premiums.

2. This Bill, which is based upon the model ordinance approved for adoption throughout the British Colonial Empire, consolidates the provisions of the following Ordinances:—

The Non-Natives Income Tax (Protectorate) Ordinance	No. 21 of 1931
The Colony Taxation Ordinance	No. 4 of 1937
The Companies Income Tax Ordinance ...	No. 14 of 1939
The Income Tax (Supplementary) Ordinance	No. 28 of 1939,

all of which will be repealed with its enactment.

3. The Bill provides for deductions of £200 from chargeable income in respect of a wife and of £100 for each child up to a total family allowance of £500 for each taxpayer. The introduction of this principle in income taxation, although new to Nigeria is a well-established practice in the United Kingdom and elsewhere in the Empire, made it impracticable, because of the different standards in the matter of marriage according to native law and custom, and of the practice of polygamy, to include individual natives resident in Nigeria within the application of the Bill, which therefore applies only to non-natives, to non-resident natives and to companies.

4. Deductions from chargeable income in respect of insurance premiums, and of contributions to approved widows' and orphans' pensions schemes are also introduced for the first time in Nigeria by the Bill.

5. The rate of tax imposed is according to a graduated scale, calculated generally on the basis of the existing rate of income tax plus surtax so far as lower and medium incomes are concerned, but graded upward to compensate in part for the allowances for wives and children, and steeply upgraded on higher incomes. The result of the application of the scale to medium incomes will be that married men with children will pay less and bachelors will pay more than the existing rate plus surtax.

6. Another new feature introduced is the minimum rate of tax of £2 10s. on all non-natives resident in Nigeria, a measure which is intended to facilitate the assessment of lower incomes, to limit the effect of family and other deductions from chargeable income, and to ensure that all resident foreigners shall make what is considered an adequate minimum contribution to the revenue.

Section 63(2)

7. The Bill provides for the payment of taxation by two equal instalments within a period of six months from the date of service of notice of assessment, and taxpayers can thus be assured that they will not be faced with sudden large demands on their financial resources, and that having regard to the period necessarily occupied in calling for particulars of income prior to assessment the result will be a spreading of the burden over the greater part of each financial year.

8. The position as regards income tax on non-resident persons is changed by clause 19, whereby non-resident British subjects only can claim family and insurance deductions and any such allowance made shall not serve to reduce the tax payable below a certain amount determined according to the proportion which the income from Nigerian sources bears to the individual's total income from all sources. This follows a long established practice in the United Kingdom.

9. Other new provisions include the taxation of incapacitated persons through trustees, the addition of a wife's income to that of her husband for purposes of taxation, powers to impose and collect tax in special cases in emergency, power to amend the schedule of rate of tax by Resolution and Order in Council and power to the Governor in Council to remit tax.

10. So far as Companies are concerned the Bill introduces only a new measure of importance not included in the Companies Income Tax Ordinance, 1939, namely the provision for payment by instalments in clause 53.

11. The exclusion of natives resident in Nigeria from the application of the Bill, and the repeal of the Colony Taxation Ordinance, 1937, render it necessary to make provisions elsewhere for the taxation of natives resident in the township of Lagos and this is being done within the scope of a new Bill entitled the Native Direct Taxation Ordinance which will be presented for enactment at the same time that this Bill is presented, and the objects and reasons of that Bill, together with its full terms are being published separately.

H. C. F. COX,
Attorney-General.

Attorney-General's Chambers,
Lagos, Nigeria.
15th February, 1940.

Printed and Published by the Government Printer, Lagos. 455/40

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New provisions shewn :-

A BILL ENTITLED

AN ORDINANCE TO REGULATE THE LEVYING AND COLLECTION OF DIRECT TAXES FROM NATIVES IN NIGERIA. Title.

[, *1940.*] Date of commencement.

BE IT ENACTED by the Governor of Nigeria, with the advice and consent of the Legislative Council so far as the provisions hereof relate to the Colony and to the Southern Provinces, as follows:— Enactment.

Short title and commencement.

1. This Ordinance may be cited as the Native Direct Taxation Ordinance, 1940, and shall come into force on the 1st day of April, 1940.

PART I.

Interpretation.

Definitions.

2. (1) Definitions:—

"community".

"community" means any group of individuals residing, carrying on business or being within any town, village or settlement or in any locality therein and includes a band of nomad herdsmen;

"district headman."

"district headman" means a person appointed to be a district headman by a native authority;

"Resident."

"Resident" means the officer appointed by the Governor to be in administrative charge of the particular province in question and includes any other administrative officer authorised by the Resident to perform any duties imposed upon the Resident by this Ordinance;

"tax", "the tax."

"tax", "the tax" means the tax payable under this Ordinance;

"year of assessment".

"year of assessment" means the period of twelve months commencing on the 1st of April, 1940, and each subsequent period of twelve months.

(2) References to a province shall be deemed in respect of the Colony to be references to the Colony and the powers conferred and the duties imposed on a resident under this Ordinance in respect of a province shall in the Colony be exercised and performed by the Commissioner of the Colony in respect of the Colony.

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PART II.

Application of Part II.

3. This Part applies to persons who are assessed for tax on profits or gains not exceeding £200 per annum and to communities.

Taxes may be levied.

4. There shall be levied and paid in each province in manner hereinafter provided, such sums as, in accordance with the provisions of this Ordinance, the Resident with the approval of the Governor, shall fix and assess as tax payable in respect of any year of assessment by any native community or any native residing, carrying on any business or being therein.

Estimate of annual profits for assessment purposes.

5. (1) In making an assessment, the Resident, acting as far as circumstances may permit in accordance with native custom and tradition, shall first estimate or compute:—

(*a*) the amount of the annual profits or gains derived from the lands and rentals thereof and the amount of the annual profits of the produce thereof used, occupied or enjoyed within the province by any native community or individual native taxable under this Ordinance;

(*b*) the amount of the annual profits or gains from any trade, manufacture, office or employment within the province in which any native community or individual native taxable under this Ordinance may be engaged;

(*c*) the value of all livestock owned by each individual or by each community within the province.

(2) The Resident may appoint a committee to inquire into the annual profits, gains or value required to be estimated or computed by sub-section (1) and may accept, alter or amend any estimate or computation made by the committee and may base an assessment of tax thereon.

Valuation of lands and produce.

6. The annual profits, gains or value referred to in section 5 shall be deemed to be those which can be annually obtained from such lands by a native cultivating and using the same in the manner and up to the average standard of cultivation and use prevailing in the neighbourhood.

Assessment.

7. (1) The assessment of the tax under this Part shall be based upon the estimate of computation arrived at in accordance with the provisions of section 5 and the amount of tax payable by any native community or individual native in any province shall, subject to the approval of the Governor, be fixed by the Resident thereof in accordance as far as circumstances will permit, with native custom and tradition.

Proviso.

Provided that where no estimate or computation has been made under section 4 in the year of assessment the Resident may base the assessment of the tax to be paid by any native community for that year upon the most recent estimate or computation of the profits, gains or value of that community made under section 4 in any year previous to the year of assessment and may take into consideration any increase or decrease of population in such community which may in his opinion justify an increase or decrease in the amount of the assessment.

(2) The Governor may alter or amend such assessment in such manner as may appear to him to be just or expedient.

Assessment of individuals, specified classes and communities.

8. Notwithstanding anything contained in sections 5, 6 and 7 the Resident, with the approval of the Governor, in lieu of making an assessment as therein provided may:—

(*a*) assess the tax payable in respect of any year of assessment by each of the individuals of any specified class or community of natives in the province or any part thereof at such sums as he may specify, or

(*b*) where the profits or gains of any person received during the year immediately preceding the year of assessment, in the opinion of the Resident, exceed an amount of £200, assess the tax payable in respect of such profits or gains in accordance with the provisions of Part III.

Cattle tax.

9. In addition to or in lieu of any assessment of any individual native or native community made under sections 5, 6 and 7 or under paragraph (*a*) of section 8 the Resident may cause a count to be made of all cattle in the possession of any such individual native or of each of the individuals of any specified class or community of natives, who shall on demand pay tax at such rate as the Governor may prescribe on each head of cattle in the possession of such individual:

Proviso.

Provided that no person shall be assessed under this section in respect of cattle the value of which has been taken into account in an estimate made under paragraph (*c*) of sub-section (1) of section 5.

Assessments to be notified.

10. When an assessment by the Resident under this Part shall have been approved by the Governor, the Resident, in such manner as he may think fit, shall publicly make known to each community and to all persons concerned the amount at which such community or persons have been assessed for tax, and the date on or before which such tax shall be paid.

Assessment of tax payable by members of a community.

11. Where any native community is assessed for tax, the native authority, or, by direction of the native authority, a tax collector, acting in co-operation with the village councils or such other persons as the native

authority, or the tax collector, may think fit to consult, shall fix and apportion such amount of the total sum as may be just and equitable for each member of the community to pay having regard to his wealth.

Appeal.

12. (1) Any person assessed for tax under this Part who objects to the amount of his assessment or denies that he is chargeable with tax under this Ordinance may appeal to the Resident who may vary, cancel or confirm the assessment:

Proviso.

Provided that the Resident may direct that in any specified area appeals under this section shall first be heard and determined:—

(*a*) by the district headman or the subordinate or other native authority within whose jurisdiction the appellant resides, or

(*b*) by such district headman or subordinate native authority and subsequently, if the appellant is dissatisfied with the determination of the district headman or the subordinate native authority, as the case may be, by the native authority to which the district headman or subordinate native authority is subordinate,

before an appeal shall lie to the Resident.

(2) Any district headman or native authority to whom an appeal is presented in accordance with directions issued under the proviso to sub-section (1) may vary, cancel or confirm the assessment against which the appeal is made:

Proviso.

Provided that when a district headman, or a subordinate native authority or a native authority has varied, cancelled or confirmed any assessment against which the appeal is made the Resident may on his own motion, if he thinks fit, further vary, or cancel or confirm any such assessment.

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Governor may limit application of this Part.

13. The Governor may exempt:—

(*a*) any individual, class of persons or area from the operation of this Part, or

(*b*) the profits or gains from, or the value of, any particular property in any specified area from the operation of section 5

either for a specified or unspecified period as he may think fit.

Part III.

Application of Part III.

14. This Part applies to individuals who are assessed for tax on profits or gains exceeding £200 per annum.

Person assessed under this Part to supply information.

15. Where the Resident is of opinion that a person charged to tax under this Ordinance was, during the year preceding the year of assessment, in receipt of profits or gains in excess of £200 such person shall supply the Resident with all such information as may be required by the Resident or by regulations made under this Ordinance.

Charge of tax on profits or gains.

16. The tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for the year of assessment commencing on the 1st day of April, 1940, and for each subsequent year of assessment upon the profits or gains of any person accruing in, derived from, or received in Nigeria in respect of:—

(*a*) profits or gains from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised;

(*b*) profits or gains from any employment;

(*c*) the annual value of land and improvements thereon used by or on behalf of the owner for the

purpose of residence or enjoyment, and not for the purpose of profit or gain, such annual value being deemed to be five *per centum* of the capital value of such land and improvements;

(*d*) dividends, interest or discounts;

(*e*) any pension, charge or annuity;

(*f*) rents, royalties, premiums and any other profits arising from property.

Basis of assessment.

17. Tax shall be charged, levied and collected for the year of assessment upon the profits or gains of any person for the year immediately preceding the year of assessment.

Exemptions.

18. There shall be exempted from the tax :—

(*a*) wound and disability pensions granted to members of His Majesty's Forces; and

(*b*) such other profits or gains as may be prescribed by regulations.

Deductions allowed in respect of outgoings and expenses.

19. Where a person is being assessed under this Part the following deductions from his profits or gains may be allowed :—

(*a*) all outgoings and expenses wholly or exclusively incurred during the year preceding the year of assessment by such individual in the production of the profits or gains as set out in sections 10, 11 and 13 of the Income Tax Ordinance, 1940; and

No. of 1940.

(*b*) the annual amount of premium paid by such person for insurance on his life with any insurance company:

Provided :—

(*i*) that in the case of any person securing a capital sum on death (whether in conjunction with any other benefit or not) the amount of the deductions shall not exceed seven *per centum* of that capital sum exclusive of any additional benefit by way of bonus or otherwise;

(*ii*) that no such deduction shall be allowed in respect of any such annual amount of premium beyond an amount equal to one-sixth part of the profits or gains of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this section.

Deductions allowed in respect of company tax.

20. Any tax which a company has deducted or is entitled to deduct under section 24 of the Income Tax Ordinance, 1940, from a dividend paid to a shareholder and any tax applicable to the share to which any person is entitled in the income of a body of persons under that Ordinance, shall, when such dividend or share is included in the profits or gains of such shareholder or person, be set off for the purpose of collection against the tax assessed on those profits or gains in accordance with this Part.

No. of 1940.

Deductions not to be allowed.

21. No deductions from the profits or gains of any individual shall be allowed in respect of any disbursements set out in section 12 of the Income Tax Ordinance, 1940.

No. of 1940.

Rate of tax.

22. There shall be levied and paid upon the profits or gains of any person whose profits or gains in the year preceding the year of assessment exceed £200, tax at the rate set forth in the Schedule.

Schedule.

Service of notice of assessment and payment of tax.

23. (1) The Resident shall cause to be served personally on or sent by registered post to each person assessed under this Part a notice stating the amount of tax payable by him.

(2) The tax shall be payable in two equal instalments the first of which shall be payable within forty-two days after the service of notice of assessment under this section and the second instalment shall be payable within six months after the service of such notice:

Provided that:—

(*a*) regulations may be made under paragraph (*b*) of sub-section (1) of section 47 for deductions of tax at the source in respect of emoluments and pensions paid out of the general revenue of Nigeria, or from native authority funds;

(*b*) if the first instalment due from any person is not paid by him within the prescribed period, the whole amount of the tax with which such person has been assessed shall become payable forthwith and subject to the addition of interest at the rate provided in section 55 of the Income Tax Ordinance, 1940, the Resident may proceed to enforce payment thereof as hereafter provided;

No. of 1940.

(*c*) where any person dies after having paid the first instalment and before the second instalment is due, the amount of the latter shall be recoverable from the personal representative of the deceased person.

Chargeability of trustees and other representatives.

24. (1) A receiver appointed by the court, trustee, guardian, curator or committee having the direction, control or management of any property or concern on behalf of any infant, lunatic, idiot or insane person shall be chargeable to tax in like manner and to the like amount as such person would be chargeable if he were not an infant, lunatic, idiot or insane person.

(2) The person who is chargeable in respect of an infant, lunatic, idiot or insane person, shall be answerable for all matters required to be done by virtue

of this Ordinance for the assessment to tax on the profits or gains of any person for whom he acts and for paying the tax chargeable thereon.

Appeals.

Appeal board of commissioners.

25. There shall be appointed from time to time a board of commissioners, consisting of three persons being non-officials appointed by the Governor for such period and at such remuneration as may be prescribed, to hear and determine appeals by persons resident in the township of Lagos against assessment of tax under this Part.

Appeal against assessment under this Part.

26. (1) Any person assessed for tax under this Part who objects to the amount of his assessment or denies that he is chargeable with tax under this Ordinance, may:—

(*a*) if such person is resident in the township of Lagos appeal by petition either to—

(*i*) the board of commissioners, appointed under this Ordinance; or

(*ii*) to a judge of the Supreme Court,

to reduce or cancel the assessment;

(*b*) if such person is resident in the Colony, other than in the township of Lagos, or in the Protectorate—

(*i*) appeal to the Resident; or

(*ii*) appeal by petition to a judge of the Supreme Court, if resident within the Colony or to a judge of the High Court if resident within the Protectorate,

to reduce or cancel the assessment.

(2) The decision of the board or judge hearing such appeal shall be final:

Provided that the judge may, if he so desires, and shall, on the application of the appellant or the Resident state a case on a point of law for the opinion of two or more judges of the Supreme Court or the High Court as the case may be.

(3) The petition shall be presented within twenty-eight days of the date of the service of notice of assessment under section 23. But the board or judge, as the case may be, may receive a petition after the expiration of that period if satisfied that the petitioner had sufficient cause for not presenting it within that period.

(4) The onus of proving that the assessment complained of is excessive shall lie on the appellant.

(5) The board or judge, as the case may be, if satisfied that the appellant is overassessed, may reduce the amount of the assessment by the amount by which he is overassessed, and, if satisfied that the appellant is underassessed may increase the amount of the assessment by the amount by which he is underassessed.

(6) Notice of the amount of tax payable under the assessment as determined by the board or judge, as the case may be, shall be served by the Resident on the appellant.

(7) The procedure to be followed in the conduct of appeals before the board of commissioners shall be as prescribed by regulations under this Ordinance.

(8) The Chief Justice in respect of the Supreme Court and the Chief Judge in respect of the High Court may make rules providing for the method of tendering evidence before a judge on appeal, the conduct of such appeals and the procedure upon the hearing of the case stated.

Secrecy.

27. (1) Every person having any official duty or being employed in the administration of this Part shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or items of the income of any person, as secret and confidential.

(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the income or items of income of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person:—

(*a*) other than a person to whom he is authorised by the Resident to communicate it; or

(*b*) otherwise than for the purpose of this Ordinance

shall be guilty of an offence against this Ordinance.

(3) Any proceedings for an offence against this section may be taken by or in the name of the tax collection authority or tax collector but not by any other person except with the consent of a law officer or crown counsel.

Incorporation of certain sections of No. of 1940 in this Part.

28. The provisions of sections 7, 25, 26, 32, 33, 37, 38, 40 (2), 42, 47, 48, 49, 50, 52, 55, 56, 57 and 58 of the Income Tax Ordinance, 1940, shall apply *mutatis mutandis* to the assessment and collection of tax under this Part as if the sections were incorporated herein:

Proviso. No. of 1940.

Provided that where under the Income Tax Ordinance, 1940, there is a reference to chargeable income or to income there shall be substituted a reference to profits or gains under this Ordinance; where there is a reference to the Commissioner there shall be substituted a reference to the Resident, and

No. of 1940.

where there is a reference to the Income Tax Ordinance, 1940, or to any section thereof there shall be substituted so far as is practicable a reference to this Part of this Ordinance and to the corresponding section, if any, of this Part.

PART IV.

GENERAL PROVISIONS.

Duties of Tax Collectors.

Appointment of tax collection authorities and tax collectors.

29. The Resident may, in writing, appoint any native authority, village council, district headman or other suitable person or group of persons to be:—

(*a*) a tax collection authority in respect of any specified area, or

(*b*) a tax collector in respect of any community,

for the purpose of supervising and collecting the tax as hereinafter provided.

Duties of tax collection authorities.

30. (1) It shall be the duty of every tax collection authority:—

(*a*) to give information at such times as the Resident may require as to the numbers and names of taxable persons at the time being within the area to which he has been appointed;

(*b*) to supervise the collection of the tax in such area;

(*c*) to receive from the tax collectors in such area the amounts of tax assessed to be payable by the native communities and natives therein respectively and to pay amounts so received to such native authority or person as the Resident may direct;

(*d*) to render to the Resident returns of amounts so received by him at such times and in such form as the Resident may direct.

(2) In addition to the preceding provisions of this section it shall also be the duty of a native authority which is appointed to be a tax collection authority to receive from the tax collectors in the area of its jurisdiction all sums collected by them under this Ordinance.

Duties of tax collectors.

31. It shall be the duty of every tax collector:—

(*a*) to furnish orally or in writing to such native authority as the Resident may direct a nominal roll of all members of the community to which he has been appointed who are liable to pay the tax;

(*b*) to collect and receive from each member of the community to which he has been appointed the amount of the tax payable by each such member;

(*c*) to pay all amounts so collected to the tax collection authority appointed to the area in which the community is situated or to such other person as the Resident may direct;

(*d*) to report to such tax collection authority the name of any person who has failed to pay the amount due by him for tax.

Natives resident on lands occupied by non-natives are liable to tax.

32. Natives shall continue liable to pay the tax notwithstanding that they may for the time being be resident on lands alienated to or occupied by non-natives, and any tax collection authority or tax collector or their agents may at any time enter upon such lands for the purpose of collecting any such tax.

Amount collected to be deposited and then paid into revenue.

33. (1) Except in respect of tax collected in the township of Lagos every tax collection authority in the receipt of taxes under this Ordinance shall, unless otherwise directed by the Resident, deposit such tax in the native treasury for the area for which the tax was collected.

(2) Every native authority shall pay into such Government treasury as the Resident shall direct to the credit of the general revenue of Nigeria as and when directed by the Resident either generally or specifically such proportion as the Governor may from time to time determine of the amounts deposited in the native treasuries as tax and the remaining portion of such amounts shall be transferred to and shall form part of the revenue of the native authority for the area for which it was collected.

(3) Tax collected in the township of Lagos shall be paid to the Accountant-General to the credit of the general revenue of Nigeria.

Offences and Legal Proceedings.

Penalty for failure to deposit or pay tax collected.

34. Any:—

(*a*) tax collection authority or tax collector being an individual; or

(*b*) individual member of a tax collection authority or tax collector; or

(*c*) employee of a tax collection authority or tax collector.

whose duty it is to deposit with or pay to any native treasury or other person in accordance with the provisions of section 31 or section 33 any tax which is in the custody or possession or has been collected by the tax collection authority or tax collector of which he is sole member, member of employee, and who fails to so deposit or pay such tax, shall be liable on summary conviction to a fine of two hundred pounds or to imprisonment for two years or to both.

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Penalties in respect of offences by tax collectors.

35. Any person who being a tax collection authority or a tax collector, or a member of a tax collection authority or a tax collector, or a person employed by a tax collection authority or a tax collector, in connection with his duties under this Ordinance:—

(*a*) demands from any community or any person an amount in excess of the duly assessed tax;

(*b*) withholds for his own use or otherwise any portion of the amount of tax collected;

(*c*) renders false returns, whether orally or in writing, of the amounts of tax collected or received by him;

(*d*) wilfully misrepresents the taxable capacity of the community or person from whom he is authorised to collect tax;

(*e*) defrauds any person, steals or in any way uses his position to the prejudice of the Government, the tax collection authority, or any individual, or the individuals of any community;

(*f*) fails to carry out any duty imposed upon him, other than the duty referred to in section 34 either individually or as a member of a tax collection authority or a tax collector

shall be liable to a fine of fifty pounds or to imprisonment for one year or both.

Penalty for unauthorised collection of tax.

36. Any person who:—

(*a*) not being authorised under this Ordinance or by a tax collection authority or a tax collector so to do, shall collect or attempt to collect any tax under this Ordinance; or

(*b*) collects or attempts to collect any tax other than tax described in this Ordinance or authorised by any other Ordinance,

shall be liable on summary conviction to a fine of two hundred pounds or to imprisonment for two years or both.

Proceedings may be taken against members of a tax collection authority collectively or separately.

37. When a group of persons is collectively appointed to be a tax collection authority or a tax collector proceedings may be taken against all or any members of such group, either together or separately, in respect of any act or default punishable under section 35 and upon proof of the commission of an offence by such group every member thereof shall individually be liable to the penalties prescribed unless he shall satisfy the court that he was in no way responsible for or a party to the commission of the offence.

Duty to give information.

38. Any person whose authority and control is recognised by a section of a native community or any employer or any head of a family or any householder or any person who may be required so to do shall give all such information, orally or in writing, as may be required of him by the Resident or by any tax collection authority or tax collector with a view to obtaining information for the assessment or collection of the tax.

Penalty for refusing to give information.

39. Any person having been required to give information under the provisions of the preceding section who shall neglect or refuse to give such information or who shall wilfully mislead or attempt to mislead the Resident or any tax collection authority or tax collector or their agents on any matter connected with the assessment or collection of the tax shall be liable to a fine of one hundred pounds or to imprisonment for one year or both.

Penalty for failure to pay tax.

40. Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, shall refuse or neglect to pay any tax payable by him under this Ordinance on or before the date

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on which it is payable, or who shall incite any person so to refuse, or who shall conceal or fail to produce or notify any taxable property which he may possess or wilfully misrepresent in any way his taxable capacity, or who shall incite or assist any person so to conceal or fail to produce or notify any taxable property or so to misrepresent his taxable capacity shall be liable on summary conviction to a fine of one hundred pounds or to imprisonment for one year or both.

Penalty for fraudulent use of receipts.

41. Any person who forges or fraudulently alters or uses or fraudulently lends or allows to be used by any other person any receipt or token indicating payment of the tax shall be liable to a fine of one hundred pounds or to imprisonment for one year or both.

General penalty.

42. Where a person is guilty of an offence against this Ordinance for which no special penalty is provided he shall be liable on summary conviction to a fine of one hundred pounds or to imprisonment for six months.

Legal proceedings.

43. Proceedings either to enforce payment of the tax or for the imposition of penalties under this Ordinance may be taken in the name of the tax collection authority or tax collector, as the case may be, before the court of a magistrate or a commissioner of the Supreme Court or, to the extent of its jurisdiction, before a native court.

MISCELLANEOUS.

Remission of tax.

44. (1) The Resident may remit, wholly or in part, the tax payable by any person on the ground of poverty and may also for like reason refund the tax or any part thereof.

(2) The Governor in Council may remit, wholly or in part, the tax payable by any person if he is satisfied that it will be just and equitable to do so.

Governor may appoint a person to take the place of the Commissioner of the Colony.

45. The Governor may by notice in the Gazette appoint a person other than the Commissioner of the Colony to exercise any or all of the powers and duties of the Commissioner of the Colony under this Ordinance in respect of those persons resident in the township of Lagos and thereupon those powers and duties as aforesaid shall, in respect of the township of Lagos, be exercised by the person so appointed, and such person may take proceedings under section 43 in his own name or that of his office, if any.

Power to alter Schedule.

46. The Legislative Council, by resolution, in so far as such resolution relates to the Colony and to the Southern Provinces, and the Governor, by order, in so far as such order relates to the Northern Provinces, may add to, vary, or revoke the whole or any part of the Schedule or substitute a new Schedule for the Schedule.

Regulations.

47. (1) The Governor in Council may from time to time make regulations generally for carrying out the provisions of this Ordinance and may, in particular, by those regulations provide :—

(*a*) for the form of returns, claims, statements and notices under this Ordinance;

(*b*) for the deduction and payment of tax at the source in respect of emoluments and pensions payable out of the general revenue of Nigeria or from native authority funds;

(*c*) any such matters as are authorised by this Ordinance to be prescribed.

(2) Regulations made under paragraph (*b*) of the preceding sub-section may provide:—

(*a*) for the recovery of the tax by monthly deductions, such deductions being in equal amounts spread over the full period of a year or varying amounts for such lesser periods as may be provided therein either generally or in any particular case;

(*b*) for the recovery out of any monies in the hands of the Government due to the officer or pensioner of the amount of tax not yet recovered by instalments where the Resident on information received believes that such person is about to leave Nigeria and not return;

(*c*) for the recovery of the amount of the tax subject to such general or special exemptions as may be provided therein out of any gratuity payable by Government in respect of the service or death of a public officer.

(3) If any person fails to comply with or contravenes the provisions of any regulation made under this Ordinance he shall be guilty of an offence against this Ordinance.

Repeal. Chapter 74. No. 17 of 1927. No. 41 of 1937. No. 45 of 1933.

48. The Native Revenue Ordinance, the Native Revenue (Amendment) Ordinance, 1927, the Native Direct Taxation (Colony) Ordinance, 1937, and the references to the Native Revenue Ordinance in the Third Schedule of the Protectorate Courts Ordinance, 1933, are hereby repealed.

SCHEDULE.

(SECTION 22).

Section 22.

Chargeable Income.		Rate of Tax.		
		£	s.	d.
For the first	£200	1	10	0
For every pound of the next	£200	0	0	4
,, ,, ,, ,, ,, ,,	£200	0	0	6
,, ,, ,, ,, ,, ,,	£200	0	0	9
,, ,, ,, ,, ,, ,,	£200	0	1	0
,, ,, ,, ,, ,, ,,	£200	0	1	3
,, ,, ,, ,, ,, ,,	£400	0	1	6
,, ,, ,, ,, ,, ,,	£400	0	1	9
,, ,, ,, ,, ,, ,,	£1,000	0	2	0
,, ,, ,, ,, ,, ,,	£2,000	0	2	6
,, ,, ,, ,, ,, ,,	£5,000	0	5	0
For every pound exceeding	£10,000	0	10	0

Objects and Reasons.

This Bill is a modernised version of the Native Revenue (Protectorate) Ordinance, 1917, incorporating improvements contained in the Direct Taxation (Colony) Ordinance, 1937, and now extended so as to include natives resident in the township of Lagos within its scope.

2. When the Income Tax (Supplementary) Ordinance, 1939, was enacted it was found impracticable at short notice to devise methods for the application of the income surtax to the higher incomes of natives throughout the Protectorate, and in consequence the natives of Lagos only were called upon to pay the surtax; it has now been decided to remedy this inequality of incidence of taxation. For this purpose and in order to provide in this Bill for taxation at appropriate rates of natives resident in Lagos, for the reasons explained in the Objects and Reasons of a Bill entitled the Income Tax Ordinance, 1940, this opportunity has been taken to recast the Bill, dividing it into four parts, the first dealing with interpretations, the second preserving the existing measures for assessment and taxation of lower incomes and of communities, the third devoted to assessment and collection of tax on incomes in excess of £200 per annum, and the fourth to general provisions.

3. Rates of tax to be imposed by this Bill remain unchanged for persons who are not in receipt of incomes in excess of £200, but for incomes above that point tax is to be charged according to the rates shown in the Schedule to the Bill. Those rates are based on existing rates of tax under the Colony Taxation Ordinance, 1937, and are arranged in a graduated scale rising steeply on higher incomes and are similar to those contained in the Schedule to the Income Tax Ordinance, 1940, save that the scale begins at a lower point and is graduated in smaller steps on medium incomes, on account of the fact that deductions from profits or gains are not to be allowed for wives and children.

4. Deductions from profits or gains assessed under Part III of the Bill are to be allowed in respect of insurance premiums and for outgoings and expenses incurred in the production of income, and by virtue of clause 28 of the Bill a number of sections of the Income Tax Ordinance, 1940, which provide for many contingencies in income taxation, and which include measures of relief from double taxation within the Empire, will apply as if they were a part of this Bill.

5. In the Colony Taxation Ordinance, 1937, natives resident in Lagos are allowed a right of appeal against assessments either to a Board of Commissioners or to the Supreme Court. This right is preserved in the Bill in respect of incomes above £200 per annum and is extended so as to apply throughout the Colony and Protectorate of Nigeria so far as appeal to the Courts is concerned.

6. The Bill repeals the Native Revenue (Protectorate) Ordinance, Chapter 74, and the Direct Taxation (Colony) Ordinance, 1937, and will come into force on 1st April, 1940. The enactment of the Bill will not affect ordinary procedure for the assessment and collection of tax on incomes below £200, which will proceed exactly as heretofore, the rates of tax being

governed by executive directions within the limits imposed by the Bill. Executive orders relating to taxation of lower incomes in Lagos Township, including rates of tax, special exemptions, *e.g.*, school children, assessment advisory committee and other matters, will be made public as soon as possible. Clause 45 of the Bill gives the necessary powers for preservation of such of the existing machinery of collection as may be required.

H. C. F. COX,
Attorney-General.

Attorney-General's Chambers,
Lagos, Nigeria.
14th February, 1940

Printed and Published by the Government Printer, Lagos. 495/40

1685/21/40 General

C.O. 309

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Coded & sent 11.45p 4/3/40 B.B.

Mr. Kennedy 27/2
Mr. Robinson 27/2.
~~Mr. Gidebotham.~~
~~Mr. C. J. Jeffries.~~
Mr. Dale 2.3.
~~Mr. A. J. Dawe.~~
Mr. Fitzpatrick
~~Sir H. Moore.~~
Mr. Duncan 4/3/40 see minute.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.
4/3/40 Noted
M.D.

No. 210 Secret.

(6)

Your telegram No. 144

DRAFT: CODE TELEGRAM

Secret. Income Tax.

GOVERNOR

NIGERIA.

~~There is no objection to including in~~ consolidated Ordinance of provision similar to that in Trinidad Ordinance ~~, 1936~~; but similar provision in respect of rebates on tax on dividends deducted at source would ~~still be~~ ~~to~~ involve ~~discrimination against persons~~ ~~not to the objections mentioned~~ ~~in my telegram No. 120.~~ companies (whether wholly resident in Nigeria) part of whose income is derived from dividends of companies resd in Nigeria appears to me inequitable.

Secer.

FURTHER ACTION.

Remit in use for inter-mpts. 1, 2, 5, 7.

SAVING

Genl.

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From The Governor of Nigeria

To The Secretary of State for the Colonies.

Date 9 February, 1940.

No. 16 Saving.

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30231/1/34

Confidential. Further to my telegram No. ~~144~~ 136 of ~~9~~ 8th February and with reference to your Confidential despatch of 4th January the following are details of provisions which are being included in the Consolidated Income Tax Ordinance to be enacted at the March Session of Council.

2. Ordinances to be repealed.

Non-Natives Income Tax Protectorate Ordinance No.21 of 1931

Colony Taxation Ordinance No.4 of 1937.

Companies Income Tax Ordinance No.14 of 1939.

Income Tax (Supplementary)Ordinance No.28 of 1939.

and all amending ordinances.

3. Application of new Consolidated Ordinance.

To have effect from 1st April 1940 and to apply to non-natives, to non-resident natives and to Companies.

Resident natives throughout Colony and Protectorate (including Lagos Township) will be taxed under one comprehensiv Native Direct Taxation Ordinance to which reference is made later in this Saving telegram.

4. Deductions from Chargeable Income.

Outgoings and expenses,wear and tear,&c.,&c.,as in model ordinance.

Earned Income. None.

No minimum fixed sum to be free of tax (see 5(a) bel

Wife	£200
Each child	£100; provided that total deduction for wife and children does not exceed £500.

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Reference
Trinidad Income
Tax (Amendment)
Ordinance
No. 10/1928.

Insurance premiums and W.O.P.S. contributions up to one-sixth of income.

Family and insurance deductions not to be granted to non-residents provided that a British subject can by rendering return of full income claim such deductions, which would then be allowed having regard to the proportion which the income from Nigerian sources bears to total income.

5. Rate of Tax. (a) There is to be a minimum rate of £2.10/- for resident adult male non-natives whose chargeable income does not exceed £200, with provision for proportionate payments for broken periods of residence. This measure is intended to secure a reasonable and easily assessed tax on Asiatics and Syrians &c. and to ensure that family and other deductions do not serve to reduce the tax of any resident person below this fixed minimum. The amount of £2.10/- is based on the rate of 3d in the £ on £200, which rate will apply to non-residents with incomes of £200 or less.

(b) The Standard scale of tax for chargeable incomes exceeding £200 is as follows :-

For the first	£ 200	£2.10.0
For every pound of the next	£ 200	0. 0.6
" " " " " "	200	0. 0.9
" " " " " "	200	0. 1.0
" " " " " "	200	0. 1.3
" " " " " "	400	0. 1.6
" " " " " "	600	0. 1.9
" " " " " "	1,000	0. 2.0
" " " " " "	2,000	0. 2.6
" " " " " "	5,000	0. 5.0
For every pound exceeding	10,000	0.10.0.

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6. Rate for Companies - 2/6d in the £.

7. Deductions at the source

As in Model ordinance, including a rate of 2/6d in the £ for mortgage and debenture interest payable to non-residents.

I have telegraphed you separately making a suggestion for providing a basis of assessment for non-resident persons, especially for non-resident shareholders who may wish to claim rebates in respect of tax which has been deducted from dividends at the source at 2/6d in the £.

8. A proposal was received that deductions from chargeable income should be allowed for cost of maintenance of near relatives. The case for this is not strong and the practical difficulties appear to me sufficient to rule it out, and no such provision is being made, but I would be grateful for advice and for information if such concession is allowed elsewhere.

9. Native Taxation. It is intended to consolidate these laws also at the March Session under a new Ordinance called Native Direct Taxation Ordinance the terms of which will follow closely the existing Native Revenue Ordinance Cap.74 including those improvements contained in the Native Direct Taxation (Colony) Ordinance No.41 of 1937.

Both those ordinances will be repealed.

10. Application of Ordinance

To have effect from 1st April 1940 and to apply to all resident Natives, including natives in Lagos who have hitherto been subject to tax under the Colony Taxation Ordinance No.4/1937. A representative Committee includ African Members of Council has advised this course whi will remove present unjustifiable differentiation be natives according to place of residence.

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11. Deductions from chargeable Income

Outgoings incurred in production of income.

Insurance Premiums.

No deduction for wives and children because impracticable of general application. (Rates of tax are correspondingly lower than the non-native scale).

12. Rate of Tax. (a) Taxation of lower incomes i.e. of £200 or less to be assessed administratively according to the present system, by executive orders having varying terms according to locality and native law and customs &c. (b) Incomes exceeding £200 to be charged with tax as follows :-

For the first	£ 200	£1.10. 0
For every pound of the next	200	0. 0. 4
" " " " " "	200	0. 0. 6
" " " " " "	200	0. 0. 9
" " " " " "	200	0. 1. 0
" " " " " "	200	0. 1. 3
" " " " " "	400	0. 1. 6
" " " " " "	400	0. 1. 9
" " " " " "	1,000	0. 2. 0
" " " " " "	2,000	0. 2. 6
" " " " " "	5,000	0. 5. 0
For every pound exceeding	10,000	0.10. 0.

13. Deductions at source.

Provision will be included for such deductions to be set off against tax due.

14. Appeals. This question is still under examination

In

In the Colony and probably throughout Southern Provinces appeals to Supreme Court will be permitted. In Northern Provinces appeal may be restricted to Chief Commissioner on behalf Governor.

On Higher Incomes.

Proposed Standard Scale.
N A T I V E S.

Application of Scale.

	for each £100			
	Income	Rate	Amount of tax	Percentage
For first	£ 200	2d	1.10. 0	
	300	4d	3. 3. 4	1%
	400	4d	4.16. 8	
	500	6d	7. 6. 8	
	600	"	9.16. 8	
	700	9d	13.11. 8	
	800	"	17. 6. 8	2%
	900	1/-	22. 6. 8	
	1,000	"	27. 6. 8	
	1,100	1/3d	33.11. 8	3%
	1,200	"	39.16. 8	
	1,300	1/6d	47. 6. 8	
	1,400	"	54.16. 8	
	1,500	"	62. 6. 8	4%
	1,600	"	69.16. 8	
	1,700	1/9d	78.11. 8	
	1,800	"	87. 6. 8	
	1,900	"	96. 1. 8	5%
	2,000	"	104.16. 8	
	3,000	2/-	204.16. 8	7%
	5,000	2/6d	454.16. 8	
	10,000	5/-	1704.16. 8	
Over	10,000	10/-	-	

Standard Scale - N A T I V E S.

For the first	£ 200	4d ~~2d (this may be altered to 1d)~~
For every pound of the next	200	6d
" " " " " " " " "	200	9d
" " " " " " " " "	200	1/-
" " " " " " " " "	200	1/3d
" " " " " " " " "	200	1/6d
" " " " " " " " "	400	1/9d
" " " " " " " " "	400	2/-
" " " " " " " " "	1,000	2/6d
" " " " " " " " "	2,000	5/-
" " " " " " " " "	5,000	10/-
" " " " " " " " " exceeding	£10,000	

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Standard Scale - NON NATIVES.

For the first	£ 200	£2.10.0 (or 3d in £)
For every pound of the next	200	6d
" " " " " " " "	200	9d
" " " " " " " "	200	1/-
" " " " " " " "	200	1/3d
" " " " " " " "	400	1/6d
" " " " " " " "	600	1/9d
" " " " " " " "	1,000	2/-
" " " " " " " "	2,000	2/6d
" " " " " " " "	5,000	5/-
" " " " " " " " exceeding	10,000	10/-

Proposed Standard Scale

NON NATIVES.

Application of scale.

	for each £100			
	Income	Rate	t a x	%
For first	£ 200	3d	2.10.0	
	300	6d	5. 0.0	
	400	"	7.10.0	2%
	500	9d	11. 5.0	
	600	"	15. 0.0	
	700	1/-	20. 0.0	
	800	"	25. 0.0	3%
	900	1/3d	31. 5.0	
	1,000	"	37.10.0	
	1,100	1/6d	45. 0.0	4%
	1,200		52.10.0	
	1,300		60. 0.0	
	1,400		67.10.0	
	1,500	1/9d	76. 5.0	5%
	1,600		85.00.0	
	1,700		93.15.0	
	1,800		102.10.0	
	1,900		111. 5.0	
	2,000		120. 0.0	
	2,100	2/-	130. 0.0	
	2,200		140. 0.0	
	2,300		150. 0.0	
	2,400		160. 0.0	
	2,500		170. 0.0	
	2,600		180. 0.0	7%
	2,700		190. 0.0	
	2,800		200. 0.0	
	2,900		210. 0.0	
	3,000		220. 0.0	8%
	5,000	2/6d	470. 0.0	
	10,000	5/-	1720. 0.0	
Over	10,000	10/-		

COPY FOR REGISTRATION

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

Dated 9th. February, 1940. Received 11.38.a.m.9th. Feb.

No. 144. Secret.

My telegram No. 113 on the subject of claims by non-resident shareholders for rebate of income-tax deducted at source by companies.

In the revised consolidated income-tax ordinance I am including provision similar to that contained in Section 4 of the Trinidad Income-tax Amendment ordinance No. 10/1928.

Question. Would it not appropriately preserve the revenue if there were a limitation to Section 24 of the model income-tax ordinance as in proviso to Trinidad section quoted above starting from the words " So, however....".

Some consequential amendment of Section 27(1) of the model might then be necessary.

COPY FOR REGISTRATION

126

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

Dated 8th February - Received at 8.27 p.m. on 8/2/40.

No.136. SECRET.

Consolidated Income Tax Ordinance is being prepared for enactment at March Council following closely the terms of model and applicable to non-natives, non-resident natives and companies. Deductions for wives, children and insurance are included. In preparing the scale of tax starting point has been existing rates plus sur-tax but substantially up-graded to compensate for reduction of revenue which would otherwise result from deductions. Scale further up-graded in progressive steps on higher incomes and still more steeply up-graded on very high incomes.

Simultaneously, Native Revenue Ordinance is being revised as regards taxation of higher incomes and under new title of Native Direct Taxation Ordinance its scope is being extended to include all natives throughout the Colony and Protectorate including Lagos township. No provision is made for wives and children's allowances for natives but the scale of the rate of tax is correspondingly lower than that for non-natives.

Saving Telegram giving details follows by air mail and printed draft ordinances will follow later but not I fear in time for detailed comments before enactment.

of a company registered in Nigeria the answer to both questions is "yes".

(4482—150) Wt. 35815—61 10,000 12/39 T.S. 695

1685/21/40.

Coded & sent 12.45 p.m. 10/2/40

C. O.

10 FEB 1940

Mr. Kennedy 9/2
Mr. Robinson 9/2
Mr. Sidebotham CO 7 2. advice
Mr. C. J. Jeffries.
Mr. A. J. Dawe.
Sir J. Shuckburgh.
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

CO 7 el

No. 128

(3)

DRAFT. Tel. (Code).

GOVERNOR,

NIGERIA.

Your telegram No. 111.

INCOME TAX. Question 1. Proposed addition which would subject non-residents to special discriminatory tax and involve singling out one special form of income derived from Nigeria by a non-resident for such discrimination is open to gravest objection.

Questions 2 and 3. I understand the United Africa Company is not registered in Nigeria and in that case the answer to question 2 is "no" and to question 3 that such dividends are chargeable under clause 5(d) of the model ordinance if received in Nigeria, but that clause 2 does not apply; see paragraph 30 of the Report of the Inter Departmental Committee on Income Tax. In the case of

FURTHER ACTION.

Recirc. for 1 and 2.

of a company registered in Nigeria the

answer to both questions is "yes".

COPY FOR REGISTRATION

1685/21/83

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

Dated 3rd. February 1940. Received 1.35p.m. 3rd. February.

No.111.

In preparing Consolidated Income Tax Ordinance according to the model ordinance a point rises whether revenue derived from taxation of companies is not jeopardised by the right of non resident shareholders of the companies registered and carrying on business in Nigeria to have any tax which has been deducted from dividends at source setting off against tax on chargeable income. Question 1 - Is there any objection to the addition of the words " who is resident in Nigeria " after the word " person " in the penulitimate line of section 24 of the model ordinance. Question 2- Is a company such as the United Africa Company entitled by virtue of section 23 to deduct Nigeria income tax at 2shillings 6pence in the pound from dividend payments to its shareholders resident in England or elsewhere. Question 3) Can such dividends be regarded as chargeable income within the meaning of section 5 (d) of the model ordinance if shareholders so claim in support of a claim for rebate under section 24.

1685/21

2/29

NIGERIA

No. 1291

Government House,
Nigeria.

29 December, 1939.

Sir,

I have the honour to transmit herewith, for the signification of His Majesty's pleasure with respect thereto, two authenticated and ten ordinary copies of Ordinance No. 29 of 1939, entitled "An Ordinance to amend the Non-Natives Income Tax (Protectorate) Ordinance, 1931" together with the usual report thereon by the Attorney-General.

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

C.C. Woolley

Governor's Deputy.

Enclosure: (13)

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
etc., etc., etc.

130

Assented to in His Majesty's name in so far as the provisions hereof relate to the Southern Provinces of the Protectorate, and enacted by me in so far as the provisions hereof relate to the Northern Provinces of the Protectorate this 19th day of December, 1939.

B. H. BOURDILLON,
Governor.

(L.S.)

No. 29. 1939.

Protectorate of Nigeria.

IN THE FOURTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE VI.

SIR BERNARD BOURDILLON, G.C.M.G., K.B.E.
Governor and Commander-in-Chief.

AN ORDINANCE TO AMEND THE NON-NATIVES INCOME TAX (PROTECTORATE) ORDINANCE, 1931. Title.

[*21st December, 1939.*] Date of commencement.

BE IT ENACTED by the Governor of the Colony and Protectorate of Nigeria, with the advice and consent of the Legislative Council, so far as the provisions hereof relate to the Southern Provinces of the Protectorate as follows:— Enactment.

Short title, construction and application.

1. This Ordinance may be cited as the Non-Natives Income Tax (Protectorate) (Amendment No. 3) Ordinance, 1939, and shall be read and construed as one with the Non-Natives Income Tax (Protectorate) Ordinance, 1931, hereinafter referred to as the principal Ordinance and shall apply to the Protectorate.

Amendment of section 3 of No. 21 of 1931.

2. Section 3 of the principal Ordinance is hereby amended by inserting immediately after the word " divisions " in the second line thereof the words " and such other persons as the Governor may " appoint by Notice in the Gazette shall be " and by deleting the comma and the words ", are hereby appointed " immediately following the aforesaid word " divisions ".

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and in so far as the provisions thereof relate to the Southern Provinces of the Protectorate, is found by me to be a true and correctly printed copy of the said Bill.

F. F. WILKINSON,
Clerk of the Legislative Council.

Printed and Published by the Government Printer, Lagos 2966/39 2d. per copy.

131

REPORT

on

A Bill entitled "An Ordinance to amend the Non-Natives Income Tax (Protectorate) Ordinance, 1931."

The short title of this Bill is the Non-Natives Income Tax (Protectorate)(Amendment No.3) Ordinance, 1939, and in my opinion the assent of His Excellency the Governor may properly be given thereto.

2. Clause 2 will amend section 3 of the Non-Natives Income Tax (Protectorate) Ordinance, 1931, to enable the Governor to appoint Commissioners of Income Tax in the Protectorate in addition to the District Officers who are ex officio Commissioners. This is necessary in order to enable the co-ordination of the collection of Income Tax throughout Nigeria to be undertaken by the Inland Revenue Department in Lagos, the officers of which have been appointed under the Colony Taxation Ordinance, 1937, which applies to the Colony only and they have no powers in the Protectorate.

C.W.W. Greenidge
Acting Attorney-General.

Attorney-General's Chambers,
Lagos, Nigeria.
11th December, 1939.

1685/21 132-1.

NIGERIA.

No. 1294

Government House,
Nigeria.

29 December, 1939.

Sir,

I have the honour to transmit herewith, for the signification of His Majesty's pleasure with respect thereto, two authenticated and ten ordinary copies of Ordinance No. 28 of 1939, entitled "An Ordinance to regulate the Levying and Collection of a Supplementary Tax on Incomes for the Financial Year 1939-40" together with the usual report thereon by the Attorney-General.

I have the honour to be,

Sir,

Your most obedient, humble Servant,

C.C. Woolley

Governor's Deputy.

Adopted (14)

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
etc., etc., etc.

133

Assented to in His Majesty's name in so far as the provisions hereof relate to the Colony and to the Southern Provinces of the Protectorate, and enacted by me in so far as the provisions hereof relate to the Northern Provinces of the Protectorate this 19th day of December, 1939.

B. H. BOURDILLON,
Governor.

(L.S.)

No. 23. 1939.

Colony and Protectorate of Nigeria.

IN THE FOURTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE VI.

SIR BERNARD BOURDILLON, G.C.M.G., K.B.E.
Governor and Commander-in-Chief.

AN ORDINANCE TO REGULATE THE LEVYING AND COLLECTION OF A SUPPLEMENTARY TAX ON INCOMES FOR THE FINANCIAL YEAR 1939-40. Title.

[*19th December, 1939.*] Date of commencement.

BE IT ENACTED by the Governor of the Colony and Protectorate of Nigeria, with the advice and Enactment.

consent of the Legislative Council so far as the provisions hereof relate to the Colony and to the Southern Provinces of the Protectorate, as follows:—

Short title.

1. This Ordinance may be cited as the Income Tax (Supplementary) Ordinance, 1939 and shall apply to Nigeria.

Definitions.

2. Definitions:—

"Commissioner" — "Commissioner" means a Commissioner of Income Tax appointed under the provisions of this Ordinance and includes any other person authorised in writing by him to exercise the powers and perform the duties conferred or imposed upon a Commissioner by this Ordinance;

"Court" — "Court" means the High Court and a Judge of the Supreme Court;

"Notice of Assessment" — "Notice of Assessment" means a notification made by a Commissioner under section 7;

"Principal Ordinances" — the expression "Principal Ordinances" means the Non-Natives Income Tax (Protectorate) Ordinance, 1931 and the Colony Taxation Ordinance, 1937;

"Tax" — "Tax" unless the contrary intention appear means the supplementary income tax imposed by this Ordinance;

"Tax Authority" — "Tax Authority" means Tax Authority as defined by section 2 of the Colony Taxation Ordinance, 1937;

"tax-payer" — "tax-payer" means each adult non-native and each adult male native;

"this Ordinance", "the provisions of this Ordinance" — the expressions "this Ordinance" or "the provisions of this Ordinance" include, unless the contrary intention appear, the provisions of the Colony Taxation Ordinance, 1937 as set out and modified in the Second Schedule;

"year of assessment" — "year of assessment" means the year commencing on 1st April, 1939 and ending on 31st March, 1940.

Levy of Tax on chargeable income.

3. There shall be levied and collected a tax in accordance with the rates set out in the First Schedule for the year of assessment assessed on the chargeable income for the year preceding the year of assessment of any tax-payer whether such tax-payer is in or outside Nigeria:

Provided that there shall be deducted from the chargeable income of any person chargeable under this section any part of such income in respect of which it is proved to the satisfaction of the Commissioner that such person has paid tribute or tax under the Native Revenue Ordinance or the Native Direct Taxation (Colony) Ordinance, 1937.

Incorporation of provisions of No. 4 of 1937.

4. For the purposes of the levying and collection of the tax imposed by this Ordinance there shall be incorporated with this Ordinance such provisions of the Colony Taxation Ordinance, 1937 as are set out in the first column of the Second Schedule with such verbal alterations and other modifications not affecting the substance as may be necessary to render them applicable and in particular the said provisions as incorporated in this Ordinance shall be modified in the manner set forth in the second column of the said Schedule.

Appointment of Commissioners.

5. The officers appointed under section 3 of the Non-Natives Income Tax (Protectorate) Ordinance, 1931 to be Commissioners of Income Tax and the Tax Authority shall be Commissioners for the purposes of this Ordinance.

Assessment.

6. Subject to the provisions of sections 17 and 22 of the Colony Taxation Ordinance, 1937, as incorporated in this Ordinance, tax shall be assessed upon the chargeable income of a tax-payer as accepted or determined by the Tax Authority or a Commissioner under the principal Ordinances for the purpose of an assessment under the provisions of those Ordinances for the year commencing 1st April, 1939.

Notice of Assessment.

7. The Commissioner shall notify, in such manner as he deems fit, each person whose name appears on the assessment lists of the amount of his chargeable income, the amount of tax payable by him, and the place at which payment should be made.

Appeals against Assessment and the procedure thereon.

8. (1) A person assessed for tax who objects to the amount of the assessment or denies that he is chargeable with tax may appeal against such assessment as provided in this section.

(2) If the assessment is made by the Tax Authority the procedure upon appeal and the rights of the parties thereto shall be as provided in sections 12 and 13 of the Colony Taxation Ordinance, 1937.

(3) If the assessment is made by a Commissioner other than the Tax Authority such procedure and the rights of the parties shall be as provided in section 14 of the Non-Natives Income Tax (Protectorate) Ordinance, 1931.

Official emoluments and pensions deducted at the source.

9. The tax payable in respect of emoluments or pensions payable out of the revenue of Nigeria may by arrangement between a Commissioner and the officer charged with the duty of paying such emoluments and pensions be deducted by such officer at the source and paid by him to the Commissioner.

Manner in which tax shall be paid and recovered.

10. (1) Subject to the provisions of this section one-half of the tax payable by a tax-payer shall be paid within thirty days after the service of the notice of assessment and the remainder of the tax shall be paid within ninety days of such service.

(2) If more than one-half of the tax has remained unpaid for a period of thirty days after service of a notice of assessment or, in the event of an appeal against such assessment, for a period of thirty days from the receipt by the person assessed of a notification by the Commissioner of the tax payable as determined by the Board, Judge, or Court,

(*a*) the whole amount of such tax shall become payable forthwith and may be recovered by action at the suit of the Commissioner, and

(*b*) the Court at the hearing of such suit may order that the Commissioner shall recover from the defaulter a sum not exceeding double the amount of tax found by the Court to be unpaid.

(3) If a Commissioner has reasonable cause to suspect that a tax-payer intends to leave Nigeria and that the whole or any part of the tax payable by such person will remain unpaid at the date of his departure, the Commissioner may notify such person that the whole of the tax as yet unpaid by such tax-payer is payable forthwith and such unpaid tax may thereupon be recovered by action at the suit of the Commissioner.

(4) In any suit brought to recover tax more than ninety days after the service of a notice of assessment, the Court shall have the powers conferred upon it by paragraph (*b*) of sub-section (2) of this section.

FIRST SCHEDULE.

	Percentage of Chargeable Income payable as tax.
Chargeable income or portion thereof not exceeding £200	Nil
Portion of chargeable income—	
Exceeding £200 and not exceeding £400 ...	1%
,, £400 ,, ,, ,, £700 ...	2%
,, £700 ,, ,, ,, £1,000 ...	3%
,, £1,000 ,, ,, ,, £3,000 ...	4%
,, £3,000 ,, ,, ,, £4,000 ...	11%
,, £4,000	12½%

EXAMPLE OF TAX PAYABLE ON A CHARGEABLE INCOME OF £1,150.

1. For the purpose of assessment divide the chargeable income into the following amounts:—

(*a*) £200; (*b*) £200; (*c*) £300; (*d*) £300; and (*e*) £150.

2. On (*a*), being £200 the tax is ... ... Nil
,, (*b*) ,, £200, at 1%, the tax is ... £2
,, (*c*) ,, £300, at 2%, ,, ,, ,, ... £6
,, (*d*) ,, £300, at 3%, ,, ,, ,, ... £9
,, (*e*) ,, £150, at 4%, ,, ,, ,, ... £6

3. On the total chargeable income, being £1,150, the tax is £23

SECOND SCHEDULE.

Provisions of the Colony Taxation Ordinance, 1937 incorporated in this Ordinance.	Modifications to be made in the provisions of the Colony Taxation Ordinance, 1937.
Section 2	*Delete* the definition "year of assessment".
Section 4 Proviso (1)	—
,, 5	*For* the words "Tax Authority" *substitute* the word "Commissioner".
,, 11	—
,, 14	—
,, 15	—
,, 17	*For* the words "Tax Authority" *substitute* the word "Commissioner".
,, 20	—
,, 22	*For* the words "Tax Authority" *substitute* the word "Commissioner".

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SECOND SCHEDULE—*continued.*

Provisions of the Colony Taxation Ordinance, 1937 incorporated in this Ordinance.	Modifications to be made in the provisions of the Colony Taxation Ordinance, 1937.
Section 23 sub-sections (1) and (2)	*For* the words "Tax Authority" *substitute* the word "Commissioner".
,, 24	—
,, 25	—
,, 26	—
,, 27	—
,, 28	(*i*) *For* the words "Tax Authority" *substitute* the word "Commissioner"; (*ii*) Proviso (2) shall not apply.
,, 29	*For* the words "Tax Authority" *substitute* the word "Commissioner".
,, 30	—
,, 30A	(*i*) In sub-section (4) *for* the words "a Judge of the Supreme Court" *substitute* the words "the Court"; (*ii*) In sub-sections (1) and (4) *for* the words "Tax Authority" *substitute* the word "Commissioner".
,, 31	In sub-section (3) *for* the words "Tax Authority" *substitute* the word "Commissioner".
,, 32	—

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and in so far as the provisions thereof relate to the Colony and to the Southern Provinces of the Protectorate, is found by me to be a true and correctly printed copy of the said Bill.

F. F. WILKINSON,
Clerk of the Legislative Council.

Printed and Published by the Government Printer, Lagos. 3744/39 3d. per copy.

137
GND

REPORT

on

A Bill entitled "An Ordinance to regulate the Levying and Collection of a Supplementary Tax on Incomes for the Financial Year 1939-40."

The short title of this Bill is the Income Tax (Supplementary) Ordinance, 1939, and in my opinion the assent of His Excellency the Governor may properly be given thereto.

2. The fall in the estimated revenue of Nigeria for the financial year 1939-40 and increased expenditure due to the outbreak of war has made it necessary to impose supplementary taxation for the financial year 1939-40.

3. This Ordinance will impose a supplementary income tax at the rates set out in the First Schedule on the incomes of all those in the Colony of Nigeria who have already been assessed for income tax under the Colony Taxation Ordinance, 1937, for the financial year 1939-40 and on the incomes of non-natives in the Protectorate of Nigeria who have already been assessed for income tax under the Non-Natives Income Tax (Protectorate) Ordinance, 1931, for the same period.

4. For the purpose of levying and collecting this tax the provisions of the Colony Taxation Ordinance, 1937, set out in the first column of the Second Schedule with the modifications set out in the second column of the same Schedule, are incorporated in this Ordinance by clause 4, and clause 5 makes the officers appointed commissioners of Income Tax under the Non-Natives Income Tax (Protectorate) Ordinance, 1931, Commissioners of income tax under

this Ordinance.

5. Clause 6 authorises the assessment of this tax upon the chargeable income of a tax-payer as accepted or determined under the Colony Taxation Ordinance, 1937, and under the Non-Natives Income Tax (Protectorate) Ordinance, 1931, for the year commencing on 1st April, 1939.

6. Clause 10 authorises payment of the tax in instalments, a provision which does not exist in either of the other two Ordinances mentioned herein.

7. The definition of "year of assessment" in clause 2 will limit the operation of the Ordinance to the year ending on 31st March, 1940.

C.W.W. Greenidge
Acting Attorney-General.

Attorney-General's Chambers,
Lagos, Nigeria.
11th December, 1939.

PUBLIC RECORD OFFICE

END

TOTAL EXPOSURES ⇨