

**Interneccine disputes within the South African State
and the imposition of the 1925 Poll Tax**

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Abstract

In 1925 the first national tax on African men was imposed throughout the Union of South Africa – a country that had been constituted and unified just 15 years earlier. In the country's complex racial structure, the tax was levied exclusively on the indigenous male population, men classified as 'natives'. The general tax of 1925 was a poll tax, not an income tax, and was imposed irrespective of a man's income or impecuniousness. Charged at a flat rate of £1 per year, the tax affected virtually every adult African man in the country. For the unemployed, for those paid partly in cash and partly in kind, and for men earning subsistence wages, this was a new and onerous tax.

The poll tax had major repercussions for men across South Africa. Non-payment meant potential arrest and imprisonment. Conviction statistics attest to the fact that thousands of men did not pay the tax – or did not pay it willingly. In aggregate, poll tax violations accounted for the country's highest number of convictions in the fourteen-year period prior to the Second World War. The poll tax created debates and disputes among some State officials and bureaucrats tasked with enforcing it. There was consistent friction between the Native Affairs Department in Pretoria and magistrates in rural districts who had to confront the realities of applying the law. That opposition was particularly evident in the Cape Province where magistrates were obliged to enforce what was effectively a new, additional tax in poverty-stricken rural areas. It was these magistrates – not central government officials – who had to face the vexing issue of taxing men who were clearly in no position to pay. These functionaries were often expressed reservations about the law's application: Could a farm worker earning just £6 per year really be expected to pay the tax? Was there no exemption for unemployed men? Who precisely was subject to the tax and who was not? The tax instigated fissures within the South African State and this paper uncovers a significant and yet overlooked aspect of South African history.

Abbreviations

ANC	African National Congress
CNC	Chief Native Commissioner
DDT	Records of the resident magistrates of Dordrecht, Cape Town Archives Repository
JUS	Records of the Union Department of Justice, Union Archives, Pretoria
NTS	Records of the Union Native Affairs Department, Union Archives, Pretoria
RM	Resident Magistrate
SNA	Secretary of Native Affairs
UG	Union Government

Introduction

The general tax of 1925 was the first national tax to be imposed on African men throughout the Union of South Africa. This was a poll tax, not an income tax. Known more colloquially as a ‘head tax’, it was charged at a flat rate of £1, regardless of a man’s income – or lack thereof.¹ Enacted in terms of the Natives Taxation and Development Act,² it affected virtually every adult African man in the country for close on half a century.³ Non-payment of the tax was a criminal offence and its legal ramifications lead to the highest number of criminal convictions in the period prior to the Second World War – exceeding all other categories of offences, including pass law offences. This paper examines the tax’s legal penalties and it explores some of the disputes and debates it engendered within the South African State in the years leading up to the Second World War. A tax with such widespread repercussions has been the focus of relatively little historical study. Overviews of South African history make little or no reference to it. The country’s pass laws have, on the other hand, been researched more extensively.⁴ However, as mechanisms of control and punishment these two laws were often indistinguishable in their consequences.

The imposition of the Natives Taxation and Development Act marked an increase in the centralising power and hegemony of the South African State. Functionaries in the provinces, who had to apply the law, had to come to terms with imposing a racial tax on men who were clearly

1. In legislation, the tax was referred to as the ‘general tax’. The terms ‘general tax’ and ‘poll tax’ are, however, used interchangeably throughout this paper.

2. The Natives Taxation and Development Act, No. 41 of 1925. Hereafter also referred to as ‘the Act’.

3. The Act was repealed by the Bantu Taxation Act, No. 92 of 1969 which was based on income tax principles.

4. For instance, the poll tax is not mentioned in Davenport and Saunders’, *South Africa: A Modern History* whereas there are twenty references to the pass laws. *The Cambridge History of South Africa* makes one reference to the 1925 tax and ten references to the pass laws: Rodney Davenport and Christopher Saunders, *South Africa: A Modern History* (London: MacMillan Press, 2000); and *The Cambridge History of South Africa, Volume 2, 1885–1994*, edited by Robert Ross, Anne Mager and Bill Nasson (Cambridge: Cambridge University Press, 2011).

in no position to pay it. Many of the complaints and queries emanated from magistrates in the Cape Province, a province that had previously applied relatively lower taxes on African men.

The 1925 poll tax: background and penalty provisions

The Union of South Africa was constituted in 1910 and was comprised of two former Afrikaner republics (the Transvaal and Orange Free State) and two former British colonies (Natal and the Cape). These now formed the country's four provinces. Each of these territories had imposed their own taxes on African men. Attempts at standardising these differing taxes were postponed at the date of union; and the provincial tax regimes continued to operate in each province, largely unaltered for the next fifteen years. The Orange Free State levied a poll tax of £1 on all adult African men. The Transvaal imposed a £2 poll tax, although workers who could prove that they had worked for at least 90 days on farms were only required to pay £1. Prior to 1925 the lowest taxes were levied in the Cape⁵ and Natal⁶ where hut taxes for subsistence farmers, ranging from ten shillings (i.e. half a pound) to fourteen shillings, were imposed.⁷ In those two provinces, men employed on white-owned farms paid no tax, apart from customs and excise duties on goods purchased. For those men, the general tax was an onerous new tax. Most of the doubts and debates within officialdom regarding the tax's imposition emanated, in particular, from the Cape Province.

The dissimilarities in provincial tax rates also led to disparities in the provinces' respective contributions to the national treasury. A Transvaal member of parliament estimated that in 1924,

⁵. In just over half of the Transkei's districts, men who were not subject to the hut tax (usually those who were young and unmarried) had to pay a 10 shilling poll tax. The hut tax also did not apply in areas of the Transkei where quitrent was payable. See Sean Redding, *Sorcery and Sovereignty: Taxation, Power and Rebellion in South Africa, 1880–1963* (Athens, Ohio University Press, 2006), pp. 58, 71.

⁶. A previous Natal poll tax on unmarried African men had been withdrawn in 1913 in terms of the Natal Poll Tax Further Suspension Act, No. 8 of 1913.

⁷. Selbourne Ngcobo, 'Taxation of Africans in South Africa (1849 – 1939)' (Master's dissertation, University of London, 1964), p. 173.

one year before the poll tax's enactment, the tax on Africans in his province raised approximately £450 000. As he put it, 'I do not believe that in the Cape Province it reached £100 000, and yet there are more natives there. In the Free State it was also but a small sum, and in Natal with its large number of natives there was only a few hundred thousand pounds.'⁸ A uniform tax, he went on to point out, would remove 'an injustice to the Transvaal natives'.⁹ This was a view endorsed by Prime Minister JBM Hertzog, who could see no reason 'why the natives in the Cape Province should only pay a quarter of what the natives in the Transvaal do.'¹⁰

In order to standardise the taxation of African men, the new national £1 tax was enacted in 1925, introducing a uniform tax across the country.¹¹ The general tax superseded the provincial taxes when it came into effect on 1 January 1926. The tax became due on the first day of January each year and had to be paid within three months.¹² Every man who paid the tax was issued with a tax receipt which carried his name and could also include the names of his father, his headman and his tribal chief.¹³ It also displayed three sets of numbers: one was allocated to the taxpayer himself; another referred to the district where he lived; and the final number referred to the sub-district where the taxpayer's home village was located.¹⁴

⁸. House of Assembly, *Parliamentary Debates*, 24 June 1925, J. Nieuwenhuize, MP for Lydenburg, col. 4978.

⁹. *Ibid.*

¹⁰. *Ibid.*, Prime Minister J.B.M. Hertzog, col. 4979.

¹¹. There were two component taxes within the ambit of the Natives Taxation and Development Act: the £1 poll tax and a 10 shilling local tax, colloquially referred to as the 'hut tax'. Compared to the poll tax, the hut tax contributed a relatively small amount to State revenues. Unlike the poll tax, which was an obligatory payment for virtually all adult African men, the local tax's application was confined to the occupants (both male and female) of huts or dwellings in designated rural reserves.

¹². Section 9(1) of the Act.

¹³. South Africa, Union Native Affairs Department, *Report of the Native Farm Labour Committee, 1937-39* (Pretoria: Government Printer, 1940), p. 17.

¹⁴. *Ibid.*

In urban and industrial areas, every African man had to carry the tax receipt, as proof of payment, on his person from 1 April each year. From that date onwards, authorised State officials could at any time demand to see the receipt. Those officials included receivers of revenue, white policemen, and any tribal chief or headman who had been appointed by the government.¹⁵ If the document could not be produced, men could be summarily arrested without warrant.¹⁶

The summary arrest of men who were not in possession of valid tax receipts was not an option available to officials outside of cities and industrial areas. For magistrates in small towns and rural areas the alternatives available to them for enforcing the tax involved greater 'tediousness and laboriousness'.¹⁷ Summonses first had to be issued. These, according to the Native Affairs Department, were relatively easy to evade and if not evaded were simply nullified by payment of the outstanding tax.¹⁸ However, from 1 July each year, magistrates in country districts could go further and issue writs of attachment. No prior notification had to be provided to the taxpayer before executing the writ; it could be executed as if judgement had been obtained. According to a Native Affairs report, this was a system that functioned best in rural districts 'where a number of defaulters are concentrated in a small area with their possessions, as contrasted with scattered labourers away from their permanent homes in the European areas'.¹⁹ A man confronted by a messenger of the court at his door had two choices. He could either pay the outstanding tax or point to enough moveable property to cover not only the amount of tax outstanding but also the administrative costs associated with the issuing of the writ. The act of delivering writs of

¹⁵. Section 7(1) of the Act.

¹⁶. Section 7(2) of the Act.

¹⁷. National Archives Pretoria, Union Archive Depot (hereafter NTS), 2510, file 87/293 (M), Native Affairs Department Report: '*Collection of Native Taxes under Act 41 of 1925 during the Calendar Year 1926*' (undated).

¹⁸. *Ibid.*

¹⁹. *Ibid.*

attachment was often enough of a threat to extract on-the-spot cash payments of the tax. According to the report of a departmental committee of enquiry in 1938:

Actual sales in execution are very few. Many taxpayers require some pressure before they will meet their liability. As one Native witness expressed it graphically, 'they require something behind their neck', and the attachment of the cattle in which their pride and sentiment are involved has the effect of applying that necessary pressure.²⁰

In rural areas, men without a tax receipt did not face summary arrest but the receipts were nevertheless used as a mechanism of control. Men who did not possess a valid receipt could be denied a travel pass – effectively stopping them from obtaining legal employment in South African cities.²¹

Ultimately, however, a court appearance loomed for any man – whether from a rural or urban area – who did not, or could not, pay the tax. Upon appearing in court the defaulter was ordered to pay the outstanding tax and any associated costs. Payment could either be immediate or within a period specified by court order. Where no payment was made or there was a payment default, the taxpayer faced a prison sentence ('with or without hard labour') of up to a maximum of three months.²² If the taxpayer, or someone on his behalf, paid the outstanding liability he would be released from prison immediately. For those who completed their full prison sentence, the tax liability was not written off. The tax owing still stood.²³

²⁰. UG, South Africa, *Report of the Departmental Committee of Enquiry into the Collection of Native Taxes, 1938*, p. 4.

²¹. John Gcingca, General Secretary of the ANC, complained about the practice to Prime Minister Hertzog, in a letter dated 19 December 1926. See Peter Limb, *The ANC's Early Years* (Pretoria: Unisa Press, 2010), p. 336.

²². Section 9(3) of the Act.

²³. Section 9(4) of the Act.

In aggregate, poll tax violations accounted for the highest number of convictions in South Africa in the fourteen-year period prior to the Second World War. In total, 783 857 men were convicted for contravening the Act in that period (see table below). Other major categories of convictions were for pass law offences, municipal offences and liquor law offences. Tax convictions exceeded each of those categories. The poll tax was therefore the source of the single highest category of convictions in the Union over those years.

NUMBER OF CONVICTIONS: 1926 to 1939				
Year	Natives Taxation Act offences	Municipal offences	Liquor Law offences	Pass Law offences
1926	30 510	50 306	35 084	39 186
1927	50 283	55 643	36 638	40 706
1928	48 169	50 867	36 388	38 726
1929	45 181	53 116	35 397	33 527
1930	50 102	36 644	47 189	42 611
1931	56 892	48 915	40 647	29 057
1932	64 659	53 625	40 342	24 003
1933	69 760	56 763	50 034	25 676
1934	61 487	66 648	56 442	24 685
1935	68 915	72 895	65 404	42 111
1936	63 072	48 086	70 957	63 149
1937	71 100	49 550	66 254	67 426
1938	55 059	52 210	65 700	87 566
1939	48 668	56 154	77 582	101 309
TOTAL	783 857	751 422	724 058	659 738

Source: Compiled from the *Official Year Book of the Union*, No. 9 to No. 21, 1926 to 1940 (Pretoria: Government Printer). Listed in the Justice section under 'The predominant offences in the Union based on the number of convictions'.

The penalty provisions of the Act created resentment and antagonism from the outset. By 1938 this was acknowledged in a committee of enquiry report. Addressed to the Minister of Finance, the report acknowledged the 'undesirability' of police action and criminal sanctions that accompanied tax collections.²⁴ Numerous men complained of ongoing police demands and harassment regarding the furnishing of tax documents. The argument from many was that when

²⁴. NTS, UG, *Report of the Departmental Committee of Enquiry into the Collection of Native Taxes, 1938*, p. 2.

they had discharged their obligation to the State, 'they should not be subjected to [providing] constant proof of the fulfilment of their duty'.²⁵ What caused even greater resentment were the early hour raids on homes in urban townships. These were carried out indiscriminately, on the homes of men who had paid the tax as well as those who had defaulted. According to the report, many witnesses claimed 'that the system of tax collection has been largely responsible for a growing sense of antagonism between the taxpayers and the police which might have disastrous effects upon the nation as a whole'.²⁶

The taxation of farm labour: Cape magistrates' objections and disputes

It was against a backdrop of widespread criminal convictions that queries and disputes emerged within official circles regarding the practicality of imposing the tax on some of the poorest workers in the country.

The general tax, as its name implied, was far-reaching and comprehensive. Anyone in the Union who was African, and male, and 18 years of age or older, faced the prospect of paying the tax every year for the rest of his life. Despite its all-encompassing scope, the tax did allow for a few exemption possibilities, although none of these were indefinite. A man's exempt status had to be renewed on a year-by-year basis. There were four categories of men who could be released from the obligation to pay the tax. One category was men who had an income tax liability of £1 or more.²⁷ A few Africans fell into this category but their number was 'insignificant', according to an official report.²⁸ A second category included foreign nationals. Men who had a permanent home outside the Union and who could prove that they had paid an equivalent tax in their home country, were not liable.²⁹ Thirdly, students studying at an educational institution approved by

²⁵. NTS, UG, *Report of the Departmental Committee of Enquiry into the Collection of Native Taxes, 1938*, p. 2.

²⁶. *Ibid.*

²⁷. Section 4(2) of the Act.

²⁸. U.G. 22, Report of Native Economic Commission 1930–32, p. 224.

²⁹. Section 4(1)(b) of the Act.

the Native Affairs Commission could also gain exemption.³⁰ The fourth, and most problematic, exemption category applied to men who were 'indigent' or who were in 'necessitous circumstances'.³¹ Someone who was poverty-stricken and unable to work as a result of a chronic disease, could be granted exemption. However, the status of thousands of able-bodied men who were impoverished, if not destitute, was less clear. The uncertainty of their position was especially significant in rural South Africa where poverty was rife. This issue surfaced with particular regularity in the rural districts of the Cape Province.

With the Act coming into operation on 1 January 1926, it was not long before doubts about the new tax began to be voiced – and often from unexpected quarters. Among the first to question the tax were Cape magistrates. District magistrates in the Cape functioned as receivers of revenue; and after the introduction of the tax many expressed misgivings about it. Some of the magistrates simply queried the interpretation of the new law. Others, however, had concerns about the practical and humanitarian aspects of imposing the tax on farm labour, in particular. Those doubts were communicated directly to Major John Herbst, the Secretary of Native Affairs, and head of the Native Affairs Department, situated in Pretoria, the country's capital. It was Herbst's department that was responsible for overseeing the implementation of the tax and for dealing with queries and complaints from officials tasked with applying the new law.

Magistrates who were still relatively unfamiliar with the new legislation, queried whether the exemption provisions of the Act could possibly include farm labour. Exemption applications and enquiries were submitted soon after the Act's promulgation and officials needed guidance on interpreting the relevant provisions of the new law. Some officials assumed that there was an earnings threshold, below which a man would be exempted from the tax. For other magistrates, certain terminology was unclear.

³⁰. Section 4(1)(c) of the Act.

³¹. Section 4(1)(a) of the Act.

One of the first to question the new legislation was the magistrate of Humansdorp, a town 95 kilometres west of Port Elizabeth. The magistrate outlined details of a meeting he had held with a group of about 60 African men from various parts of the surrounding district in December 1925, a few days before the general tax came into effect. The magistrate recounted that the tax was looked upon with 'universal disfavour'.³² The men attending the meeting testified that wages were so low in the district that it would be impossible for them to pay the tax. Average daily wages for farm workers ranged from one shilling and six pence to two shillings per day, with food. Monthly wages ranged from 10 shillings (i.e. half a £) to £1 per month 'with four buckets of food, i.e. mealies³³, beans, sweet potatoes etc.'.³⁴ The group that met with the Humansdorp magistrate also included subsistence farmers from rural reserves. These men complained of overcrowding in the reserves, which meant they could not keep enough livestock to earn a reasonable living. The subsistence farmers also pointed out that in the past they had been unable to pay their hut taxes and asked how they were going to be able to pay this new, additional tax.

The Humansdorp magistrate anticipated that the vast majority of African men in his district would be applying for exemption because of their inability to pay the tax:

Since the question of exemption is left to [the discretion of] the Receiver, it would be of great assistance and tend towards uniformity if the Department were to lay down what should be considered as the maximum earnings of a native, regard being had to his conjugal condition and number of children, which would justify exemption.³⁵

Another magistrate based in Bedford, a farming district in the eastern Cape, made similar enquiries a few months later. In a letter to Herbst in March 1926, shortly before payment of the new tax became payable for the first time, the magistrate provided a description of the economic condition of farm workers in his district.³⁶ The average cash wage, he pointed out, was

³². NTS 2510, file 87/293 (I), RM Humansdorp District to SNA, 14 December 1925.

³³. Corn.

³⁴. NTS 2510, file 87/293 (I), RM Humansdorp District to SNA, 14 December 1925.

³⁵. *Ibid.*

³⁶. *Ibid.*, RM Bedford District to SNA, 13 March 1926.

approximately 10 shillings per month, plus rations and a free dwelling. The magistrate acknowledged that some farm workers owned a few head of livestock, but most did not. Furthermore, workers were deeply in debt to their employers for food rations and other goods purchased on credit. As the magistrate put it in his letter: '[T]hey have no cash to spare and can just about exist, bearing in mind that most of them are married with families. Is it the intention of the Act to make such men pay the tax?'³⁷

That same month, the magistrate of Sterkstroom, a district 272 kilometres north-west of the eastern Cape city of East London, expressed similar misgivings. He pointed out that farm worker wages amounted to 10 shillings per month along with a 'very meagre ration of mealies'; and he also noted that in many cases the man had a family to support.³⁸ 'Is it conceivable that of their yearly earnings of £6 they will be able to pay £1 to the Government?'³⁹ His question was followed by a declaration that he would carry out official instructions but, the magistrate said, he felt 'constrained to plead for the poor, starving native'.⁴⁰

In June 1926, the magistrate of Williston, a town situated in the Cape Province's arid interior, requested clarification on whether shepherds in his district earning 'from 10/- to 15/- per month plus certain rations and veldskoens'⁴¹ could be granted exemption.⁴² They had conveyed to him that they had families to support and could not pay the tax.

³⁷. NTS 2510, file 87/293 (I), RM Bedford District to SNA, 13 March 1926.

³⁸. *Ibid.*, RM Sterkstroom District to SNA, 18 March 1926.

³⁹. *Ibid.*

⁴⁰. *Ibid.*

⁴¹ Rawhide shoes

⁴². NTS 2510, file 87/293 (I), RM Williston District to SNA, 10 June 1926.

One month later, a group of African men met the magistrate of Middelburg, a town situated in the Cape Province's Karoo interior.⁴³ The magistrate was asked to explain the implications of the tax. The men raised two examples of typical predicaments farm workers faced in the area. Firstly, they wanted information on whether the unemployed were liable to pay the tax because many men in the area were jobless. Secondly, they provided an outline of the typical financial circumstances of men who were employed. In the district, a man with a wife and two children would earn approximately 15 shillings per week. The group pointed out that if someone in this situation had 'to maintain his family, his expenditure [had to be] carefully managed', and provided the following example of typical weekly expenditure:⁴⁴

Mealie Meal	2/ 6
Boer Meal ⁴⁵	4/ 6
Sugar	1/ 6
Coffee or tea	2/ -
Meat	1/ 6
Wood	3/ -
	<hr/>
	15/ -

These expenses, the men explained, did not include 'Paraffin, Matches, Rent, Taxes, Clothes etc.'.⁴⁶ How was a man in this position expected to pay the poll tax, the group wanted to know? The magistrate reported their concerns to the Native Affairs Department. As the exemption provisions of the Act made reference to men in 'necessitous circumstances', the magistrate asked whether there was any legal ruling on the term. Did the phrase, he enquired, cover men in the situations that had been described to him?

By October 1927, similar requests were also escalating in the Uitenhage area. The magistrate of that district requested a general departmental ruling regarding the tax status of farm workers in

⁴³. NTS 2510, file 87/293 (I), RM Middelburg District to SNA, 16 July 1926.

⁴⁴. *Ibid.*

⁴⁵ Wheat flour.

⁴⁶. NTS 2510, file 87/293 (I), RM Middelburg District to SNA, 16 July 1926.

his jurisdiction.⁴⁷ He reported that they earned between 15 shillings and £1 per month, along with food rations: 'About 60% of the Natives employed as shepherds in this district fall under this class and applications [for exemption] are increasing rapidly.'⁴⁸

That same month the magistrate of Port Alfred, a farming district in the eastern Cape, commented that he was:

aware that ... this District is suffering from an unprecedentedly severe drought and farm work is at a complete stand still. A considerable [number] of Natives [are] consequently out of employment and many will have to suffer privations if payment of the tax is enforced.⁴⁹

Two months later the magistrate of Port Alfred reiterated the point to the Chief Native Commissioner in King Williams Town. He noted the 'parlous state of the district and the privations suffered by European and Native alike' and added that even if there was rain within the next few days there would be 'no amelioration of their prospects for at least six months thereafter'. The magistrate had been informed that cattle were dying and that many faced 'ruin and famine'.⁵⁰

Magistrates knew that they had a certain amount of discretion in terms of who could or could not be exempted, but in poverty stricken rural areas that could mean widespread exemptions. They were placed in the invidious position of having to either demand payment from impoverished men or, alternatively, grant wholesale exemptions and then be obliged to explain the shortfalls in tax collections to the Native Affairs Department in Pretoria. According to the magistrate of Sterkstroom: '... if I did what I thought was right I would exempt 75 per cent [of African men]. Of the remaining 25% not more than 10% would be in a position to pay the tax comfortably'.⁵¹

⁴⁷. NTS 2510, file 87/293 (I), RM Uitenhage District to SNA, 11 October 1927.

⁴⁸. *Ibid.*

⁴⁹. NTS 2510, file 87/293 (M), RM Port Alfred District to SNA, 6 October 1927.

⁵⁰. *Ibid.*, RM Port Alfred District to CNC King Williamstown District, 21 December 1927.

⁵¹. NTS 2510, file 87/293 (I), RM Sterkstroom District to SNA, 18 March 1926.

By the early 1930s, the global economic depression was adversely affecting the country's agricultural sector and the magistrate of Jansenville, a town northwest of Port Elizabeth, reported that there were severe cutbacks on farms in his district and the wages of farm workers had declined in many cases. The magistrate explained that wages were 'being paid either partly in cash and kind or in kind only, instead of wholly in cash'.⁵² To emphasise the dire economic state of many Africans, the magistrate disclosed that he had received reports 'that Natives have trekked about in the district with their families in search of employment and not been able to find any even though they offered their services solely in consideration of rations'. He concluded with a request: 'Please instruct me as to what should be done in the matter'.⁵³

Men's inability to pay the tax was reflected in the growing number of convictions. In 1933, reports were filtering back to the Secretary of Justice in Pretoria that the jail of the eastern Cape town of Dordrecht was overcrowded with men who had been prosecuted for not paying the tax.⁵⁴ The Dordrecht magistrate informed the Department of Justice that the reports it had received were 'substantially correct'. Following enquiries, the magistrate had established that 'the majority of Natives in this district have not got the money with which to pay their taxes for this year'.⁵⁵ However, he noted that judicial officers had no option but to apply the provisions of the law when tax defaulters were brought before them. In the magistrate's opinion, the best way of dealing with the problem was to grant temporary exemptions 'until such time as conditions improve'. He went on to point out to the Secretary of Native Affairs that 'a great deal of distress undoubtedly exists among the Natives in this district'.⁵⁶

⁵². NTS 2510, file 87/293 (G), RM Jansenville to SNA, 9 February 1932.

⁵³. *Ibid.*

⁵⁴. Cape Town Archives Repository, Records of the Resident Magistrates of Dordrecht (hereafter DDT), 1/DDT 5/23, file 2/8/4, Secretary of Justice to RM Dordrecht, 8 November 1933.

⁵⁵ *Ibid.*, RM Dordrecht to Secretary of Justice, 14 November 1933.

⁵⁶. *Ibid.*, RM Dordrecht to SNA, 17 November 1933.

In stark contrast to the position of many African men, white farmers owning large farms often paid no income tax at all.⁵⁷ The farmer's worker, on the other hand, or an African peasant working a small plot of land, had to pay the £1 general tax. A State report had to admit that: 'In respect of farming areas there is the anomaly that while the great majority of [white] farmers escape direct taxation all their Native male employees over the age of 18 must pay it'.⁵⁸ White taxpayers, in general, had relatively generous income tax rebates. Jabavu points out that in 1931 a white man in South Africa only paid tax on income exceeding £400 per year. In addition, there were child rebates available so that if he had four children the tax threshold stood at £640.⁵⁹

Magistrates' doubts about African men's inability to pay the tax was later borne out in 1938 official report. The report acknowledged that African men's mounting tax debts had become an intractable problem for the State. Once payment of a given year's tax was missed, 'the accumulative debt becomes too great for [a man] to meet, and consequently his only hope lies in continued evasion'.⁶⁰ In one centre there was an alarming number of convictions of men who were in arrears for up to twelve years. The committee had to acknowledge that these men had 'incurred liabilities which they could not possibly be expected to discharge'. A taxpayer's situation would worsen year by year 'until at last the mere sight of a policeman's uniform is sufficient to send him into hiding. As one witness expressed it, "they become as buck upon the hills"'.⁶¹

^{57.} UG 22, Report of Native Economic Commission 1930–32, 1932, p. 225.

^{58.} *Ibid.*

^{59.} Davidson Jabavu, *Native Taxation* (Lovedale: Lovedale Press, 1932), p. 3.

^{60.} UG, South Africa, *Report of the Departmental Committee of Enquiry into the Collection of Native Taxes, 1938.* p. 3.

^{61.} *Ibid.*

The imposition of a racial tax: determining who was liable

Apart from Cape magistrates' misgivings concerning the practicality of taxing some of the poorest workers in the country, the 1925 poll tax also raised problems regarding who exactly was liable to pay it. The object of the tax was clear enough: its intention was 'to provide additional funds for the development, education and local government of natives'.⁶² The segregationist State saw the Act as an opportunity to compel Africans to fund their own separate education and governmental costs. This was a tax to be imposed exclusively upon Africans. Men classified under term 'coloured' were excluded from the Act's ambit. To further emphasise this point the Secretary of Native Affairs issued a nationwide circular explicitly stating that 'Hottentots, Bushmen and Korannas' were not to be regarded as 'natives' and were therefore not liable to pay the poll tax.⁶³ That directive was received with some consternation among Cape officials. It was these officials who often had to make prompt decisions regarding the racial classification of men who were in some way at the margins of the Act's central, racial provisions. They had the task of specifying 'the boundary between supposedly "pure" and "mixed" "non-white" races'.⁶⁴

In October 1926, the Superintendent of Natives in the Hay district of the northern Cape, reported having problems deciding 'where to draw the line among the different classes of aboriginals'.⁶⁵ Similarly, by December of 1926 the magistrate of Hopetown, a town on the Orange (Gariep) River at the northern border of the province, complained to the Native Affairs Department that the circular was causing numerous problems. In his opinion it would lead to great dissatisfaction and 'much unfairness and injustice' if the tax was collected from some workers and not others when

⁶². Preamble to the Natives Taxation and Development Act, No. 41 of 1925.

⁶³. National Archives, Pretoria, UG, Records of the Union Department of Justice (hereafter JUS) 895, file 1/420/25, Department of Native Affairs, Identical Minute No. 87/293, 3 July 1926.

⁶⁴. Deborah Posel, 'Race as Common Sense: Racial Classification in Twentieth-Century South Africa' *African Studies Review*, Vol. 44, No. 2 (2001), p. 90.

⁶⁵. NTS 2507, file 87/293 (G), Superintendent of Natives, Hay District to RM Hay District, 23 March 1927.

they were all living together on farms under exactly the same conditions.⁶⁶ One month later, he appealed to the Department of Justice to place a more 'equitable interpretation of the Native Taxation Act than did the Native Affairs Department'.⁶⁷ The decision to differentiate between different black racial groups – taxing some and not others – proved a persistent cause of reports of dissatisfaction among workers.

In April 1928, the magistrate of Kimberley, reported that:

... we find on farms labourers, who might be classed under 'San' peoples, living alongside and under entirely similar conditions to Natives, doing the same work and drawing the same pay and emoluments, and the one is exempted and the other called upon to pay.⁶⁸

The magistrate noted that there was a great deal of discontent among the men in his district who were obliged to pay the tax.

Reports of this kind were still being sent through more than four years after the circular was issued. In July 1930, the Superintendent of Native Affairs in the Hay district complained to the Native Commissioner of that town, that African men in his district did not understand why the Khoi, San and Korannas should be exempted.⁶⁹ As far as they were concerned, the different racial groups should be treated equally. The superintendent pointed out that African men, along men from the other groups were employed on farms and in the Kimberley mines under exactly the same conditions. He went on to say that they inter-married and lived intimately 'under the same social conditions' and that the men who were taxed could not understand the reasons for their different treatment.⁷⁰

^{66.} NTS 2507, file 87/293 (G), RM Hopetown District to SNA, 8 December 1926.

^{67.} *Ibid.*, RM Hopetown District to SNA, 10 January 1927.

^{68.} *Ibid.*, RM Kimberley District to SNA, 27 April 1928.

^{69.} *Ibid.*, Superintendent of Natives Hay District to RM Hay District, 23 July 1930.

^{70.} *Ibid.*

The departmental circular exempting the Khoi, San and Korannas not only created problems in determining who was included or excluded from the terms of the Natives Taxation and Development Act, it was also inconsistently applied across different districts. In October 1926, the magistrate of the rural Cape district of Willowmore informed the Native Affairs Department of the 'very considerable dissatisfaction' of African men in the district as a result of the enforcement of the Act in his jurisdiction.⁷¹ According to the magistrate, men in neighbouring Uniondale were not paying the tax. A pastor in Uniondale had successfully petitioned the local magistrate to exempt all men in the district from paying the general tax – presumably on the basis that they all belonged to one of the three qualifying tribes listed as exempt by the Native Affairs Department. This was not the only case of inter-district discrepancies. Willowmore's magistrate went on to complain that in the districts of Mossel Bay, Beaufort West, Knysna and George, only a handful of African men had been called upon to pay the tax:

The natives [in the Willowmore district] are at a loss to understand why one District should be exempted and not others and I can quite sympathise with them in their grievance – I am placed in a very invidious position as both natives and farmers ask why one Magistrate can get his District exempted and not another.⁷²

The natives in this district are at a loss to understand why Hottentots, Bushmen etc. are exempt from payment of the tax, as indeed I am, and my efforts to explain the reason of their exemption is not, I am afraid, convincing.⁷³

Queries and complaints: central government responses

The central State figure in the administration, interpretation and enforcement of the Act's provisions was the Secretary of Native Affairs, Major John Herbst. It was his responsibility to ensure that the new tax was imposed as efficiently and effectively as possible across the country. Herbst had been appointed to the post in 1923 and had a formidable reputation as a trouble

⁷¹. NTS 2507, file 87/293 (G), RM Willowmore District to SNA, 26 October 1926.

⁷². *Ibid.*

⁷³. *Ibid.*

shooter and a technocrat.⁷⁴ In a racially segregated State, as head of the Native Affairs Department, he had considerable power. All complaints, queries and objections regarding the tax were funnelled through his department.

Herbst's starting point when responding to magistrates' queries regarding the taxation of impoverished workers, was to provide his interpretation of the exemption provisions of the new Act. There was only one section of the law at issue here, namely section 4(1)(a).⁷⁵ This section provided exemption for:

... any native who satisfies the receiver that he is indigent and is prevented from working by reason of age, chronic disease or other sufficient cause or that he is in necessitous circumstances and is prevented by causes not within his control from earning sufficient to enable him to pay the tax...⁷⁶

Herbst pointed out that the word 'satisfies' implied that officials had discretion in deciding individual cases.⁷⁷ However, he did highlight that there were two components to the paragraph.⁷⁸ The first dealt with men who were 'indigent' and the second referred to men in 'necessitous circumstances'. The word indigent, according to Herbst, should be interpreted as referring to persons who were paupers and who were not earning any income.⁷⁹ This would only apply in cases caused by a man's 'total inability to earn any means of livelihood'.⁸⁰ The second part of the paragraph, referring to men in necessitous circumstances, 'was intended to meet only exceptional cases where unusual hardship had been encountered which were not strictly covered by the first

⁷⁴. Saul Dubow, *Racial Segregation and the Origins of Apartheid in South Africa, 1919–36* (London: MacMillan, 1989), p. 86.

⁷⁵. There were two more subsections to Section 4(1). One dealt with the exemption of foreign nationals while the other provided exemption for men studying at approved educational institutions.

⁷⁶. Section 4(1)(a).

⁷⁷. NTS 2510, file 87/293 (I), SNA to RM Uitenhage District, 28 October 1927.

⁷⁸. *Ibid.*, SNA to RM Williston District, 16 June 1926.

⁷⁹. *Ibid.*, SNA to CNC King Williams Town District, undated.

⁸⁰. *Ibid.*, SNA to RM Sterkstroom District, March 1926.

part [of the paragraph]'.⁸¹ Herbst refused to be drawn on what those necessitous circumstances might be. As he put it: 'It is thought that no hard and fast rule can be laid down in regard to the question of exemption. The matter is left to the discretion of Receivers who should decide each case on its merits.'⁸²

What was apparent, however, was that men in employment, including farm workers, would not be granted a blanket exemption, regardless of how little they earned. The whole question of general exemptions had to be 'approached with caution', the Secretary said.⁸³ Herbst acknowledged that exemption was available to indigents who had no ability to earn income but there was no possibility of extending the range of exemption categories to include farm workers.⁸⁴ According to Herbst, the government had adjudged a poll tax to be the fairest and most effective contribution that African men could make to the State when taking their general economic position into consideration. His stock response was that:

Parliament gave full and careful consideration to ... bring about uniformity in Native Taxation in as equitable a manner as possible. It is not therefore possible to make any discrimination in favour of farm servants.⁸⁵

This answer was usually followed by the small concession that receivers of revenue had the discretion to grant an extension of time for payment that would, according to the Herbst, 'facilitate matters for the farm labourers'.⁸⁶

In reply to the magistrate of Sterkstroom, who had stated that 90% of the men in his district either could not pay the tax or would struggle to pay it, Herbst pointed out that the men were not

⁸¹. NTS 2510, file 87/293 (I), SNA to CNC King Williams Town District, undated.

⁸². *Ibid.*, SNA to RM Middelburg District, 27 July 1926.

⁸³. *Ibid.*, SNA to RM Sterkstroom District, March 1926.

⁸⁴. *Ibid.*, SNA to Secretary of the Bedford Farmers' Association, 3 May 1926.

⁸⁵. *Ibid.*, SNA to Secretary of the United Farmers, 31 July 1928.

⁸⁶. *Ibid.* SNA to Secretary of the Bedford Farmers' Association, 3 May 1926.

indigent nor were they in necessitous circumstances, and therefore could not qualify for an exemption. '[It] may be remarked that these Natives are in no worse circumstances than many thousands in the Ciskei.'⁸⁷ The magistrate of Middelburg was informed that unemployed men in his district could be given an extension of time to pay until they found employment. A man earning a low wage, on the other hand, was 'not a case where the exemption contemplated in the section in question could be granted'.⁸⁸ In reply to the magistrate of Uitenhage regarding the exemption of shepherds in his district, Herbst indicated that widespread exemptions could not be considered.⁸⁹ The view that farm workers, as a class, could not be granted exemption was reiterated to other magistrates.⁹⁰ As Herbst explained, receivers of revenue did have a degree of discretion in ruling on exemption applications, but that was only on a case-by-case basis. That discretion had to be 'used sparingly as indulgence of this nature invariably tends to make the natives lax in the discharge of their tax liabilities in future years, however bountiful they may be'.⁹¹

Not all magistrates were placated when told they had discretion in individual exemption cases. The Port Alfred magistrate pointed out that:

... the reply by the Secretary of Native Affairs that the matter is one which is placed entirely in my hands by the Act is quite misleading. The only power placed in my hands is to grant exemption to Natives unable to work, or to grant extension [of time] in individual cases after investigation into each such case.⁹²

⁸⁷. NTS 2510, file 87/293 (I), SNA to RM Sterkstroom District, March 1926.

⁸⁸. *Ibid.*, SNA to RM Middelburg, 21 July 1926.

⁸⁹. *Ibid.*, SNA to RM Uitenhage District, 28 October 1927.

⁹⁰. Resident magistrates of Bedford, Humansdorp, Williston, Middelburg and Somerset East received similar replies.

⁹¹. NTS 2510, file 87/293 (M), SNA to RM Port Alfred District, 19 October 1927.

⁹². *Ibid.*, RM Port Alfred District to CNC King Williamstown District, 21 December 1927.

The magistrate was correct in this assessment. Employed men were subject to the tax. Furthermore, any man who was employable or able to work was also liable to pay the tax. The only form of relief that could be granted was an extension of the period in which payment could be made. This fact was confirmed some years later in a South African Institute of Race Relations report that noted:

The Secretary [of Native Affairs] stated that exemption was granted for poverty and physical disability, but that genuinely unemployed natives could only get 'time to pay' and that they seldom got extension of time beyond two or three months at a time.⁹³

In response to magistrates' queries regarding who was liable to pay the tax and who was not, Herbst was 'at a loss to see how difficulty [in differentiating between black groups] arises'.⁹⁴ Magistrates who had difficulty distinguishing between the Khoi, San, Korannas, and other Africans, had to use what he termed intelligent discretion and common sense.⁹⁵ For Herbst, the inherent anomalies and inconsistencies in the legislation were either dismissed by directive, or simply brushed aside. Moreover, as he pointed out, he had the complete support of JBM Hertzog, the Minister of Native Affairs, who was also the Prime Minister. He went on to admit that 'Borderline cases are necessarily difficult, but the Minister considers that on the general lines indicated Receivers should with the exercise of discrimination be able to avoid unreasonable controversy'.⁹⁶ The principles underlying the departmental instructions were 'thought to be rational and equitable'.⁹⁷ As far as he was concerned, the reported problems about who fell within the ambit of the Act and who did not, lacked any real substance.⁹⁸ His standard response – that

⁹³. NTS 2510, file 87/293 (G), South African Institute of Race Relations to SNA, 30 October 1931.

⁹⁴. *Ibid.*, SNA to RM Griquatown District, 28 October 1928.

⁹⁵. *Ibid.*, SNA to RM Hay District, 24 April 1928.

⁹⁶. *Ibid.*

⁹⁷. *Ibid.*

⁹⁸. *Ibid.*, SNA to RM Griquatown District, 28 October 1928.

parliament had given 'full and careful consideration' to the imposition of the tax – was an expedient, bureaucratic tactic to avoid engaging with the multiplicity of issues that the tax raised.

Conclusion

The general tax of 1925 was the first uniform tax on African men to be applied throughout the recently unified State and it was a consequence of that union. While the tax of £1 was applied uniformly across the country, its affects were not equally felt. In aggregate, men in the urban areas of the Transvaal, for instance, were relatively better off following the tax's introduction. Their poll tax charge – previously £2 in that province – was now halved. For other men, the new tax entailed no change in their financial position. Men in the Orange Free State continued to pay the same amount of £1, as they had done under the previous provincial poll tax. However, men in the Cape Province were worse off. The hut taxes that were applied in that province amounted to ten shillings per annum; and men employed on white-owned farms had previously paid no tax. For those men, the general tax was a new and onerous tax.

The enactment of the Natives Taxation and Development Act formed part of an extensive process of centralising the South African State's hegemony and power. However, the State was not a monolithic entity. The tax that it imposed on a largely poor population was the cause of consistent friction between the Native Affairs Department in Pretoria and magistrates based in the Cape. These functionaries, who enforced the tax on a day-to-day basis, had to deal with the iniquity and abstruseness of applying and enforcing a racial law. They faced the difficult issue of taxing men who were obviously unable, and unlikely, to pay. The magistrates had obvious reservations about the tax's enforcement. As one put it, African men in his district had 'no cash to spare and can just about exist'.⁹⁹ Those doubts proved to be well founded. Thousands of men were convicted and sent to jail for non-payment. By the late 1930s even the central government had to acknowledge that men's accumulating tax debts were unlikely ever to be paid.¹⁰⁰

⁹⁹. NTS 2510, file 87/293 (I), RM Bedford District to SNA, 13 March 1926.

¹⁰⁰. UG, South Africa, *Report of the Departmental Committee of Enquiry into the Collection of Native Taxes, 1938*. p. 3.

This paper began by noting the paucity of secondary sources dealing with the poll tax. Much of the available secondary source material is somewhat fragmentary, merely providing a brief mention of the tax in overviews of South African history. Nevertheless, there is a rich vein of information on the tax in primary sources, principally in archival records. This paper uncovers some of this material. By comparison, the South African pass laws have been researched far more extensively. For instance, Davenport and Saunders make no reference to the poll tax but make twenty references to the pass laws.¹⁰¹ *The Cambridge History of South Africa* has a single reference to the 1925 tax.¹⁰² However, the pass laws are referenced ten times in that work. These two laws were nevertheless inextricably linked. Both were mechanisms of control and punishment – and in their application and their effects, were often indistinguishable. The link between the two was made explicit in a Native Affairs departmental circular issued three months before the tax came into effect:

A close connexion should be maintained between pass registration and tax control. The registration and monthly stamp issue [of passes] provide opportunities for tax scrutiny of which all officers should avail themselves ... It should be understood that every pass official is a scrutineer for native tax purposes.¹⁰³

This study deals with a centralised, standardised, racially-based tax on virtually all African men during the inter-war years. It was a tax that exacerbated economic hardship, discriminated between and within racial groups, and led to the criminal prosecutions of hundreds of thousands of men. By revealing some of the tax's ramifications for those men, and for the officials obliged to enforce it, this study highlights a neglected chapter in the country's history.

¹⁰¹. Rodney Davenport and Christopher Saunders, *South Africa: A Modern History* (London: MacMillan Press, 2000).

¹⁰². *The Cambridge History of South Africa, Volume 2, 1885–1994*, edited by Robert Ross, Anne Mager and Bill Nasson (Cambridge: Cambridge University Press, 2011).

¹⁰³. NTS 2510, file 87/293 (G), Department of Native Affairs, Union Circular No. 30, 1925, 'Natives Taxation and Development Act, No. 41, 1925', 29 September 1925.

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