

C.S.

Secret.

WAR/W2H/3#6

1939

No. S/38/39.

H.E. the Governor.

SUBJECT.

1939

26th Sep^{br}

Previous Paper.

Taxation to meet additional
Expenditure due to the
war.

MINUTES.

1. Secret Minute from H.E. the Governor.

2. Circular No. 62 Confidential from
S. of S. (Telegram)

3. Circular No. 65 from S. of S. (Telegram)

Y.E.

The estimated increase based on the rates suggested by Y.E. would be £2,356 for Imports. This includes an extra 1s/- per lb. on tobacco i.e., an increase from 4s/- to 5s/- per lb.

2. With regard to export duty on wool it would seem preferable to let the present duty of 1s/- on every 25 lbs or part thereof apply to the price of 9d per lb. or less, and 1s/6d to apply when the price exceeds 9d and so on.

3. Whale Oil. An increase to 23s/- per barrel would yield an estimated increase of £2,348 and at 2s/6d per barrel and increase of £4,697.

Subsequent Paper.

4. An Ad Valorem duty of 5% on the value of all imports into the Colony would yield about £5,500. Under this all classes would make a contribution to revenue - those with more money the greater contribution.

5. The proposed income tax would exclude a large part of the population from making a contribution to revenue. I have examined the Finance Acts of the U.K. and also the only Colonial Ordinance on the subject available. The legislation appears elaborate and necessitates a large staff to carry out. To make such a tax equitable various allowances have to be provided for persons maintaining dependants and to those with children. In the meantime an estimate of probable yield from such a tax is being prepared.

6. I will speak to Y.E. about these proposals.

mch
C.S.
(Ag. Treas)
28. 9. 39.

*I enclose a telegram received
for S.H. today. Income tax
is inevitable. I do not propose any
allowances for dependants or any
other grounds but will consider this
if the tax had to be increased*

Pl. speak early

29/9/39
*I have a copy of the tel. for S.H.
There is no need to copy it in Y.E. office*

Secret

C.S.O. No. 38/39

Inside Minute Paper.

Sheet No. 1

Income Tax Occupations taken
from last Census. Estimate
arrived at £3,000. Treasury
offices going into matter in
more detail but it would
appear that £3,000 more or
less is a fairly accurate
estimate. MCH
C.S.

4. Confidential Telegram No 72 from S. of S.
29/9/39
5. Confidential Telegram No 74 from S. of S.
30/9/39
6. Confidential Telegram No 92 to S. of S.
30/9/39
7. Cive: Telegram No. 95 Confidential from
S. of S. 13/10/39.

Note No Development Fund
Scheme in operation in Colony.

MCH

C.S.

14. x. 39.

8. Telegram to S. of S. of 18. x. 39
No 105

Treasury and Customs.

Please see draft

Bills.

1. To replace the third
Schedule to the Tariff
Ord. 1900 with a new
Schedule of Excham duties.
2. To replace the Lower

Schedule of the same administered
with a new schedule of
Import duties. Will you please
consider and suggest any
amendments you may consider
necessary.

Yours
truly
C. H.

25.8.39

Dear Sir,

Seen. Thank you.

With regard to the Draft Bill re Export
Duties, there is but one observation I
would submit and that is unless the
duty on wool exports is fixed as drafted,
i.e. allowance for an increase of 50% duty when the
wool price exceeds 9¹/₂ per lb., no increase of
revenue can be expected to accrue. It
will be noted that the estimate given in
Red B. is based on an increase of 100% on
the present rate leviable.

With reference to the footnote of the
proposed "Scheme of Exemptions from
payment of Duty on Imports" I beg to
submit the following table based on figures
extracted from the Blue Book for 1938:-

Imports 1938					Total
	① Food Drink & Tobacco	② Raw Materials etc	③ Articles wholly or mainly manufactured	④ Those unclassified	
Imports	£ 38,457	£ 16,878	£ 53,967	£ 4065	£ 113,557
Percentage	34%	15%	48%	3%	100%
Ad valorem duty of 5% on merchandise only	£ 19,76.44	£ 849.90	£ 2719.68	£ 169.98	£ 5666.
	£ 113,317				

Of the Head "Food etc" £23,431 represents foodstuffs alone.
It will be seen, therefore, that if foodstuffs are to
be exempted from payment of the ad valorem duty
a loss of 60% of Revenue (or approx £1156) under this
Head will ensue.

Yours
truly
C. H.

26/10/39

y/h.

Draft Bills Submitted.

2. From the table given by the Treasury it will be seen that if all foodstuffs are exempted the revenue anticipated will be reduced to £4500. In the Schedule of Suggested Exemptions I have noted certain principal foodstuffs that might be considered for exemption. On the other hand the tax is comparatively small and should not seriously affect those with small incomes, at least judging from rapidly increasing deposits in the Savings Bank made by the working class.

MCH

26. X. 39.

Paper received from
Hk. the Exchequer on
29. X. 39.

y/h.

File resubmitted.

MCH

8. XI. 39.

1 Confidential Telegram for S.H. 16/11/39
H.C.A.

From enclosed telegram received today you will observe that the S.A. does not favour other taxation than Income Tax. At the same time it is desirable in my opinion that the "drinking ^{and smoking} classes" at all events should bear some part of the additional taxation in order to spread the net for all who can afford it. The draft to amend the Tariff (Import Duties) Bill might therefore be adopted. The amount so received should be not less than £2000 leaving £10,500 to be raised from Income Tax.

2. It is not necessary that the Income Tax Bill be introduced at the same time as the Estimates and the latter can proceed. How soon can they be made ready for presentation?

[Signature] 16/11/39

Extract from minutes of meeting of the Executive Council held on the 4th of December, 1939.

It was agreed that the Bill should be proceeded with.

A. J. Stewart

Clerk of the Executive Council.

C.S.O. No. S/38/39

Inside Minute Paper.

Sheet No. 3

Yk.
Ordinances submitted for
Signature. MCH
6. XII. 39.

TTTTT 7/12/39
Telegram to 1/11 Kenneth to
be sent in G.T.C.

10 TTTTT
Telegram 130 Confidential of
7. XII. 39 to S. of S.

Yours Excellency.

Despatches Submitted
Concerning draft Income Tax
Bill and copies of the
Tariff (Import Duties) Amendment
Ord. (No 1) 1939.

Draft handed
to Printer
MCH
8. XII.

2 I fear that the
printing of the Income Tax Bill
which is a big job will
take some time particularly
as the ten Ordinances
recently passed will have to
wait completion of publication
in the Gazette before the
type can be set free.
MCH
8. XII. 39.

TTTTT 8/12

Extract from Minutes of Meeting of the Legislative
Council held on the 5th of December, 1939.

The Bill was then read a third time and passed.

MCH

for

Clerk of the Legislative Council.

Bay. Despatches to S. of S. of 8/12/39 11-12.
Minute to Registrar-General of 12/12/39. 13-14.

Treasury.

(As Sec. 2 of Ord. 10 of 1939
appears the first schedule to the
Tariff Ord. 1900, as amended by
the Tariff (Import Duties) Amendment
Ordinance 1929 and 1931, it
would appear necessary to repeal
the first para. of Section 3
of Ord. 6 of 1933 in order
that exemption for matches
and prepayment tariff for cigars
may apply under Ord. 10 of
1939. Do you agree with
draft Bill please.

MCH

14. XII. 39.

Letter from Estate Louis Williams of 15/12/39. 15-16.

Treasury.

In your observations
please.

MCH

18. XII. 39.

Her. C.S.

Submitted.

① The new Tariff came into operation
on the 5th Dec. - The "Lafania" arrived

late in the evening of the 4th Dec, and did not, I understand, commence discharging cargo ~~etc~~ until the 5th. All dutiable goods imported by this vessel have been subjected to the increased tariff without dissent by any other importer - Indeed, even the Est. L. Williams expresses disinclination "to quibble over the matter" vide para 4 of Recd 16.

② Further, it is, I suggest, worthy of note that the firm's retail tobacco prices were increased almost immediately by 10 per packet of 10 cigarettes and increase of $3\frac{3}{4}$ per lb or $2\frac{3}{4}$ per cwt and above the increased tariff! (Presumably to meet it.)

③ It would seem that the Est. L. Williams bases its complaint not on the increased tariff, nor the payment thereof, but on an alleged grievance of almost seven years' standing.

It will be observed that the correspondence in connection therewith terminated with the then Collector of Customs' letter of 10/1/33 - which, I submit, virtually closed the matter.

Unfortunately, the correspondence is not on record in this office, but I submit that the Collector's action in refusing to accede to the firm's request is fully justified by the provisions of Section 21 of Ordinance 6 of 1903.

④ In conclusion, I would submit that the Est. L. Williams has not made a case for consideration let alone adjustment.

WDA
Collector of Customs
19/1/39

Vide paras
5 & seq of
Recd 16/4/39

Letter to Manager, Est. L. Williams of 22/12/39. (17)

Treasury.

Please see 14 A. and my
minutes of 14 XII. 39.

MCH
C.S.

22. XII. 39

Draft Income Tax Bill -
Copies sent to members of
Ex. Co. and Leg. Co. 18

Confidential Telegram No 122
of 23. XII. 39 from S. of S. 19.

Legislative Council 28th December 1939

Bill to impose a Tax
upon incomes and to regulate
the collection thereof was
passed.

MCH

for Clerk to Council

Yk.

14 Copies of Ordinance No 20
of 1939 submitted for signature.

MCH
C.S.
8. 1. 40

~~THH~~ 8/1/40

Hones

I called for this paper in
connection with your minute of 25/1/39

I would suggest that the opportunity
be taken to include the under-noted items
in the Schedule to Ordinance 10/39, viz

Wine in bottles 13/- per doz

British wine in casks . . . 4/6 per gallon

these rates accord with those already provided for.

WCH
18/1/40

C.S.O. No. 5/38/39

Inside Minute Paper.

Sheet No. 5

Treasury.

Do you agree with 14 A?

2. It will be necessary to amend Ord. 10 of 1939.

Please put up a draft of the amendment.

MCH
cl.

12. 1. 40

(20) Minute to Registrar-General of 17. 1. 40.

(21) Telegram to Mr. Fitch of Col. Sec. Barbados. 16. 1. 40

ff. Draft despatch submitted regarding the Income Tax Ordinance. Marginal notes have been made in two copies of the Ordinance showing the few differences made with the British Honduras Ordinance.

2. As the measure has been introduced at the suggestion of the S. of S. no Report on the Ordinance appears necessary?

MCH
cl.

23. 1. 40

24/1

Confidential Despatch to S. of S. of 24.1.40. (23)

Yf.

Despatch Submitted for
Signature.

MCH
cl.

24.1.40

Minutal Sec. MCH 24/1/40

File for your information.

2. Please see recd (21). This
was sent too late to catch you
at Barbados.

3. Action is required as
regards forms and general
measures necessary to carry
out the provisions of the
Ordinance.

MCH
cl.

9.2.40

S. of S. Confidential Despatch of 20/11/39. 25-26

H. L. S.

Your minute dated 9.2.40. duly noted.

2. re recd (21). I received your telegram
at Barbados on the morning of my
departure but too late for action to be
taken as requested therein.

3. With regard to the forms referred to
in your para. 3, I should be glad if you
would telegraph to the Govt. of B. Honduras
asking them to send this Government four
specimen copies each of all their Income
Tax forms for comparison and to be
adapted.

adopted where necessary. In the
meantime I propose to draft
certain forms, to be printed locally,
for our immediate use.

Per. Smith:
J. V.
15/2/40.

26. Telegram to Col. Sec. British Honduras
Financial Secty.

Telegram was sent on
13.2. McH
CS.
16.2.40

J. V. S.

Noted. Thank you.

Per. Smith:
J. V. 18.2

(27) Telegram No. 17 from S. of S. of 26/2/40.

J. V.

Referred please.
McH
CS.
28.2.40

H. C. S.

Re Q7 - I note that it will be necessary to amend Section 21 of the Income Tax Ord. 1939. It might be easier to repeal the existing section and replace it by Section 21 of the Model Ordinance annexed to Q. of M.N. 178/23. (attached).

2. In order to avoid having to renumber the subsequent sections of the Ordinance, I suggest that a sub-section (21. II) be inserted to provide for the tax upon the chargeable income of a Company. I recommend that the rate be fixed at not less than $2\frac{1}{6}$ on every £.

3. Re Section 19 of the Ordinance - I am unable to furnish the reasons for this provision. If it is the policy to encourage the registration of a company in the Colony, or investments by individuals who are resident in the Colony, it might be argued that this is showing partiality - which is not considered good in law. If, on the other hand, it is intended to discourage "absentee proprietorship" it is good, theoretically, but I am in some doubt as to whether this provision will have the desired effect. Unless there is some very good reason for such provision I recommend that Section 19 be repealed on the grounds that it may lead to complications.

4. I note in (27) that further comments will follow after the receipt by the Secy. of Stk. of the Income Tax Ordinance. In the circumstances, especially as a number of the forms (and possibly Regulations) - will not be available for some time, action under the provisions of Ordinance No. 20 of 1939, "Income Tax Ordinance 1939", will have to be deferred and in the meantime it may be possible to proceed with the amending legislation.

W. Smith.
F.S. 29.7.40.

H.

Submitted. It may wish to discuss this with the F.S. when he sees it tomorrow about the mail contract. It seems fairly certain that after the receipt of the Ord. further amendments will be suggested by the S. of S. In the circumstances it might be better to hold up any amending legislation.

W. H. S.

24. 2. 40

H.C.

As the Ordinance is taken direct
for a new Ordinance there is no
reason to anticipate further changes
and the amendment as proposed by
Ct. can proceed forthwith.

2. Company Tax sh^d be at 2/6
in the £1

3 It is very unfortunate that 178/23
was overlooked when this question of
an I. T. law was brought up. The
argument against a graduated tax for
Companies can fully stand

4. Please send following M. 6/7/1

— I regret that Circular despatch
of 21 December 1922 was overlooked when
the Income Tax Ordinance was prepared.
~~It should have been noticed that the error has~~
been being rectified by legislation in bringing
flat rate of 2/6 on every pound in Companies.

The object of section 19 was to offer an
inducement to absentee owners of some of
the small ^{family} companies ~~in~~ which ownership of
shares has been transferred to persons who
take up residence in Ceylon or transfer
their ownership to residents.

~~Titus~~ 7/3/20

C.S.O. No. S/38/39.

Inside Minute Paper.

Sheet No. 8.....

28.

Telegram No. 31 to S of S of 7/3/40.

J.S.

Draft Bill for consideration please.

West
C.S.

9. 3. 40

H. C. S.

I understood from H.C. that he did not propose to repeal Section 19. This might be improved.

2. I suggested that the existing Section 21 be repealed and substituted by a new Section 21, with sub-sections I and II. - the wording "other than a company" - to be included in sub-section I.

Fresh draft made in CH

West

9. 5. 11. 40.

P.S.

Action has not yet been taken as required by your minute dated 12. 1. 40. Would it not be preferable to have a separate file dealing with the Antismal and amendments thereto?

West

9. 5. 11. 40.

Yh.

Submitted. Does Yh. desire
Section 19 repealed?

mcH

CS

11. 5. 40

No. The Ordinance can
proceed with the elimination of
sec 2 and a marginal note on
two to sec 3 - 21 (1) (2)

~~ttt~~ 12/3/40

14 A. Draft Bill to amend the
Customs Ordinance withdrawn
and placed in C.S. 48/40

mcH

CS
14. 3. 40

Draft Bill to amend the Income
Tax Ord: 1939: -

Circulate to Ex:co:

Hon. Financial Secy

" S. M. O ^{10/10/40}

" A. R. Hoare MBE. ams. 18 Mar 40

" J. A. Woodgate, A.R.I.B.A. 18. II. 40.

mcH

CS
15. 5. 40

Yh.

Draft Bill Submitted.

mcH

CS
18. 5. 40

In order

~~ttt~~ 19/3

Extract from minutes of meeting of the Executive Council held on the 29th of March 1940.

It was agreed that the Bill should be proceeded with.

A. J. Hunter

Clerk of the Executive Council.

Hon. J. S.

You have asked for this file.

*A. J. Hunter
29/3/40.*

A. J. S.

File returned with thanks.

*A. J. S.
25. 1. 40.*

29-45.

Letter from Hon. Col. Sec. Belize, of 16/2/40.

46.

S. of S. Conf. despatch of 15/2/40.

47.

Letter to Hon. Col. Secretary, British Honduras of 6/4/40.

Hon. J. S.

To see Reas 29-45.

*A. J. S.
8/4/40*

*Bill passed to
Printer 29/3/40.
A. J. S.*

16. 4. 5.

Dear. Thank you.

2. The memoranda to and (453) have been withdrawn and will be adopted for local use.

[Signature]

J. S. S. 45.

Circular Telegram No. 252 from S. of S. of 27/2/40. (48)

P.A.
8/4/40

True.

You should have the figures on which action, if any, could be based. Please submit necessary statement & table.

[Signature] 31/11/40

Notes

Submitted.

There are, as yet, no data available from which a comparison of pre-war & current profits can be drawn. In consequence it is suggested that any action to increase the rate of tax should be deferred until the Returns for 1940 have been furnished & a table prepared.

(2) I would suggest that the questions of Income Tax, & Increased Death duties should be examined when the Estimates for 1942 are being framed & in the light of the information which will then be available.

Notes.

[Signature] 5/3/41
H.C. spoken. This paper to be brought up when Estimates for 1942 are being framed. No action to be taken in the interim, please.
[Signature] 7/3/41

S. of S. Corp. Circular Note of 1/1/41.

49-50

Hon. S.S.

to note.

C.S.O.
22/3/41.Hones noted
22/3/41

51. Excerpt from S.O.S. Telegram No. 130 of 22.5.41.

(52) Minutes from Cipe. Treasury of 3/3/42.

(53)

A.C.S.

H.E. agrees to the introduction of new
taxation as from 1/1/43. He is addressing
the S.O.S. on another M.P. & a copy will go on here.2 P.P. extract the paras on p. 2. of (52)
of the Estimates 1943. M.P. & B.U. when the
Estimates are under consideration.KB
4/8.

(54)

Office
for necessary action, pl.
4/8/42.

(55)

Excerpt made and filed in 84/42.

B.C.
5/8/42.

11/6/48 16/12/48.

YE

called for her

for

X

in

5/38/39

shows

earlier

idea

about

to be

Var.

8.6

BD in Ex. Co. tomorrow pt.

on proposals are much more complete.

the 2 vi

(It is requested that, in any reference to this minute, the above Number and the date may be quoted).

MINUTE.

26th September, 19 39

From Adjutant,
Defence Force.
Stanley, Falkland Islands.

To The Honourable,
The Colonial Secretary.

With reference to your Minute No. C/13/39 of the 20th of September, 1939, I have the honour to submit an estimate of war expenditure in connection with the maintenance of coast watching stations and defences of Stanley during the year 1940.

2. The Estimate includes ammunition and wages only. No provision is made for transport of supplies or the cost of lighting.

3. The sum of £ 21,371. 11. 2. can be reduced by £ 2,000 in respect of Government servants paid from Personal Emoluments.

C. J. Stewart
Capt.,
Adjutant,
Falkland Islands Defence Force.

This must be kept absolutely secret and
may not be tipped except by Clerk of the Council.

From His Excellency the Governor

to the Honourable the Colonial Secretary.

Secret

Increase of Taxation

It is quite clear that additional
Taxation will be necessary for war
services. The Assistant Dir. has
shown me an estimate of £20,000
for the Military Department alone in 1940.

Will you please consider and report
on the effect of the following extra
taxation I propose: -

Customs Import Duties

Article	Present Rate	Proposed Rate
	£ 1.0.0	£ 1.6.0
Spirits	.. 3.0	6
Wine per gallon	.. 6.9 a	9.9
" quart per doz.	.. 3.6	6.6
" pint 1.8	1.0
Malt liquor per gallon	6	2.0
" quart a doz.	1.0	1.0
" pint ..	6	

The intention is an extra 1/- a
bottle on spirits, 6^d on wine and
1^d on beer.

I did not see that minute
until the Bill had been
printed. C.D.

Section

Customs -

is

On Wool for every 25 lb or part thereof

If average price of wool taking i.e.
on the whole crop is 1/- a lb or

✓ 2

less - 1

1 - 0

If price is more than 1/- but

less than 1/6

1 - 6

more than 1/6 less than 2/-

2 - 0

" " 2/- " " 2/6

2 - 6

" " 2/6 " " 3/-

3 - 0

" " 3/- " " 4/-

4 - 0

On whale, Seal Oil

for every barrel of 40 gallons

If price of oil is less than £20.00

1 - 6

" " more " "

but less than £30

2 - 0

more than £30

2 - 6

Inc.

Income Tax

First £150 or less

Free

more than £150 less than £400

1/- is the £1

" " 400 " " 700

1/3 " " "

" " 700 " " 1000

1/6 " " "

" " 1000 " " 1300

1/9 " " "

" " 1300 " " 1600

2/- " " "

" " 1600

2/3 " " "

No tax to be assessed on the profits of
sheep rearing farms having regard to wool tax but
salaries and bonuses of employees liable to income tax

26/9/19

2

No 151. From London. Words 633 cde. Time 0326 22nd Sept/39.

To His Excellency the Governor, Falkland Islands.

Circular No. 62. Confidential. My telegram No. 54 Circular Confidential.

Red 1
m
C/13/39

1. Whilst it is difficult to make any forecast of the effect of the War on Colonial Budgets the following wholly tentative observations which development may modify may be of use to you

(a) Although the experience of the last War would seem to indicate that there will be a general rise in prices of all commodities, special action which is now being taken in this country and elsewhere to control prices and existence of large world supplies, actual or potential of many commodities may have result that prices of only a few of Colonial commodities will rise considerably above their pre-war level. More probably owing to rises in insurance freight and other incidental rises in prices of importing countries will not involve equivalent rises in prices received by producers. In some cases however the quantities exported may be increased substantially in cases of certain commodities where increased consumption is dominant factor, falls of value in sterling has already caused some increase in prices.

(b) Increase in total value of exports may not immediately result in increased total value of imports. Restriction of imports from Canada and most foreign countries is as you are aware essential on exchange grounds. Normal flow of imports may well be restricted also by (i) difficulty of shipping (ii) preoccupation of industries here and elsewhere (iii) more essential war purposes. Whatever value of exports the falling off of imports volume is therefore probable with consequent falling off of normal revenue and accumulation of funds locally.

(c) A number of services in connection with war activities are likely to involve some fresh expenditure by almost all Colonial Governments.

2. Financial efforts necessary to secure successful prosecution of the war will entail unprecedented sacrifices by United Kingdom taxpayers. Continuance of assistance from the United Kingdom Exchequer whether directly or through the Colonial Development Fund will in any event be difficult enough and the difficulty would be increased if it could be shown that people of the Colonial Empire were not already bearing their full share of the burden.

3. In these circumstances I consider it is important to ensure that all classes make the maximum contribution to Revenue which it is reasonable to ask having regard to their taxable capacity and I suggest that existing taxation should be reviewed with this end in view. Resolutions which have been received show how anxious the people of the Colonial Empire are to help in its defence and best psychological moment and for consent to increase of taxation would seem to be in the near future possibly immediately after the introduction of emergency budget in this Country. No date has yet been fixed for this but I will advise you when this known.

4. Whilst I appreciate that in many territories it would be inequitable and undesirable to increase rate of direct taxation at present payable by masses of the people I am of the opinion the two following proposals should be examined :- (a) That taxation paid by wealthier members of the community might be increased. Imposition of income tax or increase of it if it already exists would probably be most scientific way of securing this and I hope if it is at all practicable you will not be unduly ~~perplexed~~ deterred by administrative difficulties from imposing such taxation. Failing income tax some other form of direct taxation is I suggest indicated as being easiest

means of taxation paid by those who can best bear its burden.

(b) That on general grounds it is very desirable that some arrangements should be made to ensure that the Government obtains an adequate share of any excess profits accruing as a result of war. I suggest that whether or not prices are in fact already show a tendency to rise it will be desirable to pass legislation on the subject without delay. As regards profits from exports it may be found that only practicable method of achieving object is some form of export duty based on excess of war time prices + ? quantities over pre-war prices and quantities.

5. As regards local trade problems excess profits will not arise if as I hope action is taken to prevent profiteering. If as may be the case (see para 1(b) above) there is a shortage of imports, or an accumulation of funds locally these will probably be a ? rise in the margin of between C.I.F. prices of imports and the retail prices as suggested as in prices of local produce. I have indeed already had information from some Dependencies that this is occurring. Machinery to control internal prices at any rate of main articles may therefore be required, as it was in most dependencies in the last War. Legislation is already in force in this Country and in some Dependencies, and I suggest that where nothing has been done to meet the contingency early action will be desirable before any substantial rise actually takes place. United Kingdom control arrangements are so complicated that I doubt whether information as to those arrangements would be of any value to you in dealing with matters.

6. Please telegraph any comments you may have to offer on this telegram and in particular I should be glad to know ~~what action~~ before you are in any way committed by publication what action you would propose to take arising out of paragraph 4.

Secretary of State.

▶ DECODE.

(3)

TELEGRAM.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched: 23rd September, 19 39. *Time:* 0035.

Received: 23rd September, 19 39. *Time:*

Confidential Circular telegram No. 65. My Circular telegram No. 62 Paragraph 3 Supplementary Budget will be introduced here on September 27th.

SECRETARY OF STATE.

Customs - Import and Export Duties.

	Actual 1938	Increase based on new location	Estimated 1940
Spirits	£ 4,742	£ 1,423	£ 6,165 ✓
Wine	188	84	272 ✓
Malt	375	375	750 ✓
Tobacco	1,898	474	2,372
	£ 7,203	£ 2,356	£ 9,559

Duty on tobacco put up by 1/- per lb.

Wool based on average exported 1934-8,
4,152,522 lbs.

	Yield	Increase
If price is 9 ^d per lb. or less, tax at 1/- for every 25 lbs or part thereof.	£ 8,305	
More than 9 ^d but less than 5/-, tax at 1/6	£ 12,457	£ 4,152
More than 5/- but less than 5/6, tax at 2/-	£ 16,610	£ 8,305
More than 5/6 but less than 2/-, tax at 2/6	£ 20,763	£ 12,458
More than 2/- but less than 2/6, tax at 3/-	£ 24,915	£ 16,610
More than 2/6 but less than 3/-, tax at 3/6	£ 29,067	£ 20,762
3/- per lb. and over tax at 4/-	£ 33,219	£ 24,914

Imports Total value imported in 1938 was
£ 113,522.

If a 50% "ad valorem" duty is
imposed yield would be about
£ 5,675.

Whale Oil

Actual 1938 - 93,933 barrels duty at
 $1/6$ per barrel £7,045.

Same production at $2/6$ per barrel
£ 9,393 or an increase of £ 2,348.

at $2/6$ per barrel £ 11,742 or an
increase of £ 4,697

GOVERNMENT TELEGRAPH SERVICE.

FALKLAND ISLANDS AND DEPENDENCIES.

RECEIVED.

Number	Office of Origin	Words	Handed in at	Date
210	London Etat.	229 cde	4.03/29/9/39	

To
To H.E.The Governor Falkland Islands.

No. 72 Confidential. My Confidential circular telegram No.62. I am grateful for replies so far received.

2. You will now have heard the main lines of the War Budget here and you will have noted the drastic character of the proposals which it contains. The tax payer in this country is being called upon to assume a burden of unprecedented weight to enable the war to be carried on. You will have observed that the greater part of the increased revenue is to be obtained from direct taxation. Income tax is to be raised to 7/6d in the £ and there are also heavy increases in surtax and estate duties. A excess profit tax of 60% is also to be imposed.
3. I feel that these new and unprecedented sacrifices by taxpayers here ? serve to underline the consideration of paragraphs 3,4,&5 of my telegram under reference. In particular I feel that serious consideration must be given now to the imposition of Income tax in the Colonies where it does not exist and to the increase of rates where it does. Apart from the practical necessity of raising ? new money which is acutely felt in many Colonies, there are in many cases political reasons which will become stronger as the war goes on for adjusting the incidence of taxation so as to place the burden where it can best be borne. I am of the opinion that Colonial Governments need not be unduly deterred from imposing Income Tax by possible administrative difficulties. Experience in many Colonies ? shows that these can be successfully overcome. The alternative to Income tax will I fear in many cases prove a levy on official salaries.
4. I feel sure that I can rely on you to take my suggestions carefully into account. They call for considerable sacrifices but such sacrifices are being made in this country and I am confident that the Colonial Empire will be no less ready to shoulder its share of the burden.

Time

GOVERNMENT TELEGRAPH SERVICE. (5)

FALKLAND ISLANDS AND DEPENDENCIES.

RECEIVED.

Number	Office of Origin	Words	Handed in at	Date
223.	LONDON.	19	0014	30th Sep.1939.

To

GOVERNOR

FALKLAND ISLANDS.

No.74. CONFIDENTIAL.

SHOULD BE GRATEFUL FOR EARLY REPLY EVEN IF ONLY OF
AN INTERIM NATURE TO MY CIRCULAR TELEGRAMS 54 AND 62.

SECRETARY OF STATE.

Time

TELEGRAM

To the Secretary of State.
From H.E. the Governor.
Date 30th September 1939.

.....

No. 92 Confidential. With reference to your circular telegrams 54 and 62 Confidential it is estimated that as the direct result of the war the total annual expenditure of the Colony will be increased by approximately 36% ~~stop~~ ^{in order to meet defence expenditure stop} ~~Difficulties are found in dealing with budget in peace time~~ The Colony is in a sound financial condition and I propose that the additional burden should be borne by increased taxation stop. The Colony is dependant solely on wool production: it is impossible to foresee the prices wool may fetch but it is not unreasonable to base estimates on the assumption that it will be possible to increase the export tax on wool from one shilling to two shillings for 25 lbs without injury to production or undue burden on producers stop The additional receipts from this source would be £3,000 a year towards the £21,000 I have to find stop Balance would be made up as follows existing Customs duties raised and import duties imposed on general goods £6,400 tax from which farming concerns would be excepted in view of increased wool tax, £3,000. This tax would have to be paid by some 60 people of moderate income stop Economies effected in amount of £2600 for labour Agricultural Department (now diverted to Military Service) passages of officers £1000 stop Further economies will be effected to offset anticipated decreases in revenue but social services medical education and nutritional will be maintained stop The foregoing proposals in respect of which draft legislation is in preparation.

Governor.

DECODE.

13 6

TELEGRAM.

7

The Secretary of State.

From

His Excellency the Governor.

To

London 13.10. 3 9 1428

Despatched :

19

Time :

Received :

19

Time :

Circular Telegram No. 95. Confidential.

My Telegrams No.s 54, 62, and 72. Circular.

Comprehensive reviews all United Kingdom Government expenditure now being undertaken with the view to all possible economies. Colonial Development Fund will be included in this review. General principle regarding continuance of assistance from the Fund, whether for new schemes or schemes already approved, is now under discussion but apart from all other considerations necessity to avoid diversion of men, material, and shipping from War efforts must inevitably entail discontinuance of some schemes.

2. In these circumstances whilst Development Fund Schemes on which work is actively proceeding may continue please until further notice enter into no new commitments on them so far as it is reasonably practicable to avoid them.

3. Please report very briefly by telegraph precise stage reached (including any definite commitments for the future) in work under existing scheme if any in Territory under your administration.

4. If there are any schemes sanctioned but not yet actively proceeding which you regard as essential please specify giving reason.

Secretary of State.

DECODE.

TELEGRAM.

From His Excellency the Governor.

To The Secretary of State for the Colonies.

Despatched : 18th October. 19 39 *Time* : 16.15.

Received : 19 ... *Time* : ...

No. 105. Confidential. Your Circular telegram No. 95

Confidential. No schemes under the Colonial Development
Fund are in operation or are contemplated.

GOVERNOR.

DRAFT

A B I L L

TO REPEAL THE THIRD SCHEDULE (EXPORT DUTIES) OF THE
TARIFF ORDINANCE, 1900, AS AMENDED BY THE TARIFF (EXPORT
DUTIES) AMENDMENT ORDINANCE, 1923, AND TO REPLACE THE SAME
BY AN AMENDED SCHEDULE.

BE IT ENACTED by the Governor of the Colony of
the Falkland Islands, with the advice and consent of the
Legislative Council thereof, as follows:

Short Title. 1. This Ordinance may be cited as the "Tariff (Exp
(Export Duties) Amendment Ordinance, 1939" and shall be
read and construed as one with the Tariff Ordinance, 1900.

Third Schedule
Ordinance No. I
of 1900 repealed
and new Schedule
inserted. 2. The Third Schedule (Export Duties) to the
Tariff Ordinance, 1900, as repealed and replaced by the
Tariff (Export Duties) Amendment Ordinance, 1923, is hereby
repealed and in place and instead thereof the following
shall form part of the Tariff Ordinance, 1900, and shall
be read as the Third Schedule thereof:

<u>Article</u>	<u>Quantity.</u>	<u>Rates of Duties.</u>
Wool.	For every 25 lbs or part thereof.	If the average price is 9d a lb. or less 1/- If more than 9d but less than 1/- 1/6 If more than 1/- but less than 1/6 2/- If more than 1/6 but less than 2/- 2/6 If more than 2/- but less than 2/6 3/- If more than 2/6 4/-
Whale Oil and Seal Oil.	For each barrel of forty gallons.	If the average price is less than £20 a ton. 1/6 Exceeds £20 but does not exceed £30. 2/- Exceeds £30 a ton. 2/6.
Guano.	For every 100 lbs or part thereof.	Two pence.

X. Unless the duties are fixed on
this scale it seems doubtful
whether an increase of revenue
will be secured.

Repeal of
Ordinance
No.5 of 1923.

3. The Tariff (Export Duties) Amendment

Ordinance, 1923, is hereby repealed.

Date of
Commencement.

4. This Ordinance shall come into force
of the first day of January, 1940.

Passed by the Legislative Council this
day of 1939.

Clerk of the Legislative Council.

Assented to by the Governor and given under the Public
Seal of the Colony this day of
1939.

Colonial Secretary.

DECODE.

TELEGRAM.

No. 163

From The Secretary of State, London,

To His Excellency The Governor, Falkland Islands.

Despatched: 16th November 19 39 Time: 05.31.

Received: 19 Time:

No. 96 Confidential. Your telegram No.92 Taxation.

1. As (a) the additional expenditure which has to be met is due solely to defence measures and is therefore presumably for the most part temporary in character, and (b) the Colonial Government has relatively large reserves,,I am inclined to think that the situation will be adequately met if 50% of the additional expenditure is met next year from new taxation, the remainder being defrayed from surplus balances.

2. I am advised that, apart from general objections to export duties, the outlook as regards marketing and prices Falkland Islands wool is in present circumstances obscure, and that it would be advisable to defer increasing the export duty until the situation is clearer.

3. I have no objection to increasing import duties for luxuries or semi-luxury articles if you consider it desirable. But, in principle, I consider that any fresh taxation should be so disposed as to bear a definite relation to the capacity to pay, and on this ground I am reluctant to contemplate a general import duty.

4. My conclusion would be that the additional revenue next year may properly be limited to about £10,500 and I am inclined to the view that this sum should be raised by means of an income tax applicable to farming concerns as well as others, the tax being so arranged that the major proportion should be provided by the farmers. As regards the Legislation which would be required, I would refer to Colonial Office Circular Despatch December 28th 1922, and the subsequent circular despatches. If this proposal is to be pursued you may feel that it would be desirable for Frith to spend some time in this country obtaining experience of income tax methods before proceeding to the Falkland Islands. If so I will endeavour to arrange accordingly.

5. I should be glad of your observations.

TELEGRAM

(10)

TO SECRETARY OF STATE.

FROM H.E. THE GOVERNOR.

DATE 7th DECEMBER 1939.

No. 130. Confidential with reference to your confidential telegram No. 96 taxation.

1. Income tax Ordinance has been prepared adapting mutatis mutandis British Honduras Ordinance 1923 stop Scale to be as follows:- first £150 free, in respect of excess on every pound of first £100, 1s/- next £250, 1s/3d, next £250, 1s/6d, next £250, 2s/- for each above £1,000, 2s/6d. The Ordinance will be enacted this month the year of assessment beginning on 1st January.
2. No deduction is made in chargeable incomes of residents as in Section 15 of British Honduras Ordinance except for local companies where majority of shares are held by residents. A deduction of 10% is made in such cases.
3. It has not been possible to estimate proceeds with accuracy but £10,500 is sum set down.
4. Having regard to the uncertainty import duties have been increased as from fifth December by 6s/- a gallon on spirits, 3s/- on wines, 6d on malt liquors and 1s/- a lb. on tobacco. Increase in revenue estimated at £3,500.
- (5) Military expenditure in 1940 is estimated at £20,698.
- (6) The deficit in 1940 will it is anticipated be ~~£8454~~ ⁷⁹⁵⁴. I am very reluctant to encroach on fixed reserve of Colony and it would be very well received if the local and Empire postage could be increased from 1d to 1½d an ounce for the duration of the war. It would be necessary to issue a war stamp as we have no 1½d stamp. Will you approve this proposal.

To go in G.T.C.
mch. 7. x11. 54.

203 077

FAULKLAND ISLANDS.

CONFIDENTIAL

GOVERNMENT HOUSE,

STANLEY,

8th December, 1939.

Sir,

With reference to paragraph 4 of my telegram No.130 Confidential of the 7th December, 1939, I have the honour to transmit for the signification of His Majesty's pleasure two authenticated and ten printed copies of an Ordinance entitled the "Tariff (Import Duties) Amendment Ordinance (No.1) 1939.

I have the honour to be,

Sir,

Your most obedient,

humble servant.

(Sgd) H. Henderson Heaton

THE RIGHT HONOURABLE,

MALCOLM MACDONALD, M.P.

SECRETARY OF STATE FOR THE COLONIES.

FARNELAND ISLANDS.

CONFIDENTIAL.

GOVERNMENT HOUSE,

STANLEY,

8th December, 1939.

Sir,

With reference to my telegram No. 130
Confidential of the 7th December, 1939, I have the
honour to transmit herewith a draft of the Income
Tax Bill which will be introduced into Legislative
Council during the present month.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

(sgd) H. Hemmings Henton

THE RIGHT HONOURABLE,

MALCOLM MACDONALD, M.P.

SECRETARY OF STATE FOR THE COLONIES.



FALKLAND ISLANDS.

Ordinance No. 10 of 1939.

(L.S.)

I ASSENT,

WILL HERMAN HEATON

Governor.

5th December, 1939.

An Ordinance

To amend the Tariff Ordinance 1900,
as amended by the Tariff (Import Duties)
Amendment Ordinances 1929 and 1931.

BE IT ENACTED by the Governor of the Colony of the Falkland Islands, with the advice and consent of the Legislative Council thereof as follows :-

Enacting Clause.

1. This Ordinance may be cited as the "Tariff (Import Duties) Amendment Ordinance, (No. 1) 1939", and shall be read and construed as one with the Tariff Ordinance, 1900.

Short Title.

2. The First Schedule to the Tariff Ordinance, 1900, as amended by the Tariff (Import Duties) Amendment Ordinances, 1929 and 1931, is hereby repealed and replaced by the following :-

Repeal and replacement of First Schedule of Tariff Ordinance 1900, as amended by the Tariff (Import Duties) Amendment Ordinances 1929 and 1931.

FIRST SCHEDULE.

TARIFF OF IMPORT DUTIES.

Spirits, not exceeding the strength of proof, as ascertained by Sikes' Hydrometer and in proportion for any greater strength than strength of proof, including mixtures and preparations containing spirits, per gallon		£1 : 6 : 0
Wine in casks, per gallon	...	6 : 0
Wine in reputed quarts per dozen	...	9 : 9
Wine in reputed pints, per dozen	...	6 : 6
British wines and all other unenumerated and unexempted beverages not liable to spirit duty, in reputed quarts, per dozen.	5 : 6

9 3
160

6 6
123
174

Malt liquor, mum, spruce, cider and perry, in casks per gallon	1 : 0
In reputed quarts, per dozen	2 : 0
In reputed pints, per dozen	1 : 0
Cigars, per lb.	8 : 0
Cigarettes, cut and manufactured tobacco and snuff, per lb.	5 : 0
All other unexempted tobacco per lb.	4 : 0
Matches, for every gross of boxes not, exceeding 10,000 matches	5 : 0
For every gross of boxes, exceeding 10,000 matches, per 10,000 matches and so in proportion	5 : 0

Passed by the Legislative Council this 5th day of
December, 1939.

(Sgd.) A. I. Fleuret,
Clerk of the Legislative Council.

Assented to by the Governor and given under the Public
Seal of the Colony this 5th day of December, 1939.

Colonial Secretary.

No. S/38/39.

(It is requested that, in any reference to this minute, the above Number and the date may be quoted).

MINUTE.

12th December, 1939.

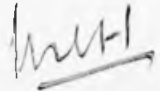
From The Colonial Secretary,

To The Registrar-General,

STANLEY.

Stanley, Falkland Islands.

I am directed by the Governor to forward herewith, for insertion in the files of the Registrar-General, an authenticated copy of Ordinance No. 10 of 1939, entitled " An Ordinance to amend the Tariff Ordinance 1900, as amended by the Tariff (Import Duties) Amendment Ordinances, 1929 and 1931."


Colonial Secretary.

ADDRESS ALL CORRESPONDENCE
TO THE MANAGER

ESTABLISHED 1863

SUCCESSORS TO CHAS WILLIAMS.
Established 1863.

GENERAL MERCHANTS

RADIO ADDRESS
"WILLIAMS"
CODES USED
BENTLEYS
A.B.C. 5th ED.
A.I.

PORT STANLEY
FALKLAND ISLANDS.

15th December 1932.

Sir,

① Re Increased Imp. duty on cigarettes.
32.14 lbs. per "Lafonia" entered 4th Dec.
Duty at 5/- £ 0. 8. 7
Additional duty 1/- 1.12. 2
£ 2.-. 9

② "Lafonia" entered on 4th Dec. and our Customs Entry
Dutiable was filed accordingly for that date.

③ At about 3 p.m. on the 5th Dec. we saw the Customs
Officer who inspected the case and said we could take it
away, and that he would call for the duty later.

④ This morning the Customs Officer has called at
our office and requested payment at the increased rate of
5/- per lb. That is £1.12.2 more than the duty payable at
the time of entry and clearance of the goods.

⑤ It is a small sum and we know that the Colony needs
to increase its revenue in order to meet present extraordinary
calls upon its resources, and we are not in the least bit
inclined to quibble over the matter of £1.12.2

⑥ But this brings forcibly to our recollection the fact
that we have not yet had £12.- refunded to us for a duty
overpaid in 1932.

⑦ If it is legal that we should pay duty
at 5/- on the case of cigarettes above referred to, it
certainly has been illegal for the Government to have refused
to refund £12.- to us in connection with import wrongly paid
by us in November/December 1932.

⑧ The facts are:-

End of November 1932 "Lasada" brought us 2 cases
British made matches.

An Ordinance was already arranged for the import
duty on British Made matches to be dropped on 1st Jan. 1933.

So we decided to leave the 2 cases 'in bond' until
the duty was no longer imposable. Our efforts to get this
procedure recognized were not successful; so as to make no
doubt regarding the date upon which the matches would be
imported here, we re-exported them to Chile, and had them
sent back to us after the 1st January 1933.

We are still waiting for the Colonial Government to
refund the £12.- wrongly collected from us on those matches.

The impact of import duty cannot work both ways.
If it is legal for the Government to collect duty at the
increased rate on the case of cigarettes just imported,

2.

it was then illegal for the Colonial Government to have:-

- 1) First refused, by inattention, to allow us to leave 2 cases of matches 'in bond' until the duty was no longer in operation
- 2) persisted in retaining the duty of £12.- incorrectly paid by us even though we re-exported the matches before the end of 1932, and re-imported them after the duty was no longer operative.

In this connection see the following letters:-

Ours of 26th Nov. 1932 to Collector of Customs.

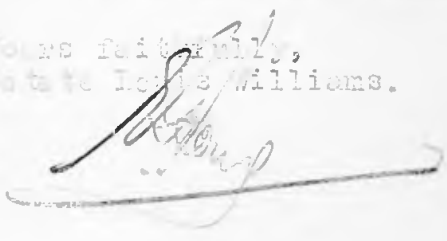
Acting Collector of Customs (Mr.G.R.I.Brown)'s letter of 28th Nov. 1932.

Ours of 23rd Dec. 1932.

Collector's letter of 10th Jan. 1933 (C.C. No.2/1932).

We hope that this matter may receive the attention of the authorities in due course, and remain,

Yours faithfully,
R. J. G. Williams.



The Hon.
The Colonial Secretary and Treasurer
Stanley.

S/58/39.

22nd December

39.

Sir,

Red 16

With reference to your letter of the 15th of December, 1939, regarding Import duty on Cigarettes which arrived by the s.s. "LaFonia" on the 4th December, 1939, I have to point out that the vessel did not arrive until late in the evening of that date and commenced discharging cargo on the 5th December the date the new tariff was put into force and applied to all dutiable goods imported by that vessel.

2. It is noted from paragraph 4 of your letter that you express disinclination "to quibble over the matter" of having to pay increased duty amounting to \$1. 12. 2.

3. With reference to the alleged overpayment in 1932 of Customs duty amounting to \$12 in respect of matches it would appear that the Collector's action in refusing to accede to your firm's request was fully justified by the provision of Section 21 of Ordinance No. 6 of 1903.

I am,

Sir,

Your obedient servant,

W. H.

Colonial Secretary.

The Manager,
The Estate Louis Williams,
STANLEY.

22. 11. 59

“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.

ADMINISTRATION.

Appointment and
duty of Commissioner
etc.

3. (1) For the due administration of this Ordinance the Governor shall appoint a Commissioner of Income Tax, and such collectors and officers as may be necessary to collect receive and account for the income tax.

(2) The said Commissioner shall prepare assessment lists and shall generally carry out the provisions and exercise the powers delegated to or vested in him under this Ordinance.

(3) The said Commissioner shall be a person holding public office in the Government Service of the Colony.

(4) There shall be paid to such Commissioner for his services under this Ordinance such remuneration as the Governor with the approval of the Legislative Council may from time to time 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 assessment lists relating to the income or items of income of any such person, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect before a Justice of the Peace.

(2) Every person having possession of or control over any documents, information, returns, or assessments 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 authorized by the Governor to communicate it; or

(b) Otherwise than for the purpose of this Ordinance,

shall be guilty of an offence against this Ordinance.

IMPOSITION OF INCOME TAX.

Charge of Income
Tax.

5. Income 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 first day of January, 1940, and for each subsequent year of assessment upon the income of any person accruing in, derived from, or received in the Colony in respect of -

(a) Gains or profits from any trade, business, profession or vocation for whatever time such business, trade

(c) The annual value of land and improvements thereon used by or on behalf of the owner or used rent free by the occupier 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.

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.

Basis 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 shall 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 in no case where the Commissioner has permitted the gains or profits of any trade or business to be computed on any such date as aforesaid shall any change be subsequently made without prior notice in writing to the Commissioner and subject to such adjustment of income tax as the Commissioner may determine.

Special periods of Assessment.

EXEMPTIONS.

8. There shall be exempt from the tax :-

Exemptions.

- (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.
- (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.
- (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 the Colony in respect of their offices under the Imperial Government.
- (g) Wound and disability pensions granted to members of His Majesty's Forces.
- (h) Gratuities granted to members of His Majesty's Forces in respect of war services.
- (i) The income of the Government 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.

9. The Governor may by proclamation published in the Gazette provide that the interest payable on any loan charged on the public revenue of the Colony shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in the Colony; and such interest shall as from the date and to the extent specified in the proclamation be exempt accordingly.

Government Loans.

ASCERTAINMENT OF CHARGEABLE INCOME.

Deductions allowed.

10. (1) For the purpose of ascertaining the chargeable income of any person there shall be deducted all out-goings 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 by him, where the Commissioner is satisfied that the interest was payable on capital employed in acquiring the income.
- (b) Rent paid by any tenant 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 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 section.

Allowance for wear and tear.

11. In ascertaining the chargeable income of any person engaged in a trade, business, profession or vocation, 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.

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 this Ordinance.

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 hereinafter provided, be set off against what would otherwise have been his chargeable income for the next five years in succession, 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.

Allowance of trade losses.

14. (1) For the purpose of ascertaining the chargeable income of any individual there shall be allowed in respect of so much of the income as is earned a sum equal to one-tenth of the amount of such earned income, provided that such deduction shall not in the case of any individual exceed one hundred pounds; and provided also that where a loss arises in the exercise of any trade, business, profession or vocation or a loss is brought forward from a previous year under section 13 of this Ordinance, no deduction shall be allowed except in respect of the amount, if any, by which the earned income exceeds such loss or the aggregate amount of such losses, as the case may be.

Deductions in respect of earned income.

(2) For the purposes of this section the expression "earned income" means any income arising in respect of any gains or profits immediately derived by the individual from any trade, business, profession, employment or vocation carried on or exercised by him either as an individual or in the case of a partnership as a partner personally acting therein, or in respect of any pension, superannuation, or other allowance given in respect of past services of the individual or of the husband or parent of the individual or given to the individual in respect of the past services of any deceased person, whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation or other allowance or not, after deducting the expenses referred to in sections 10 and 11 of this Ordinance, but before allowing the other deductions to be made in arriving at chargeable income.

15. In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had during

Deduction for wife.

the year of assessment his wife living with him or wholly maintained by him there shall be a deduction of fifty pounds.

Deduction for children.

16. In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had a child or children living and under the age of sixteen years at the commencement of the year preceding the year of assessment, there shall be allowed a deduction of twenty five pounds in respect of every such child.

The expression "child" and "children" in this section include a step-child or step-children but do not include an illegitimate child or illegitimate children.

Deduction in respect of life insurance, and contribution to a Pension Fund.

17. In ascertaining the chargeable income of any person who

- (a) shall have made insurance on his life or the life of his wife in any insurance company or
- (b) shall have made an annual contribution to a Pension Fund or such other fund as the Governor may consider as equivalent to a Pension Fund, there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance or contribution as aforesaid: Provided that no such deduction shall be allowed in respect of any such annual amount of the 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 of this Ordinance.

Special provisions as to certain companies and businesses.

(a) Insurance companies other than life insurance companies.

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

- (a) In the case of an insurance company (other than a life insurance company) where the gains or profits accrue in part outside the Colony, 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 the Colony (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 the Colony and a fair proportion of the expenses of the head office of the company.

(b) Life insurance companies.

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

Provided that where such a company received premiums outside the Colony, the gains or profits shall be the same proportion of the total investment income of the company as the premiums received in the Colony bore to the total premiums received after deducting

from the amount so arrived at the agency expenses in the Colony and a fair proportion of the expenses of the head office of the company.

19. In ascertaining the chargeable income of a company registered in the Colony the majority of the shares being held by individuals who are resident in the Colony there shall be allowed a deduction of twenty per cent in respect of the amount of such income.

Income of a company.

20. 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, 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.

Wife's income.

RATE OF TAX.

21. The tax upon the chargeable income shall be charged at the following rates:-

Rates of tax.

On the first £150 of such income	...	Nil.
In respect of the excess over £150		
For every pound of the first £100	...	1/-
" " " " next £250	...	1/3
" " " " " £250	...	1/6
" " " " " £250	...	2/-
On all amounts above £1,000	...	2/6

For every pound

22. (1) Every company which is registered in the Colony shall 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 19, 46 and 47 of this Ordinance on the income out of which such dividend is paid, 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.

Deduction of tax from dividends of companies.

(2) Every such company shall upon payment of a dividend 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 in respect of that dividend.

23. Any tax which a company has deducted 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.

Deducted tax to be set off.

24. Tax shall not be payable in respect of any income arising out of the Colony and received therein by any person who is in the Colony for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in the Colony at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

Temporary residents.

TRUSTEES, AGENTS, ETC.

Chargeability of trustees etc.

25. 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 the Colony.

26. (1) A person not resident in the Colony (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 the Colony and in the actual receipt of such income: Provided that in the case of any individual who is not a British subject, no deduction shall be allowed in respect of earned income or in respect of wife or child or in respect of life insurance.

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, 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 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 provisions 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: 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 Judge as provided by section 43 of this Ordinance.

(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 or general commission agent or other 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 subsections (2) and (3) of this section, in respect of gains or profits arising from sales or transactions carried 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 subsections (2) and (3) of this section in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from these 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 the Colony 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 have bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner or Judge of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

27. The person who is chargeable in respect of an incapacitated person, or in whose name a non-resident person 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.

Acts, etc., to be done by trustees, etc.

28. 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 or belonging to any other person who is chargeable in respect thereof or who would be so chargeable if he were resident in the Colony 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 signed by him containing :-

Statement to be prepared by trustees, etc.

- (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 such other information as the Commissioner may deem necessary for the purposes of this Ordinance;

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.

29. The manager or other principal officer of every corporate body of persons shall be answerable for doing 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.

Manager of corporate bodies of persons.

30. Every person answerable under this Ordinance for the payment of tax on ~~his~~ 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

Indemnification of representative.

is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Ordinance.

Deceased persons.

31. When any person dies during the year preceding 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, provided that in the case of a person dying during the year preceding the year of assessment if his personal representative distributes his 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 fixed at that date.

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

32. (1) Where any person pays mortgage or debenture interest to a person not resident in the Colony and is entitled to deduct such interest under section 10 (1) (a) of this Ordinance, he shall upon paying the interest deduct therefrom tax at the rate of two shillings on every 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 of the Colony 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.

33. (1) It shall be the duty of every person chargeable with tax to give notice to the Commissioner within four 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.

34. (1) The Commissioner may require any officer in the employment of the Government or any 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, 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, agent, contractor, or other person 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, except persons who are not employed in any other employment and whose remuneration in the employment for the year does not exceed eighty pounds.
- (c) (c) The names and places of residence of all persons with whom he has entered into a contract for the performance of any work or for delivery of any produce or goods and the amount advanced or paid in respect of such contract either in cash or in goods or merchandise; and
- (d) Such other information as the Commissioner may deem necessary from time to time for the purposes of this Ordinance;

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 or returns;

Provided that an employer, agent, contractor, or other person shall not be liable to any penalty for omitting from any such return the name or place of residence of any person employed by him and not employed in any other employment if it appears to the Commissioner, on enquiry, that such person has no chargeable income.

(3) Where the employer, agent, contractor or other person 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.

35. Where a trade, business, profession or vocation is carried on by two or more persons jointly – Partnerships.

(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 out 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 the Colony –

- (i) Is first named in the agreement of partnership; or
- (ii) If there be no agreement is named singly or with precedence to 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 the Colony, the return shall be made and delivered by the attorney, agent, manager or factor of the firm resident in the Colony.

(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.

36. (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 appointed by him for that purpose, 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, provided that any notice in writing under this Ordinance to any person requiring him 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 appointed shall be taken to be the signature of that person until the contrary be shown.

Service of notices.

37. Notice may be served on a person either personally or by being sent through registered post to his last known business or private address, and shall in the latter case be deemed to have been served, not later than the tenth day succeeding the day on which the notice would have been received in the ordinary course by post, and and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

ASSESSMENTS.

Commissioner to make assessments.

38. (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 his return.

(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 assess him 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 assess him accordingly; but such assessment shall not effect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

Additional assessments.

39. 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 two years after the expiration thereof, assess 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.

List of persons assessed and notices of assessment.

40. (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 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.

41. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Governor may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Commissioner in respect of any such ^{persons} 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 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; and provided also that nothing in this section shall prevent the appeal to the Judge conferred by section 43 of this Ordinance.

Appointment of agent
in the United
Kingdom,

42. (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 subsection.

Power of Commission-
er to revise assess-
ments 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 two months from the date of the service of the notice of assessment: Provided that the Commissioner upon being satisfied that owing to absence from the Colony, 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 subsection (2) of this section, the Commissioner may require the person giving the notice of the 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:

Provided always that in the event of any person who, under subsection (2) of this section, 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 to the Judge under the provisions of this Ordinance, against the assessment made upon him, shall remain unimpaired.

43. (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the

Appeals against
assessments.

manner provided in subsection (4) of the preceding section, may appeal against the assessment to the Judge in Chambers upon giving notice in writing to the Commissioner within thirty days from the date of the refusal of the Commissioner to amend the assessment as desired.

Provided that, notwithstanding the lapse of such period of thirty days, any person may appeal against the said assessment if he shows to the satisfaction of the Judge that, owing to absence from the Colony, 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 Judge 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 the absence from the Colony, 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) 'Ten 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) All appeals shall be heard in camera, unless the Judge shall, on the application of the appellant, otherwise direct.

(8) 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.

(9) The Judge may make rules governing such appeals and providing for the method of tendering evidence.

(10) The decision of the Judge shall be final: provided that the Judge if he so desires may, and on the application of the appellant, or of the Commissioner shall state a case on a question of law for the decision of His Majesty in Council under the provisions of the Privy Council Appeals Ordinance.*

* Cap. 155.

Errors etc., in assessments and notices.

44. (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 :

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 was made.

45. The production of any document under the hand of the Commissioner or of any person or persons appointed by him purporting to be a copy of or extract from any return or assessment shall in all Courts and in all proceedings be sufficient evidence of the original, and the production of the original shall not be necessary; and all courts shall in all proceedings take judicial notice of the signature of the Commissioner or of any person or persons appointed by him either to the original or to such copy or extract. Evidence.

RELIEF IN CASES OF DOUBLE TAXATION.

46. (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 part of his income and who proves to the satisfaction of the Commissioner that he 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 tax. If, however, the rate of tax appropriate to his case under this Ordinance exceeds the appropriate rate of United Kingdom tax he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom tax. Relief in respect 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 tax in any particular case.

(3) For the purposes of this section the expression “rate of tax” when applied to tax paid or payable under this Ordinance means the rate determined by dividing the amount of 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 26 of this Ordinance on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

47. (1) If any person resident in the Colony 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 Relief in respect of Empire Income Tax.

from tax in the Colony 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 the Colony 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 the Colony 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, 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 this Colony), 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 this Colony 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 subsection (3) of the last preceding section of this Ordinance 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 the Colony 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.

Official secrecy.

48. 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 this Colony, 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 that part or place aforesaid.

COLLECTION AND REPAYMENT OF TAX.

49. (1) The Commissioner shall from time to time deliver to the Collector certified extracts from the assessment lists containing the names and addresses of the persons assessed together with the amount payable by each person.

Extracts from assessment lists to be sent to Collector.

(2) 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.

Procedure in cases where objection or appeal is pending.

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

50. Tax shall be payable within sixty days after service of a notice of assessment under section 42 of this Ordinance.

Time within which payment is to be made.

51. If any tax is not paid within the period prescribed in section 50 of this Ordinance—

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

(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 or any Collector appointed under this Ordinance shall serve a demand note upon the person assessed, and if payment is not made within thirty days from the date of the service of such demand note the Collector may proceed to enforce payment as hereafter provided.

52. 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 thirty days 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.

Collection of tax after determination of objection or appeal.

53. Tax may be sued for and recovered in a Court of Competent Jurisdiction by the Commissioner or any Collector in his official name with full costs of suit from the person charged therewith as a debt due to the Government of the Colony as well as by the means hereafter provided.

Suit for tax by Collector.

54. (1) If it 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 Financial Secretary shall cause repayment to be made in conformity therewith.

Repayment of tax.

(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 he has received notice of the assessment made upon him for that year: unless 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.

PROCEEDINGS FOR THE RECOVERY OF INCOME TAX.

Notice to be given to tax defaulters.

55. The Commissioner shall on such day in each year as the Governor in Council may direct cause to be inserted in three consecutive issues of the Gazette a notice to the effect that warrants will be issued for the recovery of all income tax together with the fines due thereon which may after a day set out in the said notice remain unpaid. The day set out in the said notice shall not be less than one month from the first publication of the said notice and such publication shall be a sufficient notice to all defaulters.

Collector to issue warrants against goods for recovery of taxes.

56. The Collector shall, on such day in each year as the Governor in Council may direct, issue to any person whom he may employ as bailiff for this purpose (hereinafter referred to as "bailiff") warrants directing and authorising him in manner hereinafter provided to make a levy upon the goods of all defaulters for the payment of taxes and fines thereon unpaid in the previous year. And the Collector may thereafter issue another warrant or other warrants directed to any bailiff to recover any tax and fines still outstanding and due from a defaulter named in a warrant previously issued by him.

Power for Financial Secretary to sell lands or houses chargeable.

Provided always that it shall be lawful for the Financial Secretary under the provisions of section 64 hereof, to proceed to sell or issue a praecipe authorising the sale of any land or house chargeable with the unpaid taxes and the fines and expenses thereon accrued, at any time.

Withdrawal of execution and institution of proceedings before Magistrate.

57. (1) Notwithstanding that the name of a person who has made default in the payment of the tax shall have been included in a list to any warrant or praecipe authorising a levy as provided in the last section, it shall be lawful for the Financial Secretary, at his discretion, at any time that such tax remains unpaid, to cause the operation of the said warrant or praecipe to be suspended as against such defaulter and in lieu thereof to apply to the Magistrate for a summons directing the defaulter to attend before the Magistrate, at a time to be named in the summons, to show cause why he should not be ordered to pay the amount aforesaid, as a Judgment debt, and it shall be lawful for the Magistrate in his discretion to issue such summons and cause the same to be served and to deal with the defaulter in such manner as is next hereinafter provided.

(2) Notice of any application intended to be made under this section shall be given by the Financial Secretary to the Colonial Secretary.

JUDGEMENT DEBTOR PROCESS.

Magistrate may order payment of tax, etc., into Court.

58. If a summons for enabling the defaulter to show cause as mentioned in the last preceding section is issued, it shall be lawful for the Magistrate on the date named in the summons or at any other date to which the hearing may be adjourned, to order the defaulter to pay into Court the amount of the unpaid tax and fines, and such costs and expenses as may have been incurred, or to order him to pay into Court any part of such amount which the Magistrate may deem the defaulter able to pay or arrange for paying, within seven days of the order or within such extended time as may be determined by the Magistrate, and either in a lump sum or by instalments.

Inprisonment for failure to obey order.

59. (1) If the person summoned as aforesaid fails to comply with the summons without lawful excuse or if he makes default in payment into Court in the manner aforesaid, it shall be lawful for

the Magistrate to commit such person to prison without hard labour for a term not exceeding six weeks or until payment of the sum ordered to be paid (if paid before the expiration of such term) :

Provided that no such committal shall be ordered for default in payment as aforesaid unless it be proved to the satisfaction of the Magistrate that the person making default either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same.

Proviso.

(2) Proof of the means of the person making default may be given in such manner as the Magistrate thinks just, and, for the purposes of such proof, the debtor and any witnesses may be summoned and their attendance enforced by the same processes as in cases in which the Magistrate has summary jurisdiction in criminal matters, and such debtor and witnesses may be examined on oath.

Proof as to means of defaulter.

(3) Every order of committal under this section shall be issued, obeyed, and executed in manner similar to commitments by the Magistrate in the exercise of his summary jurisdiction in criminal cases.

Order of committal.

(4) Imprisonment under this section shall not operate as a satisfaction or extinguishment of the judgment debt.

Imprisonment not to extinguish liability.

60. In any event of the defaulter paying the whole of the amount ordered to be paid as aforesaid, the Magistrate shall remit to the Treasury the amount so paid, deducting such part thereof as may represent the Court costs.

Debtor paying whole of amount ordered to be paid.

PROCEEDINGS BY WAY OF DISTRESS.

61. (1) For the purpose of levying any distress the bailiff shall execute a warrant issued to him by the Collector according to the tenor thereof, and such warrant shall be in the form set out in the First Schedule hereto.

Form and scope of warrant.

(2) On payment of the tax and fines and expenses accrued thereon, the bailiff shall give acquittances under his hand unto the persons who pay the same on numbered (counterfoil) receipt forms with which the bailiff shall be supplied by the Collector, and shall pay over to the Treasury all money received by him under this Ordinance.

Bailiff to give receipts upon payment to him of taxes, etc.

62. When any goods or chattels are drained on, they shall, after due notice given in the gazette be sold by the bailiff at public auction in such a manner as is usual in sales under executions issuing out of the Magistrate's Court. Until the sale, the goods shall remain in the custody of the bailiff by whom the levy is made. The money arising from the sale shall be paid over by the bailiff to the Treasury after deducting therefrom all reasonable and necessary charges and expenses attending the levy and sale which may be allowed by the Financial Secretary; and these proceeds of sale shall be applied by the Financial Secretary towards satisfaction of the unpaid tax, fines, and the surplus (if any) shall be restored on demand to the owner of the goods distrained: Provided as follows:—

Sale of goods levied on and disposal of proceeds.

- (a) Tools of trade, bedding and wearing apparel amounting in all to the value of ten pounds shall be exempted from execution.
- (b) After a levy it shall be lawful for the owner of the goods seized to redeem the same at any time before the time appointed for the sale by paying to the

bailiff the full amount of the tax and fines thereon, together with all costs and expenses incurred in relation thereto by the date of such payment.

- (c) If at such public auction there shall be no bids sufficient to cover the tax, fines, costs and expense, the unsold goods shall become the property of the King for the use of the Government of this Colony.

Bailiff's fees.

63. The bailiff's fees which may be included in a claim of levy under a warrant may be in such sum and according to such scale as is fixed from time to time by the Governor in Council. All such fees shall be paid by the defaulters against whom warrants are issued, and the Governor in Council may award to any bailiff such proportion thereof as he shall think fit.

EXECUTION AGAINST LANDS OR HOUSES.

Failing to recover on goods the Financial Secretary to sell realty of defaulter.

64. (1) If the amount of the taxes due and recoverable from a defaulter and of the fines, costs and expenses chargeable as aforesaid have not been, or in the opinion of the Financial Secretary cannot be, raised by the sale of the goods of defaulter as aforesaid, the Financial Secretary may put up for sale either the whole of any lands or houses in the Colony to which the defaulter is beneficially entitled, or such part thereof as in the discretion of the Financial Secretary may be selected and marked off as sufficient to realize the required amount.

After failure to recover against goods and lands of defaulter Financial Secretary to sell the property charged which had passed out of possession.

(2) In default of satisfaction of the debt by any such sale as aforesaid, then if the lands or houses charged with the payment of unpaid income tax had passed out of the possession of the defaulter before the date of the said sale and consequently such last mentioned lands or houses had not been levied as aforesaid, the Financial Secretary may in the last instance proceed to levy and sell the lands or houses last mentioned.

Form of praecipe for sale of lands.

(3) The Financial Secretary may issue a praecipe to levy the tax by the sale of the lands or houses therein mentioned which praecipe shall be in the form set out in the Second Schedule hereto.

Notice to be served on defaulter before sale of realty.

65. (1) Before proceeding with the sale of any land or house as aforesaid the Financial Secretary or the officer conducting such sale shall serve or cause to be served on the person in default a notice in the form set out in the Third Schedule hereto.

(2) Except in cases specially sanctioned by the Financial Secretary, or the said officer, every such notice shall be served personally on the person in default.

(3) Whenever the Financial Secretary or the said officer shall have reason to think that the person in default is avoiding service of the notice, or that neither he nor his authorised agent can be found, the Financial Secretary or officer may order the notice to be affixed in some conspicuous manner to the property with respect to which the praecipe to levy has been issued.

(4) The server or bailiff serving any such notice personally shall endeavor to explain its purport fully to the person upon whom it is served.

(5) The bailiff or server of such notice shall write upon it the date when it is served by him, and shall enter upon a counterfoil of the notice or upon some other record the date and manner of service and the place where it was made.

(6) Any person duly served but failing to make such statement as aforesaid within the time and in the manner prescribed shall be liable on summary conviction to a fine not exceeding five pounds unless he prove either that, previous to the notice being served, he had paid the tax or fine, or that no tax or fine was or is due from him.

66. (1) When the whole of any land or any house in respect of which levy has been made, has been offered for sale and no bid made for it equal to or in excess of the tax, fines, costs and charges thereon, the same shall be liable to forfeiture at the discretion of the Governor in Council: Provided, however, that as a condition precedent to the forfeiture the Financial Secretary shall caused to be served on the defaulter a notice that such land or house is liable to forfeiture within one month from the date of the service of the notice, if the amount due be not paid.

On abortive sale of realty and continued default in payment. property to vest in Crown.

(2) When any land or house has been declared by the Governor in Council to be forfeited the same shall vest in His Majesty, his heirs and successors for the use of the Government of this Colony.

(3) The Financial Secretary shall forward to the Registrar of the Court for the purposes of registration a statement in form to be prescribed by the Governor, which statement shall contain the particulars of the land or house, the name of the person in default, the amount due, the date of abortive sale, and the date of the service of the notice of liability to forfeiture.

(4) The registration of the statement shall constitute an indefeasible title.

67. In all cases of the sale of lands or houses under this Ordinance the following shall be the conditions of sale:-

Conditions of sale.

(1) The purchaser buys at his own risk as to the provisions of the law necessary to authorise the sale having been complied with. Those who intend to purchase shall be allowed access to all documents which show that such provisions have complied with.

(2) The purchaser shall not require any proof (beyond the Assessment List, and the praecipe with the list of defaulters' notices with service) of the identity of the contents, dimensions, or other particulars of the "property" offered for sale with that advertised.

(3) The highest bidder for each lot may be the purchaser. Should any dispute arise as to any bidding, the property may again be put up for sale.

(4) The reserve price will be the amount of the tax, costs, and charges.

(5) The advance on the bidding may be declared by the officer conducting the sale on putting up the specific lot. No bid shall be retracted without the consent of the said officer.

(6) Immediately after the sale, the purchaser shall pay to the Treasury, or to the officer who conducts the sale, a deposit of his bid; and the balance within seven days thereafter. In default of payment of the deposit, the property shall be offered for sale immediately and any subsequent bid by the person who has made default as aforesaid, shall be ignored or refused. If the purchaser

fails to complete his purchase within seven days, the deposit shall be forfeited, and the property shall be reoffered for sale, when any deficiency on the first bid may be recovered from the first bidder as a debt.

(7) Except in special cases to which the Governor may give his sanction, conveyance for lands, tenements and hereditaments will only be executed on the prescribed form.

(8) Conveyances will not be executed until one month has elapsed from the date of sale, and during this period the right is reserved for the Governor to cancel the sale.

Effect of execution sales with regard to title.

68. (1) All sales of any lands or houses charged with the payment of unpaid income tax, shall, provided that the provisions of this Ordinance have been duly complied with, operate to confer on the purchaser as indefeasible title thereto, free from all encumbrances. All sales of lands or houses other than those hereinbefore specified shall have the effect of conveying to the purchaser the right, title, and interest therein of the person who has made default in the payment of the tax :

Provisos.

Provided always that no purchaser shall have, or be capable of granting, any title to any land, house or goods purchased under the powers of this Ordinance, if the purchase shall have been made with the intent to defraud creditors, or as agent or trustee for the tax-payer in default, or for his wife or family :

Provided further that any such sale to the tax-payer in default shall be void.

Persons having a charge on properties may pay the tax and recover from the owner.

(2) Any person having a charge or debt by way of specialty or otherwise upon any property of the person named in the Assessment List may pay the tax, fines, costs and expenses properly due under this Ordinance by such person named as aforesaid, and shall be entitled to add the moneys thus paid to such charge or debt as aforesaid, and thereupon the increased charge or debt shall bear the same interest and may be enforced and recovered in the same manner as the original charge or debt.

Form of conveyance.

69. Where any land or house is sold hereunder, the Financial Secretary shall execute and deliver on completion a conveyance thereof to the purchaser in the form set out in the Fourth Schedule hereto.

Disposal of surplus proceeds of sale.

70. Any surplus moneys arising on any sales under this Ordinance, after payment of the tax, fines and costs, shall be paid by the Financial Secretary to the owner of the property sold, if known; and if not known, then they shall be at the disposal of the Governor in Council on the application of any person entitled, for six years from the day of sale, after which they shall be appropriated to the general revenue of the Colony :

Provided always that if the Financial Secretary has notice that any person other than the owner of the property sold has a claim to the said surplus moneys or any part thereof, either by way of mortgage or other legal incumbrance, the Financial Secretary may send to the said owner, by post, a letter addressed to him at his last known place of abode stating that the said moneys or some specified part thereof will be paid to such claimant, mortgagee, or incumbrancer, unless the owner informs the Financial Secretary within ten days from the date of the said letter that he does not admit the said claim. If no reply is received from the owner within the time aforesaid, the surplus moneys, or such part thereof as is specified in the said letter, may be paid to the said claimant by the

Financial Secretary. If the owner denies the said claim, then the Financial Secretary shall pay the surplus moneys to the Registrar of the Supreme Court, to be placed by the latter to the credit of an account in Court, to abide the settlement by the Court of the question as to what person is entitled to the same. The Financial Secretary shall not be held responsible for any payment made by him under the provisions of this section.

CLAIMS BY THIRD PARTIES.

71. If any person (other than the person making default as aforesaid) claims that he is the owner of any goods or lands which are levied upon, as belonging to a party who is named in the Assessment List such person, or any solicitor on his behalf, may file an affidavit in the Supreme Court—

Affidavit by a person not the defaulter, claiming the property levied upon.

- (a) Specifying which of the goods or lands he claims as his property;
- (b) Stating full particulars of his title thereto; and
- (c) Stating the value of the property.

72. If any such person, either at the time of or subsequent to the filing of the affidavit as aforesaid, give security by bond with two sureties (such bonds being hereby exempted from stamp duty) to the satisfaction of the Registrar of the Supreme Court in a sum of one hundred pounds, conditioned to secure, first, either the total amount of taxes, fines, costs, and expenses unpaid or such part thereof as may be equivalent to the value of the property claimed; and, secondly, all costs of the legal proceedings incidental to the trial of the issue hereinafter mentioned, the Registrar shall notify the Financial Secretary to discontinue his levy upon such of the goods and lands as are specified in the affidavit until the determination of the issue hereinafter mentioned

Discontinuance of levy upon bond being given by claimant, etc.

73. (1) At any time within seven days after receipt of the notification of the levy being discontinued the Financial Secretary may abandon the levy altogether, and thereupon shall notify the Registrar and the claimant that the levy is wholly withdrawn and that no further legal proceedings will take place.

Abandonment of levy or setting cause down for trial.

(2) If no notice of abandonment is given by the Financial Secretary in the manner aforesaid, the Registrar shall set the matter down for trial at the next sitting of the Supreme Court (Summary Jurisdiction) held not later than two weeks subsequent to security being so given.

74. At the hearing the issue shall be whether or no the claimant has made out his title to the goods or lands specified in the affidavit, and whether the value thereof has been correctly stated in the affidavit; and, upon the issues being determined, the Court shall order the bond to be enforced or cancelled, as the case may be.

Issue at trial.

75. Throughout the proceedings in the case of the goods being claimed as aforesaid the bailiff by whom the levy was made, or, in the case of lands being claimed, the Financial Secretary, shall be the defendant, all steps may be taken and things done as in ordinary cases before the said Court:

Procedure to be same as in ordinary cases.

Provided that the defendant shall not be ordered to pay any costs unless the Court is of the opinion that he has been guilty of wilful neglect or misconduct.

76. No summons, process or other document issued by or for any person acting under this Ordinance shall be subject to stamp duty.

Exemption from stamp duties.

Onus probandi.

77. The burden of proof of exemption from or abatement of the tax levied under this Ordinance shall lie on the party claiming the exemption or abatement.

Prosecutions to commence within six years.

78. Any prosecutions instituted against any person for the commission of any offence against the provisions of this Ordinance shall be commenced within six years from the time of the offence committed and not afterwards.

GENERAL.

Penalties for offences.

79. Any person guilty of an offence against this Ordinance shall be liable on summary conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for any term not exceeding six months.

False statements and returns.

80. (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 representations and—

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

(a) To make or deliver any false return or statement under this Ordinance; or

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

shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding six months.

Saving for criminal proceedings.

81. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or Law.

Impeding or obstructing Commissioner or Officers.

82. Any person who obstructs or impedes or insults or molests a Commissioner, Collector or other officer lawfully authorised by this Ordinance or any amendment thereto in the discharge of his duties or in his official capacity or in the exercise of his powers shall be guilty of an offence against this Ordinance.

Transfer of property to evade taxation.

83. Any person who, after the 1st day of July, 1940, has reduced or shall reduce his income by the transfer or assignment of any real or personal, movable or immovable property to any member of the family of such person shall nevertheless be liable to be taxed as if such transfer or assignment had not been made, unless the Commissioner is satisfied that such transfer or assignment was not made for the purpose of evading the taxes imposed under this Ordinance or any part thereof.

Rules.

84. (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 the Colony;

(c) Any such matters as are authorised by this Ordinance to be prescribed.

(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.

85. The Governor in Council may remit the whole or any part of the income tax payable by any person if he is satisfied that it would be just and equitable to do so. Notice of such remission shall be published in the Gazette.

Clerk of the Legislative Council.

Colonial Secretary.

FIRST SCHEDULE.

Section 62.

Warrant to levy.

UNDER THE INCOME TAX ORDINANCE, 1939.

FALKLAND ISLANDS.

By Financial Secretary of the Colony of the Falkland Islands.

To a bailiff appointed by the said Financial Secretary in this behalf.

WHEREAS the several persons named in the List attached to this Warrant are respectively liable in respect of Income Tax to pay the several amounts set opposite their names respectively in such List.

AND WHEREAS default has been made in payment of the same YOU are therefore hereby enjoined and required to make demand of the several sums mentioned in the said List from the persons liable therefor or on the premises charged with the assessment, as the case may require, and upon payment thereof, to give acquittances under your hand unto the several persons who shall pay the same; and if any sum or sums remain unpaid after demand duly made by you then you are hereby enjoined and required to levy upon each and every of the persons named in the List such sums of money as shall be sufficient to pay the amount set opposite to the names of such persons in the said List together with the cost attending any levy and any sale thereon or any and all other proceedings consequent thereon. And of you proceedings herein you are forthwith to make your Return to me.

Given under my hand at Stanley, Falkland Islands, the day of 19 .

Financial Secretary.

SECOND SCHEDULE.

Section 64.

Præcipe to levy by sale of land or house.

UNDER THE INCOME TAX ORDINANCE, 1939.

FALKLAND ISLANDS.

By Financial Secretary of the Falkland Islands.

To

WHEREAS the lands or houses of the several persons named in the List to this Warrant attached are respectively liable under for the several amounts set opposite their respective names.

AND WHEREAS the lands or houses named in the said List are likewise respectively liable for the amount aforesaid whether or not the persons named are in possession thereof. And Whereas default hath been made in payment of the said amounts You are therefore hereby enjoined and required to levy upon and sell the lands of which the several persons named in the said List are possessed, or a sufficient part thereof, to satisfy the amounts set opposite their respective names as aforesaid together with the costs attending any such levy and sale and all other proceedings consequent thereon.

And in default of satisfaction thereby, then, if the persons named are not now in possession of the lands or houses named in the said List, you are hereby enjoined and required to levy upon the lands or houses last mentioned. And of your proceedings herein you are to make Returns to me at the end of every calendar month commencing from the date hereof until your final Return which you are to make to me on or before the thirtieth day of April next.

Given under this my hand at Stanley, Falkland Islands, the day of 19 .

Financial Secretary.

Section 65.

UNDER THE INCOME TAX ORDINANCE, 1939.

AND FURTHER TAKE NOTICE that in default of your delivering such form duly filled in and signed as aforesaid, you will be liable to a fine not exceeding five pounds.

Do you admit that you owe £..... for Income Tax and £..... for fines in respect of	
If the whole of the above-mentioned amount is not owing by you, state how much is owing by you.	
If the above-mentioned amount or any part thereof is not owing by you, but is owing by some other person, state the name of that person.	
Have you any right, title or interest in the following properties? If you have, state the nature of your interest therein.	
State any reason you may have for claiming that your property should not be sold to satisfy the amount due by you.	

Financial Secretary.

Bailiff or Server.

FOURTH SCHEDULE.

Section 69.

THIS INDENTURE made the day of 19 between
the Financial Secretary of the Colony of the Falkland Islands
(hereinafter called "the Financial Secretary") of the one part and
(hereinafter called "the Grantee") of the other part

WITNESSETH that in consideration of the sum of
paid by the Grantee to the Government of the Falkland Islands (the receipt whereof is hereby
acknowledged) the Financial Secretary doth, pursuant to and in exercise of the powers in him
vested by the laws of the said Colony relating to Income Tax, hereby grant to the Grantee
ALL THAT

EXCEPTING AND RESERVING to the Crown, out of the grant hereby intended to be
made, all the rights, liberties and benefits in respect of the said land every portion thereof
reserved to the Crown under and by virtue of section 21 of the Land Ordinance, 1903.

To hold the said hereditaments unto and to the use of the Grantee in fee simple.

IN WITNESS whereof the Financial Secretary hath hereunto set his hand and seal
the day and year above written.

Signed sealed and delivered by the said }
in the presence of }

L.S.

Financial Secretary.

DECODE.

TELEGRAM.

No. 178 From Secretary of State, London,.....

To His Excellency The Governor, Falkland Islands.

Despatched: 23rd December 19 39 Time: 12.10.

Received: 19 Time:

No. 122 Confidential. Your telegram No. 130 Confidential.

I note action taken as regards income tax and approve increases in import duties. As regards postage rates I suggest for your consideration that proposal might be held in reserve until yields of the other taxes can be more closely estimated.

No. S/38/39.

(It is requested that, in any reference to this minute, the above Number and the date may be quoted).

MINUTE.

17th January, 19 40.

From The Colonial Secretary,

To The Registrar-General,

STANLEY.

Stanley, Falkland Islands.

I am directed to forward herewith, for insertion in the files of the Registrar-General, an authenticated copy of Ordinance, No. 20 of 1939, entitled "An Ordinance to impose a Tax upon Incomes and to Regulate the Collection thereof."

met

Colonial Secretary.

5/31/39.

Income Tax

DECODE.

TELEGRAM.

From Colonial Secretary,

To Mr. Frith, c/o Colonial Secretary, Barbadoes.

Despatched: 16th January, 19 40. Time: ...

Received: ... 19 ... Time: ...

It will save much delay in bringing into effect Falkland Islands income tax Ordinance, 1939, copied almost verbatim from British Honduras Income Tax Ordinance, 1920, if you are in a position to forward to the Crown Agents copies of all Income Tax forms adapted to Falkland Islands for printing in United Kingdom. About 300 persons liable for the tax.

COLONIAL SECRETARY.

GOVERNMENT HOUSE,

STANLEY,

24th January, 1940.

PAKLAND ISLANDS.CONFIDENTIAL.

Sir,

With reference to my Confidential despatch of the 8th of December and your Confidential telegram, No. 122 of the 23rd of December, 1939, regarding the introduction of Income Tax in this Colony, I have the honour to transmit for the signification of His Majesty's pleasure two authenticated and ten printed copies of an Ordinance to impose a Tax upon Incomes and to Regulate the Collection thereof, No. 20 of 1939, entitled the "Income Tax Ordinance, 1939".

2. As reported in my Confidential telegram, No. 130 of the 7th of December the British Honduras Income Tax Ordinance, 1923, has been adapted mutatis mutandis. For convenience of reference I transmit two further copies of the Ordinance shewing in the margin the corresponding sections of the British Honduras Ordinance together with notes of modifications made in adapting these to the local Ordinance.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

(Sd) H. HENRIKSEN

RECEIVED
MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES.

5/38/39

25

Reference to previous correspondence :-

Recd 9

Secretary of State's Telegram No. 96 of 16.11.39.

MALTA AND ISLANDS.

CONFIDENTIAL.



Downing Street,
20 November, 1939.

Sir,

I have the honour to transmit to you, for your information, copies of the paper noted below.

I have, etc.,

(S20.) MALCOLM MACDONALD.

The Officer Administering
the Government.

Name and date.

Subject.

4 May, 1936.

Secretary of State's Circular despatch
regarding Colonial Income Tax legislation.

CIRCULAR.

24

Downing Street,

4th May, 1936.

Sir,

Red D in
h.p. 178/23

I have the honour to refer to the Duke of Devonshire's Miscellaneous despatch of the 28th of December, 1922, on the subject of the Report of the Interdepartmental Committee on Income Tax in the Colonies not possessing Responsible Government (Cmd. 1788), and to inform you that I have recently had occasion to consider the question whether provision should be made in Colonial Income Tax legislation for deductions from income for assessment purposes in respect of dependent relatives and similar personal reliefs.

2. It will be seen from paragraph 24 of the Report of the Interdepartmental Committee referred to above that they took the view that the question of such allowances was primarily one for each Colony to decide for itself, and that they apparently did not consider it necessary to include in the draft Ordinance which accompanied their Report provisions for such reliefs other than those in respect of wife and children in Clause 17 of the draft Ordinance. This omission, however, was obviously not intended to preclude Colonial Governments from making more generous provision for relief in respect of dependent relatives, and similar personal reliefs, if it were thought desirable and practicable in the particular local circumstances.

3. In this connection I would invite attention to Sections 19, 20, and 22 of the United Kingdom Finance Act, 1920, which contain the provisions in force in this country for personal reliefs of the above nature. It would, I think, be well for Colonial Governments to examine those provisions, in particular Section 22, and to consider whether there is any case for the inclusion of similar provisions in local income tax legislation and, if so, whether such provisions could be administered without undue difficulty.

I have the honour to be,

Sir,

Your most obedient, humble servant,

J. H. THOMAS.

The Officer Administering
the Government of

DECODE.

(26)

TELEGRAM.

From Colonial Secretary,

To Colonial Secretary, British Honduras.

Despatched: 15th February, 19 40. *Time:* ...

Received: ... 19 ... *Time:* ...

This Colony has recently introduced Income Tax legislation based on that of British Honduras. Would be grateful if copies of all forms, rules and regulations in use might be forwarded as soon as possible.

COLONIAL SECRETARY.

5/38/39.
DECODE.

(27)
TELEGRAM.

No. 332 From Secretary of State, London,

To His Excellency The Governor, Falkland Islands.

Despatched : 26th February 19 40 Time : 09.38.

Received : 19 Time :

No. 17 Confidential. With reference to your despatch of the 8th December.

(1) Income Tax.

Section 21. Income Tax Committee stated in Paragraph 34 and 35 of their report enclosed in Secretary of State's Circular Despatches 28th December 1922 that whilst it may be possible to justify an attempt to fit the burden of income tax to circumstances individually by a graduated rate of tax no sufficient reason could be found for graduating the rate of tax payable by companies according to the amount of profit they made. Companies should pay the same amount per pound of assessable profit whatever the amount of that profit may be. In the circumstances I regret I cannot see my way to accept the proposal to impose graduated rates on companies in the Falkland Islands and I shall be obliged if legislation may be amended to impose ^(?) a flat rate for companies.

Section 19. I shall be obliged if you will furnish me with your reasons for this provision.

Further comments will follow after the receipt of the Ordinance.

*File in with Treasury
Please get it [unclear]*

DECODE.

TELEGRAM.

From His Excellency the Governor,

To Secretary of State for the Colonies.

Despatched : 7th March, 19 40. *Time :...*

Received :... 19 ... *Time :...*

No. 31. Your telegram No. 17 Confidential. I regret the Circular despatch of 28th December, 1922 was overlooked when the Income Tax Ordinance was prepared.

The error is being rectified by legislation imposing flat rate of two shillings and six pence on every pound on Companies.

The object of Section 19 was to offer an inducement to absentee owners of some of the small family companies to whose ownership of farms has been transferred to remain or take residence in Colony or transfer their ownership to resident owners.

GOVERNOR.

28

Red 27

45
British Honduras.

No

0134/442.

In replying please quote above number.

S/38/39

Colonial Secretary's Office.
Belize. 16th February, 1940.

Sir,

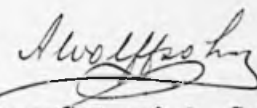
Rec (26)

I am directed to acknowledge the receipt of your telegram of the 13th February and to forward herewith copies of the rules and forms governing income tax in this Colony.

2. I am to invite your attention also to Cap. 23 of the Consolidated Laws of British Honduras, 1924.

I am, Sir,

Your obedient servant,


Acting Colonial Secretary.

The Honourable

The Colonial Secretary

FALKLAND ISLANDS.

46

FALKLAND ISLANDS.
CONFIDENTIAL.



Downing Street,
15 February, 1940.

Sir,

Ref 11

I have the honour to acknowledge the receipt of your despatch, Confidential of the 8th of December, 1939, and to inform you that the power of disallowance will not be exercised in respect of the undermentioned Ordinance.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

MALCOLM MACDONALD.

The Officer Administering
the Government.

No.	Year.	Short Title.
10	1939.	Tariff (Import Duties) Amendment Ordinance (No. 1) 1939.

s/38/59.

6th April,

40.

Sir,

I am directed to acknowledge the receipt of and to thank you for your letter, No. 0154/442 of the 16th of February, 1940, transmitting copies of the rules and forms governing income tax in British Honduras.

Red 45.

I am,

Sir,

Your obedient servant,

(J.H.) A.W.C.

Colonial Secretary.

The Honourable
The Colonial Secretary,
Belize,
BRITISH HONDURAS.

DECODE.

TELEGRAM.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched : 27th December, 1940. Time : 1920.

Received : 28th December, 1940. Time :

Red 2 Circular No. 252. Confidential. My predecessor in his Confidential Circular telegram No. 62 of September 22nd, 1939, referred to the desirability in War time of raising additional revenue by direct taxation of wealthier members of Colonial communities and suggested particularly the introduction of Income Tax where it did not already exist increase of existing rate of Income Tax and imposition of Excess Profits Tax. A number of Colonial Governments have since introduced Income or a similar tax or have increased pre existing rate of Income Tax. The effective rate of taxes are still lower and generally very much lower than in the United Kingdom where the standard rate has been further increased to 8/6 in the pound while those with the largest income including surtax pay on part of their income a rate as high as 18/- in the pound. I am however satisfied there is a wide appreciation of the propriety of further increasing the Colonial rate as necessity arises for additional revenue.

There are however few examples of a special War time Excess Profits Tax. Certain Colonial producers are undoubtedly making substantially greater profits than before the War and amongst them are individual producers even in Territories which in general have been injured by the War. On general principles it seems to me very desirable that such excess profits should be taxed and I should like further consideration in all Dependencies of the possibility of introducing an Excess Profits Tax.

General desirability and justice are sufficient reasons in all cases where the yield would justify the labour of collection apart from revenue aspects. Moreover such a tax need not involve any double Excess Profits Tax in the Colony and the United Kingdom. Legislation exists in the United Kingdom enabling the arrangements to be made and I am forwarding separately a draft clause which gives complimentary powers to Colonial Governments. I recommend the insertion of such a clause in any Colonial Excess Profits Tax legislation. The burden of relief under the arrangement just mentioned is shared between the Imperial Treasury and the Colonial Governments broadly speaking on the following bases. The lower of the two taxes whether United Kingdom or Colonial is waived and the proceeds of the higher one are divided between the United Kingdom and the Colony in the proportion of the two rates of Tax.

You are no doubt in possession of the United Kingdom Excess Profits Tax legislation on which local legislation could be modelled. No doubt such local legislation if it should be decided to introduce it, would be kept as simple as possible but as you know over-simplification is apt only to lead to doubts in the interpretation and complication in administration.

I consider further that direct taxation in the form of Death Duties should in most Colonial Dependencies be made more productive by an increase in the rate and by removing loopholes for the avoidance of duties.

SECRETARY OF STATE.

G.T.C.

CONFIDENTIAL

5/38/39.

50.

● Circular Note

FALKLAND ISLANDS



Transmitted with the compliments of the
Secretary of State for the Colonies, for information and
distribution, with reference to his circular ~~note~~ of the 27 DEC 1940

Recd 48

Colonial Office,

Downing Street,

1 JAN 1941

Double Excess Profits Tax Relief.

Draft Clause for Colonial legislation.

Relief in respect of Double Excess Profits Tax.

(1) If any profits in respect of which excess profits tax is payable under the law in force in this Colony are profits in respect of which excess profits tax is payable also under the law in force in the United Kingdom, or would be so payable if there were no national defence contribution in the United Kingdom, or are profits in respect of which excess profits tax is payable also under the law in force in any part of His Majesty's dominions outside the United Kingdom other than this Colony, the Governor may make arrangements with the Government of the United Kingdom or of that other part of His Majesty's dominions, as the case may be, providing for the giving of relief from double taxation in respect of such profits in accordance with the following principles:-

(i) that there shall be computed the amount of excess profits tax which would be payable in each territory if excess profits tax in the other territory and, where the arrangement is made with the Government of the United Kingdom, national defence contribution in the United Kingdom, were disregarded except in computing capital.

(ii) that such amount of relief from tax shall be given in each territory as bears to the lower of the two amounts so computed the same proportion as the amount so computed for that territory bears to the sum of the two amounts so computed; and

(iii) that where the amount so computed for either territory is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason) the amount so computed shall be recalculated and the relief in both territories varied accordingly.

(2) Where any such arrangements are made and the (Commissioner is) satisfied that any case is one which falls within the arrangements (he) shall make such adjustment of the excess profits tax payable in the Colony as may be necessary to give effect to the arrangements, and allow any necessary relief accordingly by repayment or otherwise.

(3) Where it appears to the (Commissioner) that any relief provided for by any such arrangements fall to be recalculated (whether by reason of a subsequent deficiency of profits or otherwise), any adjustment made under subsection (2) of this section shall be

varied

varied accordingly and any necessary further relief given by repayment or otherwise and, where the effect of the recalculation is to show that too much relief has been given, any necessary additional assessments shall be made.

(4) The obligation as to secrecy imposed by (section 4 of the Model Ordinance) shall not prevent any authorised officer of () from disclosing to any authorised officer of a Government with which arrangements have been made under this section such facts as may be necessary to enable effect to be given to the arrangements.

(5) This section shall apply in relation to -

- (a) any British Protectorate or protected state;
and
- (b) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom or the Government of any Dominion.

as it applies to a part of His Majesty's dominions outside the United Kingdom.

DECODE.

TELEGRAM.

From Secretary of State for the Colonies,

To His Excellency the Governor.

Despatched: 22nd May, 19 41. *Time:* 0655.

Received: 22nd May, 19 41. *Time:* 1600.

Excerpt from telegram No. 130. Filed in M.P. 43/41.

.....

The conclusions indicated are briefly that every effort should be made to reduce importation and consumption of all unessential goods, particularly by those classes of community enjoying a relatively high standard life and practical measures by way of import licensing, taxation, etc., to secure this end are discussed.

.....

MINUTE.

No. _____

31st July, 19 42.

From

O.i.C. Treasury,
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Stanley, Falkland Islands.

To The Honourable,

The Colonial Secretary,

STANLEY.

As the time for making up the 1943 Estimates is approaching I have the honour to bring to your notice certain aspects of the Colony's Financial Situation, which in my opinion, should be readjusted in accordance with existing conditions.

Since the outbreak of war in 1939 Extraordinary Military War Expenditure has been incurred, over and above the usual normal Military Expenditure of peace time days, as follows :-

Actual 1939	£11986.
Actual 1940	23839.
Actual 1941	18639.
Estimated 1942	<u>19875.</u>
Total	<u>£74339.</u>
	=====

which amount has partly been borne by the Colony's Revenue, and the rest has gone to swell the General Deficit Account, which at the end of 1942 it is estimated will amount to approximately £46223. Our surplus assets have shrunk accordingly, and including other items, apart from Military War Expenditure, these which in 1939 represented £270212. 16. 5d, will have been reduced to £216195. 13. 5d by the end of 1942, the estimated difference being £54015. 3. -.

If such a state of affairs is allowed to continue, for long, we shall be faced with very depleted assets in the near future. I certainly think that something should be done immediately to remedy this state of affairs, and that future policy, starting from next year, 1943, should be that we at least meet Expenditure from Revenue. To do this the only alternative appears to be to increase taxation. - Whether or not we shall be reimbursed for the Military War Expenditure incurred to the end of 1942 amounting to £74339, does not appear to be clearly defined, and if eventually the Colony's Finances have to bear the total cost of this, then the increased taxation will have to be such as to not only take care of increased current expenses, but a part each year should be applied against the already existing Deficit of £46223, until this is totally covered and our assets are again restored to their 1939 figure.

Regarding increased taxation the following will shew the amount that could be raised, without great difficulty :-

Duplicate present Income Tax	£12000.
Duplicate present Wool Tax	8000.
Advalorem duty on Imports	<u>12000.</u>
	<u>£32000.</u>
	=====

With this extra sum I think we can safely take care of current expenditure, which by the way, tends to increase, year by year, and any surplus, as I have previously stated, could be applied to the restoration of our asset position.

I think the future policy should be to definitely cover expenditure, at all costs, and not further deplete our assets.

Handwritten signature

1943 Estimates /

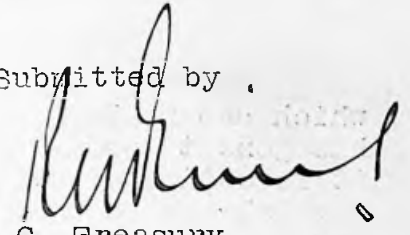
1943 Estimates. Regarding the preparation of these, I submit for your consideration the following changes of items :-

IX Miscellaneous: Savings Bank £300 should be increased to £500 in view of the increased number of Depositors and the extra work this incurs.

IX Miscellaneous: Government Employees' Provident Fund. The Fund should be charged with £50 per annum to cover cost of operating it.

IV Treasury & Customs: (New Item) 6. Refunds of Income Tax £200. So far Refunds of Income Tax have been made under XVII Miscellaneous 18. Refunds of Revenue. I am of opinion that Income Tax refunds should come under a separate item and should be under the control of the Treasury Vote.

Submitted by .


O.I.C. Treasury.