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INCOME TAX BILL

1920

2nd July

Last previous Paper.

MS
34571

States has passed second reading and trans report of select committee on with a schedule of amendments suggested

W. B. Bunting

I do not understand the new system of sending us half completed laws - They are water-tight tubs - I will not be in any way

I assume that we shall have the advice of the first of advice because in this bill there is a complete... I do not see that anyone... I am really in a position to examine it... for the good of the... equal...

Last previous Paper

MS/645

MS/645

2nd July

(b) The Tax is payable in the income received from within the Protectorate during the previous year, and is payable in full in respect of the current financial year.

(c) The Tax will not be collected of those ordinarily resident in the Protectorate.

(d) The rate at which the Tax is to be calculated is left to be fixed by Proclamation by the Governor with the consent of the Legislative Council. A sliding scale is suggested by which the tax will be calculated at higher rates on the higher portions of income. In the case of companies the rate will be a fixed one, and in the case of absentees the rate will be not less than 5% throughout.

(e) In the case of a Company which has not its head office in the Protectorate the tax is payable on the whole profits of its local business. If the local net profits cannot be satisfactorily determined the taxable income may be assessed arbitrarily by the Commissioner with discretion.

(f) There are no special rules for assessing farmers. Assessment on rental value appears to be limited to the country in this stage of its development.

(g) Deduction from Income Tax payable on income derived from land is allowed to the extent of any land tax paid on the same land.

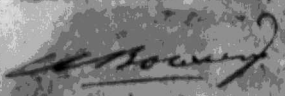
(1) Deductions from the total income
assessable are admissible in respect
of a wife to the extent of Rs. 1000, and
of Rs. 750 in the case of a minor child.

(2) A statement of income is required
from any person called upon to make it by the
Commissioner of Taxes. If the Commissioner
has reason to doubt the correctness of the
statement, he will make his own assessment
and the same is appealable before a Magistrate
Court with a right of appeal.

(3) Taxes are levied on the emoluments of
the officers administering the Government,
Officers of Municipalities, incomes of
societies, societies and clubs not engaged
in trade or carrying on business, incomes of
revived Hindu or Friendly Societies, War
Pensions, and other miscellaneous
Imperial Funds.

The Bill will be brought before the
Legislative Council, with the usual
provisions for its passage.

I have the honour to be,
Your obedient servant,



C O
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REC 26 JUL

In Session No. 77

Your Excellency,

I beg to submit the Report of the Special Committee of the Legislative Council appointed to consider the proposal of a Bill to amend the Ordinance to impose a tax on

The Committee has the Honourable Members appointed to the Special Committee are W. J. Mackenzie, J. A. ... H. W. ...

The principal points on which the Committee recommends amendments to the Bill are as follows:

1. The Ordinance should be treated as if it had come into operation on the 1st of April, 1920, provision being made for the tax to be payable in respect of the year ending the 31st March, 1921, and to be assessed upon returns of the preceding year.

This is to secure the immediate collection of Revenue as soon as the Bill becomes law and the staff for collection is available.

2. Income derived from outside the Protectorate should not be taxed or taken into account in assessment.

This is due to the difficulty of assessing income received and the impossibility of checking them. Such income will in the majority of cases be taxed elsewhere.

3. Exemptions ought to be extended to include the Government salary. This is put forward by the Committee for consistency, because similar provision is made in other Colonial Acts. War Pensions payable from Protectorate or Imperial Funds should be exempted. Income of Religious, Charitable, and Educational Institutions, so far as they are derived from profit made by the Protectorate, should be removed from the list of exemptions. This is to avoid the danger of a trading concern claiming exemption under the name of such an institution.

4. Penalties should be reduced in Clause 13 (2) (b) (4) to 10% and 10% 63 and 64, and in Clause 63 the minimum penalty should be lowered.

5. The principle of taxation at the source should be restricted to the taxes payable to absentee tax payers. The reason for this is that taxation at the source leads in many cases to over-collection, but in the case of absentee tax payers it is not collected at the source, and will be lost.

The Committee is not in agreement on this subject, five members not endorsing that taxation at the source is of great importance.

6. If the income of a business conducted wholly or partly in the Protectorate, cannot be ascertained, the assessment should be based on the assets alone, and not on the liabilities as well.

7. There appears to be no reason why a business wholly conducted in the Protectorate which has its head office in the Protectorate should not be assessed in the same manner as other businesses conducted in the Protectorate.

8. The rate of assessment of movable property should be the same for the head office in the Protectorate and branches elsewhere. The rate should be reduced from 10% to 5% for movable property situated in the Protectorate and provided for free of tax in the Protectorate. This is to avoid any special tax being levied on the head office of a business in the Protectorate if it is desirable to make the rate of assessment high in order to induce business.

9. Provision should be made for assessment of partnerships and unincorporated associations. The rate of assessment should be the same as for individuals and should be reduced from 10% to 5% for partnerships and unincorporated associations.

10. The maximum rate of assessment of individuals who have not their place of residence in the Protectorate, and cannot furnish returns of income, should be raised from five to ten per cent of the facts and figures received. It seems unlikely that any one would engage in trading business for a five per cent profit.

11. Amendment should not be necessary to enable the payer of Land Tax to deduct the amount of Land Tax from the tax on income derived from the Land. The provision should be amended and amended for 10-0-0.

12. Exemption should be granted for included in the assessment of income the rental value of a house occupied as a residence by the owner. This is to enable the owner to deduct the value of a house occupied as a house let, or previous to the owner's death, or in the case of a house occupied as a house.

12. The following additional provisions upon taxation should be added:

(a) And has been omitted in passing on business in the past prior to that of the income on which the assessment is based. This is to prevent gross abuse of the advantages of assessment based on income tax returns, and to equal the disadvantages. The Committee is not opposed to making any necessary change in this.

13. The age up to which an allowance for the blind should be paid should be fixed from fifteen to seventeen years.

14. The procedure in respect to the assessment of property should be as follows:

(a) The assessment of property should be made by the assessing authority, action should be taken in the name of the assessing authority and not by the collector and assessing authority. This is to prevent unnecessary actions and passive resistance.

(b) Such actions should be decided by a Magistrate of the 1st or 2nd class, and not of the 3rd. The Magistrate should be specially authorized to call in the assistance of Assessors.

(c) The Committee is not unanimous on the subject of the constitution of the Court to deal with objections. It is suggested that a special Court should be constituted to hear them in the first instance, and another member whose duty should be to insert a special provision for hearing cases expeditiously by fixing days for hearing them.

(d) No Court fees or costs should be awarded against the objector in such cases unless the grounds for objection are frivolous.

15. Appeals should be allowed to the High Court, Court of Appeal, and the Privy Council.

16. Provisions should be added for payment of the tax by instalments at the discretion of the collecting authority.

17. In order to assist the work of checking returns provision should be added to provide for certain specified languages in which books should be kept.

The Committee consider that the amendments suggested and printed with the Bill are desirable for the first year, provided that not less than 2 per cent. is charged on the income of all companies and on profits paid to directors. The Committee however suggest that the decision on this matter should be deferred until the completion of the Expenditure Estimates is completed and the Land Tax Bill has passed through the Committee stage. The Bill is not a part of the Bill and to defer its consideration should not delay the passing of the Bill.

W. A. KEMPE
Chairman

17th June, 1925.

INCOME TAX BILL

REVISIONS OF AMENDMENTS

Clause 10. The words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 11. Deleted the following definition: "Assessor" means any person appointed by the assessing authority to assess property for the purposes of the Income Tax Act, 1918, and any person acting as such assessor."

Clause 12. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 13. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 14. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 15. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 16. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 17. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 18. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 19. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 20. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 21. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 22. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

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Clause 24. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 25. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 26. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 27. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 28. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 29. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 30. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 31. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 32. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 33. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 34. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 35. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 36. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Clause 37. Deleted the words "and shall be deemed to have effect from the 1st day of April, 1925."

Sub-clause (ii) of the Bill becomes Sub-clause (iv) which as amended reads as follows:—

(iv) The interest and revenues of any Provident Fund or Friendly Society (other than a Building Society) not carrying on or concerned in any business for pecuniary profit.

Insert the following new sub-clause (v):—

(v) Any amount retained as a reserve from contributions to a Provident Fund.

Clause 6 (3). After the words "the interest" in line 42 add the words "and the revenues" in line 43 and delete the words "of any business for pecuniary profit" in line 44.

Clause 6 (4). After the word "interest" in line 42 add the following proviso:—

Provided that if an amount retained shall pay income tax at the rate of not less than 1 per cent and shall not be included in any statement in respect of income for the year the Provisionate.

Clause 7 (1). For the word "Superintendent" in line 9 substitute the word "Commissioner."

Clause 11 (1). For the words "trust or trust" in line 14 substitute the words "trusts."

Clause 11 (1). For the word "Superintendent" in line 15 substitute the word "Commissioner."

Clause 11 (2). For the word "is" in line 16 substitute the word "are."

Clause 11 (3). For the words "the day of January" where they occur substitute the words "the day of March."

In line 16 delete the word "and" and before the word "January" in the clause insert the word "or."

For the word "Superintendent" in line 18 substitute the word "Commissioner."

Clause 11 (4). For the word "Superintendent" in line 20 substitute the word "Commissioner."

Clause 11 (5). For the word "Superintendent" in line 21 substitute the word "Commissioner."

Clause 11 (6). For the word "Superintendent" in line 22 substitute the word "Commissioner."

Clause 11 (7). For the word "Superintendent" in line 23 substitute the word "Commissioner."

Clause 11 (8). For the word "Superintendent" in line 24 substitute the word "Commissioner."

Clause 11 (9). For the word "Superintendent" in line 25 substitute the word "Commissioner."

Clause 11 (10). For the word "Superintendent" in line 26 substitute the word "Commissioner."

Clause 11 (11). For the word "Superintendent" in line 27 substitute the word "Commissioner."

Clause 11 (12). For the word "Superintendent" in line 28 substitute the word "Commissioner."

Clause 11 (13). For the word "Superintendent" in line 29 substitute the word "Commissioner."

Clause 11 (14). For the word "Superintendent" in line 30 substitute the word "Commissioner."

Clause 11 (15). For the word "Superintendent" in line 31 substitute the word "Commissioner."

Clause 11 (16). For the word "Superintendent" in line 32 substitute the word "Commissioner."

Clause 11 (17). For the word "Superintendent" in line 33 substitute the word "Commissioner."

Clause 11 (18). For the word "Superintendent" in line 34 substitute the word "Commissioner."

After the word "such interest" in line 35 add the words "if absent from the Provisionate."

For the word "Superintendent" in line 36 substitute the word "Commissioner."

Clause 21 (1). Delete.

Clause 21 (2). Delete.

Clause 21 (3). Delete.

After the word "December" where it occurs substitute the word "March."

Delete the words "as the company shall have paid income tax upon" in lines 28 and 29.

For the word "Superintendent" in line 29 substitute the word "Commissioner."

Delete the proviso to the said Clause and substitute the following proviso:—

Provided that if the whole or any portion of the said taxable amount is distributed in any year, and income tax has been paid thereon, no tax shall be payable in the event of any future distribution thereof.

Clause 25 (1). Delete.

The words "in the opinion of the Superintendent" in line 39 shall be deleted and after the word "determined" in line 40 add the words "by the Commissioner."

Clause 25 (1). For the word "Superintendent" substitute the word "Commissioner" and delete the words "and liabilities" where they occur.

Clause 25 (2). For the word "Superintendent" substitute the word "Commissioner."

Clause 25 (3). Delete the words "is not a mutual life assurance company and"

For the word "Superintendent" substitute the word "Commissioner."

Clause 25 (4). For the word "Superintendent" substitute the word "Commissioner" and delete the words "and" in line 68 and substitute the word "and."

Clause 25 (5). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 69 and substitute the word "and."

Clause 25 (6). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 70 and substitute the word "and."

Clause 25 (7). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 71 and substitute the word "and."

Clause 25 (8). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 72 and substitute the word "and."

Clause 25 (9). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 73 and substitute the word "and."

Clause 25 (10). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 74 and substitute the word "and."

Clause 25 (11). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 75 and substitute the word "and."

Clause 25 (12). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 76 and substitute the word "and."

Clause 25 (13). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 77 and substitute the word "and."

Clause 25 (14). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 78 and substitute the word "and."

Clause 25 (15). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 79 and substitute the word "and."

Clause 25 (16). For the word "Superintendent" substitute the word "Commissioner" and delete the word "and" in line 80 and substitute the word "and."

Clause 25.—Becomes Clause 27.

For the word "December" in sub-clause (i) substitute the word "March".

Clause 26 (iii).—For the words "and occupies" in line 55 substitute the words "and occupies" and after the word "of business" in line 56 add the words "or profit".

Clause 26 (iv).—Delete the word "or" in line 66 and after the word "residence" add "or quarters" and after the word "in" in the next line add the words "or in" and after the word "in" in the same line add the words "as a residence".

For the purpose of this sub-clause the estimated value of such dwelling house, residence or quarters shall be the sum which such person would ordinarily draw as home allowance in lieu of quarters.

After sub-clause (b) insert the new following sub-clause (c):—

"(c) The estimated annual value to the owner of any dwelling house or residence which is occupied by him as a residence."

Clause 28 (c).—Becomes Sub-clause 27 (d) amended as follows:—

Delete the words "quarters or" in line 69 and after the word "board" in the same line add the words "or allowance for board".

Delete the words "and residence" in line 70 and delete the words "and every allowance, benefit or advantage of any kind, whether in money or of a like nature or any modification or combination of any such benefits or advantages granted secured or" in lines 71, 72, 73 and 74.

Clause 28 (d).—Becomes sub-clause 27 (e).

After the words "in respect of the following" in line 10 of sub-clause (e) add the following new sub-clause (g):—

"(g) Losses incurred by the taxpayer which are established to the satisfaction of the Commissioner in the production of his income for the year immediately prior to the year on the income of which assessment is based."

Clause 28 (a), (b), (c) and (d).—Become respectively (b), (c), (d) and (e).

Clause 28 (e).—Becomes (f) amended as follows:—

By the deletion of the word "or" in line 26 and by the addition of the words "or replacement" after the word "alteration."

By the addition of the word "and" before the word "room" in line 35.

For the word "Commissioner" in the second sentence of the word "Commissioner".

Clause 28 (i) and (j).—Become respectively (j) and (k).

Clause 28 (viii) (a).—For Sub-clause (a) substitute the following Sub-clause (a):—

"(a) Unless a taxpayer proves that for the year of assessment he has a wife whom he supports and maintains he shall be entitled in respect of his wife to a deduction of Rs. 1,000."

The original Sub-clause (c) becomes Sub-clause (b) amended by substituting the word "seventeen" for the word "sixteen".

Sub-clause (b) becomes sub-clause (a) amended by substituting the word "seventeen" for the word "sixteen".

Clause 29.—Becomes Clause 28.

After the words "which thereunder" in line 10 of sub-clause (b) add the words "after that from which and exclusively incurred in the production of the assessable income."

Clause 30 (a).—For the word "Superintendent" in sub-clause (a) substitute the word "Commissioner".

Clause 30 and 31.—Become Clause 29 and 30 respectively. Amended by the substitution of the word "Commissioner" for the word "Superintendent" where it appears in the said Clauses and sub-para.

Clause 32, 33 and 34.—Delete and substitute the following new Clauses 31 and 32.

(1) The particulars of every assessment and the amount of tax payable thereon shall be entered in an assessment book which shall be kept in the office of the Commissioner.

(2) Upon entering any assessment the Commissioner shall give notice of the assessment to the taxpayer assessed.

(3) Such notice shall be in the form prescribed and shall be sent to such person by registered post or delivered by such person in such other manner as the Commissioner may consider necessary or convenient.

(4) The Commissioner shall in the notice of assessment give notice to the taxpayer that any objection to the assessment made must be sent to him within the prescribed time, not being less than twenty days after the date of such notice. The Commissioner may in any such notice send a copy of the assessment to the taxpayer by registered post.

The assessment book, as defined in the previous clause and after the word "Commissioner" shall, on payment of a fee of one rupee, be lent to copies before or on behalf of the Commissioner of such entries therein do relate to him.

Clause 35.—Becomes Clause 36 amended by the deletion of the word "Superintendent" in line 36 and by the substitution thereof of the word "Commissioner".

Clause 36.—Becomes Clause 34 amended by substituting the word "Commissioner" for the word "Superintendent" and by the deletion of the words "for any amount objection the date of proof shall be open the objector" in line 22 and 23.

Clause 37.—Becomes Clause 33.

For the word "Superintendent" where they occur substitute the word "Commissioner" and for the words "December" where they occur substitute the word "March".

Clause 38.—Becomes Clause 35.

For the word "Superintendent" in line 42 substitute the word "Commissioner" and similarly in line 53.

For the figure "50" in line 55 substitute the figure "30".

Clause 39 and 40.—Delete and substitute the following new Clauses to be 37, 38 and 39:—

37. Any objection to any assessment under this Ordinance may, within the prescribed time specified in the assessment notice, be made by any person who is aggrieved by any assessment: in which he is interested.

38. No objection shall be entertained by the Commissioner which is not delivered at the office of the Commissioner in sufficient time to reach him on or before the last day appointed for hearing objections, unless the taxpayer satisfies the Commissioner that reasonable grounds exist for delay in making his objection.

39. Every objection shall be in writing and shall specify the grounds on which such objection is made.

Clause 41.—Becomes Clause 40, amended by substituting the word "Commissioner" for the word "Superintendent" where it appears in the said para and Clause 42.

Clause 42.—Becomes Clause 41, amended as follows:—

When any objection made to any assessment is delivered to the Commissioner he shall send the taxpayer notice of such objection. After the taxpayer within 21 days after the date of such notice the Commissioner shall, in writing at his option, to have his objection heard by Magistrate such objection shall be deemed determined.

Clause 43.—Becomes Clause 43, amended by substituting the word "Commissioner" for the word "Superintendent".

Clause 44.—Becomes Clause 45, amended by substituting the word "Commissioner" for the word "Superintendent". After the words the amount involved" in sub-clause (b) line 55 there shall be added the following words:—

"and such Magistrate shall have power to summon, if he thinks fit, one or more Assessors, to assist him in hearing objections."

Delete the proviso to Clause 44 (a) of the Bill and substitute the following new Sub-clause (a):—

"(a) Such Magistrate shall be President of the Court."

After the new Sub-clause (a) add new Sub-clause (c):—

"(c) No objection shall be heard in open Court, unless the objector shall otherwise request."

