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Central Landowners' Association.

THE
Agricultural Landowner's
Handbook

ON

TAXATION

(Taxes, Rates, Tithe, Death Duties,
Stamp and Licence Duties, etc.)

*A brief guide to law and practice in England and
Wales*

FIFTH EDITION

Revised and Enlarged

November, 1936

BY

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Ownership of Land."*

With a Foreword by

The Right Hon. LORD CLINTON, G.C.V.O.

(Past-President of the C.L.A.)

LONDON:

Published by the Central Landowners' Association,
7 Charles Street, St. James's Square, S.W.1.

X723.3.N4

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PREFACE TO THE FIFTH EDITION

THREE years have elapsed since the publication of the fourth edition of this Handbook, and while periodical revision is inevitable in order to keep abreast of changes in the law relating to taxation of land, the issue of a fifth edition became imperative after the passing of the Tithe Act, 1936, which extinguished tithe rentcharge, and substituted redemption annuities for a period of 60 years. Parts of the handbook have been amplified in the light of additional experience of the last three years, and in the hope of making it as complete a guide as possible, chapters have been added summarising stamp and licence duties, and national insurance, affecting the owner of agricultural property.

The help obtained from well-known works of reference, and to Mr. J. B. Richardson, Standing Counsel to the S.L.A., is again gratefully acknowledged.

R. S. G.

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November, 1936.

FOREWORD

CHANGES in the law and practice relating to agricultural land follow each other in quick succession. Recent legislation, such as the Tithe Act, 1936, and the annual Finance Acts, etc., etc., have introduced many complications which have to be carefully studied and understood. It is consequently of the utmost importance that those in charge of the management of agricultural estates should have the most intimate knowledge of these subjects to enable them to take full advantage of such reliefs and exemptions which the law allows, and for this purpose they must have easy access to complete and accurate information on the many rules dealing with the methods of assessment and of the incidence of rating and taxation.

Mr. Gardiner, by a very close and constant study, has made himself master of a most intricate subject, and his gift of clear thinking and clear exposition enables him to act as a very safe guide to those whose constant duty it is to translate legislative matters, departmental rulings and High Court decisions into the practice of estate management.

This book follows the general design of previous editions and sets out the provisions of various Acts and Rules governing the different subjects with useful explanatory comments undisturbed by any undue amount of detail. A very complete index enables the inquirer to find with

ease the answer to any question on which he may be in doubt.

I am confident that this edition will receive the same welcome as that accorded to its predecessors, and it certainly places owners under a renewed obligation to Mr. Gardiner for his work on this subject, in addition to the many years of service he has spent in the interests of agricultural landowners as Secretary of the Central Landowners' Association.

CLINTON.

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CHAPTER I

INCOME TAX—SCHEDULE A

OWNERSHIP OF LANDED PROPERTY

THE total income derived from land is assessed for income tax purposes on the occupier under two Schedules—

Schedule A

The annual or rental value of ownership.

Schedule B

The annual profit of occupation.

The assessment under Schedule A on the occupier in the first instance enables the full annual value to be taken into account. If it exceeds the actual rent paid by a tenant, upon which the landlord ultimately pays tax by deduction, the excess annual value is treated as the income of the tenant in respect of his beneficial occupation and he consequently bears tax upon it. Where an owner is in occupation he is assessed under both Schedules, on the annual values of ownership and occupation respectively, and both assessments should be included in a return of total income. Where the owner is not in occupation, the Schedule A assessment is made on the occupier (unless the owner has elected to be assessed direct, see p. 21) and the occupier has a right of deduction of the tax paid from his next payment of rent (see p. 22).

General Charge of Schedule A

Tax under Schedule A is charged in respect of the property in all lands, tenements, hereditaments, and heritages for every twenty shillings of the annual value thereof.

Basis of Assessment (General Rule No. 1)

In the case of all lands, tenements, hereditaments or heritages capable of actual occupation, of whatever nature and for whatever purpose occupied or enjoyed, and of

whatever value (excepting the special subjects mentioned in Rules II and III of this Schedule, see Chapter IV) **the annual value is the rent by the year at which they are let, if let by agreement at rack rent within the preceding seven years, or if not so let, the rack rent at which they are worth to be let by the year, on the assumption that the landlord undertakes all repairs and the tenant pays rates.**

"Rack Rent" is the full annual value of the property or as near as possible (*Per Lopes, L.J., Stevens v. Bishop* (1888), 57 *L.J.Q.B.*, p. 287; and 2 *Tax Cases*, p. 255).

"Worth to be let by the year" means what a tenant taking one year with another may fairly and reasonably be expected and required to pay (*Gundry v. Dunham* (1915), 7 *Tax Cases*).

Where property is let at the full annual value, there would be no difficulty in practice in arriving at the correct assessment, the object being to tax income as represented by rent. It should be remembered that "rent income" for taxation purposes is **the amount at which the property is worth to be let**, and not necessarily the actual rent which may in certain cases be below the real value. In *Biddle v. Morris*, [1924] 2 *K.B.* 490 it was held that the increase under the Rent Restrictions Acts was rent, and can be taken into account in estimating annual value.

When a tenant undertakes to pay outgoings which are landlord's liabilities (as distinct from usual tenant's rates and taxes) it is assumed that the full rent has been proportionately reduced. The amount of such landlord's liabilities transferred to the tenant are therefore added to the reserved rent in arriving at the gross assessment. An example is given at the close of the chapter.

If property is in the hands of the owner, the annual value has to be arrived at by estimation, and these are the cases which present the greatest difficulty. The usual method is to make as fair an estimate as possible, taking into consideration rents paid for similar property in the vicinity, and also the assessment which has been made

for rating purposes, although this is not necessarily binding for income tax purposes.

In general terms, it is submitted that the proper basis of assessment where an owner is in occupation is the rent at which a house or farm would let, taking one year with another, ignoring the purchase price, and assuming a normal state of affairs, that is, an average number of vacant hereditaments and an average number of applicants for them. It is of especial importance to the owner-occupier that such properties should be fairly assessed in the first place, as proof of depreciation in letting value is so much more difficult than in the case of properties let, where tenancy agreements can be produced to show lettings at reduced rents.

On a typical agricultural estate the parts occupied by the owner are usually as follows—

(i) **The Mansion House and Park.**—An estimate of the value "by the year" of a large country mansion presents a real problem. Built in more prosperous times, they are now a heavy burden on the owners, due to largely increased costs of upkeep and the crushing weight of taxation. In most cases practically unsaleable, they can rarely be let except in a few favoured situations, and then only if furnished and on the security of a fixed term of years. No general rule can be applied, as each case has to be dealt with on its merits. A conventional assessment is generally settled by compromise, and the rating assessment should be looked into, as the Inland Revenue do not as a rule fix an assessment below a local valuation which has been made and accepted.

(ii) **The Home Farm.**—A fair assessment can usually be made by comparison with farms let in the neighbourhood.

(iii) **Woodlands.**—Woodlands are assessable on the usual Schedule A basis of the full annual value of the land in its present condition as if let for the purpose of growing

timber. There do not appear to have been any cases of land having been let for that purpose in this country, owing to the long periods of growth of trees, until the Forestry Commissioners commenced operations under their Act of 1919. According to the Commissioners' Reports, the average rent paid for leased land is approximately 2s. per acre. The practice of the Inland Revenue, which is of long standing, was to base the Schedule A assessment, in the general case of occupation by the owner, upon the rating assessment. "Land used for a plantation or a wood or for the growth of saleable underwood" has, however, been derated as from the 1st April, 1929. The rateable values which appear in the current Valuation List are to be treated as non-existent, and in future Valuation Lists no particulars with regard to land so used will appear (*Local Government Act, 1929, s. 67*). (See Chapter IX, p. 109.)

(iv) **Employees' Cottages.**—In the case of cottages occupied rent free by estate and farm employees, the annual value would normally be determined by reference to the rents paid for similar cottages in the district. The question of "beneficial occupation" arises in connection with such rent-free cottages. If employees are *required* compulsorily to live in them for the proper performance of their duties (e.g. a lodge-keeper or a gamekeeper) then the employer remains the occupier and bears Schedule A tax upon the annual value. But if an employee (or a pensioner) is merely permitted to live in a rent-free cottage, then he is in beneficial occupation; the annual value is part of his remuneration, and he is responsible for tax upon it. As the income of such employees is usually below the exemption limit, inspectors would, where the annual value is less than £10 and the assessment is made on the owner, usually be prepared to cancel the assessments on receipt of the proper claim, to avoid unnecessary work and trouble to both parties in making repayment claims. In the case of the maintenance staff, tax on the annual value of the rent-free cottages occupied by them may be recovered through the Maintenance Claim (see page 45), but where personal servants are concerned, e.g. chauffeurs,

gardeners, etc., the alternative method is available. Where the owner is liable to Sur-tax he should also claim a corresponding allowance.

(v) **Non-rateable Machinery.**—Non-rateable machinery and plant (see page 122) is not to be taken into account in estimating the annual value of land and buildings (*Finance Act, 1936, s. 22*).

Telegraph and Telephone Poles

The Board of Inland Revenue hold the view that the General Post Office is entitled to deduct on behalf of the Revenue, income tax on the annual amount paid in respect of telegraph and telephone poles erected on land, although the Post Office does not appear to admit any liability to pay rent for the easement, but only compensation for damage and interference. The usual practice of the Post Office is to ignore tax on annual payments under £2. Where such a deduction of tax is made by the Post Office, it is submitted that the landowner should appeal against the Schedule A assessment, on the ground that the payment is admittedly compensation for damage, and does not therefore represent an increased income from the land.

Electricity Towers and Poles

Where wayleave agreements divide the annual payment into two parts—(a) rental to the owner, and (b) compensation to the occupier for interference with agriculture, it is evident that the rental is additional income and therefore liable to deduction of tax when the payment is made. It is understood that the Central Electricity Board follows the practice of the General Post Office by not deducting tax on amounts below £2 a year, and that the Board makes no deduction from annual amounts paid as compensation for interference with agriculture. If a Company deducts tax on the latter amounts then there would be a case for the reduction of the Schedule A assessment, as described under "Telegraph and Telephone Poles."

Sporting Rights on Agricultural Land

With regard to the assessment of sporting rights (including fishing) the practice is as follows—

- | | | |
|--|---|---|
| <ol style="list-style-type: none"> 1. Land and sporting in occupation of owner. 2. Land in hand—sporting let. 3. Land and sporting let together. 4. Land and sporting let separately. 5. Land let—sporting retained by owner. | } | <p>Land assessed under Schedules A and B on its full annual value as enhanced by the sporting rights.</p> <p>Sporting rights assessed under Case III of Schedule D</p> <p>No assessment on sporting rights.</p> |
|--|---|---|

In the last case the Commissioners of Inland Revenue regard the expenses of game preservation as covering the value of the amenity, or profits from the sale of game, etc. Where an assessment is made under Case III of Schedule D, there is no statutory provision for carrying forward a loss, nor for setting a loss against profits of other shootings, nor for setting a loss against other taxed income.

Quinquennial Valuations

Re-assessments of property for the purposes of Income Tax, Schedule A, are made at intervals of five years (*Finance Act, 1930, s. 27*). Previous assessments were made in England and Wales for the years 1857–58, 1861–62, 1864–65, 1867–68, 1870–71, 1873–74, 1876–77, 1879–80, 1882–83, 1885–86, 1888–89, 1893–94, 1898–99, 1903–04, 1910–11, 1923–24, 1931–32 and 1936–37. The assessments for “a year of re-valuation” are made on the annual values of the preceding year (called “the preparatory year”). An adjustment can, however, be claimed if it can be proved that the annual value for the re-valuation year is less than the assessment which has been made (*Finance Act, 1930, s. 28*).

In the intervening years assessments in force for the preceding year are adopted for the next subsequent year. There is no statutory power to raise the assessments in the years between the valuation years, unless an improvement or a structural alteration has been made in the premises, or a division of the assessable subject has taken place. A

decrease in the annual value will be met by a corresponding adjustment in the assessment if an appeal is made in any year. A correct assessment not only means less income tax and Sur-tax, but also a reduction in Land Tax (see page 90) and in Drainage Rates (see page 131) as these charges are based on the Schedule A assessment.

When a reassessment of property is being carried out, forms are sent to occupiers upon which returns of rent or annual value and conditions of tenancy necessary for making a correct assessment are required (*Income Tax Act, 1918, s. 100*). The owner makes the return in the case of cottage property, and in practice a return of all hereditaments on an estate is generally made by the owner or the agent, and this is much the best method as considerable trouble is afterwards saved on both sides. These forms should be carefully and accurately filled in and copies retained, as the particulars furnished form the basis of the assessments made, and will be required for future reference. If the person chargeable does not deliver a statement of annual value, or if the Commissioners are not satisfied with the statement delivered, the assessor or surveyor on obtaining a signed order from the General Commissioners, and after two days' notice to the occupier, may employ a valuer to make a valuation who has power to make an inspection of the property (*I.T.A., 1918, s. 116*).

The keeping of a "Register of Tax Assessments" is strongly recommended, to facilitate not only the preparation of correct returns for quinquennial assessments, but also to check the periodical demands for taxes, the preparation of repayment claims, and for reference in making objections and appeals. A specimen ruling is given in the *C.L.A. Guide to Estate Accounts*.

When the assessments are made, notices giving particulars, are, in conformity with the law, served upon the occupier, but in certain cases, such as cottage property, upon the owner. Apart from such individual notices, the law provides for a general notice of the making of a new assessment to be affixed in a public place in the parish,

and also for inspection of the assessment by the person interested.

Section 115 of the Income Tax Act, 1918, gives the taxing authority power to make a comparison with the rating assessments in force. Although the Inland Revenue authorities are not legally bound by the rating assessments, in practice a reduction has first to be obtained in a rating assessment before a similar adjustment will be allowed in the income tax assessment.

Deductions from the Full Annual Value

(1) **Tithe Redemption Annuities under the Tithe Act, 1936** (see Chapter XI). Tithe Rentcharge which up to the end of the year of assessment 1935-36 was deductible from the annual value of land at the stabilised figure of £105 per cent, has now been replaced by a Redemption Annuity at the rate of £91 11s. 2d. per cent on agricultural land, and £105 on other land.

Section 13 (5) of the Act provides that no deduction in respect of income tax shall be made from any instalment of an annuity, and subsection (6) provides that for all purposes of the Income Tax Acts "**five-sixths and no more of each instalment of an annuity shall be deemed to be a payment by way of interest, and the amount deemed to be so payable in any year of assessment shall be allowed as a deduction in respect of that year from the annual value, as assessed under Schedule A, of the lands in respect of which the annuity is charged,**" subject to any modification if remission is obtained under Section 14 of the Act. This means that where the full amount of the annuity is payable, the deduction will be at the rate of **£76 6s. per cent in the case of agricultural land, and at the rate of £87 10s. per cent in the case of other land, in any year of assessment after the termination of the current year of assessment 1936-37.**

The current year of assessment is a transitional one; it includes the **last payment** of tithe rentcharge for the half-year ended 1st October, 1936, and the **first payment** of the Redemption Annuity due on the 1st April, 1937.

The October and April payments are both at the rate of £91 11s. 2d. per cent on agricultural land, and £105 per cent on other land. The appropriate deductions for the whole year of a half-year's tithe rentcharge and five-sixths of a half-year's annuity, expressed as fractions of the deductions made in previous years at £105 per cent, are—

- (a) on agricultural land Four-fifths.
 (b) on other land Eleven-twelfths.

These fractions are calculated as follows—

(a) *Agricultural Land*

Four-fifths of £105 £84 0 0

Half-year's tithe rentcharge

1st Oct., 1936 $\frac{£91\ 11s.\ 2d.}{2} = £45\ 15\ 7$

Half-year's Annuity 1st April,

1937 (five-sixths) $\frac{£76\ 6\ 0}{2} = £38\ 3\ 0$

£83 18 7

(b) *Other Land*

Eleven-twelfths of £105 £96 5 0

Half-year's tithe rentcharge

1st Oct., 1936 $\frac{£105}{2} = £52\ 10\ 0$

Half-year's Annuity 1st April,

1937 (five-sixths) $\frac{£87\ 10\ 0}{2} = £43\ 15\ 0$

£96 5 0

(II) **Local Rates.**—Where cottages are let at rack rents, including rates which the landlord has agreed to pay, the amount of the rates should be deducted to arrive at the correct gross assessment, the basis of assessment being on the assumption that rates are payable by a tenant in addition to rent (*Schedule A, No. IV, 1 and 2.*)

(III) **Land Tax**, if borne by the landlord (*Schedule A, No. V, Rule 1 (e)*). If the tenant has agreed to pay this tax, he pays proportionately less rent and a deduction cannot be claimed (*Schedule A, No. V, Rule 10*).

(IV) **Drainage Rates.**—Charged by a public assessment to meet the cost of draining water from land or embanking land liable to flooding (*Schedule A, No. V, Rule 1 (f)*). If the tenant of the land has agreed to pay any such rates for which the landlord is responsible, no deduction can be claimed (*Schedule A, No. IV, Rule 10 (b)*). The expression "drainage rates" refers to rates charged under the provisions of the Land Drainage Act, 1930 (see Chapter X), and should not be confused with rates levied by a local sanitary authority for the maintenance of pipes and works required for sewage disposal.

(v) **Maintenance of Sea Walls and Embankments Against Tidal Rivers.**—The amount spent by the landlord or owner of land on an average of the 21 preceding years in making or repairing sea walls or other embankments necessary to protect the lands from the sea or any tidal river, although the sums expended may not have been charged on the lands by a public rate or assessment (*Schedule A, No. V, Rule 1 (g)*).

A special statutory basis having been provided for such expenditure, it cannot be included in the "Maintenance Claim," but any expense incurred by a riparian owner in protecting his land from non-tidal rivers can properly be included in general costs of maintenance.

Statutory Allowance for Repairs

The most important deduction from the Schedule A assessment is the allowance for the cost of keeping the

property in repair, particularly as the expense of maintenance is still so high as compared with pre-war standards. The statutory allowances are set out in Rule 7 of No. V of the Schedule, as amended by section 20 of the Finance Act, 1928, which reads as follows—

(1) Where tax is charged upon annual value estimated otherwise than by relation to profits, the following provisions shall have effect—

- (a) In the case of an assessment on lands inclusive of the farmhouse and other buildings (if any), the amount of the assessment shall, for the purposes of collection, be reduced by a sum equal to one-eighth part thereof; and
- (b) In the case of an assessment upon any house or buildings (except a farmhouse or building included with lands in assessment), the amount of the assessment shall, for the purposes of collection, be reduced—
 - (i) Where the owner is occupier or chargeable as landlord, or where a tenant is occupier and the landlord has undertaken to bear the cost of repairs, by a sum equal to the amount of the authorised reduction hereinafter mentioned; and
 - (ii) Where a tenant is occupier and has undertaken to bear the cost of repairs, by such a sum, not exceeding the amount of the authorised reduction, as may be necessary to reduce the amount of the assessment to the amount of rent payable by him;

Provided that the amount by which an assessment is reduced shall not, in the case of an assessment exceeding the amount of forty pounds, be less than it would have been if the amount of the assessment had been forty pounds.

(2) Where the amount of the assessment in the case of lands (inclusive of the farmhouse and other buildings) is

more than one-eighth below the rent, and in the case of any house or building (except a farmhouse or building included with lands in assessment) is less than the rent by a sum greater than the authorised reduction which would be allowable if the assessment were on the amount of the rent, after deducting from such rent any outgoing which should by law be deducted in making the assessment, this rule shall not apply.

(3) The authorised reduction for the purposes of this rule shall be—

- | | |
|---|--|
| (a) Where the amount of the assessment does not exceed forty pounds. | A sum equal to one-fourth part of the amount of the assessment. |
| (b) Where the amount of the assessment exceeds forty pounds but does not exceed one hundred pounds. | A sum equal to one-fifth part of the amount of the assessment. |
| (c) Where the amount of the assessment exceeds one hundred pounds. | Twenty pounds, together with a sum equal to one-sixth part of the amount by which the assessment exceeds one hundred pounds. |

The word "assessment" in Rule 7 means the full annual value and the following example illustrates the application of paragraph (1) (b) (ii) of the Rule—

| | |
|---|-----|
| Rent payable under the lease | £29 |
| Add estimated average cost of repairs | 7 |

Full annual value £36

| | |
|--|---|
| Normal allowance for repairs one-fourth (£9), but in order to make net annual value equal to the rent payable, restricted to | 7 |
|--|---|

Assessable value £29

SUMMARY.—Subject to the foregoing conditions, the allowances where the landlord undertakes all repairs may be summarised as follows—

Land (inclusive of the farmhouse and other buildings, if any) **one-eighth** of the full annual value including tithe.

HOUSES AND COTTAGES.*

| ANNUAL VALUE | ALLOWANCE |
|---------------------------------------|---|
| Not exceeding £40 | One-fourth. |
| £40 to £50 inclusive. | £10. |
| Exceeding £50 and not exceeding £100. | One-fifth. |
| Exceeding £100. | £20, plus one-sixth of the annual value above £100. |

Where a farm is in the occupation of the owner, the practice is to allow one-eighth of the annual value of the land, including farm buildings, and the appropriate allowance on the annual value of the farmhouse according to the above table.

Labourers' cottages on a farm are treated separately from the land, receiving the authorised deduction according to their annual value, both in the case of a farm let to a tenant and when occupied by the owner.

In addition to those statutory allowances, the owner of land and houses who spends a larger sum on maintenance, repairs, insurance and management, according to the average of the preceding five years, is entitled, on making a claim for the purpose, to repayment of tax on the excess. "The Maintenance Claim" is dealt with in detail in the next chapter.

* These allowances for repairs will continue in force until the 5th April, 1937 (*Finance Act, 1935, s. 24*).

Annual Charges

Where the property is liable to such fixed annual charges as quit rents, chief rents, ground rents, mortgage interest, annuities and the like, tax should be deducted at the standard rate for the year in which the amount payable becomes due (*Finance Act, 1927, s. 39*) from the amount of the charges when making the periodical payments to the persons entitled to receive them (*Schedule A, No. VIII, Rule 4*) within a year after the year of assessment.

Voids

Schedule A tax is charged on all lands, tenements or hereditaments capable of actual occupation (which in practice is taken to mean fenced in), whether occupied at the time of the assessment or not, but as a concession tax on land which is waste and unenclosed may be discharged. A further concession as a temporary measure was obtained as a result of representations made by the C.L.A. during the agricultural depression in 1933. Relief from income tax will be granted in any case in which land, formerly let for purposes of husbandry, has reverted to the owner and he is unable to let it and performs no act of husbandry whatever on it for the time being so that it merely lies uncultivated, unstocked and not mown for hay. In such cases the tax charged on the land under Schedules A and B will be discharged for the period for which it is unoccupied, except as to the tax on the amount of any rent received for that period from the outgoing tenant or of any other profits, or the tax on any charges payable, whichever is greater. (If the owner carries out any farming operations on such land, however limited in extent, tax would be chargeable, but the owner would be entitled to relief under Rule 6 of Schedule B, and Section 34 Income Tax Act, 1918 (see pp. 53-54)). If any *house* (which in practice includes shops, offices, and in the case of an unlet farm, the farmhouse) becomes unoccupied (*i.e.*, when unfurnished and not rateable) for the year or part of the year of assessment, an allowance for a "void" may be claimed (*Schedule A, No. VII, Rule 4*). Similar relief may be claimed where parts of a house let in

apartments or tenements are unoccupied (*Finance Act, 1930, s. 21*).

Payment of Tax

The income tax year commences on 6th April and terminates on 5th April following. Schedule A tax is payable in one sum on or before 1st January (*Income Tax Act, 1918, s. 157, as amended by Finance Act, 1927, s. 21*). Arrears are recoverable by distraint on the premises in respect of which the tax is charged (*Income Tax Act, 1918, s. 162*). Claims for Schedule A tax paid in error would be admitted at any time within six years after the year of assessment.

Collection of Tax

Schedule A tax is charged on and payable by the occupier for the time being, except in certain specified cases, and every person having the use of any lands or tenements is deemed to be the occupier (*Schedule A, No. VII, Rules 1 and 2*).

The tax is charged on and collected from the landlord in respect of (a) cottages of a less annual value than £10, (b) lands or tenements let for a period of less than a year, and (c) houses let in different apartments or tenements and occupied by two or more persons severally. Any such house would be assessed as one entire house. In default of payment by the landlord in these cases, the occupier may still be called upon to pay (*Schedule A, No. VII, Rule 8*).

The landlord of any lands or houses may be assessed and charged direct if he makes a request in writing to that effect to the Clerk to the District Commissioners before the 31st July in any year. The request may be cancelled for any subsequent year by notice in writing. In default of payment by the landlord, the tax can be recovered from the occupier (*Schedule A, No. VII, Rule 9*). Payment of Schedule A tax direct by the landlord is frequently resorted to on agricultural estates, where assessments are usually based on rents paid on yearly tenancies. In the case of urban estates where leasehold rents may be less than the assessments, payment of tax by the occupier is preferable.

Where the occupier is a tenant he is entitled to deduct the tax he has paid (*Barnes v. Kyffin* 32, *T.L.R.* 381) at the rate or rates in force during the period through which the rent was accruing due, when making his next payment of rent (*Schedule A, No. VIII, Rule 1, as amended by Finance Act, 1927, s. 39*), and the person receiving the rent must on production of the receipt for payment of the tax allow the deduction (*Finance Act, 1926, s. 26*). The tenant may deduct tax on the full amount of the rent, provided that the deduction does not exceed the amount of tax actually paid. The result of this interpretation of the rule is that where the assessment exceeds the rent by more than the allowance for repairs, the landlord may be deprived of the relief, even though he may have contracted with the tenant to bear the whole or part of the cost of maintenance. Fortunately, such cases are not frequent on agricultural estates, but instances have occurred where farms have been let on lease to County Councils for subdivision into small holdings, and where land has been let for market gardening, and glasshouses have been erected by the tenant. Much consideration has been given to the point, but suggested alterations of the law have so far been found impracticable. Where land is let to tenants who propose to carry out improvements which will result in an assessment exceeding the rent, the best way of meeting the difficulty is to stipulate in the contract of tenancy that all repairs shall be carried out by the tenant.

Change of Occupiers

An occupier who quits occupation is liable for the tax payable in respect of the period up to the date of his quitting occupation, so far as such tax falls to be ultimately borne by him (*Schedule A, No. VII, Rule 3*).

Relief

An abatement of Schedule A tax may be claimed in the following cases—

FLOOD AND TEMPEST. In respect of a reduction of rent allowed to a tenant in consideration of loss caused to growing crops or stock by flood or tempest.

An occupying-owner may claim an abatement of the tax paid on the Schedule A assessment on similar grounds (*Schedule A, No. V, Rule 9*).

AGRICULTURAL DEPRESSION. Relief has been granted in the past in cases where, owing to agricultural depression or to farming difficulties of the particular tenant, a landlord has granted unconditionally a temporary remission of rent. This relief has been extended to cases where a landlord makes a remission of rent on condition that the tenant expends a like sum on liming. (The cost of lime allowed to a tenant cannot therefore be included in a maintenance claim but should be claimed as an "Agricultural Depression" allowance.)

The relief takes the form of a reduction of the Schedules A and B assessments in proportion to the amount of rent remitted for the year in question, and will be made on specific application by the landlord to the Inspector of Taxes within six years after the end of the year of assessment (Form No. 191) (*Treasury Concession*). An occupying-owner cannot claim this relief in view of the taxpayer's statutory right of appeal against Schedule A and Schedule B assessments in any year.

LOSS OF RENT. Although there is no statutory provision for relief from tax in respect of "lost rent," relief is allowable as a concession in respect of any rent which has accrued due, and is wholly and irrecoverably lost, the tenant having gone. The practice is to allow tax on the amount of the rent lost and not on the amount of the net Schedule A assessment proportionate to the rent lost, but the allowance in any case cannot exceed the amount of the net Schedule A assessment on the individual property in question. Therefore, in cases where the amount of rent lost is more than the net Schedule A assessment that portion of the rent lost which is covered by deductions (other than allowances and reliefs personal to the particular owner of the property) already made

in arriving at the net Schedule A assessment does not give rise to any allowance of tax. The facts of the case should be reported to the Inspector of Taxes for the district in which the property is situate, within three years, the appropriate claim form being No. 149B (*Treasury Concession*).

Examples

The following examples are given to illustrate the usual method of making assessments under this Schedule—

- (1) Assessment of a farm let within the preceding seven years at a rent of £336 a year (the full annual value), including two labourers' cottages, annual value £8 each. Five-sixths of Tithe Redemption annuity £36 and Land Tax £4, payable by the landlord.

| | |
|--|------|
| Annual Rent (Gross Assessment) | £336 |
| DEDUCT— | |
| Annuity | £36 |
| Land Tax | 4 |
| Repairs— | |
| Farm, $\frac{1}{3}$ of £320 | 40 |
| Cottages, $\frac{1}{3}$ of £16 | 4 |
| | 84 |
| Assessable Value (Net Assessment) | £252 |

- (2) Assessment of a farm occupied by the owner, the full annual value being £336 on the statutory basis, including two labourers' cottages, annual value £16. Five-sixths of Tithe Redemption annuity £36 and Land Tax £4.

| | |
|--|------|
| Annual Value (Gross Assessment) | £336 |
| DEDUCT— | |
| Annuity | £36 |
| Land Tax | 4 |
| Repairs— | |
| House, $\frac{1}{3}$ of £40 | 10 |
| Farm, $\frac{1}{3}$ of £280 | 35 |
| Cottages, $\frac{1}{3}$ of £16 | 4 |
| | 89 |
| Assessable Value (Net Assessment) | £247 |

- (3) Assessment of a farm let at a rent of £324 a year, including two labourers' cottages, annual value £8 each. Five-sixths of Tithe Redemption Annuity is £36, and the tenant has agreed to pay the Land Tax, £4, and a Drainage Rate made upon the owner of £8.

| | |
|---|------|
| Annual Rent | £324 |
| Land Tax | 4 |
| Drainage Rate | 8 |
| | £336 |
| DEDUCT— | |
| Annuity | £36 |
| Land Tax | 4 |
| Drainage Rate | 8 |
| Repairs— | |
| Farm, $\frac{1}{3}$ of £320 | 40 |
| Cottages, $\frac{1}{3}$ of £16 | 4 |
| | 92 |
| Assessable Value (Net Assessment) | £244 |

- (4) Assessment of a house let on yearly tenancy at £36, tenant paying rates and landlord undertaking repairs.

| | |
|--|-----|
| Gross Assessment | £36 |
| Deduct $\frac{1}{3}$ for repairs | 9 |
| Assessable Value | £27 |

- (5) Assessment of a cottage let at its full value, £12, the owner paying tenant's rates, £4.

| | |
|--|-----|
| Inclusive Rental | £12 |
| Deduct Rates | 4 |
| | £8 |
| Gross Assessment | £8 |
| Deduct $\frac{1}{3}$ for repairs | 2 |
| Assessable Value | £6 |

- (6) Assessment of a Mansion House with usual domestic offices, garage and stables, pleasure grounds and gardens, gardener's cottage and a lodge, covering an area of eight acres. Five-sixths of Tithe Redemption Annuity on part of the gardens £1 and Land Tax 10s. Annual Value—

| | |
|---|-------|
| Mansion House, offices, garage, stables and one acre of land | £240 |
| Pleasure grounds and gardens, 7 acres | 24 |
| Gardener's cottage | 12 |
| Lodge | 8 |
| | <hr/> |
| | £284 |

DEDUCTIONS—

Repairs—

| | |
|--------------------------------|----------|
| £20 + $\frac{1}{8}$ of £140 | |
| (£240—£100) | £43 10 0 |
| $\frac{1}{8}$ of £24 | 3 0 0 |
| $\frac{1}{4}$ of £12 | 3 0 0 |
| $\frac{1}{4}$ of £8 | 2 0 0 |
| Annuity and Land Tax | 1 10 0 |
| | <hr/> |

53

| | |
|----------------------------|-------|
| Assessable Value | <hr/> |
| | £231 |
| | <hr/> |

CHAPTER II

INCOME TAX—SCHEDULE A

THE MAINTENANCE CLAIM

ADDITIONAL relief from income tax in respect of the cost of upkeep of agricultural estates, through the "Maintenance Claim," was originally conceded in the Finance (1909-10) Act, 1910, in respect of land inclusive of farmhouses and other buildings, and cottages of an annual value not exceeding £8, as a result of representations made by the C.L.A. with the support of estate accounts furnished by the Chartered Surveyors' Institution and the Land Agents' Society, to the effect that the expense of maintaining agricultural property was far in excess of the existing statutory allowances for repairs (see page 16).

In subsequent Finance Acts the limitations on the annual value of houses in respect of which a claim was admitted were gradually modified, and were removed altogether in 1922. A Maintenance Claim may, therefore, be made within six years after the year of assessment, in respect of **all land with farmhouses and other buildings, if any, and all houses (inclusive of the Mansion House)** the assessment on which is reduced for the purpose of collection of tax by the statutory allowances for repairs.

The Statutory Basis of the Maintenance Claim

The statutory provisions relating to the additional relief available in respect of the cost of maintenance are contained in Rule 8 of No. V, of Schedule A, Income Tax Act, 1918, as amended by subsequent Finance Acts, which reads as follows—

- (1) "If the owner of any land or houses to which this rule applies shows that the cost to him of maintenance, repairs, insurance or management, according to the average of the preceding five years, has exceeded, in the case of land, one-eighth part of the annual value of the land as adopted under this

Schedule, and, in the case of houses the authorised reduction, he shall be entitled in addition to any reduction of the assessment for the purposes of collection, on making a claim for the purpose, to repayment of the amount of the tax on the excess.

- (2) For the purposes of this rule, the term 'maintenance' shall include the replacement of farmhouses, farm buildings, cottages, fences, and other works where the replacement is necessary to maintain the existing rent and shall also include additions or improvements to farmhouses, farm buildings, or cottages, but only if no increased rent is payable in respect of the additions or improvements and in so far as they are made in order to comply with the provisions of any statute or the regulations or by-laws of a local authority.
- (3) This Rule shall apply to any land (inclusive of farmhouses and other buildings, if any) or house, the assessment on which is reduced for the purpose of collection—

Provided that no repayment of tax shall be made under this Rule in respect of the cost of maintenance, repairs, insurance or management, if or to such extent as that cost has been otherwise allowed as a deduction in computing income for the purposes of income tax.

- (4) In comparing, for the purpose of this Rule, the cost of maintenance, repairs, insurance, and management of any land or houses with the annual value of the land or houses, the total cost of the maintenance, repairs, insurance and management on any land managed as one estate,* or of any houses on any such land, shall be compared with the total annual value of the land or houses, as the case may be.

* The words "managed as one estate" refer to the *management only*, and do not depend on such factors as physical contiguity. The question would be settled by reference to the facts in the nature of management, and not in relation to the position of the estates.

- (5) All the provisions of the Income Tax Acts which relate to claims for any allowance or deduction, or the proof to be given with respect to those claims, shall apply to claims for repayment under this Rule and the proof to be given with respect to those claims—

Provided that if the owner of any land or house makes and delivers to the surveyor of any district in which the land or house is wholly or partly situate a declaration as to the cost to him of maintenance, repairs, insurance and management, and the surveyor is satisfied as to the correctness of the declaration, the amount of the allowance to which the owner is entitled under this Rule shall be certified by the surveyor, and repayment shall thereupon be made in accordance with his certificate.

- (6) In computing the five-year average for the purposes of this Rule, the year shall be taken to be the year ending on the thirty-first day of March, or such other date as may be adopted by the owner of the land or houses with the consent of the surveyor of the district, and the five preceding years shall be taken to be those preceding the commencement of the year for which the tax in respect of which a claim for repayment is made is charged."

Admission of Claim

Normal Basis.—The effect of the foregoing rule is that a claim may be made each year by the owner, both in respect of property let to tenants and occupied by himself and his employees, for repayment of tax on the excess cost of maintenance, etc., over the statutory allowance for repairs, the amount of the expenditure allowed being the average amount spent in the five years preceding the year of assessment. The beneficial occupier of a property (that is a tenant who sits at a rent below the annual value) may be regarded for the purpose of maintenance relief as owner of the property to the extent of his beneficial occupation. He is therefore entitled to claim relief from tax up to the amount of tax on the annual value of his beneficial

occupation, in respect of expenditure incurred by him (but not by his landlord) on maintenance, provided the conditions laid down in the rule are satisfied. In practice, the following concessions have been made—

Rents exceeding the Assessments.—The Board of Inland Revenue have stated that the effect of paragraph (3) of the above Rule and of Rule 7 (2) (see page 17) is to make a Maintenance Claim inadmissible in cases where the rent exceeds the assessment (that is, the gross annual value) by more than the statutory allowance for repairs. The Board have, however, waived this technical objection, and **such cases will be admitted in a claim made in respect of the whole estate, on the understanding that the excess of the rents over the Schedule A assessments in force will be treated as a set-off.** It is an equitable compromise, and means that the full cost of maintaining the property will be admitted, provided that the full amount of rent-income from that property is brought into account. If, however, the gross rents exceed the gross assessments, but by **less** than the statutory allowance for repairs, then the owner is entitled to receive that allowance for repairs before collection of tax, and to submit a Maintenance Claim in respect of excess expenditure.

New Owners.—In order to meet the case of a recent purchaser who is unable to obtain particulars of expenditure on the property prior to purchase, a **claim for the first year of ownership would be admitted on the basis of the expenditure for that year,** provided that he agrees to a similar annual basis for the four succeeding years (*Treasury Concession*). Thenceforward, his claim would be based on the statutory quinquennial average.

Whether this alternative would be more advantageous to the new owner depends on the proportion between the annual expenditure and the assessment of the property. No more tax can be recovered than the amount of Schedule A tax paid, *i.e.*, a return of tax cannot be claimed on the amount by which maintenance expenditure exceeds the amount of the assessment (*Crompton v. Sir Archibald Campbell, Bart.*, 1925, S.C. 124; 9 T.C. 224).

On a strict interpretation of the Statute, the maintenance claim is only applicable where the five years' expenditure is available for obtaining the average. The expenditure incurred by a previous owner in the years to be brought into account would be admitted, but if this cannot be ascertained, the basis where the new owner wishes to claim on a five years' average, appears to be a matter of arrangement with the Inspector of Taxes. A nil return for the years before purchase, or the adoption of the statutory allowance for repairs in those years, are alternative methods of dealing with the case. A considerable sum may be spent in the first year of ownership on putting the property into thorough repair, and the advantage of the five years' average basis is that a heavy outlay exceeding the total amount of the assessment in one year can be distributed over the whole quinquennial period, and tax ultimately recovered on probably the whole cost. If a neglected property is purchased and an abnormal expenditure on repairs is necessary in the first year or two by the new owner, the deferred expense should nevertheless be admitted in the claim; it would have been allowed if incurred by the vendor.

Relief before Payment of Tax.—The Maintenance Claim Rule provides that relief shall be given by way of *repayment*. The relief will, however, be given before payment, from the tax collectable on the property, where the claim is made and proved sufficiently early to permit that course, but the collection of tax will not be deferred for completion of claims beyond the ordinary dates of collection.

This concession is a considerable convenience to the taxpayer and has been given to avoid objections which had been raised and supported by the C.L.A. to the necessity of paying the tax in full, and subsequently obtaining repayment, very often after some delay. As the claim is based on the average expenditure in the five years *preceding* the year of assessment, it should be possible to send it in sufficiently early in that year to enable the authorities to settle it before the tax becomes due.

Voids

In the case of an empty house, in respect of which a "void" claim has been made, no tax has been paid for that year, so that a Maintenance Claim for *repayment* of tax cannot be made in respect of expenditure on repairs. The expenditure on a "void" house can however, be included in a claim made in respect of an estate as a whole, which includes other houses and land. The total expenditure would be compared with the total annual value.

Ancient Monuments

It was reported in the *Journal of the Land Agents Society, November, 1935*, that (in the course of correspondence between the Office of Works and the Board of Inland Revenue on the cost of preserving Ludlow Castle) the Board stated that where an ancient monument formed part of an estate in respect of which a Maintenance Claim is made, no objection would be raised by the Board to the amount of the net cost to the owner (after taking into consideration any fees received for admission) of preserving the monument in its existing condition, being included in any Maintenance claim relating to the estate.

Sale of Parts of an Estate.—Where parts of an estate are sold, care must be taken to **exclude the maintenance expenditure on such parts** when calculating the average cost of maintenance in subsequent claims submitted in respect of the portion of the estate retained. The expense incurred on the parts sold must, of course, be eliminated from each of the five years over which the average is calculated. The reason for this is clear when it is borne in mind that the claim is made for *repayment* of tax paid on land owned. If sales take place during a year of assessment a proportion of the Schedule A tax would be payable by the vendor and he is entitled to a proportionate allowance of the cost of maintenance.

Time for making Claims.—A Maintenance Claim may be made not only in the year of assessment, but at **any time within six years** after a year of assessment.

It will be noted in paragraph (6) of the Maintenance

Claim Rule, that although the official financial year ending 31st March is mentioned as the year for the purpose of computing the five-year average, the **usual estate accounting year will be accepted**. For example, if accounts are closed at the end of the calendar year, the claim would be based as follows—

| | |
|------------------------------------|---|
| Claim. | Basis. |
| For year of assessment 1932-33. | Average expenditure on land and all houses in- curred during the five years 1927, 1928, 1929, 1930, 1931. |

Form No. 99

The official form for making the claim may be obtained from the Inspector of Taxes for the district, to whom application may be made for advice and assistance in filling it up. A duplicate of the form, on which a copy may be kept, will be supplied on application to the Inspector of Taxes for the district.

THE SCHEDULES

The form contains two Schedules—

Schedule No. 1.—“Particulars of Properties and Assessments in respect of which this claim is made.” (*See Notes (1) to (7) on following pages.*)

| Description and name or address of each property | Parish and Income Tax Assessment number | Rental for the year of claim | In case of Houses state whether repairs done by Owner or by Tenant. (If each does part, say so) | Deductions already allowed for repairs | | Net amount charged to Income Tax | | | | |
|--|---|------------------------------|---|--|--------|----------------------------------|---|------------------|----|----|
| | | | | Lands | Houses | At reduced rate | | At standard rate | | |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | |
| | | £ | s. | | £ | s. | £ | s. | £ | s. |

The following instructions are given for the completion of this Schedule—

- (1) Subject to the following notes, particulars should be given of all the lands and houses included in the estate.
- (2) A complete schedule should be given of all lands and houses, the assessment on which is reduced for the purposes of collection. The amount of the authorised reduction for the purposes of collection, in the case of houses, is, where the owner is occupier or has undertaken to bear the cost of repairs, as follows—

| ANNUAL VALUE | AUTHORISED REDUCTION |
|---------------------------------------|--|
| Not exceeding £40 | One-fourth part of the annual value. |
| £40 to £50 | £10. |
| Exceeding £50, but not exceeding £100 | One-fifth part of the annual value. |
| Exceeding £100 | £20, plus one-sixth part of the amount by which the annual value exceeds £100. |

Properties of the following character should be excluded, viz.—

- (a) Properties *occupied by the owner*, in respect of which the full cost of maintenance, repairs, etc., is already allowed as a deduction in computing profits for Income Tax purposes, e.g., shops, market gardens or other business premises; and
 - (b) Properties let on the condition that the tenant bears the cost of all repairs (outside as well as inside).
- (3) Where a farm is included in the estate and is occupied by the owner, and the expenditure on repairs and maintenance is consistently charged each year in the estate accounts, the farm may be included in the claim. In such circumstances, no expenditure on repairs and maintenance may be charged in the farm

accounts for purposes of assessment under Schedule D, or of a claim under Schedule B, Rule 6.

- (4) In the case of groups of cottages, or "weekly" properties, particulars may be inserted *en bloc* and the tenants' names omitted.
- (5) If desired, columns 6 to 9 will be completed by the Inspector of Taxes, but the declaration at the foot of pages 2 and 3 should be signed by the claimant.
- (6) Where the properties comprised in the estate are numerous and a previous claim has been made, the Schedule in succeeding years up to the year of a new valuation need only show the required particulars in so far as they have altered since the last claim.
- (7) If there is not sufficient space on page 2, the Schedules should be continued on additional sheets, which will be supplied on application, if not already enclosed herewith.

All houses and lands comprising an estate should be entered in Schedule No. 1, including those let to employees rent free, or occupied by the owner, as well as those let to tenants.

Schedule No. 2.—“Particulars of costs to the Claimant of the Maintenance, Repairs, Insurance and Management of the several properties described in Schedule No. 1.”
(See Notes (8) to (11) on following pages.)

LANDS (Inclusive of Farmhouses and other Buildings)

| Nature of Outlay | Year ending on | | | | | Total Cost in 5 years | Average Annual Cost | | | | | | | | | | | | | | |
|-------------------------|----------------|------|------|------|------|-----------------------|---------------------|----|----|---|----|----|---|----|----|---|----|----|---|----|----|
| | 19 . | 19 . | 19 . | 19 . | 19 . | | | | | | | | | | | | | | | | |
| Maintenance and Repairs | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | d. |
| Insurance | | | | | | | | | | | | | | | | | | | | | |
| Management | | | | | | | | | | | | | | | | | | | | | |
| Total | | | | | | | | | | | | | | | | | | | | | |

If any replacements of the character referred to in Note (10) are included, the item in which they should be marked thus "X."

HOUSES

| Nature of Outlay | Year ending on | | | | | | | | | | | | | | | Total Cost in 5 years | Av. An C | | | | |
|------------------------------|----------------|----|----|------|----|----|------|----|----|------|----|----|------|----|----|-----------------------|----------|----|---|----|--|
| | 19 . | | | 19 . | | | 19 . | | | 19 . | | | 19 . | | | | | | | | |
| | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | d. | £ | s. | |
| (iv) Maintenance and Repairs | | | | | | | | | | | | | | | | | | | | | |
| (v) Insurance | | | | | | | | | | | | | | | | | | | | | |
| (vi) Management | | | | | | | | | | | | | | | | | | | | | |
| Total | | | | | | | | | | | | | | | | | | | | | |

SUMMARY OF CLAIM

| | Lands | | | Houses | | | Total | |
|--|-------|----|----|--------|----|----|-------|----|
| | £ | s. | d. | £ | s. | d. | £ | s. |
| Average cost of maintenance, etc., as in Schedule No. 2 | | | | | | | | |
| Total deductions already allowed, as set out in Schedule No. 1 | | | | | | | | |
| Additional relief claimed on | | | | | | | | |
| Amount of tax claimed to be allowed at s. d. in the £ | | | | | | | | |

Instructions for completion of the Second Schedule are as follows—

- (8) Care should be taken to exclude (a) all expenditure in respect of properties not included in the Schedule No. 1, and (b) all expenditure not coming under the heads of maintenance, repairs, insurance and management, *e.g.*, rates and taxes, tithes, rent-charges, ground rents, annuities, interest, expenses of farming or gardening or of rearing or preserving game, outlay on improvements or extensions (except such additions or improvements as are referred to in Note 10 on next page), compensation paid to

tenants in respect of the value of unexhausted manures, etc., etc.

- (9) The amount of relief claimed in respect of the estate may be based either (a) on the separate expenditure on lands and on houses respectively, or (b) on the aggregate expenditure on lands and houses together. Where alternatively (b) is adopted, the *aggregate* figures may be shown in lines (i), (ii) and (iii).
- (10) The term "maintenance" includes the replacement of farmhouses, farm buildings, cottages, fences and other works where the replacement is necessary to maintain the existing rent and includes additions or improvements to farmhouses, farm buildings or cottages, but only if no increased rent is payable in respect of the additions or improvements and in so far as they are made in order to comply with the provisions of any statute or the regulations or by-laws of a local authority.
- (11) The claimant should verify the claim by the production of receipted bills, accounts, books, etc. In case of doubt as to the precise forms of verification, the claimant should consult the Inspector of Taxes.

The following Declaration must be signed by the Claimant at the foot of the form—

DECLARATION.—I declare that the above Schedules and Summary contain a full and true account for the year commencing 6th April, 193 , of (i) all lands (inclusive of farmhouses and other buildings, if any), and (ii) all houses situate on my estate at, with the exception of properties excluded in accordance with Note 2 on page 1; and I declare that the said Schedules and Summary contain a full and true account of the cost to me of maintenance, repairs, insurance and management of the said lands and houses on the average of the five years preceding the said 6th April, 193 ; and the said lands and houses having been charged

to Income Tax, Schedule A, to the extent above set forth, I claim relief under the provisions set out on the last page hereof.

Date.....193

.....
Signature of Claimant.

Production of Vouchers.—With regard to instruction (11) on previous page, reference may be drawn to paragraph (5) of the Maintenance Claim Rule (page 29). Strictly speaking, all claims for repayment of income tax are normally dealt with by the Commissioners of Income Tax. A District Inspector of Taxes is, however, authorised to certify the allowance to which the owner is entitled, provided he "is satisfied as to the correctness of the declaration." Vouching the claim simply follows the usual auditing practice with regard to accounts. The requirement that the Inspector who takes the responsibility of certifying the allowance should be supplied with proof of expenditure is reasonable and expedites the settlement of claims.

Repairs on the Home Farm.—Referring to Instruction (3) on the first Schedule, this concession was made after the C.L.A. had drawn the attention of the Inland Revenue Authorities to the practice generally prevailing on agricultural estates, of charging all repairs, whether on land let or in hand, to one "Maintenance Account," against the income arising from ownership, which includes Schedule A assessments of land occupied by the owner as well as rents. The point was settled in the following words: "The Board of Inland Revenue have agreed that in the case of a farm occupied by the owner where the farm is part of an estate and the expenditure on maintenance and repairs is uniformly charged each year in the estate accounts, the expenditure may be admitted in a claim made in respect of the whole estate, the gross Schedule A assessment being allowed as a deduction in any computations of the farm profits under Schedule D or under Schedule B, Rule 6." The reason for charging the gross Schedule A assessment in farm accounts under Schedules B and D, in such instances

is to avoid the double deduction of the statutory allowance for repairs.

Expenditure not Allowed in the Claim.—Before discussing the expenditure which can be included in the claim, it may be well to draw attention to Instruction (8) where certain outgoings are specified which cannot be included.

Land Tax is deducted from the Schedule A assessments, which are made on the assumption that the tenant pays local rates.

Tax on rentcharges, ground rents, annuities (except Tithe Redemption Annuities), interest, etc., is recovered by deducting it when making the periodical payments of such charges.

Farming costs are *occupier's* expenses, which are dealt with under Schedules B or D.

Upkeep of gardens and pleasure grounds and preservation of game are personal, occupational expenses out of net income, and not expenses of maintaining annual values, but in the case of an empty property it may be possible to show that maintenance of gardens and grounds with a view to reletting was a necessary expense of maintaining rental value.

Compensation paid to tenants in respect of the value of unexhausted manures is a payment which is or should be balanced by the benefit received by the incomer, whether he be a new tenant or the landlord himself. The amount paid to an outgoing tenant of an agricultural holding as compensation for disturbance and any expenses of litigation in connection therewith cannot be included as it is not an expense necessary to maintain rental value, but a payment by a landlord who wishes to regain possession of part of his capital as represented by the holding (*Commissioners of Inland Revenue v. Wilson's Executors*, C.S.S. (1934), T.C. 18, 465).

Expenditure on improvements or extensions generally is excluded, as no such capital expenditure is admitted as

to Income Tax, Schedule A, to the extent above set forth, I claim relief under the provisions set out on the last page hereof.

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Signature of Claimant.

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Upkeep of gardens and pleasure grounds and preservation of game are personal, occupational expenses out of net income, and not expenses of maintaining annual values, but in the case of an empty property it may be possible to show that maintenance of gardens and grounds with a view to reletting was a necessary expense of maintaining rental value.

Compensation paid to tenants in respect of the value of unexhausted manures is a payment which is or should be balanced by the benefit received by the incomer, whether he be a new tenant or the landlord himself. The amount paid to an outgoing tenant of an agricultural holding as compensation for disturbance and any expenses of litigation in connection therewith cannot be included as it is not an expense necessary to maintain rental value, but a payment by a landlord who wishes to regain possession of part of his capital as represented by the holding (*Commissioners of Inland Revenue v. Wilson's Executors*, C.S.S. 1934), T.C. 18, 465).

Expenditure on improvements or extensions generally is excluded, as no such capital expenditure is admitted as

a deduction for income tax purposes, except additions and improvements described in the concluding words of paragraph (2) of the Rule (see page 28).

Compensation Levy

The Board of Inland Revenue do not agree that the owner's proportion of the Compensation Levy charged under the provisions of the Licensing (Consolidation) Act, 1910 (see page 226), is admissible in the Maintenance Claim, but indicate that the question is one for determination by the General Commissioners of Income Tax for the district concerned according to the facts of a case which may be submitted to them.

Admissible Expenditure

The *owner* is required to show the average *cost to him* of maintenance, repairs, insurance and management of the property assessed.

"Maintenance" for the purpose of the rule means **maintaining rental value**, which is the rent receivable in the case of land let to a tenant, and the assessment in the case of the owner in occupation. The expression is of necessity an elastic one, and it is practically impossible and may be very misleading to attempt to lay down rules of general application, with the object of defining all the items of expenditure that may be properly included in every case.

There are different classes of property with varying standards of requirements, and maintenance may also be affected by the special conditions of each case. The aim is to assimilate the practice under the "Maintenance Claim" with that under Schedule D, so that the landowner shall not be called upon to pay Schedule A tax on more than the real net income from his property, and consequently, efforts should be made in every case to secure the inclusion of all legitimate expenditure necessary to maintain rental value in order to establish the desired uniformity in practice. In cases of doubt as to the inclusion or not of certain items, the claimant is advised to consult the District Inspector of Taxes, who may, if his

decision is not accepted, be asked to refer the point to Somerset House for a ruling, without prejudice to the claimant's ultimate right of appeal to the District Commissioners of Taxes. It should always be borne in mind when considering questions of fact that the final decision in the event of an appeal rests with the District Commissioners. Many points have been taken up by the C.L.A. on behalf of members and settled satisfactorily, and, subject to the foregoing reservations, some notes are given in the succeeding paragraphs for general guidance.

Maintenance

A material concession to the owner in agricultural estates is contained in paragraph (2) of the Rule (page 28) which provides that the term "maintenance" shall include the replacement of farmhouses, farm buildings, cottages, fences, and other works where the replacement is necessary to maintain the existing rent, and shall also include additions or improvements to farmhouses, farm buildings or cottages, but only if no increased rent is payable in respect of the additions or improvements, and in so far as they are made in order to comply with the provisions of any statute or the regulations or bye-laws of a local authority.

Those who are familiar with the management of agricultural property are well aware that replacement of buildings on a farm, and additions or improvements to meet the requirements of the sanitary authority, have frequently to be carried out without any prospect of the landlord being able to obtain an increase in rent as interest on the outlay. It is not sufficiently understood in other circles that the agricultural landlord's return on such outlay is limited by the letting value of the farm as a whole.

Replacement

The replacement rule applies to the owner in occupation as well as to the landlord, substituting in the former case "rental value" and "increased assessment" for the words "rent" and "increased rent."

Replacement and Improvements

Paragraph (2) of the Maintenance Claim Rules is not easy to interpret without the application of the *ejusdem generis* rule, that is, where particular words are followed by general words, the general words are limited to the same kind as the particular words. The repetition of the word "farm" in this paragraph indicates that agricultural property only is covered, but to avoid too narrow a limitation, it is submitted that regard should be had to paragraph (4) which makes land or houses "managed as one estate" the unit, in which may be included expenditure on all hereditaments the assessment of which has been reduced for the purposes of collection of tax, by the statutory allowance for repairs (see Paragraph (1)). To suggest for instance that the word "cottages" only means farm cottages actually on a farm, would be unreasonable. The agricultural estate should be treated as the unit as it is for Estate Duty purposes (see p. 177) and cottages on it occupied by the Estate Office, Woodland and Maintenance Staff, all engaged on work which maintains the total assessable value of the estate, have as much right to be brought within the *ejusdem generis* rule as cottages occupied by agricultural labourers.

"Replacement" for the purpose of the Rule means replacing a structure complete in itself, such as a workman's cottage, stable, cowhouse, or other agricultural building.

Whether a "replacement" is no more than reinstatement of something which was previously in existence, or wholly or partly an improvement not allowable, may sometimes be difficult to decide. Each case must be considered on its merits and on common-sense lines. In one case submitted to the Inland Revenue, it was ruled that the amount spent on replacement is not limited in the claim to the original cost of the building replaced. The general raising of the standard of living, and the increased powers given to sanitary authorities, have resulted in better and, consequently, more expensive accommodation for both man and beast than was considered sufficient in the past.

Where an owner finds it necessary to replace a building,

he may decide to take the opportunity of making an improvement, as, for instance, providing more accommodation in new farmhouses, or providing for a larger number of cattle in a new cowhouse. In such cases a **proportion of the expenditure would be allowed**, so far as it is attributable to the cost of replacement of the accommodation previously provided, eliminating a sum proportionate to the element of improvement. A part of the expenditure on replacement would also be admitted where a farm building is burnt down and the cost of re-erection is not wholly covered by insurance.

Although replacements are only admitted where necessary to maintain the existing rent, instances may occur where replacement has been carried out on farms to let, and owing to a general rise in letting values, increased rents are obtained. If it can be proved that such increases are not attributable to the replacements, then their cost should be admitted in the claim.

If the capital required for replacement of farmhouses, buildings, etc., or for additions or improvements within the scope of the claim, is borrowed from the Lands Improvement Company, or the Agricultural Mortgage Corporation, the full amount expended should be included in the claim made for the year in which the expense was incurred. Annual repayments spread over a period of years would not be admitted in subsequent claims.

Additions and Improvements

The power to include in the claim the cost of additions or improvements to farmhouses, farm buildings, or cottages, made in order to comply with the provisions of any statute or the regulations or bye-laws of a local authority, was added as an amendment to the Rule by Section 25 of the Finance Act, 1924.

On the 29th July of that year, the Financial Secretary to the Treasury was asked in the House of Commons whether the cost of such improvements or additions would be allowed when they were carried out in order that existing farmhouses, farm buildings and cottages may comply

with the requirements laid down for new buildings by statutory provisions or local regulations and bye-laws? The reply was that "in practice it is not proposed normally to raise objection to the inclusion in a claim under Rule 8 of expenditure incurred by a landowner on additions or improvements to farmhouses, farm buildings or cottages **in anticipation** of a notice under statutory provisions or regulations."

The following extracts from the House of Commons Debates on the Bill throw some additional light on the intended scope of the relief. Lord Snowden said: "Suppose a local authority required a water supply to be improved. That would be covered. Suppose a local authority insisted on the drainage being improved. That would be covered. Suppose they insisted on new sanitation so as to make the property come up to the requirements of the local authority. That would be covered." The Attorney-General added "In order to comply with the provisions of any statute or regulations, the words are not limited to cases where there has been an order, or any compulsion, but include the case of a landlord who voluntarily does without any order that which is necessary in order to bring the house up to the requirements of the regulation or statute." While such statements in Parliamentary Debates do not, in fact, determine the legal interpretation, it is satisfactory to record that the practice of the Inland Revenue is quite in accordance with the quotations.

Repairs

Although the word "Repairs" appears in the Rule as well as "Maintenance," no hard and fast line can be drawn between the two. The term "Repairs" covers all expenditure that is usually entailed in upkeep of property, which is borne by the owner making the claim, and includes renewal of parts such as re-roofing, renewing doors, windows, etc.

No distinction is made between what are commonly referred to as "landlord's repairs" and "tenant's repairs." If an owner is in occupation, it would not be in order to exclude certain internal repairs on the ground that they

would be carried out by a tenant if the premises were let. The full statutory allowances for repairs are made on the assumption that all repairs are borne by the owner. The "Maintenance Claim" is an extension of the same principle, giving an abatement of tax on the actual average cost of all repairs borne by the owner, where such cost exceeds the allowances.

In addition to materials purchased for repairs, the cost of felling, haulage and conversion of home-grown timber, plus the market value of the standing timber *in situ*, and of getting and carting sand, gravel, etc., on the property and used for estate repairs, may be included in the claim.

In addition to cash wages paid to the maintenance staff, the following are examples of admissible items—

Gross Schedule A assessment of cottages occupied by workmen rent free.

Employer's contributions to Health, Unemployment and Pensions Insurance of the staff.

Pensions to workmen whose wages were charged to Maintenance Account when they were employed, and also pensions to widows of such employees.

Annual subscription to a Cottage Hospital used by estate workmen.

The Mansion House

During the year following the extension of the scope of the Maintenance Claim, to include expenditure on all houses, the C.L.A. collaborated with the Land Agents' Society, with a view to arriving at a common line and establishing a uniform basis for submitting claims in respect of the mansion house and similar large establishments. A joint deputation consisting of representatives of the two Bodies discussed the question with a representative of the Board of Inland Revenue, and as a result it was agreed that the following items would normally be allowable in such claims, where the mansion is in the occupation of the owner—

1. Structural Repairs inside and out.
2. Maintenance of all Landlord's Fixtures.

3. Outside Painting.
4. Interior Decoration necessary to maintain the existing character of the mansion.
5. Water Supplies; Maintenance and Renewals.*
6. Fire Mains; Maintenance and Renewals.*
7. Lighting; Maintenance and Renewals* of Lighting plant.
8. Heating; Maintenance and Renewals* of Heating plant.
9. Drains, Sewers and Sewage Disposal; Maintenance and Renewals.*
10. Drives; Maintenance of Roadway (remaking and retaxing).
11. Gardens; Maintenance of Glasshouses, Heating Apparatus and Walls.
12. Insurance.
13. Management.

The term "maintenance" in the above list does not include running costs (*e.g.*, of lighting or heating plant), nor the wages of gardeners and domestic servants. It includes the cost of repairs to **all structures included in the Schedule A assessment** of the mansion, that is, stables, garage, employees' cottages, glasshouses, garden walls and the like, as well as the house itself. Extensions or improvements must be excluded, but renewals of worn-out parts are generally admissible. Even where distinct improvements are carried out, it may be possible to secure the inclusion of part of the expense. For example, in the substitution of electric light either by a private plant or connection to public electricity supply for gas, the cost that would have been incurred in renewing the existing gas plant should be allowed.

Rabbits and Vermin

Whether the expense of killing rabbits and vermin on lands let can be claimed as an expense necessary to maintain rent, is a debatable point depending on the circum-

* Subject to the exclusion of such part of the expenditure as represents extensions or improvements.

stances of the case. A tenant cannot claim a reduction of rent on account of damage to his crops by ground game, as he has a concurrent right to kill hares and rabbits. Vermin killing as a necessary expense of "game preservation" is definitely excluded. But, if in a particular instance, say when a farm is let adjoining woodlands or a rabbit warren, there is a provision in the tenancy agreement to the effect that the rent is based on the landlord's obligation to keep down rabbits, then it should be possible to establish a claim.

Upkeep of Woodlands

Where woodlands are let, there is no difficulty as to the expenses which may be included, as the expenditure on maintenance of the rent actually incurred by the landlord would be admitted.

Woodlands are, however, almost invariably in the occupation of the owner, and are assessed to income tax under both Schedules A and B. The only expenditure allowed in the Maintenance Claim is, therefore, that which is attributable to ownership. All expenditure attributable to occupation is assumed to have been taken into account in the Schedule B assessment of one-third of the annual value, which is the statutory estimate of the balance between the occupier's receipts and expenditure. It is assumed that he has taken the land at a rent represented by the Schedule A assessment for the purpose of growing trees or underwood. The cost of all cultural operations, such as nursery work and planting, thinning, felling, haulage, etc., is definitely excluded from the claim as being occupation expenses taken into account under another Schedule. If the occupier has exercised his option of assessment under Schedule D, then the actual expenses can be charged against receipts in the accounts submitted annually under that Schedule.

In normal cases there appears to be little that can be described as cost of maintenance to the owner. He may be obliged *qua* owner to keep a main watercourse passing through the woodlands in repair. The Board of Inland Revenue have waived a technical objection (on the ground

that it was an expense of occupation) to the inclusion in the claim of the cost of maintaining woodland fences, and this item of expenditure is admitted.

Insurance

By implication, it is suggested that this term applies to insurance premiums in respect of protection against loss by fire, aircraft or storm on houses and buildings (excluding contents such as furniture), but it is immaterial whether National Insurance contributions are shewn under this heading or under "Maintenance," as suggested. The latter are, strictly speaking, an addition to the wages of the staff employed.

Management

Management expenses (so far as they are attributable to the land and houses in respect of which the claim is made) are allowed and include, in addition to salaries of agent and staff and office expenses, other outgoings entailed in the efficient administration of the property, such as—

Legal charges for advice on matters arising in the routine of estate management, including preparation of tenancy agreements for reletting farms, cottages, etc., but not legal expenses in connection with capital transactions.

Expenses of arbitration as to rent, making a record of the holding, or obtaining a cultivation certificate under the Agricultural Holdings Act.

Stamp Duty on owner's copies of tenancy agreements.

Advertising holdings to be let.

Gross Schedule A assessment on estate office, and houses occupied rent-free by staff.

Expenditure in connection with capital as compared with revenue matters is not allowed, such as costs incurred in selling land, valuing for Death Duties, or assessing compensation to outgoing tenants.

The question has been asked whether an owner who manages his estate himself would be entitled to deduct

a sum representing his remuneration for the work. Such a deduction would, obviously, be out of order, as it would result in that part of his income escaping taxation altogether. Where an agent is employed, it is proper to deduct his salary, as it is a cost to the owner, and tax upon it would be borne by the agent himself.

Sur-tax Assessment

Where a claim for repayment of Schedule A tax has been allowed in respect of the cost of maintenance, etc., **a corresponding reduction is made in the assessment to sur-tax**, where the owner is liable to that tax.

Estate Accounts

The preparation of the "Maintenance Claim" is very much **simplified if accounts are kept in the proper form**. This matter was thoroughly explored by the C.L.A. in conjunction with the Chartered Surveyors' Institution and the Land Agents' Society, and after careful consideration, an efficient method was adopted, which has been described in a pamphlet entitled "A System of Book-keeping for Agricultural Estates with Explanatory Notes," obtainable at the price of 2s. 6d.

The C.L.A. has always emphasised the fact that the **efficient management of agricultural property is a highly specialised business**, and that practice under the Maintenance Claim should be in conformity with the principles of Schedule D. A well-planned system of accounts is an essential part of business-like management.

The requirements of a system of book-keeping to enable the claim to be prepared with a minimum amount of time and trouble are clearly brought out if the principle of the claim is borne in mind. **It is an allowance of Schedule A Tax on the average cost of maintaining the annual value of property.**

For Schedule No. 1 of the Claim, a copy of the rental is required (including annual values of land in hand). In this connection, a "Register of Tax Assessments" is most

valuable, and a specimen ruling is given in the pamphlet above referred to.

The expenditure inserted in Schedule No. 2 of the Claim is classified under

- (i) Maintenance and Repairs,
- (ii) Insurance,
- (iii) Management,

and three ledger accounts should, therefore, be opened under these headings where the owner wishes to make the preparation of the claim as expeditious as possible. If the admissible expenditure as indicated in the foregoing chapter is posted to these three accounts as incurred during the year, it becomes a matter of simply transferring the totals each year to the Claim Form.

CHAPTER III

INCOME TAX—SCHEDULE B

OCCUPATION OF LAND

THE assessment of the annual profits from occupation of land may be considered under two heads—

- (1) Land used wholly or mainly for purposes of husbandry; and
- (2) Land put to other uses, such as woodlands, pleasure grounds, etc.

(1) LAND USED FOR HUSBANDRY

The expression "husbandry" is not defined in the Income Tax Acts, but it covers "farming" in the generally accepted sense of the word. In *Keir v. Gillespie, I.T.C. 473*, it was held that hill pastures occupied for the purpose of grazing sheep were lands occupied for the purposes of husbandry. Land occupied for poultry farming was held to be used for the purposes of husbandry in *Lean v. Inland Revenue* (1925, S.N., p. 118), and in *Jones v. Nuttall* (1926, 42 T.L.R., 384). In the course of his judgment in the first case the Lord President said that property is occupied for husbandry "if the trade or business carried on by the occupier depends to a material extent on the industrial or commercial use of the fruits (natural or artificial) of the lands so occupied." The case of *Glanely v. Wightman* (47 T.L.R., 462) heard in the House of Lords on the 14th March, 1933, decided that profits from fees for service of outside mares (which remained on the farm for about four months) by the owner's stallion on the owner's land occupied as a stud farm, were covered by the assessment of the occupation of the land under Schedule B.

Basis of Assessment

The statutory estimate of the yearly profit made by the occupier of land used for husbandry is an amount equal to

the full annual value as adopted for Schedule A at the last assessment made.

If an agricultural holding includes labourers' cottages, the annual value of such cottages is not included in the Schedule B assessment. Where a holding is occupied by the owner, the annual value of the farmhouse is also excluded (*Rule 1 of Schedule B*).

Farming profits being earned income, the Schedule B assessment is entitled to the earned income allowance of one-fifth, subject to the maximum allowance of £300.

Taking the case of a farm assessed under Schedule A at £270 gross, including two labourers' cottages assessed at £10 and liable to a Tithe Redemption Annuity five-sixths of which is £30, the method of arriving at the Schedule B assessment would be as follows—

(a) Farm occupied by Owner—

| | |
|---------------------------------|------|
| Full Annual Value | £270 |
| Deduct Farmhouse, say | £30 |
| Two Cottages | 10 |
| | — 40 |
| | £230 |
| Schedule B assessment | |

(b) Farm let to a Tenant—

| | |
|---------------------------------|------|
| Full Rent | £270 |
| Deduct—Two Cottages | 10 |
| | — |
| Schedule B assessment | £260 |

It is not easy to find a satisfactory reason for this differential treatment of farmhouses. The Royal Commission on Income Tax in 1920 considered the point and recommended that so long as farm profits are assessed on the conventional basis of the annual value, that value

should include the value of the farmhouse, whether it is occupied by an owner or tenant. It may be that, following the practice in assessment of trading profits under Schedule D, the farmhouse occupied by the owner of a farm is looked upon as his private residence, and in the case of an estate where farms are let to tenants, the house occupied by the owner of the estate is treated as the private residence of the proprietor of the business as a whole. This view is supported by the practice when Inhabited House Duty was in force; the owner in occupation of a farmhouse paid that Duty at the full rate charged on private houses, but the tenant-farmer on the trade basis of two-thirds of that rate. However, the distinction is immaterial where farm accounts are kept as the farmer can secure assessment on his actual profits if they do not amount to the annual value, by exercising one of the following options.

The Farmer's Options

(a) **Rule 6 of Schedule B.**—If the occupier (whether he be owner or tenant) of lands used for husbandry only, shows within a period of one year after the end of any year of assessment, that his profits from that occupation during that year fell short of the assessable value, the actual profits will be accepted as the assessment, and if the whole of the tax has been paid, the amount overpaid will be refunded to him.

(b) **Rule 5 of Schedule B.**—Any person occupying lands for the purpose of husbandry only may elect to be assessed under Schedule D on the profits of the year preceding the year of assessment. A notice in writing to that effect must be delivered to the Inspector of Taxes before the 6th June in the year of assessment. This option is an annual one and the occupier may revert to Schedule B in any subsequent year. A farmer who elected to be assessed under this Rule was held to be liable to include in the accounts the proceeds of sale of willow trees growing on the farm, for the purpose of assessment under Schedule D (*Elmes (H.M. Inspector of Taxes) v. Trembath, K.B.D., 19, T.C., 72*).

Farming Losses

In common with other producers and traders, the occupier of lands used for husbandry only, who has sustained losses in farming, has the right under Section 34 of the Income Tax Act, 1918, on giving notice in writing to the Inspector of Taxes within one year after the year of assessment to **claim an adjustment of his liability to tax** by reference to the loss and to the aggregate amount of his income for that year. In effect this means that the loss will be set against income from other sources, and the practice is to set such a loss against any other earned income, and any balance of loss against unearned income.

If the occupier is regularly assessed under Schedule D, year after year, any balance of loss on which tax is not recovered in any particular year may be carried forward for six years (*Finance Act, 1926, s. 33*). If the occupier reverts to assessment under Schedule B in any subsequent year, the right to have a balance of loss taken into account is lost.

Farm Accounts

The importance of keeping proper accounts so that advantage can be taken of the foregoing options will be obvious, quite apart from their necessity in the efficient conduct of the business of farming. Accounts are required for substantiating a claim for adjustment of the Schedule B assessment under Rule 6 or in respect of losses under Section 34, and for a Schedule D assessment under Rule 5. Accounts may be presented up to the date on which they are usually balanced. A certified copy of properly drawn accounts would be accepted, otherwise Form 79D, obtainable from the Inspector, would have to be completed. When making a claim for losses under Section 34, a copy of Form R79 should also be obtained and completed.

It is unnecessary to give details here of the simple system required for income tax purposes, as the following pamphlets have been issued with official approval and may be obtained from the Ministry of Agriculture and Fisheries, 10, Whitehall Place, London, S.W.1—

Form A718/L.H.: "Farmers and Income Tax" (free of charge).

Bulletin No. 58: "A Simple System of Farm Book-keeping." Price 6d. net, post free.

Attention may, however, be drawn to some of the more important points in the accounts required for income tax purposes.

The Farmhouse

The difference in the treatment of the annual value of the farmhouse in the case of the tenant-farmer and the farmer-owner has already been noted (page 52); it is included in the Schedule B assessment in the case of a tenant-farmer, but excluded where the owner is in occupation (*Rule 1 of Schedule B*). Consequently, when a tenant-farmer submits accounts, he may include in his expenditure the full rent, and the rates paid on the house. If the tenant pays the Schedule A tax on an assessment greater than the rent, the excess of the assessment over the rent may also be charged to avoid a double assessment on the value of his beneficial occupation. The owner-occupier inserts the Schedule A assessment on the land and buildings only, but cannot charge the assessment of the house or the rates paid on the house, because the Schedule B assessment has been made on the legal assumption that the house does not form part of the farming occupation.

Household Expenses

In both the above-mentioned cases the value on the farm of all produce consumed by the farmer and his family should be shown as receipts, and the cost of labour in the garden, carting coal and firewood and the wages of domestic servants employed solely in the house, must be excluded from the labour costs of the farm. These personal expenses are payable out of profits subject to income tax and are not an expense of making profits like the labour on the farm itself, purchase of feeding stuffs and manures and the like.

Permanent Pasture

The cost of laying down land to permanent pasture is chargeable against revenue in the year in which the expense is incurred, but as a capital improvement the cost should be added to the valuation at the end of the year. These items balance and correctly represent the position as no return is obtained from the improvement for the first year. In subsequent years any return from the improvement is reflected in the profits.

Valuation of Stock

The basis of valuation of live and dead stock required for completing the annual statement may be **market price** (less a deduction of, say, 5 per cent for cost of marketing stock and crops produced on the farm) or at **cost price** if the necessary costing accounts are kept. Whichever method is adopted must be adhered to in subsequent claims, in order to provide a **uniform comparison** year by year.

Depreciation of Plant and Machinery

The Commissioners of Inland Revenue and the National Farmers Unions of England and Scotland jointly agreed to the following annual allowances (which are shown increased by 10 per cent, *Finance Act, 1932, s. 18*) from the written down value of plant and machinery (the original cost of which, being capital outlay, is not chargeable to revenue and expenditure account), where such an allowance is claimed, subject to the approval of the General Commissioners of Income Tax, who have the power to decide on all questions of fact submitted to them on appeal. The allowances can only be claimed when accounts are submitted, and not when Schedule B tax is paid on the annual value basis.

- | | | |
|---------|---|---------------|
| (1) (a) | Steam boilers and engines, portable steam engines, threshing machines and fixed plant | 5½ per cent. |
| (b) | Electric installations | 8¼ per cent. |
| (c) | Petrol or oil-driven tractor-cultivators | 24¾ per cent. |

- (d) Commercial motor vehicles propelled by steam power (steam lorries) 16½ per cent.
- (e) Commercial motor vehicles propelled by power derived from internal combustion engines (motor lorries and motor vans) 22 per cent.
- (f) All other types of farm machinery and implements, including portable poultry and similar portable sheds and incubators 11 per cent.
- (2) All additions to, and replacements of, such plant and machinery and vehicles to be charged to capital, provided that all repairs and all renewals and replacements of parts which do not destroy the identity of the machine or vehicle are to be allowed as a revenue charge.
- (3) No depreciation to be allowed on minor loose plant and utensils, but in lieu thereof an allowance to be made of the cost of renewals as and when incurred.
- (4) In the case of motor cars the depreciation allowance calculated as aforesaid to be restricted to the proportionate part applicable to the use of the car for business purposes.

Obsolescence Allowance

In addition to the above allowances for depreciation or wear and tear, the occupier of lands used for husbandry who submits accounts for income tax purposes under either Schedule B or Schedule D, may claim an allowance in respect of the expenses incurred in replacing obsolete machinery or plant, on the basis laid down in Rule 7 of Cases I and II of Schedule D, that is "so much of any amount expended in that year in replacing any plant or machinery which has become obsolete as is equivalent to the cost of the plant or machinery replaced after deducting from that cost the total amount of any allowances which

have at any time been made in estimating profits or gains as aforesaid on account of the wear and tear of that plant and machinery, and any sum realised by the sale of that machinery or plant.

Valuation of Tenantright

The authorities do not insist on an annual valuation of tillages, unexhausted manurial values and growing crops, but the claimant is required to declare that the value at the beginning of the year did not differ materially from the value at the end of the year, or give particulars of any increase or decrease in the value.

Cattle Dealers and Milk Sellers

Farmers who carry on business as cattle dealers or milk sellers in addition to ordinary farming are liable to an assessment under Schedule D in respect of any additional profits, if the Commissioners consider that the Schedule B assessment is not a just estimate of their income (*Rule 4, Case III, Schedule D*). A statement showing the profits may be required.

Nurseries and Market Gardens

The profits from nurseries and market gardens (but not hop-lands) are estimated according to the provisions and rules of Schedule D, but assessed and charged under Schedule B (*Rule 8 of Schedule B*).

Seasonal Grazing

A special class of assessment arises when the right of grazing over land is let for a part of a year. The total income arising from such use of land is assessed for income tax under three Schedules, as follows—

- (1) The landlord's rent (or rental value where owner is in occupation) . . . Schedule A.
- (2) The profits of the occupier . . . Schedule B.
- (3) The profits of the grazier . . . Schedule D.

The owner in occupation is still from a legal point of view the occupier, and is liable to assessment in respect of such land under Schedules A and B (*Mc Kenna v. Herliky*, 7 *Tax Cases* 620; *Donald v. Thomson* (1922), *S.C.* 237). Where land is let, the tenant also remains the occupier. The letting of the right of grazing is in effect only a sale of the growing grass for a part of the year. Where accounts are submitted the following is an example showing how the net amount assessable under Schedule B may be arrived at—

| | | |
|---|--|-----|
| | Gross Receipts from Grazier | £ |
| Deduct— | | |
| Tithe Redemption Annuity (five-sixths) | . . . | £ |
| Manures applied | . . . | |
| Labour on fencing, weed- cutting, etc. | . . . | |
| Auctioneers' Charges | . . . | |
| | <hr style="width: 100%;"/> | |
| | Net receipts | . £ |
| Schedule A Assessment | . . . | |
| | <hr style="width: 100%;"/> | |
| | Net profit assessable under Schedule B | . £ |
| | <hr style="width: 100%;"/> | |

Flood and Tempest

Where a reduction of the Schedule A assessment has been allowed in respect of an abatement of rent made by a landlord in consideration of loss caused to growing crops or stock belonging to a tenant by flood or tempest, a corresponding allowance may be claimed from the Schedule B assessment. Where an owner is in occupation, the General Commissioners of Income Tax are authorised to make a similar allowance on proof of the loss sustained (*Rule 3 of Schedule B*).

Agricultural Depression

Where rent has been remitted on account of agricultural depression, a claim for relief from tax on the amount

remitted may be made by the tenant under Schedule B as well as by the landlord under Schedule A (*Landlord Form 191, Occupier Form 192*).

Payment of Schedule B Tax

Schedule B tax on lands occupied for the purpose of husbandry is payable in two half-yearly instalments on or before the 1st January and 1st July (*Income Tax Act, s. 157 (2)*). Arrears are recoverable by distraint on the premises.

(2) LANDS NOT USED FOR HUSBANDRY.

Basis of Assessment

Lands not used wholly or mainly for the purpose of husbandry (unless the Ministry of Agriculture and Fisheries, if referred to by the Commissioners of Inland Revenue, certifies that its use for other purposes is unreasonable) are assessed at an amount equal to one-third of the annual value (*Schedule B, as amended by Finance Act, 1922, s. 23 (1)*).

Such lands usually comprise—

WOODLANDS.

PARKS and amenity lands occupied with the mansion house.

GARDENS AND PLEASURE GROUNDS in excess of an area of one acre, which is in practice included in the assessment of the house.

MOORLANDS, land used for game rearing, golf courses, football grounds, sewage farms, silver fox farming (*I.R. v. Melrose, 1935*), etc.

In contrast with the statutory basis of assessment of land used for the purpose of husbandry, **no optional methods of assessment are available** except in the case of woodlands, where the occupier may elect to be assessed under Schedule D (see Chapter IV). In other cases there is no power to submit accounts at the end of a year of assessment, accompanied by a claim to be charged on the actual profits;

nor is there power to claim relief in respect of losses sustained. Such lands are occupied usually in conjunction with a house and rarely produce any profit, but are generally a source of expense owing to cost of upkeep. The assessment is a statutory estimate of the annual value of occupation and enjoyment and is of necessity a conventional one.

The question of whether Parks are used for the purpose of husbandry or not is one of fact. Where they are mainly used as grazing land forming part of the Home Farm, and are re-dated as agricultural land, there should be no difficulty in securing a Schedule B Assessment on a similar basis.

Where woodlands assessed under Schedule B upon one-third of the annual value are managed on a commercial basis, the allowance of one-fifth in respect of earned income should be made (subject to the maximum allowance of £300 for any taxpayer).

Payment of Tax

Schedule B tax on lands not used for the purpose of husbandry is payable in one sum on 1st January (*Income Tax Act, 1918, s. 157 (2)*). Arrears are recoverable by distraint on the premises.

CHAPTER IV

INCOME TAX—SCHEDULE D

ON agricultural estates, assessment of certain profits under Schedule D may arise in the following cases—

1. **Woodlands Managed Commercially.** Option of transfer from Schedule B (*page 65*).
2. **Lands used for purposes of Husbandry.** Option of transfer from Schedule B (*page 68*).
3. **Seasonal Grazing.** The grazier's profit (*page 68*).
4. **Letting of Furnished Houses** (*page 68*).
5. **Special Subjects** (including Sporting Rights) formerly assessed under Rules II and III of Schedule A (*page 69*).
6. **Cattle Dealers and Milk Sellers** (*page 72*).
7. **Non-Rateable Machinery** (*page 72*).

Basis of Assessment

An assessment under Schedule D for the year of assessment 6th April, 1927, to 5th April, 1928, and for subsequent years is made "on the full amount of the profits or gains or income of the year preceding the year of assessment" (*Finance Act, 1926, s. 29*).

Computation of Profits

The profits shown by the annual farm or woodland accounts would be accepted as the basis of assessment, where such accounts have been made up to a date within the year preceding the year of assessment. If such accounts are not available, the Commissioners of Inland Revenue decide what period of twelve months ending on a date within the year preceding the year of assessment shall be taken for assessment purposes (*Finance Act, 1930, s. 14*).

Relief in Respect of Certain Losses

Where a person has in any trade, profession or vocation the profits or income of which are assessed under Schedule

D, sustained a loss in respect of which relief has not been wholly given under any other provision of the Income Tax Acts, the balance of such loss may be carried forward for six years, provided subsequent assessments continue to be regularly made under Schedule D. If the occupier of land used for purposes of husbandry avails himself of the option to revert to the statutory assessment under Schedule B in any future year, no deduction for any balance of loss would be allowed for that or any succeeding year (*Finance Act, 1926, s. 33*). The provisions of this section apply to a loss sustained in the year 1926-27, or in the accounting year which is taken as the basis for the assessment in 1927-28 and to subsequent years.

Relief in Respect of Error or Mistake

An opportunity of claiming relief by way of repayment is given to a taxpayer who has paid tax charged under Schedule D, or according to the Rules applicable to that Schedule and who claims to have been over-assessed by reason of a *bona-fide* mistake made by him in a return or statement, provided an application in writing is made within six years after the end of the year of assessment (*Finance Act, 1923, s. 24, as amended by Finance Act, 1926, s. 27*).

Assessment of Profits in a New Business

Where a business has been newly set up (or taken over from a previous owner) in the year 1928-29 or any subsequent year, the assessment for the first year is made on the profits made during the period from the time the business was set up to the end of the year of assessment.

The second year's assessment is made on the profits of the first year, unless notice in writing is given to the Inspector within two years after the end of the second year of assessment requiring that tax shall be charged for both the second and third year of assessment on the amount of the profits of each such year respectively.

The third year's assessment is on the profits of the preceding year without any right of adjustment unless the

option referred to in the preceding paragraph has been exercised. If the owner of the business finds that the use of the option would be to his disadvantage he may give notice in writing within twelve months after the end of the third year of assessment revoking the notice (*Finance Act, 1926, s. 29; Finance Act, 1927, s. 23; and Finance Act, 1930, s. 15*).

Earned Income Allowance

The assessment under Schedule D of the income immediately derived by *an individual* from the trade, profession, or vocation carried on by him is entitled to the earned income allowance of one-fifth, subject to a maximum deduction of £300 in the case of any individual. (See Chapter VI.)

Time of Payment

Tax under Schedule D is payable in two instalments on or before the 1st January and 1st July (*Income Tax Act, 1918, s. 157 (2) (b)*). Arrears are recoverable by distraint on the premises.

Claim for Losses

Section 34 of the Income Tax Act, 1918, specifically provides that if "any person sustains a loss in any trade, profession, employment or vocation, or in the occupation of lands for the purpose of husbandry only or in the occupation of woodlands in respect of which he has elected to be charged to tax under Schedule D," he may after giving notice in writing to the Inspector within a year after the year of assessment apply to the General Commissioners or to the Special Commissioners for an adjustment of his liability by reference to the loss and to the aggregate amount of his income for that year. When the loss and payment of tax on the whole income is proved, repayment of tax paid on such a sum as would represent the **tax on income equal to the loss**, is authorised. The words last emphasised are important, as the Commissioners set a loss first against earned income (that is, the loss is reduced by an equivalent "earned" allowance) and any balance of loss

against unearned income (see *T. J. B. Adams v. Hanley Musher* (9 A.T.C. 216)).

Payment of Tax in Advance

If tax charged under Schedule D is paid in advance of the date fixed for payment, the taxpayer would be allowed discount at the rate of 2½ per cent per annum (calculated from the date of payment to the date the payment is due) if he makes a request to that effect (*Income Tax Act, 1918, s. 159*).

Appeals

An appeal may be made against an assessment under Schedule D, after notice in writing stating the grounds of appeal (*Finance Act, 1926, s. 25 (1)*) to the Inspector of Taxes within the time specified on the notice of assessment; to the Special Commissioners if the assessment has been made by them (*Income Tax Act, 1918, s. 147 (1)*); or to the Special or General Commissioners if the assessment has been made by the latter body (*Income Tax Act, 1918, s. 148 (1)*).

An appeal to the Special Commissioners carries the same right to state a case on a point of law for the opinion of the High Court as in an appeal to the General Commissioners.

1. WOODLANDS MANAGED ON A COMMERCIAL BASIS

OPTION OF TRANSFER FROM SCHEDULE B

(Rule 7 of Schedule B)

The woodland occupier's option of election to assessment under Schedule D instead of Schedule B was introduced by Section 22 of the Finance (No. 2) Act, 1915, amended and extended by Section 38 of the Finance Act, 1916, and consolidated in the Income Tax Act, 1918, Schedule B, Rule 7, and Section 34. A further concession was made in

Section 23 of the Finance Act, 1922, and the position is as follows—

Any person occupying woodlands who proves to the satisfaction of the General Commissioners or of the Special Commissioners that those woodlands are **managed by him on a commercial basis, with a view to the realisation of profits**, may elect to be assessed under Schedule D in the same manner as a person occupying lands for the purposes of husbandry only subject as follows—

(a) Any such election shall extend to all *woodlands* so managed on the same estate, but woodlands which are or have been planted or re-planted since the 19th July, 1916, shall be treated for this purpose as being *woodlands on a separate estate*, if the person occupying those woodlands gives notice to the General or Special Commissioners within ten years after the time when they are so planted or re-planted; and

(b) The election shall have effect, not only as respects the year of assessment, but also as respects all future years of assessment, **so long as the woodlands are occupied by the person making the election**;

(c) Any application to prove the aforesaid facts in any year in respect of the same woodlands must be made either to the General Commissioners or to the Special Commissioners, and not to both.

The election must be signified by notice in writing delivered personally or sent by post in a registered letter to the Inspector of Taxes for the district, within two months after the commencement of the year of assessment, *i.e.*, before the 6th June. This notice should, strictly speaking, be sent before the 6th June in the fiscal year during which planting takes place, that is, *before* the winter planting season, but by concession notice within the year of assessment will be accepted, if circumstances prevent it being given before the prescribed date.

Accounts

If woodland occupiers who manage their woods commercially have kept accounts on a regular plan for some

time, such annual accounts may be presented for the purpose of assessment under Schedule D, and any necessary adjustments would be made, as is done in the case of other commercial concerns.

Where no regular system of accounting has been practised, a computation of profits on the basis of a cash account would be accepted. The official form of return is No. 10W, which may be had from the District Inspector of Taxes. If the assessment includes the Saw Mill, then a claim for wear and tear and obsolescence allowances in respect of machinery and plant may be made (see page 56) (*Finance Act, 1925, s. 16*).

In the case of newly-planted or re-planted woodlands, which are treated as separate estates for assessment under Schedule D, the computation of the profits would fall to be made as in the case of a business newly set up, no regard being had to profits from re-planted woodlands prior to the date of re-planting (see page 63). The profits are computed according to the Rules of Schedule D and therefore include the right to charge a proportion of the Schedule A assessment, rates and repairs on the Woods Manager's house, if part is used for business purposes in connection with management of the woods.

Afforestation Grants

Afforestation Grants from the Forestry Commissioners should be entered under "Receipts" in the Woodlands Form 10W. (If the woodlands are assessed under Schedule B, no question of tax on the grants arises.)

Change in Occupation of Woodlands

When a change occurs in the occupation of the woodlands (*e.g.*, on the death of the occupier or on a sale of the woodlands), the new occupier would be at liberty to elect to be assessed under either Schedule B or Schedule D (*Rule 7 (b) of Schedule B*).

2. LANDS USED FOR THE PURPOSES OF HUSBANDRY

OPTION OF TRANSFER FROM SCHEDULE B (Rule 5 of Schedule B)

The occupier of lands used for the purposes of husbandry may on giving notice to the Inspector of Taxes before the 6th June in *any year*, elect to be assessed *for that year* under Schedule D. In subsequent years the assessment would be made under Schedule B, unless a fresh application is made. The owner-occupier in submitting accounts under this Schedule may compute his profits as the profits of a trade. As part of the farmhouse is used for business purposes, he may therefore charge as expenses an appropriate proportion of the Schedule A assessment, rates and repairs. (With regard to Depreciation of Machinery and Plant, and Obsolescence Allowance, see pp. 56-57.) The official form used is No. 10D.

3. SEASONAL GRAZING—THE GRAZIER'S PROFIT

In Chapter III the method of assessing the total income derived from land over which the right of grazing is let for a part of the year was described. The profits made by the person who takes the grazing would be assessed under Schedule D.

4. LETTING OF FURNISHED HOUSES

A house is assessed under Schedule A on the annual value if let unfurnished. When furnished houses are let regularly, the rent received in excess of the Schedule A assessment is liable to assessment under Case VI, Schedule D, as an additional profit. The expenses incurred by the landlord in obtaining this profit (but not the rent of another house occupied by him while his own is let furnished (*Wylie v. Eccott C.S.S.*, 1912, 6, 28 (*J.T.*)) may be deducted according to the Rules of Schedule D. The following example of a return made under Schedule D may be of

use as a guide. It is assumed that the cost of "maintenance, repairs, insurance and management" is included in the "Maintenance Claim" submitted under Schedule A in respect of the estate as a whole—

Total rent received for the year

Deductions.

| | |
|---|---|
| Schedule A assessment | £ |
| Rates | . |
| Insurance of contents | . |
| Depreciation of furniture, say, 10 per cent. | . |
| Maintenance of garden | . |
| Expenses of letting, agent's commission, advertising, etc. | . |

Net Income assessable under Schedule

D £

5. SPECIAL SUBJECTS, FORMERLY ASSESSED UNDER RULES II & III OF SCHEDULE A

Assessment under the General Rule (No. 1) of Schedule A did not extend to certain miscellaneous profits arising out of lands. Manorial royalties and profits, fines on the grant or renewal of leases, etc., were charged under No. II of that Schedule, and profits from "concerns" on or connected with lands, which are industrial in character, were assessed under No. III. As from the 6th April, 1927, the income or profits arising from the above sources are assessable under Case III of Schedule D (*Finance Act, 1927, s. 28*).

Sporting Rights were referred to in Chapter I, page 12; other "special subjects" in which the owner of an agricultural estate may be interested are as follows—

TRANSFERRED FROM RULE II OF SCHEDULE A

| SUBJECTS | PERSON CHARGEABLE |
|--|---|
| Manorial Royalties, dues and profits (Rule 5). | Lord of the Manor or person renting the same. |
| Fines in consideration of demise of lands or tenements (Rule 6). | Receiver of the fines. |
| Miscellaneous profits from lands not in the occupation of the person to be charged (Rule 7). | Receiver of the profits or person entitled thereto. |

TRANSFERRED FROM RULE III OF SCHEDULE A

| | |
|--|---|
| Quarries of stone, slate, limestone or chalk (Rule 1). | Persons carrying on the concern or their agents (Rule 4). |
| Mines of coal, tin, lead, copper, mundic, iron and other mines (Rule 2). | Ditto. |
| Ironworks, gasworks, salt springs or works, alum mines or works, waterworks, streams of water, canals, inland navigations, docks, drains or levels, fishings, rights of markets and fairs, tolls, railways and other ways, bridges, ferries, and other concerns of a like nature (Rule 3). | Persons carrying on the concern or their agents. |

The occupier of landed property is assessed under the General Rule of Schedule A at its full annual value. Fines (a) on the grant of new leases and (b) on the renewal of leases where the fine is a capital payment in lieu of ground

rent and the lessee elects to pay the fine in lieu of ground rent, should not be assessed to income tax. The receiver of such capital payments would be liable to income tax on the interest received when they are invested.

Under the provisions of Section 21 of the Finance Act, 1934, a lessee of one of the concerns enumerated in Rules 1, 2 or 3 of No. III of Schedule A became liable to assessment on the full amount of the rent, royalty or other payment, whether he made a profit or not subject to the right of deduction of tax, from the amount payable to the royalty owner. For the purposes of the section, "rent" includes *inter alia* "royalty or annual or periodical payment in the nature of rent, whether payable in money or money's worth or otherwise," but does not include payments comprised in Rule II of Schedule A.

Manorial Incidents

All remaining manorial incidents were extinguished on the 1st January, 1936, subject to compensation (*Law of Property Act, 1922, s. 138 (1) (c)*). Quit rents, chief rents and other similar rents of definite annual amounts, were payable under deduction of income tax, and were not separately assessed to tax; the land out of which they arose was assessed in the ordinary way to income tax (Schedule A) on its full annual value without regard to the fact that such outgoings were payable.

Customary dues such as fines, reliefs and heriots were assessable as manorial profits upon the lord of the manor or the person renting the manor, under Case III of Schedule D, the normal basis of assessment being the amount of income in the year preceding the year of assessment.

As regards compensation payments for extinguishment of manorial incidents, they are capital payments and not chargeable with income tax, but in cases where the compensation is payable in instalments, part of the payment represents interest from which income tax is deductible. The payer of such interest is accountable to the Revenue

for the tax so deductible, in cases where the interest is not wholly paid out of income which has borne tax at the standard rate.

6. CATTLE DEALERS AND MILK SELLERS

Farmers who carry on business as cattle dealers or milk sellers in addition to ordinary farming are liable to an assessment under Schedule D in respect of any additional profits, if the Commissioners consider that the Schedule B assessment is not a just estimate of their income (*Rule 4, Case III, Schedule D*). A statement showing the profits may be required.

7. NON-RATEABLE MACHINERY

The profits arising from the letting of any machinery and plant, the value of which is not taken into account for the purpose of assessment of land and buildings under Schedule A, are profits assessable under Case VI of Schedule D (see pp. 11, 122). *Finance Act, 1936, s. 22.*)

CHAPTER V

TAXATION OF MINERAL RIGHTS

ALTHOUGH this Handbook is primarily concerned with the surface of land, many agricultural estates include workable minerals. Mineral Rights or Royalties are subject, in addition to income tax, to **Mineral Rights Duty** and the **Royalties Welfare Levy** on the basis described in this chapter.

MINERAL RIGHTS DUTY

Mineral Rights Duty was imposed by the Finance (1909-10) Act, 1910 (Section 20), "on the rental value of all rights to work minerals and of all mineral wayleaves." The right to work brine has been held to be within the scope of the duty (*Attorney-General v. Salt Union*), 1917, 2 *K.B.D.* 488).

Rate of Duty

One shilling for every twenty shillings of rental value.

Rental Value

- (a) Where the minerals are leased the rent paid in the last working year.
- (b) Where the minerals are worked by the owner an amount fixed by the Commissioners of Inland Revenue as equivalent to rent, and they must send a copy of their assessment to the owner.
- (c) In case of a mineral wayleave the rent paid in the last working year.

If the rent exceeds the rent customary in the district and partly represents a return for expenditure by the owner usually borne by a lessee, a reduction in the assessable amount may be claimed.

Returns

Upon notice being given by the Inland Revenue **every owner of minerals and every person to whom rent is payable in respect of a right to work minerals or in respect of any mineral wayleave, must make a return** of the amount received by him, or where the owner is working the minerals, of the minerals worked, within the time prescribed in the notice not being less than 30 days. The appropriate form for making a Return is "Form 5—Land."

Assessment

The assessment is made by the Commissioners, and the duty is payable at any time after 1st January in the year for which the duty is charged. **The duty is payable on the rent actually received, that is, after deduction of income tax paid by the lessee, but a further deduction of sur-tax is not allowed** (*Duke of Beaufort v. Inland Revenue Commissioners* (1913), 3 K.B. 48).

Exemptions

Mineral Rights Duty will not be charged in respect of common clay, common brick clay, common brick earth or sand, chalk, limestone or gravel.

Definitions

"Rent" includes yearly or other rent, also any fine, premium or foregift, and any payment, consideration or benefit in the nature of a fine, premium or foregift. Where rent is paid otherwise than in money or money's worth, the amount of the rent shall be taken to be such sum as the Commissioners consider to be the value thereof.

"Working Year" means the year ending 30th September, or such other day as may be approved by the Commissioners, and "last working year" means the working year completed immediately before the 1st January in the financial year for which the duty is to be paid.

"Mineral Wayleave" means any wayleave, airleave, waterleave, or right to use a shaft granted to or enjoyed by a working lessee, whether above or below the ground

for the purpose of access to or the conveyance of the minerals, or the ventilation or drainage of his mine or otherwise in connection with the working of the minerals.

Costs of Management

Section 26 of the Finance Act, 1922, extended in effect the principle of the Maintenance Claim to mineral rights. Where rights to work minerals are let, a lessor of mineral rights is entitled on making a claim for the purpose, to repayment of income tax paid by deduction or otherwise in respect of rent or royalties, equal to the amount of the tax on sums proved to have been wholly, exclusively, and necessarily disbursed by him as expenses of management or supervision. This claim must be made within twelve months after the expiration of the year of assessment in respect of which it is made (*Income Tax Act, 1918, s. 33 (2)*). The appropriate Form is "R73," to which, when completed, vouchers must be attached shewing tax borne sufficient to cover the repayment claimed.

The amount of such expenses of management or supervision of minerals, for which an allowance of income tax has been made will be allowed as a deduction from assessment to sur-tax.

ROYALTIES WELFARE LEVY

Royalties Welfare Levy was imposed by Section 14 of the Mining Industry Act, 1926, for the benefit of the Miners' Welfare Fund, as a result of a recommendation by the Royal Commission on the Coal Industry, 1926.

Every person liable to pay Mineral Rights Duty on the rental value of rights to work coal, and of mineral way-leaves in connection with coal, became liable to pay for the financial year ending 31st March, 1927, and for every subsequent financial year a "Royalties Welfare Levy" at the rate of one shilling for every twenty shillings of that rental value. This liability does not attach to any rental value from any mine the principal object of which is the getting of fireclay, ganister, ironstone and other similar minerals.

The provisions of the Finance (1909-10) Act, 1910, as to assessment, collection and recovery of Mineral Rights Duty and matters incidental thereto, apply to the Royalties Welfare Levy, the two duties being collected together.

"Coal" does not include lignite or brown coal, but save as aforesaid includes bituminous coal, cannel coal, anthracite, and all other minerals worked therewith, other than minerals exempt from mineral rights duty.

Royalties Welfare Levy is payable on the rental value as computed for the purpose of Mineral Rights Duty, the same Return (Form 5—Land) being used as the basis. It is payable at the same time as that duty, and is collected by the Revenue with that duty, on the amount of rent actually received after deduction of income tax paid by the lessee, but sur-tax is not allowed as a deduction (*Duke of Beaufort v. Inland Revenue Commissioners* (1913), 3 K.B. 48).

Supply of Free Coal by Lessee to Lessor of Mineral Rights

A Lease may contain such a Clause as the following—

"The Lessee hereby covenants, etc., and also will in each and every year of the said term without charge deliver to the Lessor at the ——— Pit in such quantities as he shall require ——— tons of best hard coal and ——— tons of slack."

Previous to 1934 there was some doubt as to whether the monetary value of a free supply of coal could properly be taken into account in estimating the lessor's liability to Income Tax, Mineral Rights Duty and Royalties Welfare Levy, although the definition of rent for the purpose of the duty includes rent "paid otherwise than in money" (see page 74). However, by Section 21 of the Finance Act, 1934, an assessment must be made on the full amount of the rent, royalty or other payment, and for the purpose of the Section "rent" includes *inter alia* a payment made in "money's worth." (See page 74.) It is submitted that the value of "free coal" is the cost price at the pithead, as that is what the payment in kind represents to the lessee.

CHAPTER VI

INCOME TAX

GENERAL PROVISIONS

THE authorities vested by law with the determination of the annual values of property for income tax purposes, under Schedules A and B (as well as assessments under other Schedules), are the various bodies of General Commissioners of Income Tax acting in Districts throughout the country. They form independent tribunals, and should not be confused with the Commissioners of Inland Revenue. The General Commissioners (commonly referred to as "District Commissioners") are local persons selected by the Land Tax Commissioners from members of their own body, and having certain property qualifications. The names of the Clerks acting for these Commissioners appear upon the general notices, which are affixed to church doors, or in other public places, when required by the provisions of the Income Tax Acts.

On the other hand, the Special Commissioners are the Commissioners of Inland Revenue together with such other persons as the Treasury by warrant may from time to time appoint. They make assessments to sur-tax, and in certain cases taxpayers may have their income tax assessments made by them instead of locally by the General Commissioners, or appeal to them instead of to the latter body.

Definitions

By the Interpretation Act, 1889—

- S. 3—"Land" includes messuages, tenements and hereditaments, houses and buildings, of any tenure.
- S. 19—"Person" includes any body of persons corporate or unincorporate.

S. 23—The national "Financial year" ends on the 31st March.

Standard Rate of Tax

The present rate of income tax (1936-37) is 4s. 9d. in the £ (*Finance Act, 1936, s. 14*). The effect of Section 10 of the Finance Act, 1930, is that tax is only chargeable at ~~two~~ ^{one} thirds of the standard rate or 1s. 7d. in the £ on the first £175 of taxable income (*Finance Act, 1927, s. 40, as amended by Finance Act, 1935, s. 22*).

Place of Assessment

Generally speaking, income is assessed in the place where it arises.

Additional Assessments and Surcharges

If an Inspector of Taxes discovers that properties have been under-assessed or omitted from assessment, or that any person has obtained any allowance, deduction, exemption, abatement or relief not authorised by law, an additional assessment may be made (*Income Tax Act, 1918, s. 125*) at any time within six years after the year of assessment (*Finance Act, 1923, s. 29*). Such additional assessments may be appealed against in the same way as a first assessment.

If a person has not been charged to income tax for the year, he may be surcharged within a similar period (*Income Tax Act, 1918, s. 126*). No additional assessment or surcharge can, however, be made on the executors or administrators of a deceased person in respect of income accruing to him before death, after the third year following the year of assessment in which the death took place (*Finance Act, 1923, s. 29 (3)*).

Fines and Penalties

Proceedings for the recovery of any fine or penalty incurred under the Income Tax Acts in connection with income tax and sur-tax, may be commenced at any time within six years after the date on which it was incurred (*Finance Act, 1923, s. 23*).

Repayment Claims

Certain claims for repayment of tax which were previously admitted if made within *three years* after the end of the year of assessment may now be made within *six years* after the end of the year of assessment (*Finance Act, 1923, s. 30*).

Appeals

Any taxpayer who is dissatisfied with an assessment has a right of appeal to the District Commissioners. Notice in writing should be sent to the District Inspector of Taxes within 21 days from the date of the notice of assessment (*Income Tax Act, 1918, s. 136*).

Under the provisions of the First Schedule to the Finance Act, 1930, any person aggrieved by an assessment under Schedule A may appeal within 42 days after the date of the notice of assessment. Any occupier or owner or other person in receipt of the rent of a property, who is aggrieved by the amount of the annual value so assessed shall if a notification of the value assessed was not delivered to him, be entitled to appeal against the Schedule A assessment, if within twelve months after the year of re-valuation he gives notice in writing to the Inspector of his intention to appeal.

This right of appeal against an assessment made under Schedule A or Schedule B may be exercised by any occupier, or owner or other person in receipt of the rent, not only in the year when the periodical reassessment is made, but also in any intervening year (*Finance Act, 1923, s. 26 (1)*). For example, the occasion may arise when a holding has been re-let at a lower rent than that payable at the time of the last quinquennial valuation.

In practice, objections are usually disposed of by Inspectors of Taxes. These officials are instructed to give taxpayers all possible help and information, and to endeavour to reach a fair settlement, and if the taxpayer is not satisfied with the Inspector's view he may be asked to refer the matter to Somerset House for a ruling. The taxpayer's right of appeal to the District Commissioners

is not affected by following this course, which is always advisable, as it may avoid the more formal appeal.

The appellant may appear before the District Commissioners **personally, or he may appoint anyone else to act as his agent** (*Finance Act, 1923, s. 26 (2)*). The Commissioners must hear a barrister, solicitor or accountant, if the appellant so requires (*Income Tax Act, 1918, s. 137 (3) as amended by Finance Act, 1923, s. 25*).

It is the duty of the District Commissioners to take evidence on both sides in order that they may be in a position to arrive at a fair and impartial decision, and **their finding on questions of fact is final and binding** both on the Crown and the taxpayer (*Farmer v. Cotton's Trustees, 6 T.C. 590*). A decision stands even if it is overruled in a subsequent case. The Commissioners may be required by the appellant or by the Inspector of Taxes to state a case for the opinion of the High Court on a point of law, providing that the aggrieved party declares his dissatisfaction with the decision on the ground that it is wrong in law, at the close of the hearing, and sends notice in writing to the Clerk within 21 days afterwards, accompanied by a fee of 20s., requiring a statement of the case to be set out in writing. There is a further right of appeal from the High Court to the House of Lords (*Income Tax Act, 1918, s. 149*). The appellant has also the right of requiring a valuation of the property to be made, provided he makes his request before the appeal is determined (*Income Tax Act, 1918, s. 138*).

Notwithstanding a pending Appeal, income tax is payable meanwhile upon such an amount as the Commissioners may decide not to be in dispute, subject to adjustment later according to the result.

Lists of Employees

Every employer, when required to do so by notice from an Assessor, must deliver a return containing the names and places of residence of all persons employed by him with the amounts of the salaries paid to them, except

persons who are not employed in any other employment and whose remuneration for the year does not exceed £125 (*Income Tax Act, 1918, s. 105, as amended by Finance (No. 2) Act, 1931, s. 8 and Fourth Schedule*).

Allowances and Deductions

The allowances and deductions described in the following paragraphs are available to individual taxpayers generally, irrespective of the amount of the total income. The reliefs available may be overlooked, particularly in cases where tax is deducted before the income reaches the person entitled to it.

It should be noted that in order to obtain the allowances to which he may be entitled, a claim must be made on the appropriate form obtainable from an Inspector of Taxes (*Finance Act, 1920, s. 17*).

Exemption and Reduction

An individual who proves that his total income does not exceed £125 is exempt from income tax. If his income exceeds £125 but is less than £140, his total liability to tax is limited to one-fifth of the amount by which the total income exceeds £125. (*Finance Act, 1935, s. 19*.)

Personal Allowance

Where the income exceeds the exemption limit, no tax is charged on £180 in the case of an individual whose wife is living with him, and on £100 in other cases. In addition, if the wife of a claimant earns an income of her own, a further allowance of four-fifths of such earned income is made, but not exceeding the sum of £45 (*Finance Act, 1936, s. 16*).

Earned Income Allowance

Income earned by an individual is entitled to a deduction of one-fifth, subject to a maximum deduction of £300, provided that he claims the relief (*Finance (No. 2) Act, 1931, s. 8, and Fourth Schedule*).

Earned Income is defined in s. 14 (3) of the *Income Tax Act, 1918*, as follows—

- “ (a) any income arising in respect of any remuneration from any office or employment of profit held by the individual, or in respect of any pension, superannuation, or other allowance, deferred pay, or compensation for loss of office, given in respect of the past services of the individual or of the husband or parent of the individual in any office or employment of profit, 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 allowance, or deferred pay, or not; and
- (b) any income from any property which is attached to or forms part of the emoluments of any office or employment of profit held by the individual; and
- (c) any income which is charged under Schedule B or Schedule D, or the rules applicable to Schedule D, and is immediately derived by the individual from the carrying on or exercise by him of his trade, profession, or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein.”

In the case of agricultural property, this definition includes occupation assessments on lands used for the purposes of husbandry, and on woodlands managed on a commercial basis, whether the assessments are made under Schedule B or Schedule D.

Section 15 (2) of the Finance Act, 1925, extends the scope of this allowance to the total income earned and unearned, of any individual who proves that he (or his wife living with him) was 65 years of age at the beginning of the year of assessment, and that his income for that year does not exceed £500. This allowance is in substitution for and not in addition to the normal earned income allowance, and where such income only slightly exceeds £500, a modified form of relief is available. Section 17 of

the Finance Act, 1932, provides that voluntary pensions shall be treated as earned income.

Clergymen

A Clergyman, or Minister of religion, using part of his residence in connection with his duties, may include under expenses a sum not exceeding $\frac{1}{4}$ th of the rent paid; or of the gross Schedule A assessment where no rent is paid, and a proportionate amount of rates, repairs, heating, lighting and cleaning.

Allowances for Children (including Stepchildren and Adopted Children)

£60 is allowed from the assessment for each child living at any time within the year of assessment, and under sixteen years of age, or who, if over sixteen years of age, at the commencement of that year is receiving full-time instruction at school or college. No deduction is allowed in respect of a child entitled in his own right to an income exceeding £60 a year. Scholarships are not considered income for the purposes of income tax (*Finance Act, 1920, s. 21, as amended by Finance Act, 1936, s. 17*).

Allowance for Housekeeper

A widower (or widow) who employs a female relative or another female person if he or she has no such relative, in the capacity of a housekeeper, to take charge of his or her children (as above defined) is allowed a deduction of £50. An unmarried person is entitled to a similar deduction if he has a widowed mother or other female relative, or in the absence of such relative some other female person, living with him to look after any brother or sister of his (*Finance Act, 1920, ss. 19 & 20, as amended by Finance Act, 1936, s. 17*).

Allowance for Dependent Relatives

If a person maintains a relative of his, or of his wife, who is incapacitated by old age or infirmity from maintaining himself or herself, or his wife's mother whether

incapacitated or not, and being a person whose total income does not exceed £50 a year, he is entitled to an allowance of £25.

Where an old or infirm person depends upon the services of a daughter resident with and maintained by him or her, a similar allowance is made (*Finance Act, 1920, s. 22*).

Life Insurance Premiums

A taxpayer is entitled to have the amount of tax payable reduced by an allowance in respect of insurance premiums on his life or on the life of his wife at the following rates in the £ on the annual premiums, subject to the restrictions following—

Where the total income

| | | |
|--|------------------|------|
| Does not exceed | £1,000 | 2/4½ |
| Exceeds £1,000, but is under | £2,000 | 3/6¾ |
| Exceeds | £2,000 | 4/9 |

- (i) Premiums allowed are limited to 7 per cent. of the sum assured, and to one-sixth of the total taxable income from all sources.
- (ii) In the case of any policy taken out after 22nd June, 1916, the maximum relief is half the standard rate of tax (2s. 4½d. in the £).
- (iii) In the case of incomes only slightly below £1,000 or £2,000 the allowances may be increased to give such persons the benefit of the greater relief allowed where incomes are only slightly larger. (*Finance Act, 1935, s. 23*).

Proportionate amounts of premiums on accident policies where the risk of death is also covered, rank for relief from tax.

CHAPTER VII

SUR-TAX

SUR-TAX is payable as a deferred instalment of income tax (*Finance Act, 1927, s. 38*). It is only necessary to make one return of income for income tax and sur-tax.

Return of Income

Every individual who is liable to sur-tax for any year of assessment must give notice to that effect to the Special Commissioners before the 30th September next following the end of that year (*Finance Act, 1927, s. 44*). A return of income from all sources may be demanded by a "particular notice" (*Finance Act, 1927, s. 43*).

The income to be returned is the total income for the year of assessment preceding the year in which sur-tax is payable. In the case of income from landed property the return should show the net annual value as assessed for Income Tax, Schedule A, or the amount of rent if less than that assessment. Where the net annual value is not known, the amount of the rent may be given instead. Property occupied rent free should be so described and the net annual value entered (see page 10 as to beneficial occupation by employees). The Schedule B or Schedule D assessment as the case may be should be entered in respect of land occupied by the person making the return.

Where a tenant pays a rent which is less than the Schedule A assessment, the excess of the assessment over the rent is the value of the tenant's "beneficial occupation" and forms part of the income of the tenant. In such circumstances it was decided in the case of *the Inland Revenue v. Fergus* (1926) that the landlord need only include in his total income the amount of the actual rent received.

In the case of income from which income tax is deducted at the source, the gross amount (*i.e.*, before deduction of tax) must be returned.

Casual profits on transactions of a capital nature (*e.g.*, purchases and sales of land) which do not form part of the normal business of the individual concerned, are not treated as income for sur-tax purposes. Conversely, losses of capital as a result of such occasional transactions, cannot be claimed as deductions from income.

Revocable Trusts

Section 20 of the Finance Act, 1922, as amended by Section 21 of the Finance Act, 1936, provides for the prevention of evasion of sur-tax through revocable trusts by any person who retains the beneficial enjoyment of the income.

Assessment

Sur-tax is assessed and charged in one sum by the Special Commissioners on the total income of the individual from all sources, in the year of assessment preceding the year in which sur-tax is payable where the total income for that year exceeds £2,000 (*Finance Act, 1927, s. 42*). An assessment may be amended or an assessment or additional assessment made at any time within 6 years after the end of the year of assessment. Relief may be claimed in respect of over-assessment to a *bona-fide* mistake made in a return or statement (*Finance Act, 1927, s. 42*).

Deductions Not Allowed

Personal and family reliefs and earned income allowance, allowed in income tax assessments are not deductible for sur-tax purposes.

Life Insurance Premiums

No deduction from an assessment to sur-tax can be claimed in respect of Life Insurance premiums. Nor can interest on loans used for payment of insurance premiums be allowed as a deduction, subject to the provisions of a very involved section (*Finance Act, 1930, s. 13*).

Deductions Allowed

It should be noted that no adjustment by reason of loss or diminution of income can be made in the sur-tax assessment, unless previously allowed in the assessment to income tax (*Finance Act, 1927, s. 42 (4)*). Any adjustments in the income tax assessment obtained by the taxpayer should be reflected in his sur-tax assessment, *e.g.*, the amount allowed for repairs, etc., under the "Maintenance Claim," or losses on farms or woodlands under the provisions of Section 34 of the Income Tax Act, 1918, or the amount of expenses of management or supervision of minerals (see Chapters II, III, IV, V).

Any annual payments out of the property or income of the individual from which he deducts income tax when making the payment are allowed as deductions in respect of the year in which they are payable and should be claimed by the taxpayer. Examples of such payments are mortgage interest, annuities, rent-charges, the grossed interest portion of instalments payable to the Lands Improvement Company, and the like.

In cases where interest (3 per cent. without deduction of income tax) is being paid on estate duty and succession duty, the Special Commissioners have agreed to allow the equivalent of the gross amount of such interest, that is, the amount which, after deduction of income tax at the standard rate would give a new amount equal to the interest actually paid. The standard rate of income tax being now 4s. 9d. in the £, this means that a deduction of £3 18s. 8d. can be made in respect of the 3 per cent. interest charged on outstanding instalments of death duties.

Rates of Sur-tax

The rates of sur-tax for the year in which it is payable are fixed by the Finance Act of that year. As sur-tax is a deferred payment payable a year later than income tax at the rate of sur-tax is, therefore, not known until after the year of assessment. The rates for the year 1932-33 were fixed by the *Finance Act, 1933 (s. 28)* in

respect of the excess of total income over two thousand pounds, and are as follows plus 10 per cent. (*Finance (No. 2) Act, 1931, s. 7, and subsequent Finance Acts*)—

| | | | s. | d. |
|-------------------------|---------|---------------|----|-----|
| In respect of the first | £500 | of the excess | . | 1 0 |
| “ “ next | £500 | “ | . | 1 3 |
| “ “ “ | £1,000 | “ | . | 2 0 |
| “ “ “ | £1,000 | “ | . | 3 0 |
| “ “ “ | £1,000 | “ | . | 3 6 |
| “ “ “ | £2,000 | “ | . | 4 0 |
| “ “ “ | £2,000 | “ | . | 5 0 |
| “ “ “ | £5,000 | “ | . | 5 6 |
| “ “ “ | £5,000 | “ | . | 6 0 |
| “ “ “ | £10,000 | “ | . | 6 6 |
| “ “ “ | £20,000 | “ | . | 7 0 |
| “ “ remainder | | “ | . | 7 6 |

EXAMPLE of sur-tax charged on a net income of £5,000—

| | | |
|---------------|-------|-----------|
| £2,000— | | Nil. |
| £500 at 1/- | . . . | £25 0 0 |
| £500 at 1/3 | . . . | £31 5 0 |
| £1,000 at 2/- | . . . | £100 0 0 |
| £1,000 at 3/- | . . . | £150 0 0 |
| | | <hr/> |
| | | £306 5 0 |
| Plus 10% | . . . | £30 12 6 |
| | | <hr/> |
| | | £336 17 6 |

Equivalent to a rate of 1/4 in the £ over the whole income.

Payment of Sur-tax

The amount of sur-tax payable a year later than income tax is to be remitted on or before the 1st January to the Accountant-General of Inland Revenue, Somerset House, London, W.C.2.

Where a person dies the liability to sur-tax is calculated on the income from 6th April to the date of death. Sur-tax

cannot be charged for the year of death at rates higher than the rates in force for the year preceding the year of death (*Finance Act, 1930, s. 26*).

Appeals

Assessments in respect of sur-tax are subject to a right of appeal to the Special Commissioners, and the provisions of the Income Tax Acts with regard to appeals against income tax apply, so far as they are applicable, to appeals against sur-tax (*Finance Act, 1927, s. 42*). (See page 79.) A notice of appeal in writing specifying the grounds should be sent to the Special Commissioners within 28 days from the date of the notice of assessment.

While an appeal is pending such part of the sur-tax as appears to the Special Commissioners not to be in dispute can be collected, subject to adjustment if necessary, according to the result of the appeal (*Finance Act, 1930, s. 24*).

CHAPTER VIII

LAND TAX

LAND TAX may be charged on the annual value of "all manors, messuages, lands, and tenements, and also all quarries, mines of coal, tin and lead, copper, mundic, iron and other mines, iron mills, furnaces and other iron works, salt springs and salt works, all parks, chases, warrens, woods, underwoods, coppices, and all fishings, tithes, tolls, annuities, and all other yearly profits issuing out of any lands, and all hereditaments of whatsoever nature or kind situate within the said parish or place, and all and every person or persons, bodies politic and corporate, having or holding any such manors, messuages, lands, tenements and hereditaments" (*The Land Tax Act, 1798, ss. 4, 24*). The rate of tax in the £ must not be less than 1d. nor more than 1/- (*Finance Act, 1896, ss. 31, 32*).

Assessment

The assessment of Land Tax is under the exclusive control of the local Land Tax Commissioners, and should be made annually with as much equality and indifference as possible by a "Pound Rate."

A fixed total amount or quota is charged on each Land Tax Parish. If the minimum rate of 1d. in the £ produces more than the quota, the excess is applied in redemption of the tax, so that in a parish where assessable values increase considerably owing to building development, Land Tax may eventually redeem itself.

When the whole of the quota cannot be raised by a rate of 1s. in the £, the balance is to be remitted.

If the quota has to be collected by a rate of 1d., or if any tax has to be remitted, then the basis of assessment must be the gross annual value as adopted for income tax, Schedule A less any deduction allowed for land tax, and

for the financial year 1936-37, less tithe rentcharge (which has now been extinguished by the Tithe Act, 1936) (*Finance Act, 1896, ss. 31, 32 and 35*).

Where the quota can be raised at a less rate than 1s. in the £ it did not matter what valuation was adopted, so long as it was applied uniformly over the whole parish, and the rating assessment was frequently used. In future, however, it appears that the Schedule A assessment will have to be generally used, as no particulars of agricultural land and agricultural buildings appear in rating Valuation Lists (see Chapter IX).

Time of Payment

The Land Tax year is from 25th March to 24th March, and the tax is payable in one sum on the 1st January in each year to the Collector of Taxes. Although normally collected from the occupier like Income Tax under Schedule A, it is primarily a landlord's tax, and a tenant may deduct the amount from his rent, unless he has undertaken to pay it by the terms of his contract of tenancy.

Arrears of tax are recoverable by distraint. There is nothing in the Land Tax Acts or any other Act to render arrears of Land Tax irrecoverable on account of lapse of time.

Appeals

Appeals are heard by the Land Tax Commissioners, after notice has been given by the aggrieved taxpayer to their clerk.

Relief

An owner in possession whose property is liable to Land Tax is entitled to total exemption from the tax if his total income from all sources does not exceed £160 a year. If such total income exceeds £160, but does not exceed £400, he is entitled to an abatement of half the amount of the tax (*Finance Act, 1898, s. 12, as amended by Finance (No. 2) Act, 1915, s. 21, as amended by Finance Act, 1920, s. 63*). Such exemption or abatement is restricted to individuals

and does not affect the right of deduction of Land Tax charged on the land when making an assessment for income tax, Schedule A.

It should be noted that any person entitled to relief should send his claim to the Inspector of Taxes before *payment of tax*, as there is no power to re-claim Land Tax which has been paid. In the case of a farmer-owner, this entails submission of the annual farming accounts showing actual profits, before the date on which the tax becomes due. Section 54 of the Finance Act, 1927, provided that for 1928-29 and subsequent years the statutory income to be taken in ascertaining questions of exemption from land tax, or liability to tax at the half-rate, is to be the income of the year ending 5th April in the land tax year, and not the income in the corresponding income tax year. For example, the income of the fiscal year 1929-30 would be regarded as the statutory income for the land tax year ending 24th March, 1931.

Exemptions

- (1) Property *occupied* by the Crown (but not property belonging to the Crown and occupied by others);
- (2) The site of any College or Hall in either of the two Universities of Oxford or Cambridge, any Hospital existing in 1797, and certain Public Schools (but not property belonging to them and let to tenants);
- (3) Certain specified charitable institutions, and small Church livings (but not Church property as such unless specified);
- (4) Poor Persons whose lands are not worth more than the full yearly value of 20/-.

Redemption of Tax

Land tax may be redeemed at 25 years' purchase of the amount of the last assessment (*Finance Act, 1921, s. 64*) on application to the Clerk to the Registrar of Land Tax, Somerset House, London, W.C.2, from whom the necessary instructions and forms may be obtained.

Redemption may be effected by payment of a capital sum (or subject to conditions as to minimum annual payments) by instalments over a period of years, with interest at 4 per cent. on so much of the capital sum as remains unpaid.

The Certificate of Redemption should be carefully preserved as evidence of non-liability to the tax.

CHAPTER IX

LOCAL RATES

Introduction

THE following Acts have within recent years brought about sweeping changes in the law of rating in England and Wales.

- The Rating and Valuation Act, 1925.
- The Rating and Valuation Act, 1928.
- The Rating and Valuation (Apportionment) Act, 1928.
- The Agricultural Rates Act, 1929.
- The Local Government Act, 1929.

Commencing with the Poor Relief Act, 1601 (43 Elizabeth C.2), which is the basis of our rating system, thirty-four Acts dealing wholly or partly with rating matters were placed upon the Statute Book, many of them still wholly or partly unrepealed. As the object of the recent Acts, in addition to making important amendments in the law, was to simplify administration and promote uniformity, it is devoutly to be hoped that the work will be completed by the passing of a Consolidation Bill at an early date. The following is a summary of the principal changes made by the Acts of 1925 to 1929, so far as they affect agricultural property—

Administration

1. Overseers were abolished, their duties with regard to the making and collection of rates having been transferred to the Councils of County Boroughs, Boroughs, Urban and Rural Districts.

These Councils are **Rating Authorities**, and their boroughs and districts **Rating Areas**.

2. Rates in urban areas were consolidated in a **General Rate**. In rural districts, the former parochial **Poor**

Rate was superseded by a **General Rate** over the whole **Rating Area**.

Precepts are issued by spending authorities for a rate of so much in the £ on the Valuation List, and not for a fixed sum.

3. Assessment Committees as formerly constituted were abolished, and their duties transferred to new Assessment Committees, acting for **Assessment Areas**, consisting of one or more **Rating Areas**.
4. Payment of rates by owners on a new basis was substituted for the old "Compounding" arrangement.

Promotion of Uniformity of Valuation

5. A Central Valuation Committee and County Valuation Committees were established.
6. Valuation Lists are revised at intervals of five years.
7. Rating and Assessment Authorities have power, if they think fit, to require returns from owners and occupiers of property.
8. A statutory scale of deductions from the gross value of houses, land and non-industrial buildings was provided.

The Most Important Amendments

9. Occupiers of agricultural land and agricultural buildings were entirely relieved from rates from the 1st April, 1929.
10. Certain classes of machinery and plant were also relieved from rates.
11. Industrial hereditaments and freight-transport hereditaments were relieved from rates to the extent of 75 per cent. from 1st October, 1929.

Having recapitulated the more important changes wrought about by the most recent Acts, the law of rating dealt with in the following paragraphs as it stands to-day.

Rateable Occupation

Occupation to entail liability to rates must be—

- (a) Beneficial, but not necessarily profitable. (The fact of paying rent in order to occupy a property is sufficient proof of benefit.)
- (b) Permanent, *e.g.*, movable stalls in a market are not rateable.
- (c) Exclusive, *e.g.*, a lodger is not rateable.

Unoccupied houses are not rateable if completely unfurnished, and a caretaker (if for the sole purpose of protection) is allowed.

In the event of a change of occupation during the period for which a rate is made, incomer and outgoer are liable for parts of the rate proportionate to the length of their respective occupations.

Nature of Rates

Rates are a personal charge on the occupier in respect of the hereditament he occupies, and are recoverable by distress and sale of the goods of the defaulter, wherever such goods may be. Payment of rates may be demanded as soon as the rate is made, and a ratepayer neglecting to pay his rates for the space of seven days after demand is liable to distress (*Poor Relief Act, 1814, s. 12*).

The General Rate

In rural districts the parochial poor rate is superseded by a General Rate levied at a uniform rate in the £ over the whole Rating Area. In urban areas a consolidated rate is levied in place of the poor rate and any other rate, also called the General Rate (*R. and V. Act, 1925, s. 2*).

A special Rate may also be raised in parts of rural rating areas, the occupier of woodlands, or of any land covered with water or used as a canal or as a towing path for a canal or as a public railway, being liable only in respect of one-fourth of the rateable value (*R. and V. Act, 1925, s. 3*).

A discount of $2\frac{1}{2}$ per cent. for prompt payment of General Rates may be allowed if the Rating Authority so decide by resolution (*R. and V. Act*, 1925, s. 8), but not in addition to the commission allowed under section 11 of that Act to the owner who pays rates.

The Demand Note on which the General Rate is levied must include the following information (*R. and V. Act*, 1925, s. 7)—

- (a) Situation of the hereditament and a sufficient description for identification.
- (b) Rateable value (and net annual value, if it differs).
- (c) Amount of rate in the £.
- (d) Period of rate.
- (e) Amount in the £ for the rating authority and to any other authority issuing a precept.
- (f) Amount of any additional item of the rate.
- (g) Amounts in the £ for specified services administered by the rating and precepting authorities.

The information specified in (a), (b), (c), (d) and (e) must be given in a demand for a special rate.

The forms of Demand Note Rules were issued by the Minister of Health under the powers given him under Section 58 of the 1925 Act on 30th June, 1925 (Statutory Rules and Orders, 1925, No. 798).

Rating of and Collection of Rates by Owners

(a) Compulsory Rating of Owners.

By section 11 (1) of the Rating and Valuation Act, 1925, Rating Authorities were empowered to direct by resolution that in the case of hereditaments falling within a class to be defined by them (exclusive of hereditaments consisting of agricultural land) the owners shall be rated instead of the occupiers. It was, however, provided in that section that the class should not be so defined as to include any hereditament with a rateable value exceeding £13, or any hereditament the rent of which becomes payable at quarterly or longer intervals.

Section 71 of the Local Government Act, 1929, came into operation on the 1st October, 1929, and gave Rating Authorities a wider discretion in the matter. They may now define the class to which the compulsory rating of owners is to apply, either **by reference solely to the limit of rateable value specified in Section 11 (1) of the Act of 1925**, or if they so desire by reference to that limit of value and *also* to the interval at which rent becomes payable and is collected.

One effect of section 71 is that Rating Authorities are enabled to rate owners compulsorily in the case of farm-houses having a rateable value not exceeding £13. Section 67 of the 1929 Act is the de-rating section and de-rating is put into operation by treating agricultural land and agricultural buildings as having no rateable value. The farmhouse continues liable to rates and although it is included in the letting of a farm at an inclusive rent, it appears in the Valuation List as a separate rateable hereditament. Farm tenancy agreements usually provide for payment of rates by the tenant, so that the owner who pays the rates on the farmhouse under a compulsory arrangement would be obliged to claim the amount from his tenant. The amount so recoverable is the amount actually paid, that is, after deduction of the commission allowed (*R. and V. Act, 1925, s. 11 (9)*). The Central Valuation Committee (Resolution 79) state that a "tied" cottage held of a farmer by a farm labourer on a "service" occupation (*i.e.*, where the labourer is required to live in that cottage for the proper performance of his work) still remains in the rateable occupation of the farmer, and that such an owner in occupation is not entitled to the compounding allowance.

Under section 11 (1) of the Act of 1925, the allowance to owners rated instead of occupiers was 10 per cent. of the amount payable, but section 3 of the Rating and Valuation Act, 1928, authorised the Rating Authority to allow a greater percentage, by resolution, not exceeding 15 per cent. of the amount payable during the operation of the first new Valuation Lists under the 1925 Act. Section 1 (2) of the Rating and Valuation Act, 1932, continued

this increase for the period during which the second Valuation Lists are in force.

(b) Voluntary Rating of Owners.

Section 11 (2) of the Act of 1925 enables owners of small hereditaments, the rent of which is collected at less than quarterly intervals, to agree in writing with the Rating Authority to pay the rates as follows, subject to receiving an allowance not exceeding the amounts stated below—

- (a) Whether occupied or not, commission 15 per cent.
- (b) Where occupied only, commission $7\frac{1}{2}$ per cent.
- (c) Collect the rates from the occupiers on behalf of the Rating Authority, commission 5 per cent.

Such an agreement may be terminated by notice given by either side before the commencement of a rate period, and expiring at the end of that period.

Without prejudice to the rights of the occupier the owner who is rated compulsorily, or who enters into an agreement to pay rates, has an occupier's rights of objection and appeal.

The expression "owner" means the person entitled to receive the rent, or if the hereditament is occupied rent free, the person by whose permission it is so occupied. The owner is required to deliver to the Rating Authority a list of occupiers of the hereditaments in respect of which he is rated and such particulars as may be necessary to enable the Rating Authority to ascertain the amount due from him.

The Valuation List

The Rating and Valuation Act, 1925, provided that Valuation Lists shall be made at intervals of five years (s. 19). The first Lists came into operation on the 1st April, 1928 or 1929. The actual year of subsequent Valuation Lists is fixed by the Assessment Committee in consultation with the Rating Authority. The Lists in force may be amended in the intervening years on any reasonable grounds (s. 37).

The Valuation List, which must contain particulars of every rateable hereditament in the rating area, is not a parochial one, but particulars with respect to each parish must be set out in a separate division of the List (s. 21). The List in force is effective for all the purposes of the Act, and for determining the annual value of premises under the Licensing (Consolidation) Act, 1910, or under the enactments relating to the qualification of a manager of a school or asylum district or of a juror (s. 20). The Form of Valuation List was prescribed by the Minister of Health (s. 58) and is contained in the Form of Valuation List Rules date 30th June, 1926 (Statutory Rules and Orders, 1926, No. 796). (See **Special Lists**, page 104.)

Returns

Rating Authorities and Assessment Committees are authorised to serve notice, if they think fit, on the owner, occupier or lessee of every hereditament in the area requiring him or them to make a return within 21 days containing such particulars as may be reasonably required for the purposes of carrying out the Act, and such owner, occupier or lessee would be liable to penalties in the event of failure to make such a return, or if he wilfully makes a false statement (ss. 40, 41 and 42, as amended by s. 1 of the *Rating and Valuation (No. 2) Act, 1932*). A Form of Return was prescribed by the Minister under section 58 in the Returns Rules Order dated 30th June, 1926 (Statutory Rules and Orders, 1926, No. 795), in which it is provided the Form of Return sent out by Rating Authorities must include questions as to the following matters—

1. Situation of property, including name of street or road and name and or number of property.
2. Name of occupier, or of each joint occupier.
3. Name and address of owner. (If not known, name and address of agent or person to whom rent is paid, the word "agent" being added in such case.)

4. Description of property, including—
 - (a) Particulars of any cottages, stables, garages or other outbuildings;
 - (b) Estimated extent (i) of agricultural land and woodlands, and (ii) of gardens or other land (not covered by buildings), if exceeding an area to be specified (see p. 109).
5. (1) Whether the property is occupied (a) wholly as a private residence, or (b) partly as a private residence and partly for trade or business purposes, or (c) solely for trade or business purposes.
(2) Nature of the trade or business carried on, if any.
6. Particulars as to the extent of occupation where part only of the property is occupied by the person making the return, including information as to parts (if any) let off, and as to payments received therefor, or for advertising or other rights or privileges.
7. (a) Rent (if any) payable or receivable per week, quarter, year or other period by person making the return;
(b) The date when such rent was fixed;
(c) Whether such rent includes rates (in whole or in part), or water rates, or covers any other services—the nature and value of any such services to be specified;
(d) Whether the landlord or the tenant undertakes to bear in whole or in part, and, if in part, to what extent, the cost of repairs, insurance and other expenses necessary to maintain the property.
8. Whether the property is held under lease or agreement in writing, and, if so, particulars as to—
 - (a) The date of commencement thereof;

- (b) The term for which granted;
- (c) Any consideration other than rent (*e.g.*, money premium, surrender of any existing lease, or agreement to lay out money for the improvement of the property);
- (d) Amount of ground rent where ground rent only is paid.

The Rating Authorities are only authorised to ask for such information as is reasonably required for making or revising an assessment, and it is in the best interests of both owner and occupier to supply all reasonable particulars so as to ensure a correct basis of assessment and avoid unnecessary expense in objections and appeals. It is reasonable to require necessary information which cannot be obtained by inspection. In the case of an estate comprising a number of hereditaments, the Statutory Order permits Rating Authorities to accept particulars in the form of a Schedule. It is submitted that it is unreasonable to ask an owner for an estimate of the annual value of property occupied by him. He can give his opinion if he wishes, but he is not legally bound to do so and it is the business of the Rating Authority to estimate the annual value. It is also unnecessary to give the date of erection and cost of farm-houses or agricultural labourers' cottages, as section 72 of the Local Government Act, 1929, lays down the basis on which their annual value is to be assessed. (See page 111.) Whether the Rating Authority may reasonably ask for the purchase price of a property is open to some doubt; it may be reasonable in some cases, but not in others. There is not necessarily any connection between purchase price and present annual value.

Inspection of Premises

Section 38 of the 1925 Act authorises any Rating Authority, Assessment Committee, or County Valuation Committee to employ a valuer who has power at all

reasonable times after giving due notice and on production of the specified written authority to enter on, survey and value any hereditament in the rating area that he is instructed to report upon. Any person who wilfully delays or obstructs the valuer in his duty is liable on summary conviction to a fine not exceeding £5.

Draft Valuation List

A Draft Valuation List prepared by the Rating Authority is deposited at their offices and remains open for inspection for 21 days. Notice of deposit is to be published, and a copy of the List sent to the Assessment Committee for revision, the hearing of objections and approval (s. 25 and *Fourth Schedule*). The County Valuation Committee is also to have notice, and if a property appears in the List for the first time, notices must be sent to the occupiers concerned within 7 days of the date of deposit (*Fourth Schedule*).

Any ratepayer (or person duly authorised by him) may inspect the Valuation List and take copies or extracts from it, without payment (s. 60). In rural rating areas, two parochial representatives, appointed by the Parish Council or Parish Meeting, will be members of the Rating Authority or of any Committee appointed by the Authority when the part of the Draft Valuation List relating to their respective parishes is under consideration (s. 1 (4)).

When the Draft List is finally approved by the Assessment Committee it is returned to the Rating Authority, who deposit it at their offices, and the Clerk of the Peace of every County and Quarter Sessions Borough affected is to be notified (s. 28).

Assessment of new buildings and division of, or increase or reduction in value of, existing assessments, which formerly were included in Supplemental Valuation Lists, are dealt with by a proposal for amendment of the Valuation List in force (s. 37).

Special Lists Under the Rating and Valuation (Apportionment) Act, 1928

Special Lists were required to enable effect to be given to the derating of agricultural, industrial and freight-transport hereditaments. The form of Special List was prescribed by the Minister of Health in "The Rating and Valuation (Apportionment) Act (Special List) Rules," dated 20th August, 1928 (*Statutory Rules and Orders*, 1928, No. 627). The Special List included all agricultural hereditaments (**in respect of which a claim by the occupier for insertion of the hereditament in the Special List is not required**) and all industrial and freight transport hereditaments in respect of which a claim is made. As derating involved payment of contributions from the Exchequer to make up the deficiency, the Revenue Officer was given power to scrutinise the Special List and the apportionments of assessments therein contained, and also an occupier's right of objection and appeal. All the provisions of the Act of 1925 with regard to Valuation Lists apply to Special Lists, subject to the modifications set out in the First Schedule to the 1928 Act. With respect to any hereditament entered in the Special List, the particulars as to value (including apportionments of value) were substituted for particulars as to value appearing in the Valuation List in force on the 1st October, 1929.

Ascertainment of Rateable Value

Part I of the Second Schedule to the 1925 Act dealing with the "Ascertainment of Rateable Value" is reprinted on page 107. A "Gross Value" has to be estimated in the case of hereditaments coming within classes (1) to (8), and from the gross value deductions for "repairs and insurance and the other expenses, if any, necessary to maintain the hereditament in a state to command the rent," are made according to the percentage scale in column (2). The deductions in classes (1) and (2) were increased by R. and V. Act, 1928, s. 2 and 1st Schedule, for the period of the first new Valuation List (*R. and V. Act, 1925, Second Schedule*). The increases were extended to the second

Valuation List (*R. and V. Act, 1932, s. 1*). Class (8) 'Agricultural land,' was repealed by the Local Government Act, 1929. It is further provided in section 22 (1) (a) of the 1925 Act that if any hereditament is subject to a rate (not being a usual tenant's rate) made by a Drainage Authority or Commission of Sewers or the like, in respect of any drainage wall, embankment or other work for the benefit of the hereditament, a further deduction of the average annual amount of that rate shall be made. The "Gross Value" as reduced by the above-named deductions will then be "Net Annual Value," which is the equivalent of "Rateable Value," as that expression was formerly used.

In the case of industrial buildings, etc., referred to in the Note to Part I of the Schedule, no "Gross Value" will be inserted in the Valuation List, but under section 22 (1) (b) (*as amended by the Ninth Schedule to the Tithe Act, 1936*) "there shall be estimated the rent at which the hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes, and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent, and the annual rent as so estimated shall, for the purposes of this Part of this Act, be taken to be the net annual value of the hereditament."

Section 22 (1) (d) of the Act provides that fractions of a pound in net annual value or rateable value shall be increased or reduced, as the case may be, to the nearest complete pound, and that a fraction of ten shillings shall be disregarded.

Assessment of Property

The basis of assessment was not changed by 1925 to 1929 legislation, and the Tithe Act, 1936, has only taken "tithe rentcharge" out of the definition of gross value. It is still the rent at which a hereditament might reasonably be expected to let from year to year, if the tenant undertook to pay all usual tenant's rates and taxes, and if the

landlord undertook to bear the cost of the repairs and insurance, and the other expenses, if any, necessary to maintain the hereditament in a state to command that rent (see definition of "Gross Value," *Rating and Valuation Act, 1925, s. 68 (1)*).

This means that the property should be assessed in its condition at the time the valuation is made. Neither the value at any earlier period nor prospective value should be taken into account, and there is not necessarily any connection between purchase price and present annual value. Structural alterations or improvements which add to the letting value would be taken into consideration, but expenditure on repairs or re-decoration to maintain the rental value of the property, would not in itself justify an increase of assessment. The basis of assessment is the same whether the property is in the occupation of the owner or let to a tenant, and in the latter case, the actual rent paid may not always represent the fair letting value. Houses are assessed at their value to let unfurnished. The artificial control of rents of houses coming within the provisions of the Rent Restrictions Acts (*Poplar Assessment Committee v. Roberts (1922), 2 A.C. 93*) does not influence the statutory rating basis. The object is to obtain uniformity of assessment as between ratepayer and ratepayer, that is, each ratepayer should contribute his quota for benefits received according to ability to pay as represented by a fair comparative estimate of the annual value of the hereditament occupied. To this end the Central Valuation Committee recommended in 1926 (as a guide in preparing the first Valuation Lists under the 1925 Act in difficult post-war conditions) that the rating authority should endeavour to ascertain the level or standard of rental value for each class of property and that when this standard had been ascertained, the assessments of all hereditaments of a similar kind which might fairly be estimated to be of approximately the same annual value, should be made to conform to the standard whether the property be actually let on rental or be in the occupation of the owner.

SECOND SCHEDULE

ASCERTAINMENT OF RATEABLE VALUE

PART I

Deductions from Gross Value

| (1) Class of Hereditaments. | (2) Amount of Deduction. |
|--|--|
| * (1) Houses and buildings without land other than gardens where the gross value does not exceed £15. | An amount equal to 40 per cent. of the gross value. |
| * (2) Houses and buildings without land other than gardens where the gross value exceeds £15, but does not exceed £20. | £6, together with an amount equal to 30 per cent. of the amount by which the gross value exceeds £15. |
| (3) Houses and buildings without land other than gardens where the gross value exceeds £20, but does not exceed £40. | £7, or an amount equal to 25 per cent. of the gross value, whichever is the greater. |
| (4) Houses and buildings without land other than gardens where the gross value exceeds £40, but does not exceed £100. | £10, or an amount equal to 20 per cent. of the gross value, whichever is the greater. |
| (5) Houses and buildings without land other than gardens where the gross value exceeds £100. | £20, together with an amount equal to 16½ per cent. of the amount by which the gross value exceeds £100. |
| (6) Land (other than agricultural land) with buildings valued together therewith as one hereditament. | An amount equal to 10 per cent. of the gross value. |
| (7) Land (other than agricultural land) without buildings. | An amount equal to 5 per cent. of the gross value. |

Note.—For the purposes of this Part of this Schedule the expression "houses and buildings" does not include mills, manufactories or premises of a similar character used wholly or mainly for industrial purposes or hereditaments valued as a part of any railway, dock, canal, gas, water, electricity, or other public utility undertaking.

* See first paragraph under "Ascertainment of Rateable Value" on pp. 101, 102, R. & V. Act, 1925, Second Schedule, and R. & V. Act, 1932, S. 1.

Tithe

Tithe Rentcharge was a rateable hereditament until it was extinguished on the 2nd October, 1936, by the Tithe Act, 1936, which therefore repealed the words "and tithe rentcharge if any" where they appear in the definition of gross value for rating purposes. In that definition it was assumed that "the tenant undertook to pay all usual tenant's rates and taxes, **and tithe rentcharge if any,**" and to avoid a double assessment to rates on the amount of the tithe rentcharge, it was deducted from the full annual value before fixing the gross value of land. An amendment to the Tithe Bill was moved on behalf of the C.L.A. to provide for a deduction of the interest portion of a tithe redemption annuity (as is provided for income tax assessment under Schedule A) but was not accepted. Consequently no alternative words to "and tithe rentcharge if any" were inserted in the definition of gross value. While this has no adverse financial effect on the occupier of derated agricultural land and agricultural buildings the gross value of non-agricultural land and buildings, subject to a tithe redemption annuity (leaving other factors influencing value out of account) would be higher.

Agricultural Hereditaments

This expression includes agricultural land and agricultural buildings which are defined in Section 2 (2) of the Rating and Valuation (Apportionment) Act, 1928, as follows—

"Agricultural land" means any land used as arable, meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one-quarter of an acre used for the purpose of poultry farming, cottage gardens exceeding one-quarter of an acre, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act, 1922, but does not include land occupied together with a house as a park, gardens (other than as aforesaid), pleasure grounds, or land

kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse; and for the purpose of this definition the expression "cottage garden" means a garden attached to a house occupied as a dwelling by a person of the labouring classes.

"Agricultural buildings" means buildings (other than dwelling-houses) occupied together with agricultural land or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon.

The expression "Allotment Garden" included in the definition of agricultural land is defined in the Allotments Act, 1922, as "an allotment not exceeding forty poles in extent which is wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family."

Agricultural land and agricultural buildings coming within the scope of the foregoing definitions were entirely relieved from rates as from the 1st April, 1929. The derating section is 67 of the Local Government Act, 1929, and by sub-section (2) it is provided that agricultural land and agricultural buildings shall be deemed to have no rateable value for the purposes of the Valuation Lists then in force, and that no particulars with respect to such land or buildings shall be included in any subsequent Valuation List. It was the intention of the Legislature that this relief should go to the tenant and not to the landlord, paragraph 17 of the Tenth Schedule to the Local Government Act, 1929, providing that "the relief to occupiers of agricultural hereditaments granted by this Act shall not be taken into account by an arbitrator in determining for the purposes of section 12 of the Agricultural Holdings Act, 1923, what rent is properly payable in respect of a holding."

The question has been raised as to whether land which was not used as arable meadow or pasture ground *only*

should receive the benefit of derating. For example, a farmer may allow football to be played in winter on a field near the village, or a local Agricultural or Flower Show to be held, or an advertisement hoarding to be erected. The definition should be construed reasonably and the incidental use of agricultural land for other purposes should not deprive it of the benefits of derating. It is a question of degree how far the land is used for other purposes. The exclusion of "land kept or preserved mainly or exclusively for purposes of sport or recreation" indicate that **occasional** use for such purposes is not prohibited. Some limitation must be placed on the word "only" and it is qualified by the words "mainly or exclusively" used in the definition; otherwise, the benefit might be lost by the farmer's children playing in a field. With regard to agricultural land used for advertising purposes, the Central Valuation Committee recommend that if the plot of ground on which the hoarding stands can be said to be severable from the rest of the land, the plot might properly be separately valued and rated under section 3 of the Advertising Stations (Rating) Act, 1889. If not severable, it becomes a question as to whether such use is substantial and paramount, or merely incidental or subsidiary.

In a Scottish case it was held that land let as a Silver Fox Farm was not an agricultural hereditament, and not entitled to de-rating (*Inland Revenue v. Assessor for Ross*, 1930, *S.L.T.* 214).

"Land occupied together with a house as a Park"

It is impossible to lay down any general rule as to the interpretation of these words which must necessarily depend upon the circumstances of each case. The word "Park" is used in its popular sense as referring to the area of land surrounding or adjoining the Mansion House. It is a question of fact in each case as to whether such land is occupied *as a Park* with a view to increasing the amenities of the Mansion House, or if it is used as a meadow, or pasture or arable land. There is naturally a tendency on the part of Rating Authorities, where there is an increase of amenity

attached to a Mansion House, owing to its occupation with a Park, not to treat the Park as agricultural land. Where the Park is wholly dealt with as agricultural land (generally as part of the Home Farm) it should, however, be treated as agricultural land, and the amenity value due to its occupation with the House reflected in the assessment of the House itself with its gardens and pleasure grounds.

Agricultural Dwellinghouses

Agricultural dwellinghouses, that is, the farmhouse and agricultural workers' cottages occupied in connection with agricultural land, continue to be liable for rates. The basis of assessment is laid down in section 72 of the Local Government Act, 1929, which reads as follows—

"As from the first day of April, nineteen hundred and thirty, the gross value for rating purposes of a house occupied in connection with agricultural land and used as the dwellinghouse of a person who—

- (a) is primarily engaged in carrying on or directing agricultural operations on that land; or
- (b) is employed in agricultural operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed,

shall, so long as the house is so occupied and used, be estimated by reference to the rent at which the house might reasonably be expected to let from year to year if it could not be occupied and used otherwise than as aforesaid."

It is difficult to estimate the annual value of a farmhouse on this basis, without taking into account the value of the farm as a whole, and then deciding what proportion of that value represents the sum that the average tenant occupying the farm would pay for the house. The Agricultural Rates Order, 1896 (now obsolete), provided that if the buildings on a farm included a house, the minimum rateable value of the house and buildings should be one-eighth

of the rateable value of the undivided hereditament, and this proportion appears to have been very generally acted upon in the past. The Central Valuation Committee in the First Series of Representations recommended that in making new assessments under the Act of 1925, the proportions laid down in the Order of 1896 might continue to be observed, and advised that in average cases not less than 60 per cent. of the one-eighth should be allocated to the farmhouse. In the Second Series this opinion was modified by the statement that the proportions should not be regarded as hard and fast rules but as *the least*, to be increased in any case which warrants greater proportions, so as to secure as great a measure of equality and fairness in assessment as possible. Section 72 itself does not require that the value of the farmhouse should be a proportion of the value of the farm as a whole, and no Order has been made under it for guidance. The foregoing views are merely quoted as a general guide; and different proportions may be warranted by the facts of a particular case.

Paragraph (a) of the section applies to a house occupied by a bailiff or foreman acting for the owner of the farm, as well as to a house occupied by a farmer-owner or farmer-tenant. The Central Valuation Committee state that it is not necessary that the farmhouse should be situated on the agricultural land in question, but that there must be some connection between the two. A question may arise where a farmhouse is occupied with a farm by a person who derives part of his income from another business. Here again, it is largely a question of fact, and the word "primarily" in paragraph (a) of s. 72 should be noted. If the farm is managed as a farmer would manage it who is solely dependent on it for his livelihood, the farmhouse should be assessed under section 72. If, on the other hand, the farmhouse is occupied as a private residence and the farm used as an adjunct thereto, it may be difficult to substantiate a claim that it should be rated as a farmhouse.

With regard to cottages, the Central Valuation Committee say that provided a cottage is used as the dwelling-house of someone employed in agricultural operations on

agricultural land by the occupier of that land, and the employee's right to occupy the cottage is limited to the period of his employment, it is **not necessary that the cottage should be situated on the farm**, or that the farmer should be the landlord or rateable occupier of the cottage. Where such a cottage is let to a farm worker under a tenancy agreement, it would be advisable (although not essential) to include a specified provision that the cottage is only let to the workman while he is employed on the holding.

In an appeal to the Warwickshire Quarter Sessions in April, 1936 (*Viscount Feilding v. Warwickshire Assessment Committee*, *C.L.A. Journal*, June, 1936, p. 164) the landowner successfully contended that the gross value for rating purposes of a number of cottages occupied by agricultural labourers in a village, was the average rent payable by such labourers in the district. This had been estimated by the Warwickshire Agricultural Wages Committee at 3s. per week where it was deductible from the minimum wage in respect of a service cottage and where grants for reconditioning under the Housing (Rural Workers) Act, the rent to be charged had been limited by the County Council to 3s. per week as the "normal agricultural rent."

The Mansion House

Where the Mansion House and Park are occupied together, it is necessary to assess them separately, so that the appropriate deduction for repairs can be applied to each part of the hereditament (see schedule on page 107).

The remarks on page 9 as to the great difficulty of arriving at a fair estimate of the letting value of a Mansion House for income tax under Schedule A, apply equally to a rating assessment. An estimate based solely on superficial floor area would be wrong in principle, although the number and size of the rooms might fairly be taken into consideration in estimating the annual value. It is the fair letting value to an average tenant that must be estimated, and situation, accessibility and other factors all affect the question.

Industrial Hereditaments

Section 3 of the Rating and Valuation (Apportionment) Act, 1928, defines an industrial hereditament for the purpose of the 75 per cent. relief from rates as a hereditament "occupied and used as a mine or mineral railway or, subject as hereinafter provided, as a factory or workshop." The Ministry of Health issued in August, 1928, a "Memorandum as to the Compilation of Special Lists" which in paragraph 10 on page 6 provided that "generally speaking, premises, no part of which is registered under the Factory and Workshop Acts, will not be qualified for inclusion in the Special List as 'industrial hereditaments.'"

Estate Workshop or Sawmill

Apart from registration, the question as to whether a claim can be made for the inclusion in the Special List of an estate workshop or sawmill as an industrial hereditament, depends largely upon whether it is used to any extent for the purpose of preparing articles *for sale* (see Factory and Workshop Act, 1901, s. 149 (1), where the words used are "where manual labour is exercised by way of trade or for purpose of gain"). If, as is usually the case, the estate workshop and sawmill are used for the purpose of making or preparing articles for use on the estate, the question becomes more difficult. In *Curtis v. Skinner*, 95 *L.J.* 31, a place where a fishing-boat owner had his nets repaired for his own use was held not to be a "workshop" within the Factory and Workshop Acts. In a recent Scottish case, the Court held that an estate sawmill was not entitled to de-rating, on the ground that the sawmill was not used for trade or purposes of gain, but was merely necessary for estate work (*Inland Revenue v. Assessor for Perth*, 1930, *S.L.T.* 208).

Woodlands

The definition of "Agricultural Land" in section 2 (2) of the Rating and Valuation (Apportionment) Act, 1928, includes "land used for a plantation or a wood, or for the growth of saleable underwood or for both such purposes,

and not subject to any right of common" and as section 67 of the Local Government Act, 1929, derated agricultural land, it follows that woodlands coming within the scope of those words are entirely relieved from rates. The need for a special basis of rating for such woodlands, therefore, disappeared and by section 137 and the Twelfth Schedule, Part V of the Local Government Act, 1929, paragraph (1) of section 3, and sections 4 and 5 of the Rating Act, 1874, were repealed "as respects agricultural land." Sections 4 and 5 of the 1874 Act made land used for a plantation or a wood, or for the growth of saleable underwood, rateable, and set up the basis of assessment familiarly known as the "prairie value." If woodlands are occupied with a house as a park, or are used mainly or exclusively for sport or recreation, they would still be rateable on the 1874 basis.

It should be noted that the derating of woodlands applies to the value of the sporting rights over them, where both woodlands and sporting rights are in the same occupation. Sporting rights over derated woodlands are only liable to rates where they are legally severed from the occupation of the land, in the two following cases—

- (a) Where the woodlands are let, and the sporting rights are reserved to the owner.
- (b) Where the woodlands are in one occupation, and the sporting rights are let by deed under seal to another person.

Mr. Neville Chamberlain (then Minister of Health) said in the Committee Stage of the Rating and Valuation (Apportionment) Bill in 1928, that he was advised that "osiers" were included in the expression "saleable underwood" in section 2 (2).

Sporting Rights

Rights of sporting include "any right of fowling or of shooting, or of taking or killing game or rabbits, or of fishing" (*Rating Act, 1874, s. 6*).

Where land and the sporting rights over it are in the same occupation (that is, when both are occupied by the owner, or both are let to and occupied by a tenant), the assessment of the land takes into account any additional value due to the sporting, and this has been the method followed ever since land became subject to rates. Where such land is agricultural land, which is derated, it follows that the sporting value over that land is also relieved from rates. This applies to woodlands, provided it is "land used for a plantation or a wood, or for the growth of saleable underwood," and not "land kept or preserved mainly or exclusively for purposes of sport or recreation."

Sporting rights severed from the occupation of the land were not rateable previous to the passing of the Rating Act, 1874, which by paragraph (2) of section 3 made "rights of fowling, of shooting, of taking or killing game or rabbits, and of fishing, when severed from the occupation of the land" a rateable hereditament. The method of valuation and rating of sporting rights is laid down in section 6 of the Act, which reads as follows—

- "6. (1) Where any right of fowling, or of shooting or of taking or killing game or rabbits, or of fishing (hereinafter referred to as a right of sporting) is severed from the occupation of the land and is not let, and the owner of such right receives rent for the land, the said rights shall not be separately valued or rated, but the gross and rateable value of the land shall be estimated as if the said right were not severed; and in such case if the rateable value is increased by reason of its being so estimated, but not otherwise, the occupier of the land may (unless he has specifically contracted to pay such rate in the event of an increase) deduct from his rent such portion of any poor or other local rate as is paid by him in respect of such increase; and every assessment committee, on the application of the occupier, shall certify in the Valuation List or otherwise the fact and amount of such increase.

- "(2) Where any right of sporting, when severed from the occupation of the land, is let, either the owner or the lessee thereof, according as the persons making the rate determine, may be rated as the occupier thereof.
- "(3) Subject to the foregoing provisions of this section the owner of any right of sporting, when severed from the occupation of the land, may be rated as the occupier thereof.
- "(4) For the purpose of this section, the person who, if the right of sporting is not let, is entitled to exercise the right, or who, if the right is let, is entitled to receive the rent for the same, shall be deemed to be the owner of the right."

For the purposes of this section, a right of sporting is only to be treated as let when it is let by a lease under seal (*Swayne v. Howells* (1927), 1 *K.B.* 385). That case prevented a licensee being rated in respect of sporting rights. **A deed under seal is only necessary when the sporting rights are let to a third party who has no other legal interest in the land.** Where a landlord lets land to a tenant, reserving the sporting rights, they can be reserved by an agreement not under seal, the landlord having a legal interest in the land as reversioner. The words used in section 8 of the Game Act, 1831, with reference to reservation of sporting rights are "in any case where, by deed, grant, lease, or any written or parol demise or contract."

There was considerable difference of opinion as to the application in practice of sub-section (1) of section 6, that is, whether the value of sporting rights severed from the occupation of, and reserved to the owner of agricultural land, should be included in the value of the land and so become derated, or whether the sporting rights should be valued as a separate non-agricultural hereditament with the consequent liability to rates. The Central Valuation Committee advised in 1927 that the latter course should be taken "until the High Court otherwise decides." Some

Rating Authorities followed this advice, while others did not, with the result that the want of uniformity caused endless trouble and difficulty to owners of sporting rights. The C.L.A., therefore, came to an arrangement with the Board of Inland Revenue to test the point before the High Court, and Lord Hastings's Appeal in Norfolk was selected. The decision in this case was somewhat clouded by an apparently conflicting judgment in a case heard about four months earlier (*Towler v. Thetford Rural District Council*, reported in 94 J.P., p. 77). In Towler's case, however, the question was as to the validity of an order for the issue of a distress warrant for rates under a general rate made on the 12th October, 1928, and that turned on the validity of the assessment then in force. The result of the case was to prevent the owner of reserved sporting rights being rated in respect of them. In Lord Hastings's case (*Hastings v. The Revenue Officer for the Walsingham Rural District*, 1930; 2 K.B.D.; 278) the question of the assessment of reserved sporting rights was dealt with directly, and being the later decision is the authoritative one. It was the unanimous decision of the High Court in this case that **sporting rights severed** from the occupation of agricultural land, and reserved for the use of the owner thereof, constituted a **separate rateable hereditament**, and that the person rated in respect of them is not entitled to any rating relief in respect of such rights.

No definite ruling was given in Lord Hastings's case as to whether the occupier of the land or the owner who reserved the sporting rights when he let that land, was the person to be rated in respect of the sporting rights. It was, however, stated by the Lord Chief Justice that legislation subsequent to the Rating Act, 1874, had rendered the machinery in Section 6 (1) obsolete, but he added "I refrain from the task which has been indicated to the Court of settling the form of Valuation List which is suitable to the new circumstances."

The new law which created the difficulty is contained in section 67 of the Local Government Act, 1929, which provided "Total exemption of agricultural land (and

buildings) from rates." The effect of the section is that no person shall in respect of any period after the 1st April, 1929, be liable to pay rates in respect of agricultural land (or agricultural buildings) or be deemed to be in occupation thereof for rating purposes, and that no particulars with respect to such land (or buildings) shall be included in any subsequent Valuation List.

The actual point came before the King's Bench Division on the 17th and 18th May, 1933 (*Cleobury Mortimer R.D.C. v. Childe* 2 K.B.D. 368), in an appeal (before Lord Hewart, C.J., and Avory and Humphreys, JJ.) from the Cleobury Mortimer Petty Sessions, when it was held (unanimously) that the proper person to be rated where land was let and the sporting rights reserved to the owner was the owner of the severed sporting rights, and that he should be rated under Section 6 (3) and (4) of the Rating Act, 1874. It was held also that although an incorporeal hereditament of sporting rights can only be granted by deed under seal, the letting of land by an agreement not under seal which reserves the right of sporting to the owner, is a severance within the meaning of the Rating Act, 1874. This King's Bench decision, therefore, decides the question unless and until modified on appeal to a Higher Court.

The following is a summary of the position where sporting rights are exercised over agricultural land—

Separate Assessment—No Rating Relief

1. Owner occupies land and lets sporting by deed (lessor or lessee may be rated under s. 6 (2) Rating Act, 1874).
2. Owner lets land, and reserves sporting, exercising the rights himself (owner of land rated under s. 6 (3), (4), Rating Act, 1874).
3. Owner lets land, reserving sporting and lets the right, but not by deed (owner of land rated under s. 6 (3), (4), Rating Act, 1874).
4. Owner lets land, reserving sporting, and lets the right by deed (lessor or lessee may be rated under s. 6 (2) Rating Act, 1874).

5. Owner lets land and sporting rights together, and tenant sub-lets sporting rights by deed (lessor or lessee may be rated under s. 6 (2) Rating Act, 1874).

Combined Assessment of Agricultural Land and Sporting Rights—Both Derated

6. Owner occupies his land and sporting over it.
7. Owner occupies his land, and lets sporting, but not by deed.
8. Owner lets land and sporting together.

If a legal letting of sporting rights provides for payment of rates and keeper's wages by the lessor, the amount of these payments, being tenant's outgoings, should be deducted from the rent to arrive at the value for rating purposes. No "Gross Value" would appear in the Valuation List; the net annual value would be ascertained under Section 22 (1) (b) of the R. and V. Act, 1925.

Rating of Fishing Rights

Sporting rights include rights of fishing and the summary given above applies to both shooting and fishing rights. Normally the riparian owner owns the bed of a stream to the centre, and has the right of fishing by virtue of his ownership of the bed and not of the adjoining bank. A stream is land covered with water, and until recently no decision of the Courts was available to indicate whether the bed of a stream could be held to be agricultural land within the scope of the definition in the Act of 1928 (*see page 108*). In the case of *Charles Watkins v. Herefordshire Assessment Committee*, heard in the King's Bench Division on the 16th December, 1935, the point turned on what the predominant use of the stream was, whether agricultural or sporting. On the evidence heard in that appeal from Quarter Sessions it was held (a) that the bed of the stream was part of the agricultural land comprising Mr. Watkins's farm, as the use of the stream for fishing was subsidiary, (b) that the bed of the stream was part of the adjoining field just as much as the bed of a pond was, and (c) that drinking places for stock are part of their pasture ground.

In this case it was contended that although the fishing had been verbally let for £14 a year (that is, there was no legal severance) the annual value of the farm would have been £60 a year less without the stream. It was used for watering stock, washing sheep, and gravel from the bed was used for farm repairs.

Extraordinary Traffic

A charge under this head made by a rating authority, is not a rate, but is referred to in this chapter as it may arise in connection with haulage of home-grown timber after an extensive felling.

Section 54 of the Road Traffic Act, 1930 (which takes the place of Section 23 of the Highways and Locomotives (Amendment) Act, 1878, and Section 12 of the Locomotives Act, 1898, now repealed), provides that where the Surveyor to a Highway Authority certifies that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred in repairing a highway owing to damage caused by *excessive* weight passing along the same, or extraordinary traffic thereon, the Authority may recover from the person by whose order such weight or traffic has been conducted the amount of such extraordinary expenses.

It was held in *Geirionydd R.D.C. v. Green and Another* (1909), 25 *T.L.R.* 282, that haulage of timber along a road may constitute extraordinary traffic, although timber growing, timber felling and timber hauling is a recognised industry in the district in which the road is situate. A very similar decision was reached in *Norfolk C.C. v. Green and Another* (1904), 90 *L.T.* 451.

In *Williams v. Davis* (1880), 44 *J.P.* 347 (Appeal from Justices) Lush, J., said: "What the traffic was to be compared with was the ordinary traffic along the road." Whether the traffic or weight is extraordinary or not, is a question of fact. Where timber felling is regularly carried out year by year, timber hauling may well form part of the ordinary traffic along the roads in the locality, especially if it is done with the usual horse-drawn timber

wagons, carrying a reasonable weight which the by-roads likely to be used for such traffic will stand. On the other hand, where a large area is felled, and heavy traction engines are used for hauling, damage may be done to the roads much in excess of ordinary wear and tear, and so give rise to a claim. It should not be forgotten, however, that the land on which such timber grew has borne its share of highway rates during a long period of growth.

Rating of Machinery

The principle on which buildings containing machinery and plant are to be rated is that the rent which it is estimated that a tenant would give for the buildings, land, machinery and plant, must be estimated as if the landlord supplied the whole at his own expense.

Section 24 of the Rating and Valuation Act, 1925, provides that only the machinery coming within the classes specified in the Third Schedule to the Act shall be included in making the assessment, and all other machinery and plant is to be disregarded.

“Classes of Machinery and Plant to be deemed to be Part of the Hereditament”

“1. Machinery and plant (together with the shafting, pipes, cables, wires, and other appliances and structures accessory thereto) which is used or intended to be used, mainly or exclusively in connection with any of the following purposes, that is to say—

- (a) the generation, storage, primary transformation or main transmission of power in or on the hereditament; or
- (b) the heating, cooling, ventilating, lighting, draining, or supplying of water to the land or buildings of which the hereditament consists, or the protecting of the hereditament from fire:

Provided that, in the case of machinery or plant which is in or on the hereditament for the purpose of manufacturing operations or trade processes, the fact that it is used in connection with those operations or

processes for the purpose of heating, cooling, ventilating, lighting, supplying water, or protecting from fire shall not cause it to be treated as falling within the classes of machinery or plant specified in this Schedule.

2. Lifts and elevators mainly or usually used for passengers.

3. Railway and tramway lines and tracks.

4. Such part of any plant or any combination of plant and machinery, including gas holders, blast furnaces, coke ovens, tar distilling plant, cupolas, water towers with tanks, as is, or is in the nature of, a building or structure."

The section also provided for the appointment of a committee to prepare a statement setting out in detail the machinery and plant coming within the Schedule. This statement was substituted, as provided by s. 24 (5) of the Act for the Third Schedule by "The Plant and Machinery (Valuation for Rating) Order, 1927" (S.R. & O. 1927, No. 480), and the statement may be revised at intervals.

The occupier of any rateable hereditament containing machinery and plant may require the rating authority or Assessment Committee as the case may be, to furnish him with particulars in writing showing what machinery or plant has been treated as forming part of the hereditament. A Panel of Referees is constituted, to whom disputes as to whether any particular machinery or plant should be included in the assessment or not, may be referred with the written consent of the parties to an objection, proposal or appeal.

Parish Councils

The expenses of a Parish Council are payable out of the General Rate. The Parish Council cannot incur expenses involving a rate exceeding 4d. in the £, or which will involve a loan, without the consent of the Parish Meeting, nor can any expense involving a loan be incurred without

the approval of the County Council. The maximum sum which can be raised in any year with the consent and approval above referred to shall not exceed a rate of 8d. in the £ (*Local Government Act, 1894, s. 11, as amended by Local Government Act, 1929, s. 75*).

Special Statutory Provisions

(1) *Advertisement Stations (Rating) Act, 1889*.—Where land is used temporarily or permanently for advertising purposes, but is not otherwise occupied, the person who permits the land to be used or (if he cannot be ascertained) the owner thereof, shall be deemed to be the rateable occupier. Where any land or hereditament occupied for other purposes is also used temporarily or permanently for advertising purposes, the value of the land or hereditament shall be assessed so as to include any increased value from such use (*see also page 110*).

(2) *Statement of Rates Act, 1919*.—Every demand or receipt (including a rent-book or rent-card) for rent, which includes rates paid or payable by the owner instead of the occupier, shall state the amount of rates in accordance with the last demand from the rating authorities. The only exception to the Act, which applies to England and Wales only, is in the case of weekly lettings at inclusive rentals in any market established under or controlled by Statute.

(3) *Increase of Rent and Mortgage Interest (Restrictions) Act, 1920*.—Where the rent of a house within the provisions of this Act includes rates payable by the owner instead of the occupier, the owner may after giving the tenant one clear week's notice in writing, increase the standard rent by the amount of the increase in rates over the rates paid in the rate period including the 3rd August, 1914, or in the case of a house built at a later date, the rate period including the date when rates on the house were first paid. This applies where the increase is due to an increased rateable value, as well as to an increase in the rate itself (*Steel v. Mahoney (1918) W. N. 253*). The increase permitted is the

actual amount paid by the landlord, *i.e.*, rates less commission allowed (*Nicholson v. Jackson* (1921). *W.N.* 251).

(4) *Rent Restrictions (Notices of Increase) Act, 1923*.—The Courts held that the Act of 1920 did not enable a landlord to charge increased rent during the currency of a tenancy, so that a formal notice to quit was necessary in addition to the statutory notice of intention to increase the rent. The amending Act of 1923 provided that a notice of intention to increase the rent shall have effect as if it were a notice to terminate the tenancy on the day immediately preceding the day as from which the notice is to take effect, so that a notice to quit is not required to legalise the permitted increase of rent in respect of increased rates.

Objections and Appeals

What can a ratepayer do, who is dissatisfied with his assessment, either because it is excessive or because it is unfair in comparison with the assessments made on other ratepayers in the area? The first step is to make an **objection** before the appropriate Assessment Committee. The next step, if a satisfactory adjustment is not obtained, is to **appeal**, to the Standing Committee of Quarter Sessions. The decision on appeal is final as regards facts, but a point of law may be taken to a higher Court. The procedure is set out in detail in the following paragraphs, the references being to sections in the Rating and Valuation Act, 1925. An alteration made in an assessment as a result of objection or appeal, will take effect as from the commencement of the period in respect of which the rate is made.

(a) Objections to Draft Valuation Lists.

Any person (including in addition to the occupier, the County Valuation Committee, any Local Authority having power to levy a rate or to issue a precept to a Rating Authority, and the owner who compounds for rates) who is aggrieved by the incorrectness or unfairness of any matter in the draft list, or by the insertion therein or omission therefrom of any matter, or by the valuation as a single hereditament of a building or a portion of a building

occupied in parts, or otherwise with respect to the list, may lodge an objection with the Assessment Committee within twenty-five days from the date of deposit of the list (s. 26).

The only notice required is a notice of the objection in writing to the Assessment Committee, stating the grounds of the objection. It is the duty of the Assessment Committee within three days after the date on which the objection is lodged to send a copy to the Rating Authority and to the occupier of a hereditament which may be affected by it (*Fourth Schedule, Part II*).

Meetings must be held by the Assessment Committee to hear objections when the objector, the Rating Authority, the County Valuation Committee and the occupier of the hereditament to which the objection relates are entitled to appear and be heard, and to examine any witnesses and to call witnesses (s. 29). Normally, such meetings will be held after thirty days from the date of deposit of the draft list. At least fourteen days' notice of such meetings must be sent to the Rating Authority, and at least fourteen days' notice is to be given to the objector, and to the occupier of any other hereditament concerned. On the consideration of any objection any valuer employed by the Assessment Committee may be called as a witness. No party to the objection, or witness or valuer employed by the Assessment Committee, shall be present when the Committee consider their decision. When the Committee have determined the matter, notice of the decision shall be sent to the objector, to any other occupier concerned, and to the Rating Authority. This notice must state that any person aggrieved by it may appeal against it, and it must specify the time within which and the manner in which such an appeal may be made (*Fourth Schedule, Part III*).

(b) Objections to Current Valuation Lists.

In the years intervening between the quinquennial revisions of the Valuation List, an objection to any matter in the Valuation List in force may be made by a proposal for amendment (s. 37).

The proposal must be made in writing to the Rating Authority specifying the grounds on which the amendment is supported. The Rating Authority must within seven days send a copy to the occupier of *any other hereditament concerned*, and within twenty-one days of the date of the meeting at which the Assessment Committee will consider the proposal, send him a notice of the meeting, informing him that he may give the Rating Authority a written notice within seven days of the meeting, stating the grounds of his objection, if any, to the proposal for amendment. In *R. v. West Norfolk Assessment Committee ex parte F. B. Ward*, a Court of Appeal case heard on the 12th May, 1930, it was held that it was not necessary to state in the proposal the amount to which the ratepayer desires the assessment to be reduced. If the occupier does not give the required notice, he will not be entitled to be heard at the meeting. If such a notice of objection is received, the Rating Authority must send a copy to the person making the proposal, and if they intend to object, they must also give him notice of their intention, stating the grounds of their objection. The Assessment Committee deals with "a proposal" as if it were an objection to a draft list, and a person aggrieved by the decision of the Assessment Committee has a similar right of appeal.

(c) Appeals.

Any person aggrieved by the decision of an Assessment Committee on an objection to a draft list, may (s. 31 (i)) within twenty-one days from the date of final approval of the list (*Fifth Schedule, Part I, para. 1*), or from the date of the decision if it is given after the final approval (*Fourth Schedule, Part III, para. 10*), and on a proposal for amendment of a Valuation List in force, twenty-one days after the date of the decision (s. 37 (8)), give notice of appeal specifying the grounds to the Clerk of the Court of Quarter Sessions. A copy of the notice of appeal must also be served by the appellant within twenty-one days on—

- (i) the Rating Authority;
- (ii) the occupier of any hereditament affected.

The Clerk of the Court will enter the appeal for hearing at the next sitting of the Court to be held after the expiration of thirty-five days from the date on which the list was finally approved, but on the application of any party to the appeal, the hearing may be postponed (*Fifth Schedule, Part I*).

Quarter Sessions have continuous jurisdiction through a Standing Committee of County Justices appointed by Quarter Sessions for the purpose of hearing rating appeals. The sittings of this Committee will be held at one or more places, having regard to the convenience of parties to the appeal. If the rateable value of a hereditament to which the appeal relates does not exceed £100, any party to the appeal may appear by Solicitor instead of in person or by Counsel (s. 32). Any person on whom a copy of a notice of appeal has been served may appear as respondent, but where there is more than one respondent, no order shall be made against the appellant for payment of the costs of more than one respondent (s. 31 (2)). The Assessment Committee may be ordered to pay costs if there is no other respondent, even if it does not appear (s. 32 (3)).

On the determination of an appeal, **any party who is dissatisfied with the decision of the Court as erroneous in point of law, may apply in writing within twenty-one days to have a case stated for the opinion of the High Court.** The Court shall, unless it is of opinion that the application is frivolous, state a case accordingly, and may impose such conditions as it thinks fit, with regard to payment of costs (s. 31 (5)).

The parties to an appeal may by agreement in writing refer the matter in dispute to **arbitration** (s. 31 (6)). If the parties cannot agree on an arbitrator, he would be appointed by the President of the Chartered Surveyors' Institution (*Fifth Schedule, Part II*). Alternatively, the parties may agree in writing to appoint a person to **value any hereditament** or any part thereof, and to accept the valuation as binding for the purposes of the appeal (s. 31 (6)).

Any party to an appeal may (that is, without the consent

of the others) apply to the Court to appoint a person to value the hereditament in respect of which an appeal is made, the costs of such valuation to be paid in the first instance by the applicant. The Court may, and on the application of any party to the appeal shall, call as a witness the person so appointed (s. 33).

The Secretary of State was given powers to make rules with respect to practice and procedure in rating appeals (s. 34). They were issued on 29th April, 1927 as "The Rating and Valuation Act (Assessment Appeals) Rules, 1927" (*S.R. and O.*, 1927, No. 416).

Baines' Act

Under Section 11 of the Quarter Sessions Act, 1849 (commonly known as "Baines' Act) where (a) there are no facts in dispute, (b) the parties consent, and (c) an order of a judge is obtained, it is possible to short-circuit an appeal to Quarter Sessions, by stating a case on point of law direct to the High Court. Such a course is clearly inadvisable if any question of fact is involved which should be argued before Justices in the first instance.

CHAPTER X

LAND DRAINAGE RATES

THE object of this Chapter is to describe the basis of **Land Drainage Rates**. Except in a few cases where such rates may be charged under **Private Inclosure Acts**, land drainage rates are now levied under the provisions of the **Land Drainage Act, 1930**. That Act was passed on the 1st August of that year to amend and consolidate previous enactments relating to the drainage of lands. This important statute provided the machinery for setting up comprehensive Land Drainage Authorities, giving those authorities the powers to carry out necessary works and to raise funds to pay for them.

The general scheme of the Act is to bring the whole **Catchment Area** of a main river—**uplands** which previously had borne no liability, as well as **lowlands**—under the control of a **Catchment Board**, charged with the duty of looking after the **main river**, including the banks thereof. The main river takes the drainage discharged from the uplands on to the lowlands, and consequently both are required to contribute proportionately towards the cost of maintaining the main river. A Catchment Board is not however given any power to levy a direct rate, but obtains its revenues by precepting on the County Councils (in so far as such revenues are not raised by other means). The County Council recovers this expense in the same way as other local services, through the **County Rate**. As agricultural land and agricultural buildings are not charged with that rate, they do not contribute through that channel to the expenses of the Catchment Board. Catchment Boards may also precept on Internal Drainage Boards (see below) and may receive Government Grants for new works or improvement of existing works.

Lowlands which would benefit directly or at all events

escape flooding as a result of drainage works, are controlled by **Drainage Boards**, which usually are **Internal**, that is within a Catchment Area, or in certain cases **External**. These Drainage Boards have power of rating hereditaments within their respective districts. Such land drainage rates are not "rates" within the meaning of the Rating and Valuation Act, 1925, so the **derating provisions** of the Local Government Act, 1929, do not apply to them.

Land Drainage Rates Levied by Drainage Boards

The expenses of Internal and External Drainage Boards, including any contribution to the expenses of a Catchment Board (except in so far as they are met by precepts on Catchment Boards, *e.g.*, where a Drainage Board has to deal with a large volume of water from uplands) are raised by means of **Drainage Rates** (s. 24).

A rate made by a drainage board may be either—

- (a) **An Owner's Rate**, to pay for new works or improvement of existing works, and Catchment Board's charges; or
- (b) **An Occupier's Rate**, to pay for other general expenses.

Both **Owner's Rate** and **Occupier's Rate** are assessed and levied on occupiers in the first instance (the owner being the occupier where a hereditament is unlet), but a tenant who has paid an owner's rate is entitled to **recover the amount from the owner** (s. 26 (4) (c)).

Annual Value

A Drainage Rate must be an annual value rate, assessed at a uniform rate per pound over the Drainage Board's area—

- (a) in the case of **agricultural land** (see definition) on the annual value of the land; and
- (b) in the case of any other land, on one-third of the annual value thereof.

"Annual Value" means the gross annual value for Income Tax Schedule A. The Drainage Board is authorised to

make any necessary apportionments of annual value, and to determine the annual value where no assessment has been made under Schedule A. In the case of a farm an apportionment will be required between the value of (a) the agricultural land to be charged on the annual value, and (b) the value of the farmhouse, farm buildings and cottages which are only liable to assessment at one-third of the annual value.

Notice of an apportionment or determination of annual value by the Board must be served on owner and occupier of the land, who may appeal to a Court of summary jurisdiction within 28 days (s. 29). No such objection can be raised on an appeal to Quarter Sessions against a rate (s. 30 (1)) or in proceedings for recovery of rates (s. 31 (3)).

"Land" includes water and an interest in land or water and any easement or right in, to, or over land or water (s. 81), and also "messuages, tenements, hereditaments, houses and buildings of any tenure" (*Interpretation Act, 1889, s. 3*). Drainage Rates cannot be levied on tidal lands, that is, lands below the high water mark of ordinary spring tides (s. 77).

"Agricultural Land" means any land used as arable, meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one-quarter of an acre used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act, 1922, but does not include land occupied together with a house as a park, gardens (other than as aforesaid), pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation or land used as a racecourse (s. 29).

Operation and Incidence of Rates (Sec. 26)

A drainage rate is made for twelve months or six months as determined by the Board, which also has power to make a supplemental rate. Every drainage rate and every demand for a drainage rate must be made in a prescribed form (*see Statutory Rules and Orders, 1930, No. 955*).

Publication of Drainage and Amendment Rate (Secs. 27 and 28)

Notice of every drainage rate must be given by the Drainage Board, within ten days of the making thereof (s. 27). This is usually done by newspaper notice. Notice of any amendment in a rate must however be served on the owner and occupier of every hereditament affected (s. 28).

Appeal Against Rates (Sec. 30)

An aggrieved owner or occupier may appeal against a drainage rate or amendment of a drainage rate to Quarter Sessions. Notice of appeal specifying the grounds must be given within 28 days of the date on which the rate was made, or notice of amendment of rate was served (a) to the Court, (b) to the Drainage Board, and (c) if the appeal relates to a hereditament not in the ownership or occupation of the appellant, to the owner and occupier of that hereditament. The appellant and respondent may refer the matter in dispute to arbitration if preferred.

Recovery of Drainage Rates (Sec. 31)

Land Drainage Rates may be recovered in the same way as arrears of a General Rate may be recovered by a rating authority, namely, by distress under a justice's warrant.

CHAPTER XI

TITHE RENTCHARGE AND THE TITHE ACT, 1936

Introductory

TITHE Rentcharge and Extraordinary Tithe Rentcharge are now no more, having been extinguished on the 2nd October by the Tithe Act, 1936, the half year's instalment of those charges due on the 1st October, 1936, being the last payment to the tithe-owners. The Act substitutes **Redemption Annuities**, payable half-yearly on and after the 1st April, 1937, to the State for a period of 60 years, to provide the interest on the 3 per cent. Government Guaranteed Stock to be issued as compensation to the owners of tithe, and for the creation of a sinking fund to redeem the Stock at the end of the prescribed period. Owners of land upon which tithe was charged will in the future only be concerned with the provisions of the new Act, but before describing how those provisions affect them, the following particulars of the charges as we knew them in the past, may still be of interest and assistance in dealing with the subject, as the older tithe law is not wholly repealed.

PART I. HISTORICAL

Origin of Tithes

Tithes are of very ancient origin and are known to have been in existence in this country during the Anglo-Saxon period. They were classified as—

Predial Tithes. Arising directly from the soil, *e.g.*, corn, hay, wood, fruit and herbs.

Mixed Tithes. The produce of animals feeding on the land, *e.g.*, calves, lambs, milk, wool and eggs.

Personal Tithes. Due only by special custom in certain parishes, and payable out of the net profits of a trade or calling.

Tithes were also distinguished as—

Great Tithes. Corn, hay and wood.

Small Tithes. All other predial tithes and mixed and personal tithes.

Tithes were originally payable to the Rector (the word means Ruler) or Parson of the Parish, such tithes being known as Rectorial Tithes.

Subsequently many Rectories were appropriated by Spiritual Corporations, which may have been aggregate, *e.g.*, Monasteries, or sole, *e.g.*, a Bishop. These Corporations retained the greater portion of the tithes, hence the term "Appropriate Tithes." They appointed a Vicar (the word means Deputy) to act as Incumbent of the Parish, to whom they allotted a small proportion of the tithes, which consequently became known as Vicarial Tithes. Appropriate Tithes were payable to the Dean and Chapter of a Cathedral and were called Capitular Tithes.

When Monasteries and other religious houses were dissolved in the reign of Henry VIII, their appropriations of tithes became vested in the Crown. Many were afterwards granted to other spiritual corporations, and in other cases to laymen who became Lay Rectors owning Lay Tithe. The latter were also distinguished as Impropriators, and the tithes payable to them Improprate Tithes.

Nature of Tithes

The following legal definition appears to be the most generally known description of Tithes—

"The tenth part of the increase yearly arising from the profits of lands, stocks upon lands, and the industry of the parishioners, payable for the maintenance of the parish priest, by everyone who has things titheable, if he cannot show a special exemption."

Most of the land in England and Wales was subject to tithe, and on all titheable lands, one-tenth of the produce belonged to the tithe-owner, and nine-tenths to the owner and occupier of the lands. Land has been bought, sold,

rated and taxed, and in more recent times valued for Death Duties, subject to the tithes charged upon it.

Tithes were not levied by the State as a tax for the endowment of the Church; they were a part of the annual produce of the land, originally voluntary contributions, which in course of time became customary dues, and later acquired the force of law.

Generally speaking, tithes were paid in kind up to the passing of the Tithe Commutation Act, 1836, subject to exceptions in certain parishes, where, owing to difficulties of collection they were commuted by agreement for money payments. The earliest of these was called a "Modus," and at later dates a "Composition Real," both consisting of a fixed money payment per acre. During the seventeenth and eighteenth centuries, much of the land was inclosed, and Inclosure Acts frequently made provisions for the commutation of tithes. In the majority of cases, tithe was commuted for allotments of land, but in some instances for annual money payments called Corn Rents either fixed or subject to variation at specified intervals of 5, 7, 14, 15 or 21 years according to the average price of corn during specified periods of years immediately preceding the ascertainment. In order to ascertain the exact nature of a Corn Rent it is necessary to consult the local Act under which it is payable, or the award made under such an Act. A corn rent does not come within the definition of "tithe rentcharge"; it was not recoverable under the Tithe Act, 1891; the method of recovery depending on the terms of the Act creating it. A Corn Rent was convertible into a tithe rentcharge on application to the Ministry of Agriculture and Fisheries. Where the foregoing money payments were attached to a benefice or payable to an ecclesiastical corporation, they were transferred to Queen Anne's Bounty as from the 1st April, 1927, but were not otherwise affected by the provisions of the Tithe Act, 1925.

The Commutation of Tithe

On the 13th August, 1836, the Tithe Commutation Act was passed, which converted tithes payable in kind into

Tithe Rentcharge. Tithes Commissioners were appointed to carry out its provisions, and these Commissioners were subsequently merged in the Ministry of Agriculture and Fisheries. In each parish the sum representing the annual value of tithes previously paid in kind was fixed, by agreement where possible, and failing agreement, by award of the Commissioners.

Surveyors were then appointed who made a survey of each parish or other district treated as a separate district for the purposes of tithe commutation, prepared tithe maps and apportioned the tithe rentcharge over the titheable lands in the parish, the records being made in the tithe apportionment, which has a Schedule of particulars with references to numbered enclosures on the map. Some of these apportionments charged each enclosure separately and were called field apportionments; others charged each occupation in one sum and were known as farm or occupation apportionments. In rare instances, the land in one ownership was charged with a lump sum.

Custody and Inspection of Tithe Documents

The original tithe maps and apportionments (which were prepared at the expense of the landowners concerned and not at the cost of the State), together with altered apportionments, Certificates of Redemption, Declarations of Merger, and Certificates of Capital Value of extraordinary tithe rentcharges were filed at the Tithe Branch of the Ministry of Agriculture (7, Old Bailey, London, E.C.4), and were open to be inspected on payment of a fee of 2s. 6d. per day for each document. Alternatively, the boundaries of a property were coloured on a 25 in. Ordnance sheet, on a plan forwarded to the Ministry for information as to the tithe rentcharge on the property. The charge was 5s. for a property of not more than 10 acres, 10s. between 10 and 30 acres, and a further 5s. for every additional 30 acres or fraction of 30 acres.

The Tithe Act, 1836, s. 64, provided that one certified copy of the Tithe Map and Apportionment should be deposited at the Diocesan Registry, and another with the

Incumbent and Churchwardens of the parish, to be kept by them and their successors in office with the public books, writings and papers of the parish. Sealed copies of altered apportionments and Certificates of Redemption were also deposited. It was also provided that all persons interested should have access to and be furnished with copies of or extracts from any such copy on giving reasonable notice to the persons having the custody of the same, and on payment of 2s. 6d. for each inspection and after the rate of 3d. for every seventy-two words contained in such copy or extract.

Section 17 of the Local Government Act, 1894, gave Parish Councils the power to give directions as to the custody in which these parish copies should be deposited, and any difference arising as to custody or access is to be determined by the County Council.

Tithe Documents in Wales

The Welsh Church Act, 1914, transferred the custody of the Diocesan Registry copies in Wales and Monmouth to the Welsh Church Commissioners, whose offices are at 83, Eaton Place, London, S.W.1. Copies formerly in the hands of Incumbents of Parishes are now in the custody of County Councils.

Basis of Computation

The Tithe Act of 1836 provided for payment of tithe rentcharge according to the average prices of wheat, barley and oats.

The Commuted Value (sometimes referred to as the par value) of tithe rentcharge was therefore expressed in terms of corn, as follows—

| Commuted Value | Bushels | | Price (average of seven preceding years) |
|----------------------|------------|--------|--|
| £33 6 8 equals | 94.955489 | Wheat | at 7s. 0½d. |
| 33 6 8 „ | 168.421042 | Barley | at 3s. 11½d. |
| 33 6 8 „ | 242.424242 | Oats | at 2s. 9d. |
| <hr/> £100 0 0 <hr/> | | | |

In each subsequent year the number of bushels of each kind of corn as shown above, at the average price per bushel during the seven preceding years, gave the percentage value of tithe rentcharge for the year. Tables were published from which the annual value of any amount of tithe rentcharge may be ascertained.*

The Septennial average operated until 1918, when, under the provisions of the Tithe Act of that year, the 1918 value of £109 3s. 11d. was fixed for the years following until the 1st January, 1926. After that date, the Act provided that the annual values of tithe rentcharge should be based on the average prices of corn during *fifteen* preceding years.

The Tithe Act, 1925, continued the 1918 value until an Appointed Day to be fixed by Order in Council (s. 26 (2)), after which the annual value of all tithe rentcharge became **stabilised at \$105 for every \$100**, commuted value (s. 1). The Appointed Day for this purpose was the 31st March, 1927.

Total Value and Ownership of Tithe Rentcharge

The total commuted value of tithe charged on the land in England and Wales under the Act of 1836 was £4,054,406. Since then, this amount has been reduced by redemption, merger and otherwise to about £3,163,600 at the end of 1934, distributed approximately as follows—

| | |
|--|------------|
| Incumbents of Benefices | £1,992,300 |
| Ecclesiastical Commissioners | 274,000 |
| Ecclesiastical Corporations | 95,700 |
| Welsh Church Commission | 205,500 |
| Charities, Schools, Colleges and Individual lay owners | 576,200 |

The ownership of tithe rentcharge in Wales was vested in the Welsh Church Commissioners (*Welsh Church Acts, 1914 and 1919*) (subject to the life interests of incumbents who held livings at the date of the passing of the 1914 Act) for the purpose of ultimate transfer to the County

* Millard's *Tithe Rentcharge Tables*. Published by Shaw & Sons, Fetter Lane, E.C.4. Price 2s. 6d. net.

Councils of Wales and Monmouthshire, and the University of Wales. They were not, therefore, ecclesiastical tithes, and there was no sinking fund payment. They were collected by the Welsh Church Commissioners and not by Queen Anne's Bounty.

The rate per acre at which land in different parishes was charged with tithe varies, but the average over the whole of the titheable lands in the country was probably about 3s. 6d. an acre.

Altered Apportionments

When an area charged with tithe in one sum was sold in lots, it was customary for the vendor's agent or auctioneer to make an Informal Apportionment for purposes of sale. **Such apportionments were not legally enforceable, and were not binding on the owner of the tithe rentcharge.**

The legal method of subdivision of tithe rentcharge was by means of a formal Altered Apportionment confirmed by the Ministry of Agriculture and Fisheries, the general rule being that an altered apportionment could only be made on the application of the landowner, the expense being borne by him. An apportionment of tithe rentcharge could not be subdivided into smaller amounts than 5s., unless the owner of the tithe consented or unless the landowner applied for an order of redemption as soon as the altered apportionment was made (*Tithe Act, 1925, s.18 (1)*).

In Field Apportionments, alterations were made, as a general rule, according to area, but in Farm Apportionments, the tithe was re-apportioned in proportion to the annual value of the different enclosures at the time of making the alteration. It was possible to free a part of an area subject to tithe, and charge the whole on the remainder, subject to certain conditions, the chief of which were that the owner of the remainder consented, and that the annual value of the remainder was not less than three times the value of the tithe proposed to be charged upon it. An informally apportioned amount of tithe rentcharge could not be redeemed until a legal altered apportionment was obtained.

Payment of Tithe Rentcharge

The liability of any land to tithe rentcharge was ascertainable by inspection of the Tithe Maps and Apportionments, care being taken to search for particulars of altered apportionments, certificates of redemption or declarations of merger.

There was no *personal* liability for the payment of tithe rentcharge, which in the event of non-payment could only be recovered from the land. In purchasing land it was necessary to ascertain whether it was liable to tithe rentcharge, as the vendor is not required by law to disclose such a liability, and also if any tithe rentcharge to which it might be liable was paid to date, otherwise the new owner became liable for payment of arrears.

Under the Act of 1836 the occupier of the land continued to be liable for payment of tithe rentcharge, but the Tithe Act, 1891, made the owner of land liable for payment of the rentcharge, and any contract for payment by the tenant when the land was let was void, unless the contract of tenancy was entered into before the passing of the Act (26th March, 1891). In such a case the landowner who paid the tithe could recover it from the tenant.

Tithe rentcharge became due half-yearly, and was payable on 1st April and 1st October in some cases, or in others on 1st January and 1st July, until the passing of the Tithe Act, 1925, which made all tithe rentcharge, ecclesiastical and lay (including extraordinary tithe rentcharge but not Corn Rents), payable on the 1st April and 1st October.

Recovery of Tithe Rentcharge

The Tithe Act, 1891, provided for recovery of tithe rentcharge through the County Court (s. 2).

Tithe rentcharge under this Act did not include corn rents, extraordinary tithe rentcharge, or rentcharges in respect of tithes on any gated or stinted pasture, nor a sum or rate payable for each head of cattle or stock turned on land subject to Common rights or held or enjoyed in common.

No proceedings could be taken until the tithe rentcharge had been in arrear for not less than three months, and had to be taken within a period of two years from the date on which it became due, otherwise the amount was not recoverable.

Where the owner was in occupation of the land, an order of the County Court was carried out by distraint, and if there was not sufficient distress, the tithe owner could proceed to obtain possession of the land under s. 82 of the Tithe Act, 1836, unless the claim was discharged.

Where the land was let, a receiver of the rents was appointed by the Court, and if the rents were insufficient to meet the claim, the Court could order a distraint, and the occupiers were then entitled to deduct from the rent what they had to pay, or recover the sum from the landlord.

The effect of the Statutes of Limitations upon the recovery of tithe rentcharge involved consideration under legal advice of the facts of each case. The general rules are given in Millard's "Law of Tithe Rentcharge" as follows—

"In the case of tithe rentcharge belonging to a rector, vicar, master of a hospital, or other spiritual or eleemosynary corporation sole, the period during which two persons in succession shall have held the benefice or office in respect of which the tithe rentcharge is claimed, and six years after a third person shall have been appointed thereto, if the times of two such incumbencies and such term of six years taken together amount to sixty years; and, if not, then such further number of years as will with the time of the two incumbencies and such six years make up the full period of sixty years (*Real Property Limitations Act, 1833, ss. 29 and 34, and Asplen v. Pallin, 1917, 1 K.B. 187*).

In the case of tithe rentcharge not belonging to a spiritual or eleemosynary corporation sole, the period is twelve years (*Real Property Limitation Act, 1874, s. 1, and Irish Land Commissioners v. Grant, 10 App. Cas 31*)."

It was stated, in reply to a question in the House of Commons on the 13th July, 1931 (*Official Report*, col. 40), that a person who has paid tithe rentcharge to a tithe owner under a mistake of fact (including cases where a landowner has paid tithe rentcharge on demand under a mistaken impression that he was owner of the land charged) was entitled to recover from the tithe owner the amount paid by mistake.

Remission of Tithe Rentcharge

The Tithe Act, 1891, Section 8, provided that where an owner of tithe rentcharge has given notice to the Registrar of the County Court of his intention to apply to the Court for recovery of tithe rentcharge due to him, the tithe-payer could make an application to the Court for remission. Where the Court was satisfied that the total amount of tithe rentcharge claimed on land used solely for agricultural or pastoral purposes, or for the growth of timber or under-wood, for the period of twelve months next preceding the day on which the sum claimed became payable, exceeded "two-thirds of the annual value of the lands as ascertained and entered in the assessment for the purpose of Schedule B," the Court ordered the remission of the excess. If the Court was satisfied that neither such remission, nor the liability thereto, had been taken into account in rating the tithe rentcharge, the Court had power to remit a proportionate amount of the current rate assessed on the tithe rentcharge.

The Commissioners of Taxes were required, on payment of 1s., to give a certificate of the annual value of lands for the purposes of this Section, and under the Tithe Rentcharge Recovery Rules, 1891, the certificate had to be produced at the hearing before the County Court. When the tithe-owner gave the Registrar of the Court notice of his intention to apply to the Court for recovery of his tithe rentcharge, notice of the application was served on the owner of the lands, who at least five clear days before the hearing, gave the Registrar notice of his intention to apply for remission. An application could not be made under this Section for remission of extraordinary tithe rentcharge.

and landowner might settle the amount of the redemption money by mutual agreement. In England, the ownership of ecclesiastical tithe was by the 1925 Act vested in Queen Anne's Bounty acting as Trustees. In Wales, where tithe was attached to a benefice, the consent of the Welsh Church Commissioners was required, and in the case of lay tithe, if it could not be sold without the consent of some person other than the tithe-owner, then it was necessary to obtain the consent of that person. In the absence of agreement between the parties, the amount of the consideration money was settled by the Ministry of Agriculture.

The *Tithe Annuities Apportionment Act, 1921*, enabled tithe annuities to be apportioned when required, as, for example, when parts of the land charged were sold.

Under Section 191 (1) of the Law of Property Act, 1925, a tithe redemption annuity might be redeemed by payment of a lump sum calculated by the Ministry of Agriculture.

The *Settled Land Act, 1925*, s. 73 (1) (ii), allowed trust capital to be applied in redemption of tithe charged on the settled land.

When tithe rentcharge was redeemed by payment of a lump sum, the tithe was extinguished after the next half-yearly payment was made. If the consideration money was paid, say, in March, the tithe rentcharge redeemed would be extinguished as soon as the half-yearly amount due on the 1st April following was paid. When redeemed by annuity, the tithe was extinguished as from the date on which the annuity commenced.

Redemption of Ecclesiastical and Lay Tithe Rentcharge without the Consent of the Landowner

(1) Where land was charged with a tithe rentcharge not exceeding 20s., redemption could be effected on the application of the owner of the tithe.

(2) Where land had been so divided into plots for building or other purposes that no further apportionment is practicable, the whole tithe rentcharge on the land might

a Rural Rating Area (without a special rate) of tithe rentcharge attached to a benefice, commuted value £500—

| | | | | |
|---|---|---|---|-----------------|
| Stabilised Value at £105 % | . | . | . | = £525 0 0 |
| <i>Deduct—</i> | | | | |
| First Fruits, Tenths and Ecclesiastical | | | | |
| Dues, say | . | . | . | £5 |
| Costs of collection, legal expenses and | | | | |
| bad debts, say | . | . | . | 30 |
| | | | — | 35 0 0 |
| | | | | <hr/> |
| Rateable Value, plus Rates | . | . | . | 490 0 0 |
| Less Rates, 10s. in the £ | . | . | . | 163 0 0 |
| | | | | <hr/> |
| Rateable value | . | . | . | <u>£327 0 0</u> |

The Rateable Value was arrived at by a simple proportion sum as follows—

As 30s. : 20s. :: £490 : R.V.

Tithe Rentcharge was not included in the classes of hereditaments set out in Part I of Schedule II of the Rating and Valuation Act, 1925. The assessment was therefore dealt with under Section 22 (1) (6) of that Act, and no "gross value" appeared in the Valuation List.

Objection and Appeal

The owner of tithe rentcharge had similar rights of objection and appeal to those enjoyed by occupiers of other rateable subjects. (See page 125.)

Recovery of Rates on Tithe Rentcharge

Rates were recoverable from an owner of tithe rentcharge in the same manner as from a ratepayer in occupation of any other hereditament. The Court had power to order the owner of titheable land to pay the tithe rentcharge to the rate collector in discharge of rates and costs, if the collector satisfied the Court that he was unable to recover rates from the tithe-owner (*Tithe Act, 1891, s. 6*).

Special Statutory Provisions

The Public Health Act, 1875, provided that all tithes and tithe rentcharge should be assessed at **one-quarter** of the rateable value for the general district rate of urban district councils, and the special expenses rate of rural district councils.

For the purpose of the *Lighting and Watching Act, 1833*, it was provided by s. 1 of the *Tithe Rating Act, 1851*, that the basis of assessment of all tithes and tithe rentcharge is **one-third** of the annual value.

The following provisions were applicable to ecclesiastical tithe rentcharge only. By the *Tithe Rentcharge (Rates) Act, 1899*, tithe rentcharge attached to a benefice was relieved from payment of **one-half** the rate in the £ (other than a rate to which the rentcharge was previously assessed at one-half or less than one-half) payable on buildings and other hereditaments. The remaining one-half was payable by the Commissioners of Inland Revenue out of the sums payable by them to the Local Taxation Account on account of the Estate Duty Grant. This relief was extended by s. 4 of the *Welsh Church (Temporalities) Act, 1919*, to tithe rentcharge formerly attached to a benefice, and affected by the *Welsh Church Act, 1914*, so long as the tithe rentcharge was vested in the Welsh Church Commissioners. The *Ecclesiastical Tithe Rentcharge (Rates) Acts, 1920 and 1922*, provided temporary relief in rating of ecclesiastical tithe rentcharge until the 31st December, 1925 (extended to the "appointed day" by s. 25 of the *Tithe Act, 1925*), which was fixed by Order in Council as the 1st October, 1926. During that period no rate was to be assessed on tithe rentcharge attached to an ecclesiastical corporation or benefice at a higher rate in the £ than was charged in the year 1918. In the case only of the tithe rentcharge attached to a benefice, if the total annual income arising from the benefice did not exceed £300, no rates were to be levied on the tithe rentcharge, and if such income was between £300 and £500, then only half the 1918 rate was to be charged. By the amending Act of 1922 it was provided that

where an incumbent held more than one benefice, they were to be considered as one benefice as far as any rate made on or after the 1st October, 1922, was concerned. No provision was made in the Acts of 1920 and 1922 for a contribution from the Exchequer to meet the resulting deficiency in rates, which consequently was borne by other ratepayers in the parishes affected. The Acts of 1920 and 1922 were repealed as from the 1st October, 1926.

The *Tithe Act, 1925*, made no change in the rating of lay Tithe Rentcharge, which continued to be liable to all rates as before. But rates on ecclesiastical tithe rentcharge transferred to Queen Anne's Bounty were, as from the 1st October, 1926 (the date upon which the repeal of the Ecclesiastical Tithe Rentcharge (Rates) Acts, 1920 and 1922, took effect), payable by the Commissioners of Inland Revenue. The Demand Notes for rates were sent by the Rate Collector to the District Surveyor of Taxes, and the Surveyor was given the same rights of objection and appeal as if he were the owner of the tithe rentcharge. For every £100 (commuted value) of ecclesiastical tithe rentcharge, £5 in the case of tithe attached to a benefice and £16 in the case of tithe owned by an Ecclesiastical Corporation was payable by Queen Anne's Bounty to the Commissioners of Inland Revenue (except where under special provisions tithe rentcharge was previously exempt from rates). The balance required to make up the rates charged on tithes was met by continuing to transfer from the Local Taxation Account the payment authorised by the Tithe Rentcharge (Rates) Act, 1899, augmented by a payment from the Consolidated Fund, certified annually by the Treasury.

B. Income Tax

The owner of tithe rentcharge was in practically all cases assessed direct to income tax under the General Rule of Schedule A (see page 7), and was therefore entitled to receive the full amount of the tithe from the landowner without deduction of tax.

The full annual value would be taken at £105 for every

£100 commuted value and from this the tithe-owner was entitled to claim—

- (a) Local rates charged in the preceding year.
- (b) Land Tax.
- (c) Expenses of collection.
- (d) Amount of first fruits and tenths, etc., paid in the year preceding the year of assessment.
- (e) Amount of procurations and synodals on a seven years' average.
- (f) Cost of repair of chancels borne by the tithe-owner in the preceding year.

Tithe rentcharge payable to the incumbent of a benefice was entitled to the earned income allowance of one-fifth (subject to a maximum deduction of £300), provided he made the necessary claim.

In cases where the tithe-owner was not assessed direct, but received his rentcharge less tax, he could claim the allowances to which he was entitled by way of repayment.

The Tithe Act, 1925, provided that the foregoing method of assessment of tithe rentcharge to income tax was not affected by its transfer to Queen Anne's Bounty, but the amount of income tax payable was paid by Queen Anne's Bounty, and deducted from the sum payable to the incumbent or ecclesiastical corporation (s. 8 (1)).

3. Land Tax (see Chapter VIII.)

Tithe rentcharge was usually assessed to Land Tax on the basis of the Poor Rate Valuation, unless the annual value for Schedule A had to be adopted after the passing of the Finance Act, 1896 (see page 90). If the total income of an incumbent did not exceed £160, he was entitled to relief from Land Tax, and if his income did not exceed £400 he was entitled to an abatement of half the amount of the tax. This right was not affected by the transfer of tithe attached to a benefice to Queen Anne's Bounty (*Tithe Act*, 1925, s. 8 (2)).

Redemption of Tithe Rentcharge

It had been usual to describe as a "voluntary redemption" of tithe the case in which a *landowner* made the application, knowing that he would have to bear the costs, and to speak of a "compulsory redemption" when the application was made by the *tithe-owner* or by an *owner of part* of the land charged with the tithe, resulting in the landowner or the owners of other parts of the land, as the case may be, being compelled to pay or contribute their share of the costs.

The Tithe Act, 1925, provided for general compulsory redemption on the annuity system of all ecclesiastical tithe rentcharge, which was transferred to Queen Anne's Bounty from the 31st March, 1927. **An annual sinking fund payment of £4 10s. 0d. for every £100 of tithe rentcharge** (commuted value) was payable from that date, for 85 years in the case of tithe previously attached to a benefice, and 81½ years where tithe was previously attached to an ecclesiastical corporation. The general redemption scheme of the 1925 Act *did not apply* to Extraordinary Tithe Rentcharge, or Corn Rents, tithe rentcharge owned by the Welsh Church Commissioners, nor to tithe rentcharge owned by the Ecclesiastical Commissioners, Colleges and other lay tithe-owners. In such cases redemption was carried out under the provisions of earlier Tithe Acts.

Ecclesiastical tithe rentcharge could be redeemed for a lump sum at any time, on the application of the landowner to the Ministry of Agriculture, but not for an annuity unless the tithe-owner agreed to this method, which might be for a period not exceeding 60 years (see page 152).

General Notes on Redemption

Although the landowner could redeem tithe to any amount without obtaining the consent of the owner of the tithe, it was advisable to obtain such consent if possible, as it obviated the serving of certain notices and so saved time and expense. In such redemption the tithe-owner

and landowner might settle the amount of the redemption money by mutual agreement. In England, the ownership of ecclesiastical tithe was by the 1925 Act vested in Queen Anne's Bounty acting as Trustees. In Wales, where tithe was attached to a benefice, the consent of the Welsh Church Commissioners was required, and in the case of lay tithe, if it could not be sold without the consent of some person other than the tithe-owner, then it was necessary to obtain the consent of that person. In the absence of agreement between the parties, the amount of the consideration money was settled by the Ministry of Agriculture.

The *Tithe Annuities Apportionment Act*, 1921, enabled tithe annuities to be apportioned when required, as, for example, when parts of the land charged were sold.

Under Section 191 (1) of the Law of Property Act, 1925, a tithe redemption annuity might be redeemed by payment of a lump sum calculated by the Ministry of Agriculture.

The *Settled Land Act*, 1925, s. 73 (1) (ii), allowed trust capital to be applied in redemption of tithe charged on the settled land.

When tithe rentcharge was redeemed by payment of a lump sum, the tithe was extinguished after the next half-yearly payment was made. If the consideration money was paid, say, in March, the tithe rentcharge redeemed would be extinguished as soon as the half-yearly amount due on the 1st April following was paid. When redeemed by annuity, the tithe was extinguished as from the date on which the annuity commenced.

Redemption of Ecclesiastical and Lay Tithe Rentcharge without the Consent of the Landowner

(1) Where land was charged with a tithe rentcharge not exceeding 20s., redemption could be effected on the application of the owner of the tithe.

(2) Where land had been so divided into plots for building or other purposes that no further apportionment is practicable, the whole tithe rentcharge on the land might

be redeemed on the application of the tithe-owner, or the owner of any plot.

(3) Where a tithe-owner satisfied the Minister of Agriculture that land was *about to be* subdivided into numerous plots, an order for compulsory redemption could be made (*Tithe Act, 1925, s. 19 (2)*).

(4) Where land was taken for public purposes, such as churches, chapels, schools under the Elementary Education Acts, cemeteries, sewage, gas or waterworks, town halls, gaols, courts of assize, lunatic asylums, hospitals, or other buildings or works used for public purposes, or in the carrying out of improvements under the Housing Act, 1925, or for enlarging or improving of premises used for any of the above-named purposes, the tithe rentcharge on the land had to be redeemed by the person or persons proposing to carry out the works, before such works were commenced. If such person or persons did not make the application to redeem, section 19 (1) of the Tithe Act, 1925, authorised the Minister to order the redemption on the application of the tithe-owner.

In any case, where the Minister proposed to order compulsory redemption of tithe rentcharge, he was required first to give notice of his intention, specifying the period (not less than 21 days) during which objections in writing could be submitted to him.

Redemption of Ecclesiastical Tithe Rentcharge Vested in Queen Anne's Bounty

The consideration for redemption was a sum calculated by the Ministry of Agriculture which would be sufficient when added to the sum accumulated in the sinking fund (see page 149) to produce, when invested in Government securities, an annual income equal to £105 for every £100 tithe rentcharge (commuted value) after deducting for rates £5 in the case of tithe previously attached to a benefice, or £16 where tithe was formerly attached to an ecclesiastical corporation (provided the tithe in question was liable to rates), any land tax, and 2½ per cent. for costs of collection (*Tithe Act, 1925, s. 9*).

If the parties agreed that redemption was to be effected by an annuity payable in half-yearly instalments over a period of 60 years, no deduction for costs of collection was allowed (*Tithe Act, 1925, s. 29 (4)*).

Redemption of Lay Tithe Rentcharge

Lay tithe rentcharge could be redeemed on the application of the owner of the land, under the provisions of the Tithe Act, 1918, for a sum arrived at by agreement with the tithe-owner, or, failing agreement, for such sum as was calculated by the Minister of Agriculture to be sufficient to produce when invested in Government Securities a permanent annuity equal to the net annual value of the rentcharge.

The net value was arrived at by deducting from the stabilised value of £105 for every £100 commuted value—

- (a) "The average amount paid or payable by the tithe-owner in respect of the rentcharge for the three years immediately preceding the date of the application to redeem, on account of rates and land tax" (*Tithe Act, 1918, First Schedule*).

Note. Where lay tithe was charged on agricultural land as defined for the purpose of derating (see page 108), the deduction for rates was limited to two-thirds of any general rate. This limitation only applied where the application to redeem was made by the landowner. In cases of compulsory redemption (that is, on the application of the tithe-owner), full rates were deductible in all cases (*Tithe Act, 1925, s. 17 (2)*).

- (b) "Such sum not exceeding 2½ per cent. of the gross annual value as in the opinion of the Ministry represents the necessary cost of collection of the rentcharge" (*Tithe Act, 1918, First Schedule*).

The Effect of Tithe Redemption on Rating of Land

The following remarks only applied to land which was not agricultural land within the meaning of section 2 (2)

of the Rating and Valuation (Apportionment) Act, 1928, such agricultural land being derated.

The position before the redemption of tithe was that the full annual value of the land was divided into two parts, the proportion represented by the tithe rentcharge going to the tithe-owner and the remainder going to the landowner.

Both land (subject to the derating of agricultural land) and tithe rentcharge were liable to rates.

Prior to the Tithe Act, 1891, tithe rentcharge was payable by the occupier, and therefore the rent payable by a tenant to a landlord was less than the full annual value by the amount of the tithe rentcharge on the holding.

The Act of 1891 provided that in future the tithe rentcharge was to be paid to the tithe-owner by the owner of the land, and not by the tenant when the land was let.

Where a contract of tenancy had been entered into before the passing of that Act, the tithe rentcharge was thereafter paid by the tenant to the landlord in the first place who passed it on to the tithe-owner. In lettings after the passing of the Act, a holding subject to tithe rentcharge had to be let at a rent inclusive of the charge.

When a rating assessment was based on such an inclusive rent it was consequently necessary to deduct the amount of the tithe rentcharge, otherwise that part of the total annual value would have been assessed to rates twice over.

The effect of redemption, whether by payment of a capital sum or on the annuity system, was to extinguish tithe rentcharge as such, and after redemption no such deduction from the total annual value could be made. The revised rating basis would then be the *full* annual value at the time the assessment was made.

Rates were, however, payable by the tenant and not by the landlord, and in deciding upon the rent he could afford to pay, a tenant naturally took into account the amount of the rates that he would become liable to bear.

An increase in the rating assessment of the land after tithe redemption would have placed a greater liability for rates upon the tenant, which would clearly have reduced his rent-paying capacity. The influence of this factor had therefore to be allowed for.

The proper method of adjusting the assessment of land after tithe redemption appeared to be as follows. **The assessment might be increased by a sum which would, when added to the rates payable upon it, amount to a sum equal to the tithe rentcharge formerly payable, provided always that the total value of the holding "to let from year to year" was not exceeded** (*Twitchen and Another v. Allon Union Assessment Committee* (1924), *L.G.B.* 482).

Extraordinary Tithe Rentcharge

"Extraordinary Tithe" was payable in addition to ordinary tithe, on land under cultivation as hop grounds, orchards, fruit plantations and market gardens.

The Extraordinary Tithe Redemption Act, 1886, which dealt with 542 Parishes, converted Extraordinary Tithe into a fixed and permanent charge not liable to variation. (The total unredeemed amount in England and Wales was £18,451 in 1934, of which £17,532 was vested in Q.A.B.) The *capital* value was ascertained by the Land Commissioners, and an annual rentcharge at 4 per cent. on such capital value was charged upon the land, and was payable whatever the subsequent state of cultivation. The certificates of capital value were filed at the Ministry of Agriculture, and redemption could be effected by payment of the certified capital value.

The 1886 Act provided that no Extraordinary Tithe could in future be charged on land newly cultivated with the special crops referred to.

Extraordinary tithe rentcharge was not liable to rates or land tax, and the only provisions of the Tithe Act, 1925, which applied to it were that by s. 2 (3) of the Act it became payable, like ordinary tithe rentcharge, half-yearly on the 1st April and 1st October in each year, and where it was payable to the Incumbent of a benefice or to an ecclesiastical

corporation it was transferred to Queen Anne's Bounty (s. 14).

Commutation for Land

Ecclesiastical tithe rentcharge could be extinguished not only by redemption or merger, but also by commutation for land (not leasehold) not exceeding 20 acres. This method was complicated and, with the exception of allotments of land in lieu of tithe under Inclosure Act Awards, appears to have been very seldom resorted to.

Merger of Tithe Rentcharge

"Merger" was another method of extinguishing tithe rentcharge where the land and the tithe charged upon it belonged to the same person. Merger was effected by declaration confirmed by the Ministry of Agriculture and Fisheries, on payment of fees which were less than in the case of redemption and the procedure is much simpler. After Merger the land bore income tax, land tax and, in the case of non-agricultural land, rates to which the tithe rentcharge was formerly subject. As lay tithe was subject to full rates, and agricultural land was derated, the question of merger in such cases is worthy of consideration. Merger also resulted in recovering more income tax through the Maintenance Claim when the average expenditure on maintenance equalled the annual value of the property. Any additional relief so obtained also reduced sur-tax, where that tax was payable.

Unity of ownership of land and tithe did not in itself extinguish the rentcharge. Unless formally merged, they continued to exist as separate hereditaments, and were treated separately for rating purposes. For example a conveyance of the land in such a case would not convey the tithe upon it unless it were expressly included.

Welsh Church Commission—Extinction of Small Amounts of Tithe Rentcharge by Merger

A method of extinction of small amounts of tithes in Wales and Monmouth was adopted by the Welsh Church

Commissioners and described in the following extract from one of their Reports—

“In the course of collection of tithe rentcharge we became impressed with the costliness of collection of charges of trifling amounts and the disproportionate amount of trouble in connection therewith. It was clear that the extinction of such charges, of which there are a very large number, varying from 2d. to £1, would be desirable from the point of view of economy of administration, and also from that of the convenience of the tithe-payer, no less than of the Commission; but that the very insignificance of the sums involved was likely to deter tithe-payers from entering upon the somewhat cumbrous process of redemption by means of the formal procedure prescribed for that purpose. It seemed that, if some simpler procedure could be devised, tithe-payers would be very willing to adopt it, and that we should be enabled the more readily to obtain the advantages which would result from eliminating from our accounts claims in respect of minute fractions of tithe rentcharge. On pursuance of this idea we have, with the concurrence of the Ministry of Agriculture, and with the consent of the Treasury, arranged a simplified method of procedure for adoption in such cases. It consists in authorising our agents to accept, in cases where the apportioned charge does not exceed 5s., a sum not less than twenty-six times the commuted amount of the charge in extinguishment thereof and in lieu of the formal procedure for redemption, to arrange that the tithe-payer should accept in discharge a memorandum of receipt in a prescribed form (of which a specimen is shown in Appendix B), the Welsh Commissioners undertaking to supply, if at any time so requested, a formal Deed of Merger, on payment by the applicant of the prescribed fees of the Ministry of Agriculture and other incidental costs. Although for the present it is proposed to confine the application of this method to cases in which the charge does not exceed 5s., it may be found advantageous to employ it also in cases of larger amount, particularly where an apportioned plot is divided in ownership.”

APPENDIX B
 [COPY]
 EXTINGUISHMENT OF THE TITHE
 RENTCHARGE

83, Eaton Place,
 London, S.W.1.

To.....

.....

Extinguishment No. RECEIVED by the Commis-
 sioners of Church Temporalities
 in Wales the sum of.....
 pounds, shillings, and
 pence, being the
 amount of consideration money
 for the extinguishment of the
 Tithe Rentcharge set out in the
 Schedule below, it being under-
 stood that the Welsh Commis-
 sioners will at any time hereafter
 upon application by the land-
 owner and upon payment by
 him of all costs, charges and
 expenses in connection therewith
 supply a formal Deed of Merger.
 £ : : .

Schedule above referred to

| Parish | | Township | |
|---------------------------|--------------|----------------|---------------------------|
| Date of Appointment | | | |
| Tithe No. | Description. | Quantity. | Commuted amount of Tithe. |
| | | a. r. p. | £ s. d. |
| | | | |

Dated this..... day of....., 19 ..

On behalf of and with the authority of the
 Commissioners of Church Temporalities in Wales.

Queen Anne's Bounty—Extinction of Tithe Rentcharge by Merger

Under Section 10 of the Tithe Act, 1925, Queen Anne's Bounty were given such powers of dealing with the tithe rentcharge vested in them as they would have had if they had been beneficial owners thereof, including the extinguishment of such tithe rentcharge by merger in the freehold out of which it issues. The Bounty Office announced that the Governors were prepared to consider applications for extinguishment by merger, to include the office fees of the Ministry and also the Governors' own expenses, on payment of 27 years' purchase of the commuted value of the tithe rentcharge attached to a Benefice or 24 years' purchase in the case of the tithe rentcharge of Ecclesiastical Corporations (*Q.A.B. Tithe Committee Report, 1932*).

The desirability of extinguishment by merger applied more particularly to small amounts of tithe to save trouble and expense of collection, but it was not proposed to limit applications to small amounts. Informally apportioned amounts could be dealt with. It was necessary for the landowner in making his application to give the name of the parish, the number of the land in the tithe apportionment and the amount of the commuted tithe, to enable the particulars to be checked. Normally, it was suggested that a formal merger need not be made in every case. A receipt was given for the extinguishment money and the amount of the tithe rentcharge struck out of the collector's list. When the extinguishment moneys had been received for several tithe rentcharges in a parish, they were included in a Schedule to one Declaration of Merger.

PART II. TITHE ACT, 1936

Passed on the 31st July, 1936, the main changes effected by the new Act are shown in the following comparison—

| | TITHES ACT, 1925 | TITHES ACT, 1936 |
|--|---|---|
| Tithe Rentcharge | Stabilised | Extinguished on 2nd Oct., 1936. 3% Gov. Guaranteed Stock substituted |
| Annual Value | £105% for all tithes—£4 10s. Sinking Fund payment added to Ecclesiastical Tithe | Redemption Annuity—£91 lis. 2d. % on agricultural land, £105% on non-agricultural land, one-sixth of which is sinking fund payment |
| Extraordinary Tithe Rentcharge | Basis of value not changed | Extinguished—Annuity substituted for present 4% rentcharge, and Govt. Stock for its capital value |
| Corn Rents | Basis of annual value not changed | Not extinguished—Minister has power to submit order for extinguishment for approval of Parliament |
| Redemption Period | Ecclesiastical Tithe—Benefices—85 years. Corporations—81½ years. Lay Tithe payable in perpetuity | In all cases—60 years |
| Redemption for Capital Sum | At any time (before expiration of redemption period in case of ecclesiastical tithe) | At any time before expiration of 60 years period, (a) at option of landowner, (b) compulsorily where annual payments do not exceed £1, or where land is to be subdivided into numerous plots. Specified basis in the case of Corn Rents |
| Dates of Payment | Half yearly—1st April and 1st October | Half yearly—1st April and 1st October |
| Administration | Ecclesiastical Tithe vested in Q.A.B. as Trustees | Tithe Redemption Commission for not less than 7 years; subsequently Board of Inland Revenue |
| Remission (does not apply to Extraordinary Tithe Rentcharge or its substituted annuity) | Where proceedings for recovery had been instituted, application to County Court for remission of excess tithe over two-thirds of A.V. of land used solely for agricultural or pastoral purposes or growth of timber or underwood, provided the necessary certificate was obtained. (Tithe Act, 1891, S. 8.) | In any year application to the Tithe Redemption Commission for remission of excess annuity over one-third of A.V. of land used as an agricultural holding or for a plantation or wood or growth of saleable underwood, provided the necessary certificate is obtained |
| Recovery | (a) Owner in occupation—by distress, (b) land let—by appointment of a receiver after three months from date when payment became due and before the expiration of two years from the date on which tithe became payable | (a) Owner in occupation—by distress, (b) land let—by appointment of a receiver, (c) order for recovery of a personal debt after three months from date when payment became due, and in the case of arrears of tithe, within two years (excluding the time after the titheowner has served notice on the tithepayer) |

Interpretation

A clear idea of the expressions used in the Act is essential before considering it in greater detail.

"Minister" and "Ministry," mean respectively the Minister and Ministry of Agriculture and Fisheries.

"Commission" means the Tithe Redemption Commission.

"Tithe Redemption Commission" consists of—

Sir Charles Howell Thomas, K.C.B., K.C.M.G. (Chairman), Mr. Wm. Allen, K.C. (Recorder of Newcastle-under-Lyme), Mr. A. E. Cutforth, C.B.E., F.C.A. (Accountant), Mr. Edwin Fisher (Deputy-Chairman, Barclays Bank Ltd.), Sir Norman Vernon, Bt. (Director, Spillers Ltd.).

The address of the Commission is—Eagle House, 90, Cannon Street, London, E.C.4.

"Tithe Rentcharge" for the purposes of the Act (s. 47) means (a) a tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, (b) a rentcharge into which a corn rent has been converted, and (c) extraordinary tithe rentcharge.

It does *not* include (d) a rentcharge payable under the Tithe Act, 1860, in respect of the tithes on any gated or stinted pasture nor a sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common, and (e) Corn Rents.

Particulars as to tithe rentcharge on land are obtainable from Tithe Maps and Apportionments, Altered Apportionments, and Certificates of Redemption (*see page 137 "Custody and Inspection of Tithe Documents"*). The Minister has placed at the disposal of the Commission all such documents in his possession, and any person having custody of sealed copies must place them at the disposal of the Commission if required to do so (s. 6 (3)). Ultimately the sealed copies will pass into the custody of the Master of the Rolls (s. 36).

The unit for the purposes of the Act is the individual

tithe rentcharge and the tithe field or area out of which it issues, as set out in (a) a formal Instrument of Apportionment, (b) a formal Instrument of Altered Apportionment, and (c) each part of such original or formally re-apportioned charge which was before the 1st April, 1933, informally re-apportioned as between lands identified by numbers in a formal Instrument of Apportionment or Altered Apportionment, by the owners of the rentcharge and of the lands, and has been recovered on the basis of such informal re-apportionment (s. 47). Other informal apportionments, made since 1st April, 1933, and/or as between the lands as separately owned by reference to portions only of a numbered tithe field or enclosure, are not recognised by the Act, and an application to the Commission for re-apportionment would be necessary, and for which no fees will be payable.

The provisions of the Act as to extinguishment and repair of the Chancel apply to tithe rentcharge vested in the owner of the land charged, but no Government Stock will be issued to the owner, and no redemption annuity will be charged on the land. Such tithe rentcharge becomes merged in the land, raising the value of the land accordingly, and it has disappeared as a source of income formerly liable to separate assessment for rates and income tax (s. 21).

"Agricultural land" (see page 108) means derated land and buildings, including for the purposes of this Act, **dwellinghouses** occupied together with such land and used primarily in connection with agricultural operations thereon (s. 47).

"Owner of land" by whom redemption annuities are payable means (a) the owner of the legal estate in respect of the fee simple thereof unless the land is subject to a long lease (over 14 years) at a rent less than a rack rent, or (b) if the land is subject to a long lease at a rent less than a rack rent, the owner of the legal estate in respect of the term (s. 17). Where the owner is a trustee there are special provisions to limit his personal liability (s. 33).

For the purpose of the Register of Annuities and land charged, to be prepared by the Commission, a notice may

be served by the Commission upon the person who appears to be owner of the land charged, that they propose to register his name as such. He may within three months deny that he is owner, and if his statement is accepted his name will be removed; if not, the Commission may apply to the High Court or to the County Court for a declaration that he is the owner of the land. Payment of tithe rentcharge is *prima facie* evidence of ownership of the land. The occupier of the land or the person who collects the rent is required on demand to furnish the Commission with the name and address of the person entitled to the rent. On a sale or long-lease of land charged, it is the duty of the vendor or lessor within one month to furnish particulars of the transfer with the name and address of purchaser or lessee to the Commission on the forms prescribed in The Redemption Annuities Rules (S.R. & O., 1936, No. 1012), obtainable free of charge from the Commission.

Powers of the Commission

The powers and duties of the Tithe Redemption Commission exercised on behalf of the Crown are as follows—

- (a) to determine what tithe rentcharges have been extinguished, the amount of compensation stock to be issued, and the persons entitled to receive it;
- (b) to determine the redemption annuities to be charged on land, to record particulars of them, to apportion annuities where land is held by two or more owners, and to manage them generally (s. 4);
- (c) to prepare a register of redemption annuities indicating land charged by reference to a map. After giving owners of land an opportunity of inspection and amendment, to seal two copies, one to be deposited at the Commission's offices, and the other at a suitable centre in the tithe district or parish concerned (s. 9);
- (d) to apportion an annuity charged on lands in different ownership, having regard to any informal agreement between the parties, the annual value of the lands, and the areas of sub-division (s. 10);

- (e) to extinguish annuities where (i) the cost of apportionment among numerous plot holders would be excessive, or (ii) where the cost of collection and management would be excessive, in relation to the annuity (s. 10);
- (f) to complete redemptions for capital payments (i) at the option of the landowner (s. 15) or, (ii) compulsorily in certain cases referred to later on page 167 (s. 11);
- (g) to make rules regulating their own procedure, and to hold inquiries if necessary, giving persons affected notice of date and place, such persons having the right to appear in person, or by counsel, solicitor, or agent (Second Schedule);
- (h) to delegate any of their powers or duties to a Committee or person appointed by them (Second Schedule);
- (i) to authorise any person to enter and inspect land, on production of his authority, for the purpose of obtaining any necessary information (s. 41);
- (j) to determine as binding and conclusive for all purposes any matter which they are authorised by the Act to do, subject to the right of any person interested in the land or in the compensation stock to first make representations, and to his further right to apply for the statement of a special case on a question of law affecting the matter (s. 39).

Provisions of the Act Affecting the Landowner as Tithe-payer

Extinguishment of Tithe Rentcharge

All tithe rentcharge was extinguished on the 2nd October, 1936—"the appointed day"—and all land charged therewith (including land owned by the owner of the tithe rentcharge) was absolutely discharged and freed from it (s. 1).

Charge of Redemption Annuities

In place of tithe rentcharge an annuity is charged on the land freed from tithe rentcharge at the following rates per £100 (par value of tithe rentcharge)—

- (a) if *any* of the said land (*i.e.*, any part of a tithe enclosure however small (see under "Tithe Rentcharge" as to the unit)) was on the 1st April, 1936, agricultural land, £91 11s. 2d;
- (b) if *none* of the said land was on that day agricultural land, £105 (s. 3).

Extraordinary Tithe Rentcharge

The amount to be paid in annuities in lieu of the existing 4 per cent. extraordinary tithe rentcharge will be exactly the same, but will cease at the end of 60 years (s. 29).

It should be noted that existing tithe annuities under Section 4 of the Tithe Act, 1918, are not modified in any way by the provisions of the new Act.

Last Payment of Tithe Rentcharge

The last payment of tithe rentcharge as such was payable to the tithe-owners on the 1st October, 1936, at the rate of £91 11s. 2d. per cent. (if the landowner claimed that it issued out of agricultural land) and at the rate of £105 per cent. on non-agricultural land. No sinking fund payment under the Tithe Act, 1925, was payable, the last at the rate of £2 5s. per cent. for the year having been payable on 1st April, 1936.

Arrears of Tithe Rentcharge

The extinguishment of tithe rentcharge on the 2nd October, 1936, does not affect the liability of the tithe-payer with regard to arrears accrued due before that date. On the 1st April, 1937, the recovery of arrears passes to the Commission. After that date the tithe-owner is required to serve notice in the prescribed form on the Commission, and on the owner of the land, giving particulars of the arrears which the tithe-owner claims to be irrecoverable from him. The landowner within a month after service

of the notice, serves on the Commission a written notice requiring them to refer the matter to the Arrears Investigation Committee. Such a counter-notice is an admission of liability and it is for the Committee to decide whether the financial circumstances of the landowner are such as to warrant payment by instalments, or remission. The Commission will have the same powers for recovery of arrears of tithe rentcharge as they have for redemption annuities (s. 20).

Payment of Redemption Annuities

The annuities will, like tithe rentcharge, be payable half-yearly on the 1st April and 1st October, the first instalment becoming payable on 1st April, 1937 (s. 13).

If an owner of part only of the land charged pays the annuity, he is entitled to recover from each of the other owners as a simple contract debt, such proportion as may be mutually agreed, or in default of agreement, as may be fixed by the Commission (s. 13 (7)).

Deduction from Income Tax Assessment of Land under Schedule A

"No deduction in respect of income tax shall be made from any instalment of an annuity" (s. 13 (5)), but "for all purposes of the Income Tax Acts five-sixths and no more of each instalment of an annuity shall be deemed to be a payment by way of interest, and the amount deemed to be so payable in any year of assessment shall be allowed as a deduction in respect of that year from the annual value, as assessed under Schedule A, of the lands in respect of which the annuity is charged" (s. 13 (6)). This is subject to the proviso that if by reason of remission (s. 14) or otherwise an instalment is not paid or only partly paid, a proportionate reduction shall be made in the deduction allowed (see Chapter I, page 14).

Remission of Excessive Annuity

The essence of Section 14 is found in the marginal note, "Remission of excess of annuity over one-third of annual

value of agricultural land." It is allowed in respect of annuities substituted for tithe rentcharge, but not for extraordinary tithe rentcharge, and is of great importance in the heavily-tithed areas. The Section together with the Fourth Schedule should be carefully studied by those entitled to relief.

The claim may be made to the Commission by the landowner in respect of an "agricultural holding" (which means "agricultural land which is occupied or farmed, or in the case of land used for a plantation or a wood or the growth of saleable underwood, managed, as a single unit,") in any year provided he has applied before the 1st March in that year to the surveyor of taxes for a certificate of annual value on the form (obtainable from the Commission) prescribed in The Redemption Annuities Rules (S.R. & O., 1936, No. 1012). A claim for remission in respect of the half-year's tithe rentcharge due on 1st October, 1936, would still have to be made under Section 8 of the Tithe Act, 1891 (see page 143).

If agricultural land is in the ownership of two or more owners, "agricultural holding" means each part in separate ownership. Also, if an annuity is charged on land only part of which is agricultural land, the Commission may be required to apportion the annuity so that relief may be claimed in respect of the agricultural portion.

"Annual value" means annual value for income tax purposes under Schedule B, apportioned by the Surveyor if necessary to show only the annual value of the land charged with the annuity for the purpose of comparison with it. If the landowner is dissatisfied with the Surveyor's certificate he may appeal to the General Commissioners of Income Tax for the District within a month.

One half of the excess would be remitted from each half-yearly instalment, but if an instalment becomes due before issue of a certificate, it is payable in full, subject to subsequent refund of any relief allowed.

Recovery of Redemption Annuities

Briefly, the Commission may where an annuity is more than three months in arrear, take proceedings for recovery through the County Court—

- (a) Where lands are occupied by the owner for an order to distrain;
- (b) in other cases for an order for the appointment of a receiver of rents and profits; or
- (c) for an order for recovery as a debt from the annuity-payer personally (s. 16).

Redemption and Reduction of Annuities

(a) Voluntary Redemptions and Reductions

An annuity can be redeemed at any time by payment of a capital sum representing the present value of the unexpired half-yearly payments, reduced by such a sum as the Treasury may think fit in respect of costs of collection, and calculated at a rate of interest prescribed by the Treasury according to the yield from Government Securities (s. 15 (21)).

An annuity can be reduced in amount by payment of capital sums of not less than £25 at a time (s. 15 (9)).

(b) Compulsory Redemption

Annuities may be redeemed by order of the Commission and without the consent of the landowner in the following cases—

- (i) where the total amount due from a landowner does not exceed £1 per annum;
- (ii) where the whole of the land charged with an annuity is divided for building or other purposes into numerous plots; or
- (iii) where the Commission are satisfied that the whole of the land charged with an annuity is about to be divided into numerous plots (s. 11).

If an owner of part only of the land in respect of which an order for compulsory redemption is made pays the

capital sum, he is entitled to recover from each of the other owners as a simple contract debt such proportion as may be mutually agreed, or in default of agreement as may be fixed by the Commission (s. 13 (7)).

(c) Generally

On payment of the capital sum the annuity is extinguished as from the date following the half-yearly date of payment next before the redemption date (s. 15 (6)). With regard to compulsory redemption, the Commission is given discretionary power to mitigate cases of undue hardship, by providing for payment by instalments, revocation or amendment of redemption notices, or other appropriate means (s. 15 (3)). The landowner may have the land charged with the amount of the consideration money if he wishes, together with interest at a rate determined by the Commission (s. 15 (10)).

Rules governing redemptions will be prescribed by the Treasury (s. 15 (1)).

Other Incidents of Annuities

A redemption annuity is an "incumbrance" in law, and its existence must be disclosed to the purchaser of land charged with it. It does not require registration under the Land Charges Act, 1925, and for the purposes of the Land Registration Act, 1925, will be deemed to be included in the interests specified in Section 70 (1) as an over-riding interest to which registered land is deemed to be subject unless the contrary is expressed in the register. An annuity is a periodical income payment as defined in the Apportionment Act, 1870, accruing from day to day and apportionable in respect of time.

Corn Rents

Corn Rents are not included in the extinguishment scheme of the Act which provides that the Minister may at some future time submit an Order to that effect for the approval of Parliament. The Act does, however, make some changes in the basis for redemption of Corn Rents (s. 30 and Sixth Schedule). The gross annual value of a variable corn rent

is to be determined by the Commission on the average prices of corn for the 25 years immediately preceding the date of application for redemption. The following deductions are allowed—

- (a) 1/20th for cost of collection and management.
- (b) 3 years' average of rates and land tax on the gross annual value.

The number of years' purchase for capitalisation will be based on the return from investing the sum in Government Securities.

If the consideration money exceeds £30, redemption may be effected on the annuity system over a period not exceeding 60 years.

Land Washed Away by the Sea

If any land charged with an annuity is washed away by the sea, the Commission shall by Order make a just reduction in the amount, or if the whole of the land is so washed away, extinguish the annuity (s. 34).

Repair of Chancel and Other Ecclesiastical Buildings

The ownership of Rectorial Tithe Rentcharge usually carried with it the obligation to keep the Chancel of the Parish Church or other ecclesiastical buildings in repair. Where such tithe rentcharge was owned by an improprator, special provisions are contained in the Act to deal with his liability as Lay Rector (s. 31 and Seventh Schedule).

In the following cases where the tithe rentcharge was vested in the persons or corporations named immediately before the 2nd October, 1936, the liability to repair the Chancel (where it exists), will continue as before—

- (a) Queen Anne's Bounty,
- (b) the Ecclesiastical Commissioners,
- (c) A Spiritual Rector of a Rectory with cure of souls,
- (d) An Ecclesiastical Corporation,
- (e) The Universities of Oxford, Cambridge, and Durham, and Winchester and Eton Colleges,

- (f) The owner of land, and of the tithe charged upon it, extinguished by this Act (the liability attaching to the land and the owner of it), and
- (g) The owner of land in which merger or extinguishment has taken effect and to which the provisions of the Tithe Act, 1839, s. 1, apply (the liability attaching to the land and the owner of it).

In all other cases in which a liability attached to the lay tithe-owner, the Diocesan Authority is to receive a part of the Government Stock to be issued, reasonably sufficient in amount having regard to the condition of the Chancel or building on the appointed day, to provide for the cost of future repairs and insurance. The Seventh Schedule provides for apportionment by the Commission of liability among different landowners, and preserves the landowner's existing right to question liability. Under the provisions of the Chancel Repairs Act, 1932, proceedings for enforcing liability to repair chancels were transferred from Ecclesiastical Courts to the County Courts.

Provisions of the Act Affecting the Lay Tithe-owner

Although this handbook is mainly concerned with the landowner in that capacity, he is also in a number of cases a lay tithe-owner, so the following summary of provisions directly affecting him as such are added.

Land Tax and Rates

The half-yearly payment of tithe rentcharge due on the 1st October, 1936, being reduced in the case of agricultural land (see page 164), the lay-owner is entitled to a proportionate adjustment of his liability to Land Tax and Rates. He should appeal for a reduction of the assessment to Land Tax for the year ending 24th March, 1937. To avoid appealing to the rating authority for an amendment of the Valuation List, the sum due for a half-year's rates to 30th September, 1936, was reduced to seven eighths, and the lay-owner has the right to recover any over-payment. Tithe

Rentcharge ceased to be a rateable subject as from the 1st October, 1936 (s. 23) (*see Ministry of Health Circular 1581*).

Arrears of Tithe Rentcharge

The extinguishment of tithe rentcharge on the 2nd October, 1936, does not affect the existing rights of the owner to recover arrears which accrued due before that date. On the 1st April, 1937, the right to recover and to give a discharge for arrears vests in the Commission (s. 20). After that date the tithe-owner is required to serve notice on the Commission and on the owner of the land, giving particulars on the prescribed form of the arrears claimed to be irrecoverable from the tithe-payer. If the tithe-payer so requires by written notice within a month, the matter is referred to the Arrears Investigation Committee consisting of a Chairman appointed by the Lord Chancellor and two other members appointed by the Minister, who have power to remit or order recovery by instalments, if they consider that the financial circumstances of the tithe-payer warrant special treatment. Proceedings for recovery of arrears of tithe rentcharge must be taken within two years from the date on which it became payable (excluding the time after the tithe-owner has served notice on the tithe-payer) and cannot be taken until the tithe rentcharge has been three months in arrear. The special provisions with regard to arrears of tithe rentcharge do not apply to extraordinary tithe rentcharge.

Particulars of Tithe Rentcharge

Tithe-owners are required (s. 5), not later than 31st October, 1936, to send to the Commission particulars of their tithe rentcharges on forms (which may be obtained free of charge from the Offices of the Commission) prescribed by the Tithe Rentcharge (Extinguishment) Rules, 1936, S.R. & O., 1936, No. 775, price 2d. net). The following is a summary of the information to be supplied with a statutory declaration as to ownership (which must contain particulars of any incumbrance on the tithe rentcharge)—

- (1) The Tithe Parish or District and County (a separate form must be used for each Parish or District).

- (2) Names and addresses of owner and collector.
- (3) Reference No. (a separate consecutive number should be inserted as regards each landowner).
- (4) Name and address of owner of land out of which the tithe rentcharge issues or issued and from whom tithe rentcharge was last collected (surname first).
- (5) The land out of which the rentcharge issues or issued by reference to numbers in the Apportionment in force.
- (6) Whether any part of the land comprising the tithe area was, on the 1st April, 1936, agricultural land (Yes or No).
- (7) Description of lands (if known).
- (8) Area as shown in the Apportionment or Altered Apportionment (if known).
- (9) Apportioned (or par) amount of the tithe rentcharge.
- (10) Date on which the instalment last collected (or recoverable under an Order of the Court) became due.

Compensation Stock

The amount of Government Guaranteed Stock to be issued to the tithe-owners as compensation for extinguishment of tithe rentcharge is an amount that will yield in interest an income equal to the gross annual value of the tithe rentcharge (that is £91 11s. 2d. per cent. in the case of agricultural land, and £105 per cent. in the case of other land), less the following deductions (s. 2) and First Schedule).—

- (a) Cost of collection and management.
(1/20th of the gross annual value or £4 11s. 6d. per cent.)
- (b) Land Tax.
(Three years' average assuming a gross annual value as above.)
- (c) Rates.
(Three years' average arrived at by a somewhat complicated method to make allowances for variations in the basis of rating tithe rentcharge).

- (d) Losses in collection and remission and improvement of security.
 (1/20th of the apportioned or par value or £5 per cent.)

The following is an example calculation—

| | £ | s. | d. | £ | s. | d. |
|--|----|----|----|-------|----|----|
| Gross Annual Value (agricultural land) | | | | 91 | 11 | 2 |
| <i>Deductions—</i> | | | | | | |
| Cost of collection and management | 4 | 11 | 6 | | | |
| Land Tax (average) | 1 | 0 | 0 | | | |
| Rates (average) | 28 | 19 | 11 | | | |
| Losses, improvement in Security, etc. | 5 | 0 | 0 | | | |
| | | | | 39 | 11 | 5 |
| Net annual value | | | | 51 | 19 | 9 |
| Year's purchase on 3% basis | | | | 33 | ½ | |
| Amount of Stock to be issued | | | | 1,732 | 18 | 4 |

The Stock will be issued by the Bank of England (s. 7). Interest at 3 per cent. will commence to accrue on the 1st October, 1936, and will be payable half-yearly on 1st April and 1st October in each year.

CHAPTER XII

THE DEATH DUTIES—ESTATE DUTY

THE incidence of the Death Duties involves the consideration of a very difficult and complex subject, and it is obviously impossible to give more than a bare outline of the present position (that is, where deaths occurred after 1st August, 1930) in abbreviated form. References are given to the Finance Acts, and there are several textbooks available for those who desire to make a closer study of the subject. When liability to the duties arises, it will be necessary to obtain the services of a Solicitor.

Death Duties are a tax on capital passing on a death, and the different duties now in force are **Estate Duty**, **Legacy Duty**, and **Succession Duty**. In general terms they may be defined as follows—

Estate Duty is levied on the **market value of all property**, real and personal, settled and free, passing (that is, to another owner) at death, by will or by the rules of intestacy or under the provisions of a settlement (subject to certain exemptions noted later) on a percentage scale which varies according to the aggregated value of the property. It must be clearly borne in mind that this duty is payable on the capital value of the property, and is not affected by the relationship of the successor to the deceased or the interest to which he succeeds.

Legacy Duty is only payable on **personal property** (not including leaseholds) passing under a will or intestacy on the capital value of the legacy, at percentage rates which vary according to the relationship of the legatee to the person leaving the legacy.

Succession Duty is payable on the **actual benefit** accruing to the successor (except where Legacy Duty is chargeable) at the same percentage rates as those applying to Legacy Duty.

The following expressions have, for death duty purposes, the meanings given—

Free Estate.—The usual forms of real and personal property which the owner may deal with as he wishes.

Settled Property.—Comprised in a settlement limiting it to or in trust for persons by way of succession.

Real Property.—All lands and buildings held on freehold tenure.

Personal property means movable property not comprised in the expression "real," such as furniture, money, stocks and shares, insurance policies, and leases for terms of years.

Personalty.—Personal property passing on the death of the owner.

Incumbrances.—Includes mortgages and terminable charges.

Intestacy.—Where a person has died without making a will.

ESTATE DUTY

Rate of Duty

In the case of any death occurring after the 1st August, 1930, the rate of Estate Duty on all property except "agricultural property" is as follows (*Finance Act, 1930, Fourth Schedule*).

SCALE OF RATES OF ESTATE DUTY (1930)

| Principal Value of the Estate | | | Rate per cent. of Duty |
|-------------------------------|------------------------|-----------|---------------------------|
| Exceeding | £100 and not exceeding | £500 | 1 |
| " | 500 | 1,000 | 2 |
| " | 1,000 | 5,000 | 3 |
| " | 5,000 | 10,000 | 4 |
| " | 10,000 | 12,500 | 5 |
| " | 12,500 | 15,000 | 6 |
| " | 15,000 | 18,000 | 7 |
| " | 18,000 | 21,000 | 8 |
| " | 21,000 | 25,000 | 9 |
| " | 25,000 | 30,000 | 10 |
| " | 30,000 | 35,000 | 11 |
| " | 35,000 | 40,000 | 12 |
| " | 40,000 | 45,000 | 13 |
| " | 45,000 | 50,000 | 14 |
| " | 50,000 | 55,000 | 15 |
| " | 55,000 | 65,000 | 16 |
| " | 65,000 | 75,000 | 17 |
| " | 75,000 | 85,000 | 18 |
| " | 85,000 | 100,000 | 19 |
| " | 100,000 | 120,000 | 20 |
| " | 120,000 | 150,000 | 22 |
| " | 150,000 | 200,000 | 24 |
| " | 200,000 | 250,000 | 26 |
| " | 250,000 | 300,000 | 28 |
| " | 300,000 | 400,000 | 30 |
| " | 400,000 | 500,000 | 32 |
| " | 500,000 | 800,000 | 34 |
| " | 600,000 | 800,000 | 36 |
| " | 800,000 | 1,000,000 | 38 |
| " | 1,000,000 | 1,250,000 | 40 |
| " | 1,250,000 | 1,500,000 | 42 |
| " | 1,500,000 | 2,000,000 | 45 |
| " | 2,000,000 | | 50 |

These rates, raised twice since 1919, include considerable increases over the scale previously in force, in the case of estates having a principal value between £12,500 and £2,000,000. The C.L.A. and other bodies strongly urged upon the Government the inability of agricultural land to bear any increase in the burden of the duty, and by Section 23 of the Finance Act, 1925, it was provided that the agricultural value of agricultural property should not be liable to the increased rates, but should continue to be charged under the scale fixed by the Third Schedule to the Finance Act, 1919. The position of agricultural property was not affected when the Finance Act, 1930 (s. 33), substituted the above scale of rates for the 1925 scale.

SCALE OF RATES OF ESTATE DUTY (1919)

| Where the Principal Value of the Estate | | | | Estate Duty shall be payable at the Rate per cent. of |
|---|-----------|---------------------|-----------|---|
| Exceeds | £100 | and does not exceed | £500 | 1 |
| " | 500 | " | 1,000 | 2 |
| " | 1,000 | " | 5,000 | 3 |
| " | 5,000 | " | 10,000 | 4 |
| " | 10,000 | " | 15,000 | 5 |
| " | 15,000 | " | 20,000 | 6 |
| " | 20,000 | " | 25,000 | 7 |
| " | 25,000 | " | 30,000 | 8 |
| " | 30,000 | " | 40,000 | 9 |
| " | 40,000 | " | 50,000 | 10 |
| " | 50,000 | " | 60,000 | 11 |
| " | 60,000 | " | 70,000 | 12 |
| " | 70,000 | " | 80,000 | 13 |
| " | 80,000 | " | 90,000 | 14 |
| " | 90,000 | " | 110,000 | 15 |
| " | 110,000 | " | 130,000 | 16 |
| " | 130,000 | " | 150,000 | 17 |
| " | 150,000 | " | 175,000 | 18 |
| " | 175,000 | " | 200,000 | 19 |
| " | 200,000 | " | 225,000 | 20 |
| " | 225,000 | " | 250,000 | 21 |
| " | 250,000 | " | 300,000 | 22 |
| " | 300,000 | " | 350,000 | 23 |
| " | 350,000 | " | 400,000 | 24 |
| " | 400,000 | " | 450,000 | 25 |
| " | 450,000 | " | 500,000 | 26 |
| " | 500,000 | " | 600,000 | 27 |
| " | 600,000 | " | 800,000 | 28 |
| " | 800,000 | " | 1,000,000 | 30 |
| " | 1,000,000 | " | 1,250,000 | 32 |
| " | 1,250,000 | " | 1,500,000 | 35 |
| " | 1,500,000 | " | 2,000,000 | 40 |

"Agricultural property" for Estate Duty purposes is defined by Section 22 of the Finance Act, 1894, as meaning "agricultural land, pasture and woodland, and also includes such cottages, farm buildings, farmhouses and mansion houses (together with the lands occupied therewith) as are of a character appropriate to the property." An example showing how the Duty is charged on agricultural value is given under the heading "Valuation" (page 187).

It will be seen that no duty is charged on small estates (including real and personal property) which do not exceed £100.

In two cases a fixed Duty may be paid instead of the *ad valorem* scale, at the option of the accountable person.

Where the gross value of the property, exclusive of property settled otherwise than by will of the deceased, does not exceed £300, the sum of £1 10s., and where that value exceeds £300 but does not exceed £500 the sum of £2 10s. (*Finance Act, 1894, 16 (1)*).

Where the principal value of a property just exceeds the next step in the scale, the amount of duty to be paid is at the next lower rate plus the amount which has brought the property into a higher scale (*Finance Act, 1914, s. 13 (1)*). Thus under the 1930 scale the rate on £12,550 would be 6 per cent. = £753, but under this concession it would be calculated at 5 per cent. on £12,500 plus £50 = £675.

Aggregation

The duty on the *ad valorem* scale is levied on the aggregated value of property passing, that is, on the total value of the different kinds of property added together, subject to the following exceptions—

- (1) Where the net value of the property real and personal, exclusive of property settled otherwise than by will of the deceased, does not exceed £1,000, it shall not be aggregated with such settled property (*Finance Act, 1894, s. 16 (3)*).
- (2) Timber (*Finance Act, 1912, s. 9*).
- (3) Pictures, prints, books, manuscripts, works of art or scientific collections, considered by the Treasury to be of national, scientific or historic interest, and to be given or bequeathed for national purposes, or to any University or to any County Council or Municipal Corporation (*Finance Act, 1894, s. 15 (1)*).
- (4) Such pictures, prints, books, manuscripts, works of art, scientific collections or other things not yielding income, as *on a claim* made to the Treasury appear to them to be of national, scientific, historic or artistic interest (*Finance Act, 1930, s. 40*).
- (5) Property in which the deceased never had an interest (*Finance Act, 1894, s. 4*).

- (6) Property passing more than once owing to deaths caused by the Great War is not to be aggregated with other property passing on the subsequent death (*Death Duties (Killed in War) Act, 1914, s. 2*).
- (7) All property exempted from Estate Duty (*Finance Act, 1894, s. 4*).
- (8) Part of assets of an Estate Company liable to Estate Duty under Finance Act, 1930, ss. 34 (7) and 35 (3) (see page 206).

Payment of Duty

The Duty becomes due on the delivery of the Inland Revenue affidavit or at six months from the date of death, whichever happens first (*Finance Act, 1894, s. 6 (7)*).

Interest at 3 per cent. net on the Duty on personal property is charged from the date of death (*Finance Act, 1896, s. 18 (1)*), and on real property from the expiration of a year from the date of death. The Inland Revenue Authorities have, however, agreed to allow as a deduction from an assessment for Sur-tax the equivalent of the gross amount of such interest, that is, the amount which after deduction of income tax at the standard rate would give a new amount equal to the interest actually paid (see page 87).

The Duty on real estate (including leaseholds) may, if desired, be paid by eight yearly or sixteen half-yearly instalments. The first instalment is due at the end of a year from the death, and after that date interest at 3 per cent. (*Finance Act, 1933, s. 43*) is charged on the Duty remaining unpaid. The outstanding amount of Duty may be paid off at any time, and must be paid off where the property is sold (*Finance Act, 1894, s. 6 (8)*). If the owner dies before all instalments are paid, the balance will have to be paid by the successor, the unpaid amount being a charge on the property.

The Commissioners of Inland Revenue have the power to accept a part of real and leasehold property in satisfaction of the Duty (*Finance Act, 1910, s. 56 (1)*), and no

stamp duty would be charged on such a transfer. It is understood that the Commissioners would only accept property where they are in a position to act as intermediaries for some public department or authority who may desire to purchase it.

Quick Successions

In the case of land (including buildings on it) or a business (carried on by an individual), relief is given where a second death occurs within five years (*Finance Act, 1914, s. 15*) by the allowance of a discount from the second Duty as follows—

When the second death occurs within

| | |
|----------------------------|--------------|
| 1 year of the first death, | 50 per cent. |
| 2 years | 40 " |
| 3 years | 30 " |
| 4 years | 20 " |
| 5 years | 10 " |

The discount is calculated on the amount of the Duty on a principal value equal to that passing at the first death at the rate per cent. appropriate to the principal value of the property passing on the second death.

Persons Accountable for Payment of Duty

In respect of personal property, the legal personal representative, that is, the executor or administrator, is liable for payment (*Finance Act, 1894, s. 6 (2)*), and also in respect of land (including settled land) which devolves on him by virtue of any statute or otherwise (*Law of Property Act, 1925, s. 16 (1)*).

In every other case the estate owner (other than a purchaser who acquires a legal estate after the charge for death duties has attached and free from such charge) shall be accountable for the Duty (*Law of Property Act, 1925, s. 16 (2)*).

Section 17 of the Law of Property Act, 1925, contains certain provisions for the protection of purchasers from liability for death duties, and Section 18 of the same Act deals with

the application of capital money in discharge of death duties.

Exemptions from Estate Duty

The principal exemptions from Estate Duty are as follows—

- (1) Small properties not exceeding £100 in value, as no rate of duty is provided.
- (2) Timber, unless and until it is sold (*Finance Act, 1910, s. 61 (5), as amended by Finance Act, 1912, s. 9*).
- (3) Advowsons (that is, the perpetual right of presentation of an incumbent to a living of the Church of England) even when sold (*Attorney-General v. Peck and Others, 1913, 2 K.B.D. 487*).
- (4) Pictures, prints, books, manuscripts, works of art, or scientific collections, such as appear to the Treasury to be of national, scientific or historic interest, and to be given for national purposes or to any University or to any County Council or Municipal Corporation. These are not to be aggregated with other property for the purpose of fixing the rate of estate duty (*Finance Act, 1894, s. 15 (2)*).
- (5) Such pictures, prints, books, manuscripts, works of art, scientific collections or other things not yielding income, as *on a claim* made to the Treasury appear to them to be of national, scientific, historic or artistic interest, are not to be taken into account in estimating the principal value of the estate passing at a death or the rate of estate duty, and are exempt from death duties while enjoyed in kind or if sold to the National Gallery, British Museum, or any other similar national institution, any University, County Council or Municipal Corporation in Great Britain, the National Art Collections Fund or the Friends of the National Libraries. If sold to any other purchaser, estate duty becomes payable at the rate appropriate to the principal value of the estate

on the last death on which the objects passed (*Finance Act, 1930, s. 40 and Finance Act, 1936, s. 26*). The test laid down by the Treasury of the "national, scientific, historic or artistic interest" of any article is that it would be accepted on one of those grounds by the appropriate National Collection.

- (6) Certain gifts made during life (*Finance Act, 1910, s. 59*).
 - (a) Absolute gifts made more than three years before the death.
 - (b) Immediate gifts for charitable or public purposes made more than one year before death.
 - (c) Gifts made in consideration of marriage at any time (*i.e.*, even less than three years before death).
 - (d) Gifts, part of the normal expenditure made at any time, which are reasonable, having regard to income, etc., or which do not exceed £100 to any donee.
- (7) A single annuity not exceeding £25 purchased or provided by the deceased (*Finance Act, 1894, s. 15 (1)*).
- (8) Pensions and Annuities granted by the Government of British India to the widows and children of deceased officers (*Finance Act, 1894, s. 15 (3)*).
- (9) The property of common seamen, marines, soldiers or airmen who are killed or die in His Majesty's Service (*Finance Act, 1894, s. 8 (1)*).
- (10) The property of soldiers and sailors (officers and men) killed or who die on service, subject to certain restrictions.
- (11) Immovable property (real property and leaseholds) situated out of Great Britain (*Finance Act, 1894, s. 2 (2)*).
- (12) Movable (personal) property situated out of Great Britain, where the deceased owner died domiciled out of Great Britain (*Finance Act, 1894, s. 2 (2)*).

- (13) Property held by the deceased as a holder of an office or as the recipient of a charity or as a corporation sole (*e.g.*, the benefices of all clergy) (*Finance Act, 1894, s. 2 (1) (b)*).
- (14) Property held by the deceased as trustee for the benefit of another (*Finance Act, 1894, s. 2 (3)*).
- (15) Property passing by reason of a sale or lease for full money consideration (*Finance Act, 1894, s. 3 (1)*).
- (16) Real property to the rents of which deceased was entitled in right of his wife (*Finance Act, 1896, s. 15 (4)*).
- (17) War Securities held by foreigners (*Finance Act, No. 2, 1915, s. 47*).
- (18) Settled property in certain cases, for example, on which—
 - (a) Probate Duty or Account Duty was paid on death of deceased's spouse (*Finance Act, 1894, s. 21 (1)*, and *Finance Act, 1914, s. 14*).
 - (b) Estate Duty was paid on death of deceased's spouse (*Finance Act, 1894, s. 5 (2)*, *Finance Act, 1898, s. 13*, and *Finance Act, 1914, s. 14*).
- (19) Land given to the National Trust (*Finance Act, 1931, s. 40*), and to the National Trust for Scotland for Places of Historic Interest or National Beauty (*Finance Act, 1936, s. 27*).

CHAPTER XIII

VALUATION OF PROPERTY FOR ESTATE DUTY

THE Executor or Administrator of the deceased must specify in the Inland Revenue Affidavit all the property liable to Estate Duty (*Finance Act, 1894, s. 8 (3)*).

Particulars Required

Where the property includes real estate and leasehold particulars are required by the Estate Duty Office showing situation, area, rent (if let) or gross annual value (if unlet) terms of tenancies, landlord's outgoings, and an estimate of the principal value by taking an appropriate number of years' purchase of the net annual value to arrive at the market value.

Basis of Valuation

The principal value is the price which in the opinion of the Commissioners the property would fetch in the open market if sold at the time of the death (*Finance Act, 1894, s. 7 (5)* and *Finance (1909-10) Act, 1910, s. 60 (2)*) in the most advantageous manner (*Ellesmere v. I.R.C., 1918, 2 K.B. 735*), which in the case of an agricultural estate is usually interpreted as meaning a sale in lots.

No reduction in the principal value can be made because of the statutory assumption that all the property is placed on the market at one and the same time, but if it can be proved that the property is depreciated by the death, the Commissioners can take this fact into account (*Finance Act, 1910, s. 60 (2)*). If the property is sold within a reasonable time after the death, additional duty is payable if the price realised is greater than the estimated value, and if the sale price is less, a return of duty may be claimed,

provided that nothing has happened in the interval appreciate or depreciate the value since the death.

Where land passing on a death is the subject of restrictions imposed by a Town Planning Scheme which has become effective, and ownership of the land does not carry with it the right to receive compensation in respect of injurious affection by reason of such restrictions, the value of the land for purposes of death duties would, being based on the market value at the time of the death, necessarily be determined having regard to such restrictions and subject to their effect. The definition of agricultural property in the Finance Act, 1894 (*see page 177*), treats the whole of an agricultural estate, including the Mansion House, Park and Woods, as an agricultural unit. This should be borne in mind when considering the question of reservation of private open spaces in a Town Planning Scheme, or the transference of an historic house to the National Trust, as it might afterwards be held that they were no longer agricultural property. Restrictions on road frontages under the Restriction of Ribbon Development Act, 1935, should also be taken into account.

The value of sporting rights and minerals must be included.

Where the property includes labourers' cottages, they are to be valued as such, and no account is to be taken of any additional value which they may possess in certain districts, such as for use as week-end cottages for townspeople (*Finance Act, 1911, s. 18*).

Where agricultural property is included in a free estate not exceeding £1,000 in capital value, the principal value is limited to 25 years' purchase of the gross Schedule A assessment, after making the usual deductions, and also a sum not exceeding 5 per cent. for management (*Finance Act, 1910, s. 61 (1)*).

Deductions

The following deductions can be made from the principal value (*Finance Act, 1894, s. 7*)—

- (1) Reasonable funeral expenses (from the free personal estate).

- (2) Debts and incumbrances, such as mortgages, rent-charges (from the value of the land on which they are charged). The correct deduction in the case of an outstanding loan from the Lands Improvement Company would be the total amount of capital and interest owing, that is, the capital outstanding under the Absolute Order of Charge, plus interest from the date of the last payment to the Company to the date of the death of the landowner.
- (3) Five per cent. on the value of property situated outside the United Kingdom, if there has been additional expense in administering or realising it.
- (4) Death Duty on property situated in a foreign country and charged by the Government of that country.
- (5) Under certain conditions debts due to persons resident out of the United Kingdom.

Appeals

The valuation of real and leasehold property is usually referred to the District Valuer in whose district it is situated, for an opinion. Any person who is dissatisfied with the decision of the Commissioners as to value, has the right of appeal within thirty days to one of a panel of referees appointed by a Reference Committee set up under the provisions of Section 33 of the Finance (1909-10) Act, 1910. Any person aggrieved by the decision of a referee may appeal to the High Court.

Stocks and Shares

The values should be based on the daily lists of the London Stock Exchange at the lower price, plus one-fourth of the difference between that and the higher price. With regard to valuation of shares in private companies see Chapter XVI.

Furniture, Farming Stock and Similar Effects

The value of these effects should be estimated in detail, and where articles of special value are included, such as pictures by well-known artists, full particulars, including name of artist and value on each item, would be required.

In estimating the value of farming stock on a tenant's death, the basis of value of the tenant-right would be the estimated amount which would be given by a purchaser at the date of the death for the deceased tenant's right to compensation which might arise if the tenancy were determined by notice at the next available date after the death, taking into account all rights and liabilities under the contract of tenancy, custom and the Agricultural Holdings Act, 1923.

Agricultural Property

For the purpose of fixing the rate of duty on agricultural property (see definition, page 177), its agricultural value is to be estimated as if it were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property, decreased by the value of any timber, trees, wood or underwood, growing thereon (*Finance Act, 1925, s. 23*). This value is then charged with duty at the 1919 rate (see page 177). Agricultural value would include the value of the sporting rights over agricultural land which are normally exercised consistently with its agricultural user, whether such rights are included in the occupation of the land, or are reserved by the landowner, or are the subject of a special letting. In this connection, however, sporting rights would not, subject to the presentation of some special facts in a particular case, extend to rights of fishing. The principal value is also estimated, including any building value, and the excess of principal value over agricultural value is charged at the 1930 rate (see page 176). In both cases, the appropriate rate is arrived at after aggregation with other forms of property passing at the death. If the agricultural property is mortgaged, the incumbrance is to be apportioned between the two values.

EXAMPLE

The total principal value (that is, value in the open market) of a property passing on death is £130,000, made up as follows—

An agricultural property, including mansion house,

park, farms, cottages and woodlands, has a "principal value" of £105,000 apportioned as—

| | |
|--|----------|
| "Agricultural Value" | £100,000 |
| "Excess principal value" (being the undeveloped building value of parts) | 5,000 |
| Timber (not chargeable until sold) | 5,000 |
| | <hr/> |
| | £110,000 |
| Stocks and Shares and personal effects | 20,000 |
| | <hr/> |
| | £130,000 |
| | <hr/> |

The rate of duty under the 1919 Act on a principal value of £125,000 (excluding timber, £5,000) is 15 per cent., and under the 1930 Act is 22 per cent.

The duty payable in this case would be calculated as follows—

| | |
|--|---------|
| Upon the "agricultural value" of the agricultural property, £100,000 at 15 per cent. | £15,000 |
| Upon the "excess principal value" of the agricultural property, £5,000 at 22 per cent. | 1,100 |
| Upon the principal value of the personal property, £20,000 at 22 per cent. | 4,400 |
| Timber, £5,000 (exempt until sold) | Nil |
| | <hr/> |
| Total duty | £20,500 |
| | <hr/> |

Timber and Other Trees

Where an estate on which duty becomes payable comprises land on which "timber, trees, wood or underwood" are growing, such timber, etc., is not taken into account in estimating the principal value of the estate or the rate of estate duty, but duty becomes payable at the rate appropriate to the principal value of the estate, on the net receipts (after deducting all necessary outgoings since the death of the deceased) from the sale of timber, trees or

wood (not including underwood), when felled or cut during the period until the land again becomes liable to duty on a subsequent death. The duty, however, may if desired be paid in a lump sum on the value agreed as at the date of death. As the value of timber, trees, wood or underwood is excluded from the agricultural value of the estate (see page 187), the value of timber, trees or wood when sold is liable to estate duty at the 1930 rate. The owners or trustees of such land are to account for and pay the duty in a lump sum when the timber, etc., is sold with interest at the rate of 3 per cent. from the date of receipt of the proceeds of sale.

It will be noted that underwood is not charged with duty, and it is only charged on timber, trees or wood when sold, that is, the value of timber, etc., used for estate repairs is not liable. It should also be noted that liability to duty only extends to timber, trees and wood on the land at the date of the death. New areas may be planted or areas replanted after felling the mature crop, but no liability will arise on the produce of sales from these areas until another death occurs.

If trees are sold standing or with the land on which they stand, then duty becomes due on the principal value thereof, after deducting any duty paid since the date of the death. If part only of the standing timber is sold, duty will be charged not on the net proceeds, but on the proportion of the principal value of the timber at the date of death, which the portion sold bears to the whole, as statutory provision for deduction of necessary outgoings is only made when the trees are *felled or cut*.

Although estate duty on timber, etc., does not become payable until sale, it is of the utmost importance that the value of the timber as at the date of death should be agreed upon with the Inland Revenue Authorities, especially if there is any growing timber which is likely to be ready for sale before another death occurs. The amount so agreed would be the maximum sum liable to duty, although the receipts from sales may exceed that sum. If no such value is settled, then all receipts from timber sales without limit

would be liable to payment of duty until the next death. This statement of the position is, however, subject to the reservation noted on page 184, that if the whole of the timber is sold shortly after the death for a greater sum than the estimated value, duty would be claimed on the excess, on the ground that the estimate was incorrect. The Inland Revenue are prepared to settle the value of the timber etc., at the date of the death, and when duty upon that sum has been paid, the present practice is to exempt the remainder of the timber from duty until liability is again raised on a subsequent death.

The exemption of timber until sold affords considerable relief to estates which include a large area of woodland particularly where there are many immature plantations from which the owner cannot expect to secure an adequate return during his lifetime. Not only may a large sum be saved in estate duty, but the exclusion of the timber from the principal value passing at death may bring the estate into a lower scale of duty.

The following example may show the effect of the concession more clearly. Let us assume that the net annual value of a moderate-sized agricultural property, consisting of a manor house, well-timbered park and a small home farm, is £500, and that the number of years' purchase has been agreed at, say, 22. The principal value would be £11,000, on which the rate of duty assuming there is agricultural value only would be 5 per cent. on the 1919 scale. But the rental value of the residence depends largely on amenities in which the timber figures largely. The market value of the timber is agreed at £1,200, and this sum may be deducted, leaving a principal value of £9,800, the rate of duty being thereby reduced to 4 per cent.

Necessary Outgoings

The drafting of the sections in the Finance Acts relating to estate duty on timber is very general in character, and it may help to understand the established practice of the Inland Revenue on the question of "necessary outgoings," if the basis of the charge is clearly borne in mind. Estate

Duty, as has already been pointed out, is levied on the capital value of property passing. Duty is payable at the death of the owner on the value of the land which forms the site on which the timber is growing; it is only the timber itself which is exempt from duty until sold. In arriving at the land value, on the usual basis of so many years' purchase of the net annual value, such outgoings as drainage rates and land tax are deducted and cannot again be charged against receipts for timber. With regard to rates, "land used for a plantation or a wood as for the growth of saleable underwood" comes within the definition of agricultural land and is derated, and where amenity or sporting woodlands are still rated, it is on the "natural and unimproved value" of the land, as laid down in the Rating Act, 1874, the presence of the planted timber being ignored. When the timber is sold the suspended estate duty becomes payable on the receipts (which are treated as realisation of capital) less the necessary outgoings incurred in doing so, and in providing for replacement by replanting the ground on which timber was growing at the date of death, and subsequently felled. The outgoings usually allowed are—

- (a) expenses of the sale;
- (b) expenses of felling and drawing out the timber, and of restoring the fences, ditches, roads and gates damaged in the process, so far as these expenses are borne by the vendor;
- (c) expenses of replanting ground on which timber has been felled or thinned, and
- (d) expenses of management so far as intrinsically necessary.

(Forestry Commission Bulletin, No. 14, Revised Edition.)

CHAPTER XIV

SUCCESSION DUTY

SUCCESSION Duty was imposed by the Succession Duty Act, 1853, and is payable by the successor on the value to him of the property, termed "a succession," derived from the predecessor.

A succession may be acquired under a will or intestacy or under some disposition or devolution of property, such as a settlement.

Succession Duty is not charged on personal property liable to Legacy Duty on a death, but only on real property and leaseholds. But any personal property passing on disposition or devolution, not being a will or intestacy, is liable to Succession Duty.

Rates of Duty

The rates of Succession Duty depend on the relationship of the successor to the predecessor and, in the case of family successions since the Finance Act, 1910, are as follows (being the same rates as in the case of Legacy Duty).

| Relationship of Legatee to Testator or Intestate | Rate |
|---|------|
| Husband or wife, children and their lineal descendants (including the husband or wife of any such person) and the father or mother or any lineal ancestor | 1% |
| Brothers and sisters and their descendants, and the husband or wife of any such person | 5% |
| Other relatives and strangers | 10% |

Basis for Charging the Duty

The Duty is calculated on the principal value of the property, where the successor is competent to dispose, *e.g.*, an owner in fee simple (*Finance Act, 1894, s. 18*).

If the successor has only a limited interest, *e.g.*, a tenant for life, the duty is payable on the capital value of the income from the property according to his expectation of life, calculated from the Mortality Tables in the Succession Duty Act.

Payment of the Duty

The value of landed property for Succession Duty, where the successor is competent to dispose, is the principal value as estimated for Estate Duty, after deducting the Estate Duty payable and the expense of raising and paying the same. The Succession Duty becomes a charge on the property and may be paid by instalments as in the case of Estate Duty, the first payment becoming due twelve months after the death (*Finance Act, 1894, s. 18*). The Succession Duty is payable by the beneficiary (*Succession Duty Act, 1853, s. 42*).

Timber. The incidence of Succession Duty on Timber is similar to that of Estate Duty (see page 188). On a settled estate, where part of the proceeds of sale of timber is taken by the trustees and invested as capital, the practice is to take the value accruing to the successor as an annuity at the average rate of interest for trust securities on the capitalised portion of the proceeds of sale. No Succession Duty is payable in any year where the net receipts do not exceed £10 (*Succession Duty Act, 1853, s. 23*). Proceeds of sale of underwood, and the value of timber felled for estate repairs, are not liable to Succession Duty.

Principal Exemptions from Succession Duty

- (1) Property which is liable to Legacy Duty.
- (2) Money left to pay Succession Duty (*Succession Duty Act, 1853, s. 18*).
- (3) Timber, trees and wood, until sold (*Finance Act, 1912, s. 9, and Finance Act, 1910, s. 61 (5)*).

- (4) Advowsons, until sold. The duty is then payable on the proceeds of sale.
- (5) Foreign property.
- (6) Where the value of the succession is less than £10 (*Succession Duty Act, 1853, s. 18*).
- (7) Objects of national, scientific, historic or artistic interest are exempted in the same manner as described under Estate Duty.
- (8) Free estate not exceeding £1,000 (*Finance Act, 1894 s. 16 (3)*). When the free estate exceeds £1,000, the duty is limited in certain cases (*Finance Act, 1914 s. 13 (2)*).
- (9) Where Estate Duty has been paid, the 1 per cent duty is not charged where the principal value of the estate does not exceed £15,000 (*Finance Act 1910, s. 58*), or where the value of the succession to any one person does not exceed £1,000 (or £2,000 in the case of the widow or child under age), irrespective of the total value of the property (*Finance (1909-10) Act, 1910, s. 58*).
- (10) Partial exemption in the case of soldiers, sailors and airmen killed in the Great War or subsequently.

CHAPTER XV

LEGACY DUTY

THE general definition of Legacy Duty, given at the commencement of Chapter XII, described it as a duty on personal property passing under wills or intestacies of persons domiciled in Great Britain.

The duty is charged on the capital value of the property at the time the duty is paid, but differs from Estate Duty (which takes no account of the benefit accruing to the successor) in that **Legacy Duty is imposed on the benefit received by the legatee**, irrespective of the amount, at a rate depending on the relationship to the person leaving the legacy. For example, if a legacy takes the form of an annuity, the capital value is based on the legatee's expectation of life, calculated according to the Succession Duty Tables.

Rate of Duty

The rates of duty as fixed by the Stamp Act, 1816, s. 2 and Schedule, as amended by Finance Act, 1910, s. 58, are as follows, where the death of the testator or intestate occurred after 30th April, 1909—

| Relationship of Legatee to Testator or Intestate | Rate |
|---|------|
| Husband or wife, children and their lineal descendants (including the husband or wife of any such person) and the father or mother or any lineal ancestor | 1% |
| Brothers and sisters and their descendants, and the husband or wife of any such person | 5% |
| Other relatives and strangers | 10% |

Exemptions from Legacy Duty

- (1) Legacies to the Royal Family (*Stamp Act, 1815, Schedule*).
- (2) Where the whole of the deceased's personal estate does not amount to £100, no Legacy Duty is payable (43 *Vict., c. 14, s. 13*).
- (3) A specific bequest such as a piece of furniture or jewellery under £20 in value (*Stamp Act, 1815, Schedule, as amended by 43 Vict., c. 12, s. 42*).
- (4) Furniture, plate and such things not producing income, and settled upon persons in succession, while enjoyed in kind by a person not having the right to dispose of them (*Legacy Duty Act, 1796, s. 14*).
- (5) Books, prints, pictures, statues, gems, coins, medals, specimens of natural history or other specific articles bequeathed to a body corporate for preservation and not for sale (39 *Geo. III, c. 73, s. 1, and Schedule to Stamp Act, 1815*).
- (6) Such pictures, prints, books, manuscripts, works of art, scientific collections or other things not yielding income as on a claim made to the Treasury appear to them to be of national, scientific, historic or artistic interest, are not to be taken into account in estimating the principal value of the estate passing at a death or the rate of estate duty, and are exempt from death duties while enjoyed in kind or if sold to the National Gallery, British Museum, or any other similar national institution, any University, County Council or Municipal Corporation in Great Britain, or the National Art Collections Fund. If sold to any other purchaser, estate duty becomes payable at the rate appropriate to the principal value of the estate on the last death on which the objects passed (*Finance Act, 1930, s. 40*). The test laid down by the Treasury of the "national, scientific, historic or artistic interest" of any article is that it would be accepted on one of those grounds by the appropriate National Collection.

- (7) Money left to pay Legacy Duty (*Legacy Duty Act, 1796, s. 21*).
- (8) Legacies for charitable purposes in Ireland (5 and 6 *Vict., c. 82, s. 38*).
- (9) Where the net value of a "free" estate does not exceed £1,000 (*Finance Act, 1894, s. 16 (3)*).
- (10) Where a free estate exceeds £1,000, the amount of Legacy Duty is limited to the amount of such excess (*Finance Act, 1914, s. 13 (2)*).
- (11) Where Estate Duty has been paid, Legacy Duty at £1 per cent. (*i.e.*, in bequests to widow, husband, lineal issue or lineal ancestors) is not payable unless the taxable limits are reached (*Finance Act, 1910, s. 58 (2), and Finance Act, 1894, s. 1, and First Schedule, para. 5*).
- (12) Partial exemption under certain conditions in the case of soldiers, sailors, etc., killed in the Great War or subsequently.
- (13) Where the deceased was domiciled abroad.

Payment of Legacy Duty

The duty becomes payable by the executors on payment of the legacy (*Legacy Duty Act, 1796, s. 6*) on the value at the time of payment. The executors have a year to get in the estate and pay legacies and distribute the residue.

CHAPTER XVI

TAXATION OF LANDED ESTATE COMPANIES

DURING the years which have elapsed since the Armistice a number of agricultural estates have been transferred from individual ownership to Private Companies with limited or unlimited liability. Care is required in drafting the Memorandum and Articles of Association to guard against any unnecessary liabilities and the most competent advice should be obtained. The subject of Company management cannot be dealt with adequately in a single chapter of this handbook, but a brief comparison of taxation in the case of the individual owner and a Company will, it is hoped, be of interest.

INCOME TAX

Schedule A

Land owned by a Company is assessed under Schedule A on the annual value of the land in exactly the same way as in the case of an individual owner. Similarly, where the cost of repairs, etc., exceeds the statutory allowance, repayment of tax is claimed through the Maintenance Claim in both cases. With regard to the occupation of the Mansion House it is better for the Company to let it to the former owner at a fair rent, rather than to allow him to occupy it rent free. In the latter case he would as beneficial occupier have to pay the Schedule A tax upon it, while the Company if undertaking the burden of repairs would not be in a position to include the expenditure in the Maintenance Claim made in respect of the Estate as a whole. The expense of managing the Estate is included in the Maintenance Claim, but a Company may within twelve months of the end of the year of assessment make a claim under Section 33 of the Income Tax Act, 1918, in respect of other expenses of management of the Company. The

Schedule A assessment is not replaced by an assessment under Schedule D on the profits of a Company.

Schedules B and D

The profits of occupation of land are also assessed in a similar manner, either under Schedule B or Schedule D. The profits made by a Company are not, however, entitled to the Earned Income Allowance, which is restricted to an individual. A Director of a Company may claim the earned income allowance on the amount of his fees, subject to the maximum allowance of £300, but his travelling expenses incurred in attending meetings may not be charged against his fees (*Revell v. Directors of Elworthy and Co. Ltd.*, 1890). Transfer to a company constitutes the setting up of a new business (see page 63). If the Mansion House kitchen gardens are managed on commercial lines, they should be assessed accordingly (see page 58).

Timber and Trees

Woodlands are usually occupied by the owner, and if he has elected to be assessed under Schedule D, and then transfers the estate with the timber, etc., to a Company, the value of the timber, etc., would have to be entered on the receipts side of the income tax return submitted for the year (see page 67). If the Estate is liable to death duties on the timber a transfer would involve payment of such duties, unless excepted from the transfer. If the owner reserves the timber, and transfers all the land to a Company, the value of the timber would be aggregated with the value of his shares and other personal property, and duty would be payable on the 1930 scale on the whole, as the special provisions with regard to non-aggregation and deferred payment of duty on timber only apply to an estate which "comprises land on which timber, trees, wood or under-wood are growing."

Personal and Other Allowances

In addition to the earned income allowance, individuals receive personal allowances and deductions (see Chapter VI), but these are not available to Companies.

Payment of Tax

The individual owner pays tax in two half-year instalments on the profits of occupation of lands used for husbandry under Schedule B or Schedule D, and on the profits of occupation of woodlands when assessed under Schedule D. The Company pays tax under these Schedules in one sum on the 1st January.

Estate Employees

The Secretary is the person who must in the case of a Company make a return to the Inspector of Taxes of the employees whose remuneration renders them liable for income tax. For the purposes of this return the persons employed by a Company include the Directors and the Manager. There may be some differences in the position of employees if employed by a Company; for example, domestic service does not come within the scope of the Unemployment Insurance Scheme "except where the employed person is employed in any trade or business carried on for the purposes of gain" (*Unemployment Insurance Act, 1935, First Schedule, Part II*). "Employment as a private gardener" is by the First Schedule excepted from the scope of the Unemployment Insurance (Agriculture) Act, 1936, but it would appear that he would not be a "private gardener" if employed by a company formed for purposes of gain, who manages the kitchen gardens attached to the Mansion House as a trading occupation on market garden lines.

SUR-TAX

Sur-tax is a tax on the individual. Companies are not liable as such unless they come within the purview of Section 21 and First Schedule of the Finance Act, 1922, as amended and extended by Sections 31 and 32 of the Finance Act, 1927, Section 18 of the Finance Act, 1928, and Section 19 of the Finance Act, 1936. The object of this legislation which is so involved as to defy any attempt at abbreviation without the risk of being misleading, is set out in the opening words of the first-named Section—"With a view to

preventing the avoidance of the payment of Super-tax (now Sur-tax) through the withholding from distribution of income of a Company which would otherwise be distributed, it is hereby enacted, etc., etc." The Section as amended applies to any Company within the meaning of the Company (Consolidation) Act, 1918, which is under the control of not more than five persons, and which is not a subsidiary Company or a Company in which the public are substantially interested, and by Section 32 of the 1927 Act inter-connected Companies come within the scope of Section 21 of the 1922 Act.

"Withholding from distribution" means not only failure by the Company to distribute within a reasonable time "in such manner as to render the amount distributed liable to be included in the statements to be made by members of the Company of their total income for the purposes of Super-tax" of a "reasonable part of its actual income from all sources," but the following expenditure by the Company would also be regarded as "income available for distribution among the members"—

- (a) Any sum expended or applied, or intended to be applied, out of the income of the Company, otherwise than in pursuance of an obligation entered into by the Company before the 4th August, 1914—
 - (i) in or towards payment for the business, undertaking or property which the Company was formed to acquire or which was the first business, undertaking or property of a substantial character in fact acquired by the Company, or
 - (ii) in redemption or repayment of any share or loan capital or debt (including any premium on such share or loan capital or debt) issued or incurred in or towards payment for any such business, undertaking or property, or issued or incurred for the purpose of raising money applied or to be applied in or towards payment therefor; or
 - (iii) In meeting any obligations of the Company in respect of the acquisition of any such business, undertaking or property;

- (iv) in redemption or repayment of any share or loan capital or debt (including any premium on such share or loan capital or debt) issued or incurred otherwise than for adequate consideration.
- (b) Any sum expended or applied, or intended to be expended or applied, in pursuance or in consequence of any fictitious or artificial transaction.

Subject to the foregoing provisions the Commissioners are instructed to have regard (when determining whether any Company has or has not distributed a reasonable part of its income), not only to the current requirements of the Company's business, but also to such other requirements as may be necessary or advisable for the maintenance and development of that business. The Commissioners are not required to state what in their opinion is "a reasonable part of the income, and if they determine that such part has not been distributed, it is the "actual income from all sources" of the Company that would be apportioned among the members for the purpose of an assessment to Sur-tax under the Section, in accordance with their respective interests and after deducting any amount which has been distributed for the year under review. A notice of charge is sent to the member in the first instance and if he does not elect to pay within 28 days, a notice of charge is served on the Company, and the tax thereupon becomes payable by the Company.

The Company has a right of appeal to the Special Commissioners against any direction under the Section within 21 days after the date of the notice. If the Company or the Commissioners of Inland Revenue are dissatisfied with the determination of the Special Commissioners, they may on giving 21 days' notice after the determination to the Clerk to the Special Commissioners require the appeal to be re-heard by the Board of Referees. The decision of the Board is final and conclusive on questions of fact, but the Board may be required to state a case on a point of law for the opinion of the High Court (see page 80). Section 18 of the Finance Act, 1918, gives a Company power to submit its report and annual accounts to the Special Commissioners

for their consideration in relation to the position of the Company under the aforesaid Section 21. The Special Commissioners may within 28 days ask for further reasonable particulars to be furnished within 28 days. If no intimation of intention to take action is given by the Special Commissioners within three months after receipt of the accounts (or further particulars or expiration of the period within which those particulars are to be furnished as the case may be) the power of the Special Commissioners to take such further action ceases. If such an intimation is given the Special Commissioners must take action after the expiration of six months from the date of the intimation, or lose the right to do so.

In the case of an individual the income (in excess of £2,000) from the ownership of a landed estate which is liable to Sur-tax is the net Schedule A assessment or rent, after deducting any additional sum allowed through the Maintenance Claim, and any other reduction of the income tax assessment which has been obtained. The cost of improvements (except where specifically provided for in paragraph (2) of the Maintenance Claim Rules (see page 28)) is not allowed as a deduction for income tax purposes, and consequently any such expenditure out of the larger incomes has to bear Sur-tax as well.

Where a landed estate has been transferred to a Company, the net profits are distributed in the form of dividends on the shares, and the shareholders may or may not be liable to Sur-tax, according to the amount of the total income of each. Such dividends received by the shareholders should be grossed for the purposes of a return of income on which liability to Sur-tax is calculated, income tax having been paid by the Company. Before the distribution of dividends a Company is entitled to allocate a reasonable proportion of the receipts to a reserve fund, and may use income to pay off mortgages, or carry out improvements. The part of the total income of a Company devoted to such purposes would therefore escape Sur-tax although it would bear income tax as in the case of the individual owner. It follows that where a Company is in a position to spend money on improvements a considerable

saving in Sur-tax may be effected, particularly in the case of the larger estates.

LAND TAX, RATES AND TITHE REDEMPTION ANNUITIES

The liability to these outgoings is the same in both cases except that a Company cannot claim the exemption or relief from land tax available to individuals whose incomes do not exceed certain limits. (See Chapter VIII.)

When dealing with rating assessments, it should be remembered that a Company is a legal entity. Occupation of a hereditament by the Company is separate and distinct from personal occupation by the former owner who may have become Governing Director.

LIABILITY TO DEATH DUTIES

(a) General Considerations

On the death of an individual owner, a landed estate is valued for death duty purposes at the price it would fetch in the open market if sold in the most advantageous manner at the time of the death. This method in the case of most agricultural estates means a sale in lots, and in effect treats a wholesale business on retail lines, as the capitalised net income of an owner in possession is almost invariably much lower than the open market price on a break-up basis. The result has been disastrous to agricultural estates, and although owing to the efforts of the C.L.A. and other interested organisations, the increases in the rates of estate duty made in 1925 and 1930 do not apply to the agricultural value of a landed estate (see Chapter XII), the burden of death duties has continued to be the most potent cause of the break-up of such estates.

It is to be expected, therefore, that landowners should explore any legitimate means of relief under the law as it exists, and transfer to a Company has been adopted in an increasing number of instances. An incorporated Company has a perpetual existence, and where the fee simple of an estate is conveyed to a Company the liability to death duties is distributed among the shareholders. On the death

of a person holding shares in an estate Company, the value of the shares held by him would constitute the property passing at his death. Such shares are not "agricultural property," and would, therefore, be subject to estate duty at the full rate, payable in one sum, as payment by instalments over a period of eight years, available where estate duty is payable on landed property, does not apply to shares.

(b) Finance Act, 1930. Part III

Sections 34 to 38 contain important provisions designed to equalise the position with regard to liability to estate duty in the case of an "individual" and a "Company."

The Companies which come within the scope of the Clauses are defined as follows—

"Any body corporate wheresoever incorporated which either—

- (i) is so constituted as not to be controlled by its shareholders, or by any class thereof; or
- (ii) has not issued to the public, or in the case of a company which is about to make an issue of shares to the public, will not, when it has made that issue, have issued to the public more than half of the shares by the holders whereof it is controlled."

The general effect of the Sections is to bring about new grounds for liability to estate duty in certain cases where the fee simple has been transferred to a Company (Section 34) where a property in which the deceased had a life interest had been so transferred (Section 35) and to introduce a new standard of valuation for ordinary shares (Section 37).

Section 34. Estate Duty where property of deceased person has been transferred to a Company.

Where the Company has been formed after the 31st July, 1918, and the death of the person who transferred the property to the Company occurs after the 1st August, 1930, an additional liability to estate duty may arise if it can be shown that he received during the three years preceding the death any "benefits" the average value of which exceeds 50 per cent. of the total income of the Company.

In such an event it will be deemed that a similar proportion of the total assets of the Company has passed, and shall be assessed to estate duty as an estate by itself. This is subject to the restriction that such sum shall not exceed the value of the total assets of the Company, and

- (a) to the provision that in computing the sum, it shall be reduced by the amount, if any, by which the principal value at the date of death—
- (1) of the subject of the transfer; or
 - (2) if the subject of the transfer has been sold or exchanged by the Company, either of the subject of the transfer or of the property in the hands of the Company which is or represents the proceeds of the sale or exchange

is shown to the satisfaction of the Commissioners to fall short of the said sum; and

- (b) the value of the property is not to be taken into account more than once on the same death, for the purpose of assessment of estate duty; and
- (c) if the total assets of the Company comprise property which comes within the scope of Section 35, there shall in computing the said proportions and ascertaining the sum of money if any, which is deemed to pass by virtue of this Section, be subtracted—
- (1) from the value of the total assets of the Company, the value of the said property as ascertained for the purposes of Section 35;
 - (2) from the total income of the Company in every accounting year and also from the total value of the benefits received by the deceased therein, a sum equal to so much of that total income as is ascribable to—
 - (i) that property; or
 - (ii) in a case where that property is deemed to pass as being or representing the proceeds of any other property that other property or the proceeds thereof or any property representing those proceeds.

"Transfers" are transfers made for consideration or not of any property which had it been in the disposition of the deceased, would have been liable to the duty, or any interest in any such property other than—

- (a) bona-fide sales where the consideration was received by the deceased for his own use or benefit in the form of a capital sum of a fixed amount or of shares in or debenture of a Company;
- (b) transfers of or incidental to the transfer of a business, **not being a business which substantially consists in holding, managing, developing or dealing in land situate in Great Britain**;
- (c) transfers of or any interest in property dealt with in Section 35;
- (d) transfers of patents or copyrights, or of any moveable tangible property except money and securities;
- (e) transfers where either the deceased or the Company is acting in the capacity of trustee, factor, agent, receiver, or manager.

"Benefits" are—

- (i) any payments (including Directors' fees, Managing Director's salary, etc.) made whether for consideration or not to or for the benefit of the deceased, subject to the deduction of income tax paid (but not sur-tax), except
 - (1) dividends in respect of shares in the Company;
 - (2) interest to and repayments in respect of money lent to that Company;
 - (3) payments of or on account of purchase money under a bona-fide sale, where that purchase money is a capital sum of a fixed amount;
 - (4) payments of or on account of royalties, not being royalties limited to cease at the death of the deceased;
- (ii) any right in or enjoyment of any land (computed by reference to Schedule A assessment, and making

allowance for any rent paid by the deceased) *e.g.* rent free occupation of mansion house, sporting rights, etc.

“Total Income of the Company.” The total income is computed in accordance with the provisions of the Income Tax Acts, for the accounting year, provided that

- (a) no deduction shall be made in respect of any payment made to or for the benefit of, or any other benefit accorded to, the deceased, except dividends on preference shares in, and interest on money lent to, the Company; and
- (b) subject to paragraph (a), deductions shall be made for—
 - (i) income tax paid or borne by the Company; and
 - (ii) interest on money lent to the Company; and
 - (iii) dividends on preference shares; and
 - (iv) rents, royalties and other payments by the Company on which income tax is deducted at source.

“Value of the total assets of the Company” means the price which in the opinion of the Commissioners all the assets of the Company as a going concern, including goodwill, would fetch if sold in the open market at the time of the death of the deceased, after deducting therefrom—

- (i) the par or redemption value, whichever is the greater, of any debentures, debenture stock and preference shares of the Company;
- (ii) all debts of the Company incurred or created bona fide for consideration in money or money's worth;
- (iii) such sum as on a just and fair computation represents any future or contingent liabilities of the Company or any liabilities thereof which are uncertain in amount;
- (iv) the amount of any reserve fund separately invested which is bona fide intended to be applied in payment of pensions to employees or otherwise for the benefit of them or their dependants or relatives, and in no other manner.

"Share" includes any interest whatsoever in a Company, by whatsoever name it is called, analogous to a share, and the expression "shareholder" shall be construed accordingly.

"Preference Share" means a share the holder whereof is entitled to a dividend at a fixed rate only.

This Section is given practically in extenso for information as it defeats any attempt to simplify or abbreviate its wording without being unintentionally misleading. Expert advice should be taken on the facts of a particular case if it is considered that there may be grounds for the application of the Section.

Section 35. Estate Duty where Property in which deceased had a life-interest is transferred to a Company.

The effect of this Section is that where at any time before the death of a person dying after 1st August, 1930, any property in which the deceased had an estate or interest limited to cease at his death, had been transferred by the deceased and the person interested in the remainder or reversion, whether directly or indirectly, and whether by one or more transactions, to or for the benefit of the Company to which this Act applies, then **estate duty is to be payable in respect of the property at his death as an estate by itself.***

This liability can only be avoided if one of the following conditions exists—

- (a) the transfer was made before 1st August, 1918, or
- (b) the property was settled property in which the deceased's interest would have in any case failed because of his death before it would have become an interest in possession (by reason of predeceasing the previous tenant for life); or
- (c) the share of the consideration payable to the deceased in respect of the transfer was satisfied *otherwise than*

* This provision for non-aggregation is important, resulting as it would in payment of duty at a lower rate per cent.

by an allotment of shares in the Company or the grant to him of an annuity or the right to some other periodical payment; or

(d) the deceased had—

- (i) at least 3 years before his death relinquished all interest in the property; and
- (ii) at no time within such three years the possession or enjoyment (otherwise than under a lease or agreement for a lease at a full rent) of any part of the property or of any benefit secured to him whether by contract or otherwise in relation to the relinquishment of his interest; and
- (iii) not at any time within such three years been in receipt of or entitled to any payment from the Company otherwise than in respect of or on account of debentures or loans or purchase money being a capital sum of a fixed amount.

If the property or any part of it has been *bona fide* sold or exchanged by the Company during the deceased's lifetime for full consideration in money or money's worth the property or part so sold or exchanged shall not be deemed to pass on the death, but in lieu thereof the proceeds of such sale or exchange shall be deemed to pass.

The following deductions shall be made from the principal value of property deemed to pass under this Section—

- (a) so much of any sum borrowed by the Company and applied on improvement of the property which has not at the time of the death been repaid by the Company;
- (b) a sum equal to the capital sum paid to the deceased as part of the consideration for transfer; and where estate duty is payable in connection with the death on any shares of or debentures of the Company, a sum equal to the principal value of such of those shares or debentures as were transferred or allotted to the deceased in consideration of the transfer of the property.

Section 36. Charge of duty and powers of recovery.

This Section provides that estate duty payable under Sections 34 and 35 shall be a debt from the Company concerned to His Majesty. The Company is accountable for such duty, and where on the death of a person a claim for duty arises under those Sections, the Company must notify the Inland Revenue. The Commissioners of Inland Revenue are given power for the purpose of carrying the Sections referred to and Section 37 into effect, to require the Company to furnish to them within two months "copies of such of the balance sheets and profit and loss or income and expenditure accounts, and such other particulars as the Commissioners may reasonably require," under penalties in the case of default.

Section 37. Valuation of shares in certain Companies.

In any case where (a) Section 34 applies, or (b) the control of the Company was immediately before the death in the hands of the deceased, this Section provides that the principal value of any shares (not being preference shares) held by him, shall not be ascertained by reference to their value in the open market, but by reference to the value of the total assets of the Company, reduced in the case of (a) by the sum of money referred to in the Section.

For the purpose of case (b) the control of a Company shall be deemed to be in the hands of a person if—

- (a) by virtue of the shares which he controls he has control of more than half the voting power of the Company; or
- (b) he has by virtue of the provisions in the Memorandum of Association or Articles of the Company, or other instrument whatsoever constituting or defining the constitution of the Company, the powers of a board of directors or of a governing director or the right to nominate a majority of the directors or the power to veto the appointment of a director, or powers of the like nature; or

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- (c) he has otherwise the right to receive or the power to dispose of, more than half of the income of the Company.

This Section does not apply to shares which have within twelve months before the death of the deceased, been the subject of dealings on a recognised Stock Exchange in the United Kingdom or been quoted in the official list of such a Stock Exchange.

CHAPTER XVII

STAMP DUTIES, LICENCE DUTIES, COMPENSATION LEVY ON LICENSED HOUSES, AND NATIONAL INSURANCE

THIS Chapter is not an exhaustive account of taxation under the above-named heads, but is confined to a summary of the charges with which the owner of agricultural property is, directly or indirectly, concerned.

With regard to the preparation of agreements, etc., it should be noted that while unqualified persons (not members of the legal profession) may prepare for a fee agreements under hand only (*e.g.*, lettings from year to year, or for not more than three years) they are prohibited by law from preparing for a fee, any instrument under seal. A lease of land for more than three years must be under seal.

PART I. STAMP DUTIES

These duties are levied by means of stamps on certain specified instruments in writing, prescribed in the Stamp Act, 1891, as amended by the provisions of subsequent Finance Acts.

Unstamped Documents

In certain cases unstamped documents which should be stamped by law may be void as between the parties, but in all cases they are not admissible as evidence in actions. In the case of such documents as may be stamped after execution, provision is made for admission of unstamped documents in evidence, on payment of (a) the unpaid stamp duty, (b) a penalty, and (c) a further sum of £1. Apart from lawsuits, an unstamped or insufficiently stamped document may be stamped after the prescribed period has elapsed, on payment of the unpaid duty and a penalty of

£10. Where the unpaid duty exceeds £10, interest on such duty at 5 per cent. per annum is payable in addition, but the amount of the interest cannot exceed the amount of the duty. In any case of doubt as to the correct stamp the Commissioners of Inland Revenue may be asked to adjudicate.

Stamping

The duties are required to be denoted on the instrument by (a) impressed stamps at Somerset House or through most Post Offices, or (b) by adhesive postage stamps (which must be effectively cancelled by the person first executing the instrument by writing his name and the date over the stamp) in the following cases—

Agreements under hand.

Cheques.

Proxies.

Receipts.

Agreement to let a furnished house for any definite period less than a year.

Lease for a definite term less than a year at a rent not exceeding £10 per annum.

The period allowed for stamping agreements under hand liable to the fixed duty of 6d. is 14 days, and for all other instruments chargeable with *ad valorem* duty, 30 days.

Stamps inadvertently and undesignedly spoiled will be allowed, and other stamps of the same value given in lieu thereof.

Stamps

AFFIDAVIT AND STATUTORY DECLARATION .

AGREEMENT not otherwise charged with duty, under hand only or without clause of registration

- Agreements exempted from duty: (a) where the matter is not of the value of £5, (b) for the hire of any labourer, artificer or menial servant, (c) for the sale of any goods, wares or merchandise, (d) for extinguishing manorial incidents (but not lord's rights).

£ s. d.

Ordinary agreements and letters subject to the six-penny stamp must be stamped within fourteen days of date of execution. Agreements for over three years must be under seal. Original three years' agreements are chargeable with the same rates of duty as if they were actual leases for the term and consideration mentioned. A lease made subsequently to, and in conformity with, such an agreement duly stamped is chargeable with the duty of 6d. only.

AGREEMENTS for Letting, Lease or Tack. See LEASE.

APPOINTMENT of a New Trustee and in execution of a power over any property, not being by will; also, on retirement of a Trustee, although no new Trustee be appointed 10 0

APPRAISEMENT OR VALUATION (To be written on stamped material)—

Where the amount of the appraisement or valuation does not exceed £5 3

| | | | | | | |
|---------|------|---------------------|-----|------|---|-------|
| Exceeds | £5 | and does not exceed | £10 | . | . | 6 |
| " | £10 | " | " | £20 | . | 1 0 |
| " | £20 | " | " | £30 | . | 1 6 |
| " | £30 | " | " | £40 | . | 2 0 |
| " | £40 | " | " | £50 | . | 2 6 |
| " | £50 | " | " | £100 | . | 5 0 |
| " | £100 | " | " | £200 | . | 10 0 |
| " | £200 | " | " | £500 | . | 15 0 |
| " | £500 | . | . | . | . | 1 0 0 |

Appraisements or valuations exempted from duty: (a) where made for, and for the information of, one party only and not being in any manner obligatory as between parties either by agreement or operation of law; (b) of property and for the purpose of ascertaining the legacy or succession duty payable in respect thereof; (c) for information of executors or others required to deliver, in England or Ireland, an affidavit, or to record, in any commissary court in Scotland, an inventory of the estate of any deceased person; (d) a valuation made in pursuance and for the purposes of the Income Tax Act, 1918.

APPRENTICESHIP INDENTURES to learn a profession, trade or employment (except articles of clerkship to a Solicitor) 2

ARBITRATION AWARD 10

| | £ | s. | d. |
|--|----|----|----|
| ARTICLES OF ASSOCIATION—Companies Act, 1929 | 10 | | 0 |
| ARTICLES (OR DEED) OF PARTNERSHIP | 10 | | 0 |
| CAPITAL DUTY (Companies)— | | | |
| Companies and Corporations with limited liability— on every £100 of the nominal share capital | 10 | | 0 |
| On the loan issues of Companies and Corporations— on every £100 of amount secured | 2 | | 6 |
| CONVEYANCE OR TRANSFER on sale of any property— | | | |
| Where the purchase money does not exceed £5 | 1 | | 0 |
| Exceeding £5 and not exceeding £10 | 2 | | 0 |
| " £10 " " £15 | 3 | | 0 |
| " £15 " " £20 | 4 | | 0 |
| " £20 " " £25 | 5 | | 0 |
| For every additional £25 up to £300 | 5 | | 0 |
| If exceeding £300, then for every £50 | 10 | | 0 |
| Of any kind not otherwise charged | 10 | | 0 |
| Conveyances by way of gifts <i>inter vivos</i> are charged as conveyances on sale. | | | |
| COPY OR EXTRACT (attested or authenticated) except probates, the same duty as original but not to exceed | 1 | | 0 |
| CORPORATION DUTY— | | | |
| Upon the net annual value, income, or profits accrued in respect of all real or personal property vested in Corporate and Unincorporate Bodies. Per cent | 5 | | 0 |
| DEED of any kind not charged under any special head | 10 | | 0 |
| DUPLICATE OR COUNTERPART— | | | |
| Same duty as original but not to exceed | 5 | | 0 |
| ELECTRICITY WAYLEAVE AGREEMENTS— | | | |
| <i>Ad Valorem</i> Bond Covenant Duty on the annual payment (i.e. on the rent or other annual payments) for every £5 and also any fractional part of £5 | 2 | | 6 |
| In cases where the agreement provides for other indefinite payments, in addition to the annual pay- ments, a further fixed duty of | 10 | | 0 |
| The duplicate or counterpart agreement would have to bear the same duty as the original instrument, where such duty does not amount to 5s., and in every other case | 5 | | 0 |

£ s. d.

HIRE PURCHASE AGREEMENTS—

| | |
|----------------------|------|
| Under hand | 6 |
| Under seal | 10 0 |

INSTRUMENTS OF TRANSFER—

By s. 28 of the Finance Act, 1931, no instrument of transfer (for sale of the fee simple of land, grant of a lease of land for a term of seven years or more, or sale of such a lease) shall be deemed to be stamped as required by the Stamp Act, unless it is produced to the Commissioners of Inland Revenue within 30 days of its execution, and stamped with a stamp denoting that it has been so produced.

LEASES—

Lease or tack of any dwelling-house or part thereof for any definite term not exceeding a year at a rent not exceeding £40 per annum 1

For any definite term less than a year of any furnished dwelling-house or apartments where the rent for such term exceeds £25 5 0

Of any lands, tenements, etc., at a yearly rent—

| Exceeding | Not exceeding | Not exceeding | Between 35 | Exceeding |
|--|---------------|---------------|---------------|-----------|
| | exceeding | 35 years | and 100 years | 100 years |
| | | £ s. d. | £ s. d. | £ s. d. |
| £5 | £5 | 1 0 | 6 0 | 12 0 |
| £10 | £10 | 2 0 | 12 0 | 1 4 0 |
| £15 | £15 | 3 0 | 18 0 | 1 16 0 |
| £20 | £20 | 4 0 | 1 4 0 | 2 8 0 |
| £25 | £25 | 5 0 | 1 10 0 | 3 0 0 |
| £25 | £50 | 10 0 | 3 0 0 | 6 0 0 |
| £50 | £75 | 15 0 | 4 10 0 | 9 0 0 |
| £75 | £100 | 1 0 0 | 6 0 0 | 12 0 0 |
| £100, for each additional £50, or fractional part of £50 | | 10 0 | 3 0 0 | 6 0 0 |

Lease of any kind not specially charged, £1

Note as to Stamping of Leases and Tenancy Agreements—

The Counterpart of a Lease can be stamped with a 5s. stamp even if the Lease itself is not stamped.

The liability to stamp the Lease rests with the tenant and he is liable for a penalty of £10 for not stamping the same. He is also liable for a penalty of £10 and

£ s.

double duty if he wishes to stamp it and does so after the expiration of 30 days from the date thereof.

If it is desired by the landlord to stamp the Counterpart with a 5s. stamp only, it must not be signed by the landlord, but only by the tenant, and should be endorsed "Counterpart of a Lease" (see Section 72 of Stamp Act 1891). If signed by the landlord it becomes a duplicate, and is liable to the same stamp duty as the Lease.

If the landlord signs the Lease only it is desirable to call the tenant's attention to the fact that he is liable for stamping it. He can, of course, please himself whether he does so or not.

A denoting stamp showing the stamp with which the Lease is stamped is not necessary on the Counterpart of a Lease.

The stamping of an Agreement and Counterpart is identical with that of a Lease and Counterpart. An Agreement can be signed by a duly authorised agent, whereas a Lease, which is an Indenture, must be executed by the landlord or by someone acting for him under a Power of Attorney.

LICENCE TO ASSIGN a Lease—

Under hand, not liable to duty; under seal 10

MEMORANDUM OF ASSOCIATION—Companies Act, 1929 10

MORTGAGE, BOND, etc.—

Not exceeding £10

Exceeding £10 and not exceeding £25

 " £25 " " £50 1

 " £50 " " £100 2

 " £100 " " £150 3

 " £150 " " £200 5

 " £200 " " £250 6

 " £250 " " £300 7

 " £300, for every additional £100 or fraction of £100 2

Transfer or Assignment of Mortgage (except marketable securities), for every £100

Reconveyance, Release, etc., per £100

Equitable Mortgage, for every £100 or fraction of £100 of the amount secured 1

Collateral, or auxiliary, or additional, or substituted security, when the principal security is duly stamped, for every £100 or fraction of £100 with a maximum duty of 10s.

| | £ | s. | d. |
|---|----|----|----|
| POWER OF ATTORNEY, etc.— | | | |
| Receiving wages | | 1 | 0 |
| For the receipt of any money, or bill, or note, not exceeding £20, or of any periodical payments not exceeding £10 annually | | 5 | 0 |
| For the receipt of dividends or interest of any stock, if for one payment only | | 1 | 0 |
| Ditto in any other case | | 5 | 0 |
| Proxy to vote at a meeting | | | 1 |
| Power of Attorney of any other kind | 10 | | 0 |
| RECEIPTS for £2 or more | | | 2 |
| Receipts for Salaries, Wages and Superannuation, and other like allowances are exempt from stamp duty | | | |
| VESTING DEED under the Settled Land Act, 1925 | 10 | | 0 |
| VOLUNTARY DISPOSITION <i>inter vivos</i> (See Conveyance) | | | |
| VOTING PAPER. Any instrument for the purpose of voting by any person entitled to vote at any meeting. | | | 1 |

PART II. LOCAL TAXATION LICENCES

(Annual, except where otherwise stated)

Power to levy duties on the following licences was transferred to County Councils and County Borough Councils in England and Wales as from the 1st January, 1909, by the provisions of s. 6 of the Finance Act, 1908, and S.R. & O., 1908, No. 844—

“Licences to deal in game, licences for dogs, killing game, guns, carriages (including duties charged under sub-section (1) of s. 8 of the Locomotives on Highways Act, 1896), armorial bearings, and male servants.”

| | £ | s. | d. |
|---|---|----|-----|
| ARMORIAL BEARINGS | | 1 | 1 0 |
| If used on any carriage | | 2 | 2 0 |
| CARRIAGES drawn by horses or mules— | | | |
| 1. With four or more wheels: | | | |
| (a) to be drawn by two or more horses | | 2 | 2 0 |
| (b) to be drawn by one horse only | | 1 | 1 0 |

2. With less than four wheels

Exemptions: Wagon, cart or other vehicle constructed and used solely for conveyance of goods of trade or husbandry and whereon the christian name and surname and address of the owner is painted in letters of not less than one inch in length; carriages which are kept but not used at any time within the year.

DOGS

Exemptions: (1) Dogs under six months old. (2) Hound puppies under twelve months old not entered in or used with a pack of hounds. (3) One dog kept and used solely by a blind person for his guidance. (4) Dogs kept and used solely for the purpose of tending sheep or cattle. This last exemption is only allowed on a certificate issued by the Inland Revenue, and is limited to two dogs unless the farmer owns over 400 sheep, in which case a third dog is allowed; a fourth if the sheep amount to 1,000; and an additional dog up to eight dogs for every 500 above 1,000.

FIREARMS CERTIFICATE—

Any person keeping a rifle, revolver or pistol must obtain a permit from the chief officer of police of his district. This regulation does not apply to smooth-bore guns.

The certificates are renewable every 3 years and cost—

For the first

Afterwards

GAME—

If taken out after 31st July and before 1st November to expire on following 31st July

After 31st July to expire following 31st October

After 31st October to expire 31st July

For a continuous period of 14 days

GAMEKEEPERS—

To expire 31st July

GAME-DEALERS—

To expire 1st July

A person holding a £3 game licence (or his game-keeper acting on his behalf) is entitled to sell game to a licensed game-dealer only.

The statutory definition of game includes hares, pheasants, partridges, grouse, heath or moor game, black game, bustards, deer, woodcock, snipe, quail, landrail and rabbits.

£ s. d.

It should be noted that a licence to kill game applies not only to shooting, but also to killing or capturing game by any method.

Exemptions: Beaters or other assistants not holding guns, landowners or tenants killing rabbits or hares on enclosed land. Persons hunting deer or hares. Persons authorized to kill hares under the Hares Act, 1848.

GUN LICENCE—

For gun, rifle, air-gun or pistol, expiring 31st July . 10 0

Exemptions: Holders of Game Licences, Occupiers of land scaring birds or killing vermin on such land, or persons so acting under the orders of occupiers holding a licence

MALE SERVANTS

15 0

"Male Servant" includes any male servant employed in a personal, domestic or menial capacity, for example, Butler, House Steward, Valet, House Porter, Footman, Page, Coachman, Groom, Helper, Chauffeur, Park-keeper, Gamekeeper, Under-keeper, Huntsman, Whipper-in, Gardener, Under-gardener. The term "Male Servant" does not include (a) ordinary labourers working under the supervision of gardener or under-gardener; (b) a servant *bona fide* and mainly employed in some other non-taxable capacity, occasionally or partially employed in any of the duties coming within the scope of the licence, e.g. a farm labourer who occasionally grooms horses; (c) a non-resident servant engaged for a portion of each day; (d) a servant employed by an hotel, inn or refreshment house keeper for the purpose of his business; (e) a servant employed by a livery stable keeper.

MECHANICALLY-PROPELLED VEHICLES—

The Finance Act, 1936, s. 12, provides that if an applicant for a licence satisfied the licensing authority that the vehicle is intended to be used on public roads only—

(a) in passing from land in his occupation to other land in his occupation; and

(b) for distances not exceeding in the aggregate six miles in any calendar week;

the licensing authority may exempt the vehicle from duty.

£ s.

(a) Vehicles used solely in agriculture.

(1) Locomotive ploughing engines, tractors, mowing machines, etc., not used for hauling on roads any objects except their own necessary gear, threshing machines, farming implements or supplies of fuel or water required for the purposes of the vehicle or for agricultural purposes 5

(2) Tractors, agricultural engines (other than vehicles in respect of which a duty of 5s. is chargeable) registered under the Roads Act, 1920, in the name of a person engaged in agriculture and used solely by that person for the haulage of the produce of, or for articles required for the purposes of, the agricultural land which he occupies, and for no other purpose—

| | |
|--|------|
| Not exceeding 5 tons unladen | 12 0 |
| Exceeding 5 tons but not exceeding 10 tons | 20 0 |
| Exceeding 10 tons unladen— | |
| For first 10 tons | 20 0 |
| For each additional ton or part of a ton | 2 0 |

(3) Goods vehicles registered under the Roads Act, 1920, in the name of a person engaged in agriculture and used on roads solely by that person for the purpose of the conveyance of, or of articles required for the purposes of the agricultural land which he occupies and for no other purpose.

| | Pneumatic Tyres | | | Other Vehicles | | |
|--|-----------------|----|----|----------------|----|----|
| | £ | s. | d. | £ | s. | d. |
| Not exceeding 12 cwt. unladen | 10 | 0 | 0 | 10 | 0 | 0 |
| Exceeding 12 cwt. but not exceeding 1 ton | 11 | 0 | 0 | 11 | 0 | 0 |
| Exceeding 1 ton but not exceeding 1½ tons | 12 | 0 | 0 | 12 | 0 | 0 |
| Exceeding 1½ tons but not exceeding 2 tons | 13 | 0 | 0 | 13 | 0 | 0 |
| Exceeding 2 tons but not exceeding 2½ tons | 14 | 0 | 0 | 18 | 13 | 4 |
| Exceeding 2½ tons but not exceeding 3 tons | 16 | 0 | 0 | 21 | 6 | 8 |
| Exceeding 3 tons in weight unladen— | | | | | | |
| For the first 3 tons | 16 | 0 | 0 | 21 | 6 | 8 |
| For each additional ton or part | 2 | 0 | 0 | 2 | 13 | 4 |

GOODS VEHICLES PROPELLED BY STEAM OR
INTERNAL COMBUSTION ENGINE

(b) *Vehicles not used solely in Agriculture (e.g. those used for general estate purposes).*

| | Annual Rate of Duty | | | |
|---|---|-------|----------------|-------|
| | Vehicles fitted entirely with Pneumatic Tyres | | Other Vehicles | |
| | £ | s. d. | £ | s. d. |
| (4) PROPELLED BY STEAM OR WHICH ARE CONSTRUCTED OR ADAPTED TO USE COAL GAS AS FUEL— | | | | |
| Not exceeding 2 tons in weight, unladen | 25 | 0 0 | 25 | 0 0 |
| Exceeding 2 tons, but not exceeding 2½ tons in weight, unladen | 30 | 0 0 | 40 | 0 0 |
| Exceeding 2½ tons, but not exceeding 3 tons in weight, unladen | 35 | 0 0 | 46 | 13 4 |
| Exceeding 3 tons, but not exceeding 4 tons in weight, unladen | 50 | 0 0 | 66 | 13 4 |
| Exceeding 4 tons, but not exceeding 5 tons in weight, unladen | 70 | 0 0 | 93 | 6 8 |
| Exceeding 5 tons, but not exceeding 6 tons in weight, unladen | 90 | 0 0 | 120 | 0 0 |
| Exceeding 6 tons in weight unladen— | | | | |
| For the first 6 tons | 90 | 0 0 | 120 | 0 0 |
| For each additional ton or part of a ton in excess of 6 tons | 15 | 0 0 | 20 | 0 0 |
| (5) NOT CONSTRUCTED OR ADAPTED TO USE AS FUEL ANY FUEL OTHER THAN LIGHT OILS (Petrol)— | | | | |
| Not exceeding 12 cwts. in weight, unladen | 10 | 0 0 | 10 | 0 0 |
| Exceeding 12 cwts., but not exceeding 1 ton weight, unladen | 15 | 0 0 | 15 | 0 0 |
| Exceeding 1 ton, but not exceeding 1½ tons in weight, unladen | 20 | 0 0 | 20 | 0 0 |
| Exceeding 1½ tons, but not exceeding 2 tons in weight, unladen | 25 | 0 0 | 25 | 0 0 |
| Exceeding 2 tons, but not exceeding 2½ tons in weight, unladen | 30 | 0 0 | 40 | 0 0 |
| Exceeding 2½ tons, but not exceeding 3 tons in weight, unladen | 35 | 0 0 | 46 | 13 4 |
| Exceeding 3 tons, but not exceeding 4 tons in weight, unladen | 50 | 0 0 | 66 | 13 4 |
| Exceeding 4 tons in weight, unladen— | | | | |
| For the first 4 tons | 50 | 0 0 | 66 | 13 4 |
| For each additional ton or part of a ton in excess of 4 tons | 20 | 0 0 | 26 | 13 4 |

TRACTOR VEHICLES USED FOR GENERAL HAULAGE PURPOSES

(6) These rates apply to vehicles of the following description other than any such vehicles in respect of which duty is chargeable under paragraphs (1) and (2) of "Vehicles used solely in Agriculture" on page 222, that is to say, vehicles which are constructed for haulage solely and not for the purpose of carrying or having superimposed upon them any load except such as is necessary for their propulsion or equipment.

| | £ | s. |
|--|----|----|
| Not exceeding 2 tons in weight, unladen | 25 | 0 |
| Exceeding 2 tons, but not exceeding 4 tons in weight unladen | 40 | 0 |
| Exceeding 4 tons, but not exceeding 6 tons in weight unladen | 55 | 0 |
| Exceeding 6 tons, but not exceeding 7½ tons in weight, unladen | 70 | 0 |
| Exceeding 7½ tons, but not exceeding 8 tons in weight, unladen | 85 | 0 |
| Exceeding 8 tons in weight, unladen— | | |
| For the first 8 tons | 85 | 0 |
| For each additional ton or part of a ton in excess of 8 tons | 15 | 0 |

(7) GOODS VEHICLES if used for drawing a trailer—

| | | |
|---|----|---|
| Where the weight of the vehicle, unladen, does not exceed 2½ tons | 10 | 0 |
| Where the weight of the vehicle, unladen, exceeds 2½ tons, but does not exceed 4 tons | 15 | 0 |
| Where the weight of the vehicle, unladen, exceeds 4 tons | 20 | 0 |

The duties chargeable under paragraph (7) in respect of an vehicle shall be chargeable in addition to the duty chargeable on the vehicle under paragraphs (3), (4) and (5).

By s. 11 of the Finance Act, 1936, a farming implement not constructed or adapted for the conveyance of goods or burden of any description shall not be deemed to be a trailer when drawn by a goods vehicle chargeable with duty.

| | £ | s. | d. |
|--|---|----|----|
| MOTOR CAR (Private)— | | | |
| Not exceeding 6 h.p. | 4 | 10 | |
| Exceeding 6 h.p. for each unit | | 15 | |
| MOTOR DRIVER'S LICENCE | | | 5 |

LICENCES UNDER THE ROAD AND RAIL TRAFFIC ACT, 1933

Licences are required under this Act in respect of motor goods vehicles (including trailers) used on a road for the carriage of goods (a) for hire or reward, or (b) for or in connection with any trade or business carried on by the person. The licensing authority is the Chairman of the Traffic Commissioners for the area, and it is a condition of every licence that the vehicle is maintained in a fit and serviceable condition.

The carriage by a person engaged in agriculture in any locality, of goods for or in connection with the business of agriculture carried on by another person in that locality, so long as the goods are carried in a vehicle which the person carrying them is authorised by a licence to use for the carriage of goods for or in connection with his agricultural business, is not deemed to be carriage of goods for hire or reward.

The use of a goods vehicle for ordinary estate management purposes would also be excepted on the ground that no trade or business is carried on. This exception might be modified if articles are regularly manufactured and sold (e.g., from home-grown timber) to outsiders, particularly in the case of an Estate Company.

The licences are referred to as "A," "B," and "C" licences. The former is a public carrier's licence. "B" is a limited carrier's licence (20s. for a year) enabling the licensee to use the vehicle (i) in connection with any trade or business carried on by him or (ii) for hire or reward subject to prescribed conditions. A "C" licence is a private carrier's licence (7s. 6d. for 3 years) enabling the licensee to use the vehicle only in connection with any trade or business carried on by him, for example, a retail milk business. Short-term licences are also available at proportionate charges. Holders of licences are required to keep records of hours of duty worked by the drivers and particulars of loads carried.

(*Note.* Under the Road Traffic Act, 1930, a motor vehicle cannot be used on the roads unless there is a third party risk insurance policy in force.)

PART III. POST OFFICE LICENCE

(Annual)

| | |
|-----------------------------|------|
| WIRELESS RECEIVER | £ s. |
| | 10 |

PART IV. EXCISE LICENCES

(Annual)

| | |
|------------------------------|------|
| APPRAISER (valuer) | 2 0 |
| AUCTIONEER | 10 0 |

BREWERS AND BEER-DEALERS—

Brewer of beer for sale: according to quantity brewed in preceding year, viz.

Not exceeding 100 barrels 1 0

Exceeding 100 barrels—

For the first 100 barrels 1 0

For every further 50 barrels 8

Beginner 1 0

Other brewers, if the beer is not chargeable to duty, then annual value of house not exceeding £10 1 5

The annual value exceeding £10 but not £15 2 10

Ditto in every other case in addition to the duty on the beer made 4

HOUSE AGENTS, letting houses at an annual rent above £25 a year 2 0

(Persons holding an auctioneer or appraiser's licence do not require a house agent's licence).

REFRESHMENT HOUSES—

Under £30 rent 10

£30 and above 1 1

TOBACCO GROWERS, CULTIVATORS OR CURERS 5

PART V. COMPENSATION LEVY

This is imposed in respect of all old on-licences renewed as provided in s. 21 of the Licensing (Consolidation) Act 1910, at the rates set out in the Third Schedule to the Act as follows—

THIRD SCHEDULE

PART I

SCALE OF MAXIMUM CHARGES FOR
COMPENSATION LEVY

| ANNUAL VALUE OF PREMISES TO BE TAKEN AS FOR THE PURPOSE OF THE PUBLICAN'S EXCISE LICENCE DUTY | | Maximum Rate of Charge |
|---|---------------|------------------------------|
| £ | £ | £ s. d. |
| Under 15 | 15 | 1 0 0 |
| 15 and under 20 | 20 | 2 0 0 |
| 20 .. 25 | 25 | 3 0 0 |
| 25 .. 30 | 30 | 4 0 0 |
| 30 .. 40 | 40 | 6 0 0 |
| 40 .. 50 | 50 | 10 0 0 |
| 50 .. 100 | 100 | 15 0 0 |
| 100 .. 200 | 200 | 20 0 0 |
| 200 .. 300 | 300 | 30 0 0 |
| 300 .. 400 | 400 | 40 0 0 |
| 400 .. 500 | 500 | 50 0 0 |
| 500 .. 600 | 600 | 60 0 0 |
| 600 .. 700 | 700 | 70 0 0 |
| 700 .. 800 | 800 | 80 0 0 |
| 800 .. 900 | 900 | 90 0 0 |
| 900 and over | | 100 0 0 |

The rate of charge in the case of an hotel as defined for the purpose of this provision shall be one-third of that charged in other cases, and in the case of any licensed premises which are certified by the licensing justices on the application of the holder of the licence to be used only as public gardens, picture galleries, exhibitions, places of public or private entertainment, railway refreshment rooms, *bona fide* restaurants or eating houses, or for any other purpose to which the holding of a licence is merely auxiliary, such rate, not less than one-third of that charged in other cases, as the justices think proper under the circumstances.

For the purposes of this provision, an hotel means premises of the value of fifty pounds and upwards, which are proved to the satisfaction of the Commissioners of Customs and Excise to be structurally adapted for use as an inn or hotel for the reception of guests and travellers desirous of dwelling therein, and to be mainly so used, and in the case of which either no portion of the premises is

set apart and used as an ordinary public-house for the sale and consumption therein of liquors, or the annual value of any portion so set apart and used does not in the opinion of the Commissioners of Customs and Excise exceed twenty-five pounds.

PART II

SCALE OF DEDUCTIONS IN RESPECT OF
COMPENSATION LEVY

| A person whose unexpired term does not exceed | 1 year | 2 years | may deduct a sum equal to | 100 per cent of the charge |
|---|--------|---------|---------------------------|----------------------------|
| " " | " " | " " | " " | 88 " |
| " " | " " | 3 " | " " | 82 " |
| " " | " " | 4 " | " " | 76 " |
| " " | " " | 5 " | " " | 70 " |
| " " | " " | 6 " | " " | 65 " |
| " " | " " | 7 " | " " | 60 " |
| " " | " " | 8 " | " " | 55 " |
| " " | " " | 9 " | " " | 50 " |
| " " | " " | 10 " | " " | 45 " |
| " " | " " | 11 " | " " | 41 " |
| " " | " " | 12 " | " " | 37 " |
| " " | " " | 13 " | " " | 33 " |
| " " | " " | 14 " | " " | 29 " |
| " " | " " | 15 " | " " | 25 " |
| " " | " " | 16 " | " " | 23 " |
| " " | " " | 17 " | " " | 21 " |
| " " | " " | 18 " | " " | 19 " |
| " " | " " | 19 " | " " | 17 " |
| " " | " " | 20 " | " " | 15 " |
| " " | " " | 21 " | " " | 14 " |
| " " | " " | 22 " | " " | 13 " |
| " " | " " | 23 " | " " | 12 " |
| " " | " " | 24 " | " " | 11 " |
| " " | " " | 25 " | " " | 10 " |
| A person whose unexpired term exceeds | 30 " | " " | " " | 7 " |
| 25 but does not exceed | 35 " | " " | " " | 6 " |
| 30 " | 40 " | " " | " " | 5 " |
| 35 " | 45 " | " " | " " | 4 " |
| 40 " | 50 " | " " | " " | 3 " |
| 45 " | 55 " | " " | " " | 2 " |
| 50 " | 60 " | " " | " " | 1 " |

But the amount deducted shall in no case exceed half the rent.

PART VI. NATIONAL INSURANCE CONTRIBUTIONS**(a) Health and Pensions**

All persons of the age of 16 and upwards who are "employed" or "voluntary" contributors are insurable when employed under a contract of service, unless excepted or exempted from the Scheme—

Exceptions

- (1) Persons working on their own account.
- (2) Ditto whose remuneration (except for manual labour) exceeds £250 per annum.
- (3) Apprentices on an agricultural holding without money payment.
- (4) Wives employed by their husbands and vice versa.
- (5) Persons employed by their parents without money payment.

Exemptions (provided a certificate is applied for)

- (1) Pension or private income of at least £26 a year.
- (2) Dependence for livelihood upon some other person.
- (3) Dependence mainly on occupation not insurable under the Act.
- (4) Intermittent nature of employment.

Weekly Contributions

Payable when the employee is at work by means of stamps fixed to an insurance card by the first employee in the week, who may afterwards deduct the employee's share from his wages.

| | Employer | Employee |
|-----------------|----------|----------|
| Males | 10d. | 10d. |
| Females | 7d. | 7d. |

Contributions are not payable after the employee attains the age of 65, but if he or she continues in insurable employment, the employer is still liable under the Pensions Act.

for a weekly contribution of 10d. in the case of a man and 7d. in the case of a woman.

Benefits

- (a) Medical attendance and treatment.
 (b) Periodical payments during incapacity for work through illness for a maximum period of 26 weeks—

| | Men | Unmarried Women and Widows | Married Women |
|--|-------|----------------------------------|------------------|
| | s. d. | s. d. | s. d. |
| Before 104 weeks— | | | |
| Insurance and payment of contribution | 9 0 | 7 6 | 7 6 |
| After 104 weeks— | | | |
| Insurance and payment of contribution | 15 0 | 12 0 | 10 0 |

- (c) Disablement allowance after 52 weeks of 7s. 6d. per week for men, 6s. for unmarried women and widows and 5s. for married women.
 (d) Maternity allowance of £2.
 (e) Additional benefits may be provided by an Approved Society.

(b) Unemployment

Unemployment insurance is compulsory in the case of all persons insurable under the combined Health and Pensions Scheme with the exception of domestic servants employed by private persons and female professional nurses for the sick. Where domestic servants are employed in any trade or business carried on for the purposes of gain (*e.g.*, by an Estate Company formed for such a purpose) they would be insurable. Agricultural workers (including workers in horticulture and forestry) are now insurable under the Unemployment Insurance (Agriculture) Act, 1936.

Weekly Contributions

General Workers—

| | MALES | | FEMALES | |
|---------------------|----------|----------|----------|----------|
| | Employer | Employee | Employer | Employee |
| Age 21 and under 65 | 9d. | 9d. | 8d. | 8d. |
| .. 18 .. 21 | 8d. | 8d. | 7d. | 7d. |
| .. 16 .. 18 | 5d. | 5d. | 4½d. | 4½d. |
| Under 16 | 2d. | 2d. | 2d. | 2d. |

Agricultural Workers—

| | | | | |
|---------------------|------|------|------|------|
| Age 21 and under 65 | 4½d. | 4½d. | 4½d. | 4d. |
| .. 18 .. 21 | 4d. | 4d. | 3½d. | 3½d. |
| .. 16 .. 18 | 2d. | 2d. | 1½d. | 1½d. |
| Under 16 | 1½d. | 1½d. | 1d. | 1d. |

In the case of renewals of long-hirings in agriculture, the parties to the contract are entitled to repayment of a proportion of the contributions paid during the period of the contract, viz. 25 per cent. in yearly hirings, and 12½ per cent. in half-yearly hirings.

Gardeners—

Private gardeners employed by individuals were not included in the Scheme, but the Unemployment Insurance Statutory Committee have recommended their inclusion. It should be noted, however, that if gardens are occupied by an Estate Company formed for purposes of gain, such gardeners are insurable employees.

Weekly Rates of Benefit

General Workers—

| | Males | | Females | |
|---------------------|-------|----|---------|----|
| | s. | d. | s. | d. |
| Age 21 and under 65 | 17 | 0 | 15 | 0 |
| .. 18 .. 21 | 14 | 0 | 12 | 0 |
| .. 17 .. 18 | 9 | 0 | 7 | 6 |
| .. 16 .. 17 | 6 | 0 | 5 | 0 |

Dependants: Adult, 9s. Child, 3s.

Persons under 16 and over 65 are not entitled to benefit.

Agricultural Workers—

| | | | | Males | | Females | |
|---------------------|---|---|---|-------|----|---------|----|
| | | | | s. | d. | s. | d. |
| Age 21 and under 65 | . | . | . | 14 | 0 | 12 | 6 |
| .. 18 .. 21 | . | . | . | 10 | 6 | 9 | 6 |
| .. 17 .. 18 | . | . | . | 6 | 0 | 5 | 0 |
| .. 16 .. 17 | . | . | . | 4 | 0 | 3 | 6 |

Dependants: Adult, 7s. Child, 3s.

Total agricultural benefit is limited to 5s. or 30s. week.

Employers' Liability

Although outside the scope of this handbook, attention may be drawn to the serious liability imposed by statute (The Workmen's Compensation Acts, 1906 and 1923, the Employers Liability Act, 1880, and the Fatal Accident Act, 1846) and under the common law, in respect of injuries received in the course of their employment. The employer should protect himself by means of insurance.

APPENDIX

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