

**THE INDIAN  
TAXATION ENQUIRY COMMITTEE**

**VOLUME II**

**APPENDICES AND INDEX**



**MADRAS**  
**PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS, AND**  
**PUBLISHED BY THE GOVERNMENT OF INDIA, CENTRAL PUBLICATION**  
**BRANCH, CALCUTTA.**

**1926**

Government of India Publications are obtainable from the Government of India Central Publication Branch, 8, Hastings Street, Calcutta, and from the following Agents:—

### EUROPE.

OFFICE OF THE HIGH COMMISSIONER FOR INDIA,  
42, GROSVENOR GARDENS, LONDON, S.W. 1.

And at all Booksellers.

### INDIA AND CEYLON.

#### Provincial Book Depots:

- MADRAS:**—Office of the Superintendent, Government Press, Mount Road, Madras.  
**BOMBAY:**—Office of the Superintendent of Printing and Stationery, Poona.  
**SIND:**—Library attached to the Office of the Commissioner in Sind, Karachi.  
**BENGAL:**—Office of the Bengal Secretariat Book Depot, Writers' Buildings, Room No. 1, Ground Floor, Calcutta.  
**UNITED PROVINCES OF AGRA AND OUDH:**—Office of the Superintendent of Government Press, United Provinces of Agra and Oudh, Allahabad.  
**PUNJAB:**—Office of the Superintendent, Government Printing, Punjab, Lahore.  
**BURMA:**—Office of the Superintendent, Government Printing, Burma, Rangoon.  
**CENTRAL PROVINCES AND BERAR:**—Office of the Central Provinces Secretariat, Nagpur.  
**ASSAM:**—Office of the Superintendent, Assam Secretariat Press.  
**BIHAR AND ORISSA:**—Office of the Superintendent, Government Printing, Bihar and Orissa, P.O. Gulzarbagh, Patna.  
**COORG:**—Office of the Chief Commissioner of Coorg, Bangalore.  
**NORTH-WEST FRONTIER PROVINCE:**—Office of the Manager, Government Printing and Stationery, Peshawar.

Thacker, Spink & Co., Calcutta and Simla.  
 W. Newman & Co., Ltd., Calcutta.  
 R. Cambay & Co., Calcutta.  
 S. K. Lahiri & Co., Calcutta.  
 The Indian School Supply Depot, 309, Bow Bazaar St. Calcutta & 226, Nawabpur, Dacca.  
 Butterworth & Co. (India), Ltd., Calcutta.  
 Rai M. C. Sarear Bahadur & Sons, 90-2A, Harrison Road, Calcutta.  
 The Weldon Library, 17, Park Street, Calcutta.  
 Standard Literature Company, Ltd., Calcutta.  
 Association Press, Calcutta.  
 Chukerverty, Chatterjee & Co., Ltd., 13, College Square, Calcutta.  
 The Book Company, Calcutta.  
 Higginbothams, Ltd., Madras.  
 V. Kalyanarama Ayyar & Co., Madras.  
 P. R. Rama Ayyar & Co., Madras.  
 Roohouse & Sons, Madras.  
 Bright & Co., Trivandrum.  
 V. S. Swaminathan, Bookseller, West Tower Street, Madras.  
 Thacker & Co., Ltd., Bombay.  
 D. B. Taraporevala, Sons & Co., Bombay.  
 Sunder Pandurang, Bombay.  
 Ram Chandra Govind & Sons, Kalbadevi, Bombay.  
 N. M. Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay.  
 Proprietor, New Kitabkhana, Poona.  
 The Manager, Oriental Book Supplying Agency, 15, Shukrawar, Poona City.  
 R. S. Gondhalekar's Book Depot, Publisher and Bookseller, Budhwar Chawk, Poona City.  
 Managing Director, Co-operative Bookstall, Booksellers and Publishers, Poona City.  
 The Standard Bookstall, Karachi, Rawalpindi, Murree, Lahore, Peshawar and Quetta.  
 Karsandas Narandas & Son, Surat.  
 A. H. Wheeler & Co., Allahabad, Calcutta and Bombay.  
 Mangaldas & Sons, Booksellers and Publishers, Bhuga Talao, Surat.  
 Mrs. Radhabhai Atmaram Sagoon, Bombay.  
 N. B. Mathur, Superintendent, Nazir Kanun Hind Press, Allahabad.

The North India Christian Tract and Book Society, 18, Clive Road, Allahabad.  
 Ram Dayal Agarwalla, 181, Katra, Allahabad.  
 Manager, Newal Kishore Press, Lucknow.  
 The Upper India Publishing House, Ltd., 41, Aminabad Park, Lucknow.  
 Munshi Seeta Ram, Managing Proprietor, Indian Army Book Depot, Juhu, Cawnpore.  
 Rai Sahib M. Gulab Singh & Sons, Muffid-i-Am Press, Lahore and Allahabad.  
 Rama Krishna & Sons, Booksellers, Anarkali, Lahore.  
 Puri Brothers, Booksellers and Publishers, Katober Road, Lahore.  
 The Tilak School Book Shop, Lahore.  
 Manager of the Imperial Book Depot, 63, Chandni Chawk Street, Delhi.  
 Oxford Book and Stationery Company, Delhi.  
 Superintendent, American Baptist Mission Press, Rangoon.  
 Proprietor, Rangoon Times Press, Rangoon.  
 The Modern Publishing House, Ltd., 30, Phayre Street, Rangoon.  
 The International Buddhist Book Depot, Post Box No. 971, Rangoon.  
 Burma Book Club, Ltd., Rangoon.  
 Manager, the "Hitavada," Nagpur.  
 S. C. Talukdar, Proprietor, Students & Co., Cooch Behar.  
 Times of Ceylon Co., Ltd., Ceylon.  
 The Manager, Ceylon Observer, Colombo.  
 The Manager, The Indian Book Shop, Benares City.  
 B. C. Basak, Esq., Proprietor, Albert Library, Dacca.  
 The Srivilliputtur Co-operative Trading Union, Ltd., Srivilliputtur (Sattur, S.I.R.).  
 Banwari Lal, Esq., Pakariya Street, Pilibhit, United Provinces.  
 G. A. Natesan & Co., Georgetown, Madras.  
 Manager, Standard Book Depot, Lahore, Daltchouse, Ambala Cantonment, Nainital and Moussourie.  
 The Booklovers Resort, Taikad, Trivandrum, South India.  
 J. Roy & Sons, Rawalpindi.

# CONTENTS

PAGE

## APPENDIX I.

TERMS OF REFERENCE TO THE COMMITTEE WITH SUBSEQUENT INTERPRETATIONS AND MODIFICATIONS THEREOF .. .. .	1
---	---

## APPENDIX II.

### EVIDENCE OF ENGLISH AND AMERICAN ECONOMISTS—

Written memorandum of Sir Josiah Stamp embodying extracts from the replies of Dr. Gregory and Prof. Seligman .. .. .	6
Written memorandum of Dr. Gilbert Slater .. .. .	15

## APPENDIX III.

### NOTE BY DR. PER JACOBSSON ON LAND TAXATION IN CERTAIN EUROPEAN COUNTRIES—

— France .. .. .	22
— Hungary .. .. .	23
— Austria .. .. .	23
— Czecho-Slovakia .. .. .	24
— Italy .. .. .	24
— Bulgaria .. .. .	25
— Sweden .. .. .	26
— Germany-Prussia .. .. .	26

## APPENDIX IV.

### IS THE INDIAN LAND REVENUE A RENT OR A TAX?—A COMPENDIUM OF OPINIONS—

Sir Philip Francis .. .. .	27
Mr. James Grant .. .. .	27
Sir John Shore .. .. .	28
Madras Regulation XXXI of 1802 .. .. .	29
Lieut.-Col. M. Wilks .. .. .	30
Despatch from the Court of Directors to the Government of Madras—1813 .. .. .	30
Board of Revenue, Madras—1818 .. .. .	30
The Hon'ble Mountstuart Elphinstone .. .. .	31
Mr. James Mill .. .. .	32
Professor H. H. Wilson .. .. .	36
Sir Thomas Munro .. .. .	40
Colonel Galloway .. .. .	41
Privy Council decision in <i>Freeman vs. Fairlie</i> .. .. .	47
Colonel J. Munro .. .. .	47
Mr. William Erskine .. .. .	48
Despatch from the Madras Government to the Court of Directors—1855 ..	48
Letter from the Court of Directors to the Madras Government—1856 ..	49
Mr. J. S. Mill .. .. .	49

	PAGE
Rt. Hon'ble J. Wilson .. .. .	49
Rt. Hon'ble Henry Fawcett .. .. .	49
Privy Council Appeal in Ganga Gobind Mundal <i>vs.</i> The Collector of Twenty-Four Pergunnahs and others .. .. .	50
Sir George Campbell .. .. .	50, 53
Privy Council Appeal in Collector of Trichinopoly <i>vs.</i> Lekkamani and others .. .. .	51
Sir Louis Mallet .. .. .	52, 59
Sir Henry Montgomery .. .. .	54, 62
Sir Erskine Perry .. .. .	54, 61
Sir Henry Maide .. .. .	54
Sir Bartle Frere .. .. .	56
Lord Salisbury .. .. .	61
Bombay High Court Judgment in Vyakanta Bapuji <i>vs.</i> Government of Bombay .. .. .	63
Sir John Strachey .. .. .	70
Mr. A. C. Burnell .. .. .	70
Indian Famine Commission .. .. .	70
Mr. Sullivan .. .. .	71
Professor Bastable .. .. .	72
Colonel Baden Powell .. .. .	73
Madras High Court judgment in Secretary of State for India <i>vs.</i> Pennuneha Venhatapathiraju Garu and another .. .. .	78
Mr. Lionel Curtis .. .. .	74

## APPENDIX V.

EXTRACTS FROM REPLIES OF LOCAL GOVERNMENTS TO A LETTER FROM THE  
COMMITTEE REGARDING THE INCIDENCE OF THE LAND REVENUE—

Committee's letter .. .. .	75
Replies—	
Bombay .. .. .	76
Bengal .. .. .	78
Bihar and Orissa .. .. .	80
Burma .. .. .	81
Assam .. .. .	82
Punjab .. .. .	83
Central Provinces .. .. .	86
United Provinces .. .. .	87
Madras .. .. .	90

## APPENDIX VI.

RETURN FROM CUSTOMS DUTIES ON DIFFERENT CLASSES OF GOODS .. .. .	94
--	----

## APPENDIX VII.

INDIA'S SHARE IN THE WORLD TRADE IN TEA .. .. .	97
---	----

## APPENDIX VIII.

TABLE ILLUSTRATING THE CONSUMPTION OF AND RATE OF DUTY ON SALT .. .. .	98
--	----

## APPENDIX IX.

## A NOTE ON THE SYSTEMS OF TAXATION OF TOBACCO IN OTHER COUNTRIES AND IN INDIA—

Tobacco a common subject of taxation in other countries .. ..	101
And affords a large revenue .. .. .	101
Systems of taxation of tobacco classified and described—	
The English system .. .. .	102
The stamp system—	
— general .. .. .	102
— as applied in the United States of America .. .. .	103
The system of manufacture in bond—	
— general .. .. .	104
— as applied in Australia .. .. .	104
The system of monopoly—	
The French system—a type of complete Government monopoly ..	106
The system in Japan .. .. .	108
The Swedish system—a <i>compagnie mixte</i> .. .. .	109
Taxation of tobacco in India—	
the various methods of taxation adopted .. .. .	109
— Travancore .. .. .	110
— Cochin .. .. .	111
— Patiala .. .. .	111
— Nawansagar .. .. .	111
— Mewar .. .. .	112
— French India .. .. .	112
The early history of the taxation of tobacco in British India—	
— in Bengal .. .. .	112
— in Madras—The West Coast monopoly .. .. .	112
— in Madras Town .. .. .	113
— in Bombay .. .. .	113
— in Northern India .. .. .	113
Proposals for further taxation—	
— Mr. James Wilson .. .. .	113
— Sir J. P. Grant .. .. .	114
— Later proposals .. .. .	114
Present position of the industry—	
— cultivation .. .. .	114
— exports .. .. .	115
— imports of unmanufactured tobacco .. .. .	115
— manufacture .. .. .	116
— imports of manufactured tobacco and the tariff rate .. .. .	116
— consumption .. .. .	118
Possible methods of taxing tobacco in British India—	
A Government monopoly—	
— of raw material .. .. .	119
— of manufacture .. .. .	119
— of retail vend .. .. .	119

	PAGE
An acreage duty would involve restriction of cultivation--	
The argument regarding breach of the settlement .. .. .	119
The difficulty in case of exports .. .. .	119*
The duty considered as an adjunct to an excise .. .. .	120
The case for an excise--	
The fact that what is chiefly consumed in India is the raw article the chief obstacle .. .. .	120
An excise on manufactured tobacco .. .. .	120
Monopoly of vend.--general considerations .. .. .	121
-- as applied to the case of tobacco .. .. .	121
The idea that an excise duty would yield little revenue not supported by evidence .. .. .	121
A monopoly of rent not specially likely to lead to malpractices .. .. .	122
The danger of competition from Indian States .. .. .	122
Summary of conclusions .. .. .	123

## APPENDIX X.

## A NOTE BY THE LEGAL ADVISER TO THE COMMITTEE ON THE DUTIES LEVIED UNDER THE INDIAN STAMP ACT.

*Introductory.*

Origin of modern stamp duties .. .. .	123
Stamp duties do not themselves constitute a separate tax, but are a method of collecting different kinds of revenue .. .. .	123
In this country stamps are classified as judicial and non-judicial .. .. .	123
History of the Indian law of stamps .. .. .	123
Judicial stamps generally denote fees for which a return is received .. .. .	124
Non-judicial stamps are not fees, but taxes .. .. .	124
The views of the economists on taxes of this sort .. .. .	124
Reasons for their popularity with financiers .. .. .	125

*General considerations influencing the rates of stamp duty.*

Guides to the rate of stamp duties .. .. .	125
Stamp duties are (a) <i>ad valorem</i> or (b) fixed .. .. .	126
Cases in which a double classification is appropriate .. .. .	126
Instruments classified under these categories .. .. .	126
Certain suggestions for regrouping--	
-- i. instruments relating to the formation of limited companies .. .. .	127
-- ii. deeds of adoption .. .. .	128
-- iii. deeds of release .. .. .	128
-- iv. deeds of cancellation .. .. .	128
The <i>ad valorem</i> rates should ordinarily be proportionate and not progressive .. .. .	128.
Steps in the scale should not be too remote .. .. .	129
Indian rates of stamp duty are modelled on the English rates, but are sometimes higher .. .. .	129
Documents are grouped into three classes for the purpose of determining the scales .. .. .	130
The stamp law should be consistent in its parts, that is, similar transactions should pay similar rates of duty .. .. .	131

# CONTENTS

PAGE

Settlements and gifts .. .. .	181
Conveyances and releases operating as conveyances .. .. .	131
Attestation of documents should not be a test for the assessment of stamp duty .. .. .	131
Nor should possession in the case of documents of security .. .. .	132
“ Value of the property as set forth in the instrument ” .. .. .	132
Cases where consideration is under-stated .. .. .	133
Suggested distinction between documents already required to be in writing and documents which may hereafter be required to be in writing .. .. .	134

## *Detailed consideration of the Schedule.*

### *Instruments relating to transfers of property—*

Transfers as a result of inheritance .. .. .	134
Gifts and settlements .. .. .	135
Partitions .. .. .	135
Sale certificates .. .. .	135
Conveyances .. .. .	136
Reconveyances of mortgaged property .. .. .	136
Releases .. .. .	136
Bail bonds .. .. .	136
Transfers of bonds and mortgages .. .. .	136

### *Instruments relating to commercial transactions—*

Hypothecations of movable property .. .. .	137
Bills of exchange .. .. .	138
Bonds .. .. .	138
Deeds of partnership .. .. .	139
Receipts .. .. .	139

### *Instruments relating to other transactions—*

Certified copies .. .. .	139
Extracts from registers of births, deaths and marriages .. .. .	140

## *Transactions on the Stock and Produce Exchanges.*

The documents in use .. .. .	140
The contract note—difference between English and Indian practice .. .. .	140
Suggested adoption of the English practice .. .. .	140
The transfer—the loss of revenue through transfers in blank .. .. .	140
— previous attempts to deal with the matter .. .. .	141
— it is not practicable to proceed without the assistance of the Stock Exchanges .. .. .	142
— the possibility of effecting reform in conjunction with them .. .. .	143
— if this can be done, the duty on transfers may be reduced .. .. .	143
— if not, that on contract notes should be raised .. .. .	143
— the deposit of shares as security .. .. .	143
— summary of proposals .. .. .	144
The Produce Exchanges—	
— proposals made for dealing with wagering transactions .. .. .	144
— control through the authorities of the Exchanges is again the only satisfactory course .. .. .	146

*Penalties for non-payment or insufficient payment of stamp duty.*

Total exclusion from evidence of certain unstamped documents—		
— exclusion from evidence works hardship in several cases .. ..	146	
— reasons for the exclusion .. .. .	147	
— reasons examined .. .. .	147	
— the rigour of the law is already mitigated in the case of the bills of exchange and promissory notes .. .. .	147	
— the penalty may be abolished at least in the case of acknowledgments .. .. .	148	
Pecuniary penalties too heavy .. .. .	149	
Evasions of penalty .. .. .	149	
Recommendations .. .. .	150	
Opportunities for voluntary rectification of errors in stamping .. ..	150	
Criminal penalties .. .. .	151	

*Certain miscellaneous suggestions.*

The definitions should be brought together .. .. .	151
Certain of them should be explained by means of illustrations .. ..	151
The usual meaning of certain terms should be restored .. .. .	151
Exemptions should be brought into the schedule .. .. .	151

*The results of Provincialisation.*

The reasons which brought about provincialisation of these duties .. ..	151
Legislation as regards some now reserved by the Central Government ..	152
The variations that have taken place in the case of the rest .. .. .	153
Some of the results—use in one province of stamps purchased in another ..	153
— documents executed in Bengal on account of Assam .. .. .	153
— the case of unified stamps .. .. .	153
Suggested remedies—provincial stamps .. .. .	154
— amendment of the Devolution Rules .. .. .	154
— restoration of central control the only complete remedy .. .. .	154

*The desirability of better statistics.*

The statistics available suggest that the revenue has not grown proportionately to the enhancements .. .. .	154
But the Indian statistics do not afford means of estimating the results in particular cases .. .. .	154
The English statistics are much more useful .. .. .	155
Suggested enquiry into the adoption of a similar plan .. .. .	155
Undesirability of frequent changes in the law of stamp duties .. .. .	155

*Annexure A.*

Table comparing the rates of duty imposed on certain classes of documents by Provincial Governments .. .. .	156
---	-----

*Annexure B.*

Statement showing the gross receipts from non-judicial stamps .. .. .	157
---	-----



## APPENDIX XI.

## A NOTE BY THE LEGAL ADVISER TO THE COMMITTEE ON FEES LEVIED UNDER THE INDIAN COURT-FEES ACT.

*General principles.*

Fees distinguished from taxes .. .. .	158
Origin of court-fees and their universality .. .. .	158
The early history of the court-fees in India favoured the idea of taxation through this means .. .. .	159
The economists were responsible for a reaction against judicial taxes ..	159
In British India the repression of vexatious litigation was one of the objects of the earlier fees .. .. .	160
It is also the State's duty to protect the innocent from unnecessary expenditure in the law courts .. .. .	160
The administration of justice is inter-dependent with other activities of the State .. .. .	161
The element of payment for service should prevail, but some addition is not objectionable .. .. .	161
The revision of the Act of 1870 was interrupted by the Reforms .. .. .	161

*The present fees and their effect.*

The revision of the schedules in the Provinces .. .. .	161
The effect on litigation .. .. .	161
The complaint that justice is being sold .. .. .	162
The existing law in India makes every allowance for petty suits and poor suitors .. .. .	162
The question to what extent the courts in India yield a profit is very difficult to determine-- .. .. .	162
— previous enquiries into the matter .. .. .	162
— the existing statistics illustrated by examples .. .. .	164
— the impossibility of drawing any correct conclusions from them ..	165
— recommendation for securing a more reliable account in future ..	166
— what courts should be taken into account .. .. .	166
— what charges should be reckoned .. .. .	166
— what receipts should be set against them .. .. .	167
— some, e.g., process and copying fees, should be earmarked for special expenditure .. .. .	167
— some fees do not appertain to courts .. .. .	168
— others, e.g., probate duties, are not court-fees but taxes .. .. .	168
— the items to be included in the profit and loss account .. .. .	168
— the probable results .. .. .	168

*The rival bases of charge--Service rendered and relief claimed.*

The main questions for consideration are methods of valuation and rates, but a question of principle arises first for consideration .. .. .	169
The system of court-fees in England is based largely on the principle of payment for the time spent on the case .. .. .	169
A similar system is in force on the Original Sides of the Chartered High Courts in India .. .. .	170
Under the Court-fees Act the fees have reference chiefly to the value of the relief claimed .. .. .	170
It is neither practicable nor desirable to introduce the English system in India .. .. .	170

Another suggestion made is that a part of the fees paid on institution should be refunded in the case of suits decided <i>ex parte</i> or settled out of court before issues .. .. .	171
— certain provisions of this kind exist even now .. .. .	171
— and there were more prior to 1870 .. .. .	171
— the case of <i>ex parte</i> disposals .. .. .	172
— and that of suits settled out of court .. .. .	172
— a system of refunds not recommended .. .. .	173
A better remedy is that court-fees should be levied in two instalments, one payable at the institution of suit, the other at settlement of issues .. .. .	173

### Questions of valuation.

Some provisions in the Act overlap one another or are wanting in clearness ..	174
Suits for partition— .. .. .	175
— the defect in the law sought to be rectified by the Court-fees Amendment Bill .. .. .	175
— criticisms of these amendments .. .. .	176
Suits for declaratory decrees .. .. .	176
— the difficulties arising .. .. .	176
— the amendments made or proposed .. .. .	177
— criticism of the Bombay amendment .. .. .	177
— and of the Madras amendments .. .. .	177
— the redraft by the Select Committee .. .. .	178
Suits to set aside attachments— .. .. .	178
— the conflict of decisions set at rest by the Privy Council .. .. .	178
— recommendation of the Civil Justice Committee .. .. .	179
— proposal in the Court-fees Amendment Bill .. .. .	179
— the difficulties are still not fully met .. .. .	179
Suits for accounts .. .. .	179
Abuse of the discretion given to plaintiffs to value suits .. .. .	180
— power of courts to revise such valuations uncertain .. .. .	180
— the remedies proposed by the Court-fees Amendment Bill .. .. .	181
Suits for money and movable property having a money value present no difficulty in valuation .. .. .	181
But suits for immovable property do .. .. .	181
— method of valuation under the Act not uniform .. .. .	181
— disadvantages of assessing certain suits for land on the basis of a multiple of the land revenue .. .. .	182
— objections to the adoption of a market value basis for these suits answered .. .. .	183
Suits incapable of exact valuation and 'luxury' suits .. .. .	184
The desirability of a schedule of valuations .. .. .	184

### Questions of rates.

The question whether the scale should be progressive, proportionate or regressive— .. .. .	185
— a progressive scale would be inequitable .. .. .	185
— the retention of the maximum limit is desirable .. .. .	185

	PAGE
Some cases already dealt with under the head of valuation .. ..	185
Civil revision petitions .. ..	186
Applications under the Guardian and Wards Act, the Trust Act and the Companies Act .. ..	186
Claim petitions under Order 21, Rule 58 of the Civil Procedure Code ..	187
Applications to set aside <i>ex parte</i> decrees and similar orders .. ..	187
Applications for interlocutory orders .. ..	187
Applications for compensation for arrest or attachment before judgment ..	187
Certain applications under the Provincial Insolvency Act .. ..	187
Applications for leave to file agreements .. ..	187
Cases in which a double fee is levied .. ..	188
Applications for review of judgment .. ..	188
Election petitions .. ..	188

*The Case of the Chartered High Courts.*

*Proposals—*

The previous proposals summarized .. ..	190
Uniformity of law desirable .. ..	190
Suggested provision for the levy of deficient court-fee even after disposal of a case .. ..	190
Complete revision of the Act necessary .. ..	190

*Miscellaneous suggestions—*

Desirability of an audit of receipts— .. ..	190
— which should extend to stamp duties also .. ..	191
Probate duties should be separated from court-fees— .. ..	192
— so also should fees on applications to revenue officers and others—the nature of these fees .. ..	192
— the extent to which they have already been abolished by exemptions ..	192
— some pertain to Central departments .. ..	193
— suggested inquiry into total abolition .. ..	194
Fees collected in cash with reference to section 36 of the Act— .. ..	194
— by officers of the High Court .. ..	194
— by the Official Assignees .. ..	194
— by the Sheriff .. ..	195

*Draft Schedule of Valuations.*

APPENDIX XII.

A NOTE BY THE LEGAL ADVISER TO THE COMMITTEE ON DUTIES ON INHERITANCE.

*History of death duties.*

In early times .. ..	199
The development of the English duties .. ..	199
Similar duties in the East .. ..	200
Analogous taxes in ancient India .. ..	200
Such duties are almost universal .. ..	201

*The institution of inheritance.*

A creature of the law .. .. .	201
The State's right to limit it - Bentham's proposals .. .. .	201
-- Mill's development of them .. .. .	202
-- subsequent further developments .. .. .	202
-- Rignano's scheme .. .. .	203
The theorists confirmed by practical statesmen .. .. .	203
-- Gladstone .. .. .	203
-- Sir William Harcourt .. .. .	204
A summary of certain further arguments advanced in favour of a duty .. .. .	204
The objections raised .. .. .	204

*The systems in force.*

Soviet Russia has abolished inheritance .. .. .	205
Elsewhere, the State only collects death duties .. .. .	205
Principles of graduation .. .. .	205
The systems adopted depend on the laws of inheritance .. .. .	206
Different laws of inheritance favour free testation or the legitim, respectively .. .. .	206
Where free testation prevails, death duties are generally graduated with reference to the value of the whole estate .. .. .	206
Where the law of legitim prevails, graduation has reference more commonly to the degree of relationship .. .. .	206
The various systems examined from this point of view .. .. .	207
-- Death duties in England .. .. .	207
-- In other European countries--	
-- France .. .. .	207
-- Holland .. .. .	207
-- Belgium .. .. .	208
-- Italy .. .. .	208
-- Germany .. .. .	208
-- United States of America .. .. .	208
-- Japan .. .. .	208
-- Straits Settlements .. .. .	208
-- Ceylon .. .. .	209

*Rates of duty**Inheritance duties in Indian States--*

<i>Rajputana States--</i>	
-- Bikaner .. .. .	209
-- Sirohi .. .. .	209
-- Bharatpur, Alwar, Dholpur, Karauli Kotah .. .. .	209
<i>Kathiawar States--</i>	
-- Junagadh .. .. .	209
-- Bhavnagar .. .. .	209
-- Dhrangadhra .. .. .	209
-- Wankaner .. .. .	209
<i>Central India States--</i>	
-- Indore .. .. .	210
-- Chhatarpur (Bundelkhand) .. .. .	210

	PAGE
Inheritance duties in Indian States— <i>cont.</i>	
Punjab State—	
— Bahawalpur .. .. .	210
Some features common to various systems .. .. .	210
— Funeral expenses .. .. .	210
— Quick successions .. .. .	210
— Joint property .. .. .	210
— Payment by instalments .. .. .	211

*The different laws of inheritance in force in India.*

Existence of a variety of laws of inheritance in India	
— Hindus .. .. .	211
— The Mitakshara .. .. .	211
— Malabar Law .. .. .	213
— The Dayabhaga .. .. .	213
— The Buddhists, Jains and Sikhs .. .. .	213
— Muhammadans .. .. .	213
— Indian Christians .. .. .	213
— Parsis .. .. .	213
— Europeans, Eurasians, Armenians, Jews and foreigners .. .. .	214

*The existing duties in British India.*

The English duties developed out of a probate duty .. .. .	214
The duties levied in India on probates, letters of administration and succession certificate .. .. .	214
Fees levied on registration of wills .. .. .	215
These duties operate very unequally .. .. .	215
Limitations of the Succession Certificate Act .. .. .	215
Cases in which probates or letters of administration are necessary .. .. .	216
The Administrator-General's Act .. .. .	217
The Indian Succession Act .. .. .	217
The Hindu Wills Act .. .. .	217
Bombay Regulation VIII of 1827 .. .. .	218
Certain laws indirectly enforce representation .. .. .	218
Summary of laws that require payment of duties .. .. .	218
Application of these to communities .. .. .	219
Inequality of incidence among communities .. .. .	219
The burden is heaviest on the poorest members .. .. .	220
Other defects in the law .. .. .	220

*Previous proposals for extension of the duties.*

Discussions prior to 1870 .. .. .	220
The Court-fees Act, 1870 .. .. .	222
The Probate and Administration Act and Indian Succession Certificate Act .. .. .	222
Later discussions .. .. .	222
The Reforms and after .. .. .	222

*The objections considered.*

Summary of the case for the tax .. .. .	223
General objections—	
— that the tax would fall on the land, which already pays its share ..	224
— that the valuation of movable property would be impossible without inquisitorial enquiries .. .. .	225
— that the habit of investment is in its infancy .. .. .	225
— that reliable figures of income have yet to be obtained .. .. .	225
Objections peculiar to special communities	
— Hindus—	
— (1) the argument that there is no mutation or acquisition such as gives occasion for the levy of death duties .. .. .	226
— (2) the argument that, if duty is to be paid on accretion through death of a co-parcener, there should be a corresponding rebate on the occasion of a birth .. .. .	226
— (3) the argument that the occasions for the levy of the duty would be much more numerous than under other systems of law .. .. .	227
The difficulties of ascertaining the share of the deceased and the liabilities—	
On account of debts .. .. .	227
Maintenance and other claims .. .. .	228
Difficulty of ascertaining the value of life interests .. .. .	228
Alienations by widows .. .. .	229
Facilities for evasion through <i>bsunami</i> transactions .. .. .	229
Claims of self-acquisition .. .. .	229
Alleged oral partitions and relinquishments .. .. .	229
Gifts <i>inter vivos</i> .. .. .	230
Relinquishment by a widow and acceleration of the reversion .. .. .	230
Difficulties under the Malabar Law .. .. .	230
Do. Muhammadan Law .. .. .	230
Summary .. .. .	231

*Proposals.*

The nature of the duty to be taken .. .. .	231
The limit of exemption .. .. .	232
Graduation of the duty .. .. .	232
Do. by relationship .. .. .	233
Rates of estate duty .. .. .	233
Do. legacy duty .. .. .	233
Property to be assessed .. .. .	234
In the case of joint family property—	
— three alternatives are suggested .. .. .	234
— to proceed as if the Dayabaga was in force .. .. .	235
— to tax the whole property on the death of the managing member .. .. .	235
— to tax the share of the deceased as though partition had taken place just before his death .. .. .	235
The question whether special allowance should be made for the death of minors .. .. .	235
When deaths occur in rapid succession .. .. .	236
The case of Malabar .. .. .	236

	PAGE
Properties of foreigners .. .. .	236
Situation of intangible property .. .. .	237
Domicile .. .. .	237
Articles of national, scientific, historic or artistic interest .. .. .	238
Gifts .. .. .	238
Unregistered partition and release deeds should not be recognised for purposes of death duties .. .. .	239
Policies of insurance .. .. .	239

*The manner of assessment.*

Valuation of property .. .. .	240
In England .. .. .	240
Under the Court-fees Act .. .. .	240
Proposals made in respect of land .. .. .	240
Securities and business interests .. .. .	241
Allowances	
— for funeral expenses .. .. .	241
— for marriage of unmarried daughters .. .. .	241
— for claims of maintenance .. .. .	241
Valuation of limited interests .. .. .	242
Settled property .. .. .	242
The possibility of composition .. .. .	243

*The methods of enforcing payment.*

Extension of the existing law, the simplest .. .. .	244
Compulsory representation a benefit in itself .. .. .	244
The case of Hindu wills .. .. .	244
The case of Muhammadan wills .. .. .	245
The case of intestacy .. .. .	245
Probates were at one time compulsory in both cases .. .. .	245
And in 1865 compulsory probate was generally considered desirable .. .. .	246
The difficulty of the joint Hindu family .. .. .	246
The authorities who should administer the law .. .. .	247
The legislation necessary .. .. .	247
Further possible sanctions .. .. .	248
The inventory by whom to be furnished .. .. .	248
The department primarily concerned .. .. .	249
Appeals .. .. .	249
Payment by instalments .. .. .	249
Interest on arrears .. .. .	250
Rateable distribution .. .. .	250

*Legislative authority.*

The Scheduled Taxes Rules .. .. .	250
The draft bills prepared by the Provinces .. .. .	250
Central legislation essential .. .. .	251

*Annexure A.*

## Rates of death duties in force in certain countries

—United Kingdom—							
—Estate duty .. .. .	..	..	..	..	..	..	252
--Legacy and succession duty .. .. .	..	..	..	..	..	..	253
—France—							
—Estate duty .. .. .	..	..	..	..	..	..	253
--Legacy duty .. .. .	..	..	..	..	..	..	253
—Holland—							
—Succession duty .. .. .	..	..	..	..	..	..	254
—Belgium—							
--Succession duty .. .. .	..	..	..	..	..	..	254
—Japan—							
--Succession duty .. .. .	..	..	..	..	..	..	255
--Inheritance tax .. .. .	..	..	..	..	..	..	255

*Annexure B.*

Statement showing the receipts on account of duty on probates, letters of administration and succession certificates in the various Provinces ..	256
--	-----

*Annexure C.*

## Statements showing

(i) the growth of investments in Government paper .. .. .	257
(ii) deposits in Post Office Savings Banks .. .. .	257
(iii) the paid-up capital in Joint Stock Companies .. .. .	258
(iv) the paid-up capital in Life Assurance Companies in British India ..	258
(v) New business transacted by Life Assurance Companies in each of the years 1919 to 1923 .. .. .	258

*Annexure D.*

Fees in respect of probates, letters of administration and succession certificates proposed by the Select Committee on the Court-fees Amendment Bill ..	259
---	-----

## APPENDIX XIII.

## A NOTE ON TAXES ON CONSUMPTION FOR LOCAL PURPOSES.

*Introductory.*

## Four principal groups of consumption taxes—

— Duties levied on crossing a frontier—customs duties .. .. .	260
— Transit dues .. .. .	260
— Octroi duties .. .. .	260
— Excises .. .. .	260
Monopolies .. .. .	260
Taxes on sales .. .. .	260
The present note is concerned with the octroi and terminal taxes and with the taxation of sales as an alternative .. .. .	261



*The Octroi and Terminal tax.*

The octroi in Europe .. .. .	261
History of the tax in India—the transit dues .. .. .	262
— their evil effects .. .. .	262
— their abolition .. .. .	263
— and re-impotion in the shape of town duties .. .. .	263
The principles governing the levy of these taxes—strict limitations in the earlier stages .. .. .	263
— a change of policy begins in 1903 .. .. .	264
— the United Provinces Committee, 1908 .. .. .	264
— further change of policy in 1917 .. .. .	265
The scheduled taxes rules .. .. .	266
— the present position—Control by the Government of India .. .. .	266
— control by the Local Governments—the United Provinces .. .. .	266
— Bombay .. .. .	267
— the latest developments .. .. .	268
A more general account of the existing arrangements .. .. .	269
Octroi duties—	
— method of collection .. .. .	269
— through traffic .. .. .	270
— arrangements for composition .. .. .	271
Terminal tax .. .. .	271
Advantages and disadvantages of the octroi and terminal tax .. .. .	271
The incidence of the tax .. .. .	272
The dangers of the present state of affairs .. .. .	273
A summary of the limitations under which the taxes should be worked, if continued .. .. .	274

*Taxation of sales.*

On the assumption that local taxation of commodities is to continue .. .. .	274
A tax on sales is indicated as appropriate .. .. .	274
Antiquity of taxation in this form .. .. .	274
The revival after the war .. .. .	275
Some factors in the schemes may be eliminated .. .. .	275
The points that remain .. .. .	276
The stage at which the tax is imposed	
— a general tax on turn over .. .. .	276
— a tax on wholesale transactions .. .. .	276
— a tax on retail sales .. .. .	276
The general objections to such a tax .. .. .	277
Consideration of these in their application to the proposed substitution of the tax for the octroi .. .. .	278
Advantages of the tax over the octroi .. .. .	278
Proposals for administration of the tax—the advantages of statutory accountancy in Europe— .. .. .	278
— in India it would be necessary to insist on returns in the case of the larger trader .. .. .	279
— and to license traders whether large or small .. .. .	279

	PAGE
The staff to administer the tax .. .. .	279
The tendency would be to develop into a profession tax .. .. .	279

## APPENDIX XIV.

## BIBLIOGRAPHY—

I. Acts and Manuals .. .. .	280
II. Official publications, Law Reports, etc. .. .. .	284
III. Text-books .. .. .	288

## APPENDIX XV.

INDEX OF WITNESSES .. .. .	291
SUBJECT INDEX TO VOLUMES I AND II .. .. .	297