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A HANDBOOK

TO THE

DEATH DUTIES.

BY

SYDNEY BUXTON, M.P.,

AUTHOR OF "FINANCE AND POLITICS," ETC.

AND

GÉORGE STAPYLTON BARNES,

BARRISTER-AT-LAW.

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## PREFACE.

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THE object of this little book is to deal in a popular way with the subject of the Death Duties. It is an attempt to sketch clearly and concisely their history in the past, to give a description of them as they stand at present, and to suggest reforms in their incidence and mode of levy. In a word, to show the Death Duties as they have been, as they are, as they should be.

S. C. B.

G. S. B.

*February, 1890.*

## NOTE.

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IN justice to Mr. Barnes, I wish to point out how very unequal in amount has been the work done by the two authors whose names appear on the title page of this book.

I had fully hoped and intended to take an equal share in the work ; but it so happened, that during the time when the book had to be written—the late summer and early autumn—unexpected and absorbing calls upon my time and attention left me but little opportunity of performing my part. Thus my contribution to the work has been practically confined to collecting some of the materials, to discussion, to suggestions, and to careful revision and criticism of manuscript and proof-sheets. The lion's share of the work has been done by my colleague, and to him is due whatever of credit may attach to the book.

SYDNEY BUXTON.

*February, 1890.*

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# THE DEATH DUTIES.

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## PART I.

### HISTORICAL RETROSPECT.

#### I.—INTRODUCTION.

THE taxes commonly included under the grim though graphic title of the "Death Duties," are so called because they are levied on the transfer of property from the dead to the living. They are five in number, and are known by the names of the Probate, Account, Legacy, Succession, and Estate Duties.\*

The Death Duties have always been included in the Revenue under the head of "Stamps." The Probate, Account, and Estate Duties alone,

\* Cf. Dowell's "History of Taxation in England;" Trevor's "Taxes on Succession," Edit. 1881; Thring's "Succession Duty Act," 1853; Hanson's "Probate, Legacy, and Succession Duty Acts;" Wallace's "Epitome of the Death Duties;" Articles in the *Economist* newspaper, March, April, and May, 1889, etc.



however, are now levied by means of a stamp ; the Legacy Duty was formerly so levied, but never the Succession Duty

All of them are *ad valorem* duties, the three first, the Probate, the Account, and the Legacy Duties, being now charged exclusively on "personalty," that is to say, broadly speaking, on property other than land and houses ; while the Succession and Estate Duties affect both realty and personalty.

The Probate Duty is levied on everything that the deceased possessed of any value in this country, and is almost self-collecting, being paid out of the whole estate before division, and before the property reaches the hands of the legatees. Until the executor has paid the duty, the will cannot be proved, and the property belonging to the estate can neither be collected nor distributed.

The Account Duty is a very small matter, and was created mainly in order to prevent evasions of the Probate Duty. The revenue arising from it is insignificant, but its value as a defence to the Probate Duty is probably considerable.

The Legacy Duty is levied on bequests or shares of personalty payable under a will or on an intestacy, and is charged on the particular portions into which the estate may be divisible after Probate Duty has been paid on the estate as a whole by the executor. Thus, though the two duties may be payable by different persons, practically the

Legacy Duty is a charge additional to the Probate Duty, and the same property pays both taxes. The amount of the duty varies with the relationship of the legatee to the deceased, as well as with the value of the bequest. Lineal successors—that is to say, children and direct ancestors—have been, however, since 1881, exempt from Legacy Duty in respect of property which has already paid Probate Duty.\*

The Succession Duty may be said to form the complement to the Legacy Duty, and extends the principle of that tax, by bringing realty and settled personalty (that is to say, personalty subject to trusts and in the hands of trustees) within the scope of the Death Duties. The Succession Duty, in short, taxes what is left untaxed by the Legacy Duty. Like the Legacy Duty, the rate of the Succession Duty varies according to the relationship between the deceased and the successor ; and, with the single exception of leaseholds, property which pays Succession Duty, is free from any additional charge in the shape of Probate Duty.

The Estate Duty is levied on all personal estates of £10,000 and upwards in this country, passing by will or on intestacy, however they may be subsequently divided ; but, as regards landed property and settled personalty, it is only levied when the value descending to a single heir, amounts

\* See p. 18.

to £10,000, whatever may be the value of the whole estate, or when such value, descending by will or on intestacy, is made up to £10,000 by means of other benefits. On personal estates above £10,000 in value, the Estate Duty is, it may be said, an addition to the Probate Duty in all but name.

## II.—THE PROBATE DUTY.

Of all the Death Duties, the Probate Duty has the most ancient origin. From very early times in England certain formalities have been required of executors and administrators before they were allowed to act. An executor has always been obliged to verify on oath and "prove" the will in which he was named, and the estate of an intestate could never be distributed without the grant of "letters of administration" to a sworn administrator. The "probate" of the will, or the letters of administration, as the case might be, had originally no connection whatever with taxation, but simply represented the authority under which an executor or administrator was empowered to act.

Upon the parchment used for these instruments a tax of 5s. was imposed in 1694, in all cases where the estate in England was above £20 in value.\* In 1698, this tax expired, having been

\* 5 & 6 Will. and Mary, c. 21.

originally granted for four years only "towards carrying on the war against France." The duty was, however, re-imposed the same year, and at the same time was raised from 5s. to 10s.\* At this rate the Probate Duty remained unchanged for nearly a century. There was at this early stage no *ad valorem* scale, but small estates and large estates were alike chargeable with the 10s. stamp. In 1779, Lord North introduced the first scale of duties, varying according to the amount of the property involved.† The scale, however, was of a very limited character. While the old duty of 10s. was retained for estates over £20 and under £100, estates over £100 and under £300 were made liable to a charge of 30s., and a maximum duty of 50s. was imposed on estates of £300 and upwards.

The idea of a progressive scale was borrowed, like so many of our stamp duties, from the Dutch fiscal system. In Holland, at this date, wills had to be written upon stamped paper, of which the price was proportioned to the property in question. There were stamps of as low a denomination as threepence, or three stivers a sheet, running up to three hundred florins, equal to about £27 10s. of our money. To this system of a progressive scale Adam Smith had directed attention in his "Wealth of Nations," which first appeared in 1776,‡

\* 9 & 10 Will. III. c. 25.

† 19 Geo. III. c. 66.

‡ "Wealth of Nations," p. 389. Edit. 1889.

and Lord North, always sorely in need of fresh sources of revenue, was not slow to turn to a profitable end the information thus put before him.

Subsequently to 1779, the Probate Duty constantly engaged the attention of successive Chancellors of the Exchequer, and changes in rates and scales followed one another with great rapidity. First, estates up to £5000 were taxed with a maximum duty of £20; then the limit was extended to £10,000, next to £100,000, and afterwards, in 1804, to £500,000, the duty increasing by steps as the scale was extended.\* In 1815, the limit of the ascending scale was fixed at a million, on which a duty of £15,000 was payable.† This limit was repealed in 1859, when a fixed rate of £1500 on testate, and £2550 on intestate estates, was imposed for every £100,000 of value over a million—an extension that has caught and taxed the residues of several large properties which would otherwise have escaped.‡

In 1774, the Probate Duty was first extended to Ireland by an Act of the Irish Parliament; and a duty of 5s. was imposed on all estates exceeding £30 in value.§ This small duty was subsequently increased by various Acts, but, until 1842, always remained at a lower rate than the corresponding duty in England. In that year, it

\* 44 Geo. III. c. 98.  
 † 22 & 23 Vict. c. 36.

‡ 55 Geo. III. c. 184.  
 § 13 & 14 Geo. III. c. 58.

was raised to the level of the English rates, forming, together with an increase of the other stamp duties and of the spirit duty, some compensation for the exemption of Ireland from the income tax.\*

No tax of the description of the Probate Duty was imposed in Scotland until 1804, when the English rate of duty was nominally imposed in Scotland under the name of the Inventory Duty.† Practically, however, the duty was evaded by means of a technical rule of law; and this evasion continued until 1808, when Scotland was included in the area of the duty imposed in that year in England.‡

In 1815, together with the extension of the limit of charge, an elaborate scale of duties was introduced by Vansittart, applying to "probates" in England and "inventories" in Scotland.§ Estates under £20 were still exempted from duty—an exemption which was raised to £100 in 1864.¶ When the estate was £20 but under £100 in value, the duty was fixed at 10s.; when the estate was £100 but under £200, at 40s. The scale ascended by many steps, estates of £800 in value but under £1000 being charged with £15 duty, those of £9000 but under £10,000 with £180, those of £90,000 but under £100,000 with £1350;

\* 5 & 6 Vict. c. 82.

† 44 Geo. III. c. 98.

‡ 48 Geo. III. c. 149.

§ 55 Geo. III. c. 184.

¶ 27 & 28 Vict. c. 56.

and so on, to the limit of £15,000 duty on estates of a million and upwards in value. By the same Act, a distinction was for the first time drawn between the estates of intestates and those of persons who died leaving a will, an additional charge of some fifty per cent. being levied on the former. It is difficult to appreciate any valid reason for the premium which was thus placed upon testacy, but the fact remains that between the years 1815 and 1880 it was cheaper to die leaving a will than to die without one.

In the assessment of an estate for Probate Duty, real estate has never been included, but has always been, and still remains, entirely exempt. One of the reasons for this exemption is to be found in the technical rule of law that real estate passes by will direct to an heir, even though the will be never proved. An executor has no concern with a testator's real estate, unless indeed his personal assets are insufficient for the payment of debts.\*

During the period between 1815 and 1880, no important change was effected in the principle of the Probate Duty. In the latter year, when Sir Stafford Northcote tentatively took the question in hand, it had long been acknowledged on all sides that the tax called for reform. The scale of duties fixed in 1815 was an arbitrary one, and rising, as it did, by successive and irregular steps,

\* See p. 83.

made the duty only approximately a percentage on the value of an estate. For instance, on an estate of £8001 passing under a will, £160 had to be paid, while on one of £7999 the duty was only £140. Again, on estates of between £350,000 and £400,000, the duty was £5250, while £6000 duty was payable on estates of between £400,000 and £500,000. It was thus a matter of anxious moment to the heir of the residue of a large property, under which group of values the estate would be sworn. Further, the scale had the effect in many cases of weighing more heavily on smaller than on larger estates. Again, the gross and not the net value of an estate was chargeable with duty, no deductions being permitted in the first instance for debts and other liabilities. Moreover, as already mentioned, intestate were charged on a much higher scale than testate estates—an anomaly which had been unsuccessfully attacked by Mr. Lowe in 1871. Lastly, the tax did not touch real or settled personal property.

In 1880, Sir Stafford Northcote removed the distinction existing between testate and intestate estates, and revised the scale so as to give relief to poorer properties.\* The other anomalies, however, of the Probate Duty remained unredressed.

In 1881, Mr. Gladstone proceeded with the work of reform—a work which want of time only had

\* 43 Vict. c. 14; Hansard, Mar. 5, 1880.



prevented him from undertaking, nearly thirty years before, in conjunction with the imposition of the Succession Duty. The old progressive scale was abolished, and the charge was so adjusted that on estates of above £1000 the duty amounted practically to three per cent. on the value.\* On estates below £1000 the duty was fixed at £1 per £50 up to £500; and at £1 5s. per £50 on estates of more than £500 but of less than £1000 in value. The duty, moreover, was now made payable on the net and not on the gross value of an estate—a change unsuccessfully attempted by Mr. Spring-Rice when Chancellor of the Exchequer—and the executor or administrator, before swearing the value, was to be permitted to deduct debts and reasonable funeral expenses. In order to diminish the great trouble and expense of assessing and paying the Probate and Legacy Duty on small estates, the two were together commuted into a single and simple payment of 30s., in cases where the property did not exceed £300, without deduction of debts.

The duty in its old form had now disappeared. It was no longer a duty on the probate of a will, or on letters of administration; but it had been transferred from the probate or letters of administration, as the case might be, to the affidavit or inventory of the estate. Nor was the revenue

\* 44 Vict. c. 12.

imperilled by this change, for, though the probate itself was no longer to bear a stamp, it was not to be granted until the executor could produce a certificate showing that the account of the particulars of the property was duly stamped with a receipt for the amount of Probate Duty due on the estate.

Thus, it may be said, that Sir Stafford Northcote and Mr. Gladstone between them carried through all the most necessary reforms in the Probate Duty, except indeed the most important of all, namely, its extension to realty and to settled personal property—exemptions which survive to the present day.

### MI.—THE ACCOUNT DUTY.

A well-known judge has laid it down that, in his opinion, every good citizen has a right to evade the law if he can. On the other hand, it is undoubtedly the business of the legislature to frustrate, if it can, the efforts of these good citizens, and it was with this intention that the Account Duty was imposed by Mr. Gladstone in 1881.\*

The Account Duty is so purely supplementary to the Probate Duty, that it can scarcely be reckoned as a separate tax. The Probate Duty being levied

\* 44 Vict. c. 12.

only on property passing by will, or by operation of law on an intestacy, was constantly evaded by two obvious methods. A would-be testator could execute a deed instead of a will,—a deed which would have no effect until after his death, but which would then accurately carry out his intentions, and by this subterfuge his property escaped Probate Duty. Again, though a man is often unwilling to part with his wealth in his lifetime, his grasp relaxes when he realizes that death is upon him, and that it is impossible that he should live to enjoy his property himself. Under such circumstances, affection for those around him overcomes his wish to swell the revenue returns. The Account Duty, therefore, taxes death-bed gifts, as well as property passing under what are termed “voluntary” deeds or settlements, that is to say, deeds or settlements made without valuable consideration, pecuniary or otherwise. Marriage, it may be noted by the way, is considered as a “valuable consideration,” and property comprised in settlements made in consideration of marriage is therefore not liable to Account Duty. The Account Duty was originally imposed on all gifts not made *bond fide* within three months of death, but it has since been found necessary to extend this limit to twelve months. Successions created by means of joint investments, for instance those made in the joint names of a husband and

wife, or husband and child, which were not liable to Probate Duty, are also subject to Account Duty.

Charged at a like rate as the Probate Duty, and payable in the same manner, the only object of the Account Duty was to mend a hole in the net spread by the Probate Duty; and its value may be fairly appreciated by the steady increase which has taken place in the Probate Duty Returns since the year of its imposition.\*

#### IV.—THE LEGACY DUTY.

Next to the Probate Duty in point of age is the Legacy Duty. Imposed in 1780, it was originally a stamp duty, varying in amount from a minimum of 2s. 6d. to a maximum of 20s. "on every skin or piece of vellum or parchment or sheet or piece of paper, upon which any receipt or discharge" for any legacy or other share of a personal estate, should be written.† In 1789, further stamp duties were imposed on receipts of a like nature, and an *ad valorem* scale was introduced, approximately at the rate of £1 per cent. on the value of the legacy.‡ These taxes being nothing more than stamp duties on the receipt, no revenue was obtained unless a formal receipt were actually given. The

\* See Appendix A.

† 20 Geo. III. c. 28.

‡ 29 Geo. III. c. 51.

natural result was to encourage executors and administrators collusively to agree with legatees to evade the duty, by neglecting to demand the legal receipts to which they were entitled; and the revenue suffered proportionately.

In December, 1795, Pitt, casting about him for ways and means, proposed to put an end to these evasions by transferring the liability for the duty from the receipt to the property itself.\* At the same time he desired to enlarge the area of the tax in order to increase the revenue. The proposed new duty was "not to be confined to any species of property, but was to include both landed and personal." Arguing in favour of his proposals, he urged that a similar tax was known in Holland, where it had been found "by no means oppressive or inconvenient." Further, he added "in a war for the protection of property it was just and equitable that property should bear the burthen; and, as it was in the nature of things that landed property was the most permanent, it was fit that it should contribute accordingly."†

In accordance with these views, Pitt, early in the following year, introduced two Bills into Parliament—one imposing the new duty on succession to personal property in lieu of the old duties on receipts, the other a like duty on succession to realty.

\* Parl. Hist. Dec. 7, 1795.

† Ibid.

Each Bill proposed to leave lineal successors and widows untaxed, and to impose the new duty on collateral successors only. The duty was to be levied on a scale varying according to the relationship of the successor to the deceased. A brother or a sister and their descendants were to be rated at two per cent.; an uncle or aunt and their descendants at three per cent.; more distant relations at four per cent.; and strangers at six per cent.

The first Bill, that relating to personal property and imposing the new duty on all legacies of greater amount than £20, passed into law, not however without considerable opposition. Fox forcibly expressed his opinion against the principle of the Bill, and in the course of the debate, Mr. Alderman Newnham emphatically declared that "if the Bill passed, some people might think this the best country in the world to live in, but it certainly would be the worst to die in."\* The second Bill, imposing similar duties on succession to realty, was violently opposed by Fox on two grounds.† "First, the novelty of the principle as a tax upon capital; and, secondly, the iniquity of the application." "It was," he said, "a system which, if acted upon in the extent to which the principle might be carried, would enable the State to seize upon the property of the country. Of all

\* *Parl. Hist.* May 22, 1796.

† *Ibid.*, May 5, 1796.

the shapes in which despotism had ever existed, that, in his opinion, was the highest which rendered the sovereign heir to the whole capital of the country. This he admitted the present Bill did to a very limited degree; but if the principle was once adopted, the progress was easy, and it was impossible to calculate how far it might be extended." Mr. Philip Francis, following out Fox's line of argument, said, later in the debate: "I look upon the Bill not merely as an act of taxation, but as a political measure immoderately increasing the influence of the Crown, and full of danger in its obvious consequences to the constitution and freedom of the country." Another speaker expressed his strong objection to the proposed death duty, because it was one "that the person subject to it was positively obliged to pay"!

These may seem strange arguments to us now, but they had their weight in the House of Commons of that day. Though the second reading was passed by a substantial majority, the majority fell to one on the third reading; and, on a second vote being taken, the Bill passed only by the casting vote of the Speaker; thereupon Pitt withdrew it.

Immediately after his return to power, in 1804, Pitt proceeded to increase the duties which he had imposed in 1796 on successions to personal estate. The scale of consanguinity, which had stood at

two, three, four, and six per cent., was raised to two and a half, four, five, and eight per cent.\* In the following year, Pitt again returned to the charge, and effected some most important changes. The eight per cent. rate payable by remote relations and strangers in blood was increased to ten per cent.† A considerable addition was also made to the area of the duty in two directions. First it was extended to all lineal descendants, who were to be charged at the rate of one per cent. Secondly,—though after his failure in 1796 Pitt did not think it wise again to attack the landed interest directly, and no attempt was made to impose a duty on succession to the land itself,—he succeeded in encroaching somewhat on the exemption of landed property, by including within the scope of the legacy duty all legacies taking effect out of real estate, and the proceeds of real estate directed to be sold. ‡

In the last year of the Great War, Vansittart extended the duty to lineal ancestors, who were charged at the same rate as lineal descendants, viz. one per cent. Every successor was, after this last extension, included in the scope of the tax except a widow succeeding to her husband. At the same time he raised the rates of two and a half, four, and five per cent. to three, five, and six respectively.§

\* 44 Geo. III. c. 98.

† 45 Geo. III. c. 28.

‡ Cf. Peel's speech, H., April 8, 1842; Thring, p. 2.

§ 55 Geo. III. c. 184.



This revision of the rates of duty was final, and in spite of an abortive attempt by Mr. Lowe to alter them in 1871, they still remain at the scale fixed in 1815, viz. :—

Lineal issue or lineal ancestor	...	...	...	1 per cent
Brothers and sisters and their descendants	...	...	...	3 "
Uncles and aunts and their descendants	...	...	...	5 "
Great uncles and aunts and their descendants	...	...	...	6 "
Any other person	...	...	...	10 "

The Legacy Duties remained altogether untouched for a considerable time after 1815. In 1842, the Irish Legacy Duty was assimilated to that of Great Britain, except that gifts by Irish testators to Irish charities were allowed to remain exempt from the payment of any duty whatever. In 1880, Sir Stafford Northcote exempted personal estates under £100 in value from all Legacy Duty,\* and this exemption was in the following year extended by Mr. Gladstone to personal estates not exceeding £300 in value. On the other hand, the exemption which had previously existed with regard to individual legacies under the value of £20 was removed. In the same year, lineal descendants and lineal ancestors were relieved from the payment of any Legacy Duty in cases where the property passing to them had already paid Probate Duty.† The one per cent. Legacy Duty on the nearest of kin was practically in nearly every case paid by the same persons who paid Probate Duty

\* 43 Vict. c. 14.

† 44 Vict. c. 12.

on the estate, and legatees of this class comprised about seven-twelfths of the whole number. In order to get rid of this double payment, the Legacy Duty was in these cases remitted, but, at the same time, for the protection of the revenue, the Probate Duty generally was increased.

Thus legislation has worked in a circle, and the exemption which existed in favour of lineals under the earlier scales of consanguinity, an exemption which was cancelled by the legislation of 1805 and 1815, has now been virtually restored.

#### V.—THE SUCCESSION DUTY.

The Succession Duty is of very much later date than the Probate and Legacy Duties. After Pitt's failure in 1796 to tax successions to real property, no further attempt was made for a very long time by any succeeding Government to deal with the matter. The injustice was admitted, but no Chancellor of the Exchequer cared to grapple with a question which had defeated Pitt in the plenitude of his power.

The equalisation of the Death Duties on real and personal property was, however, from time to time discussed among financial reformers. In 1842, for instance, Lord John Russell, strenuously opposing the re-introduction of the income tax as proposed by Sir Robert Peel, suggested that the necessary

revenue should be raised by a duty on succession to landed property. "There is," said he, "an alternative proposition which appears to me to be based upon sounder arguments, and a tax which appears to me to be fairer, better, and more just than that put forward by the Government—I mean the proposition of submitting the succession to real property [loud and prolonged cheering] to the same Probate and Legacy Duty which attaches itself to the succession of personal estate."\* Peel opposed the suggestion, chiefly on the ground that much real property already paid duty under the Legacy Duty Acts in the shape of legacies charged on land. A little later in the same year, Mr. Elphinstone moved that the House should resolve itself into a Committee, "for the purpose of considering 55 Geo. III. c. 184, with the view of imposing Legacy and Probate Duties on succession to real estates, of the same amount as are now imposed by the said Act on succession to personal property."† The debate was an interesting one: the motion was defeated by a majority of 144 in a House consisting of 398 members.

In 1853, Mr. Gladstone took up the question. His proposals, as defined in his great Budget speech of that year, were "to extend the Legacy Duty to all successions whatever."‡ "The tax,"

\* Hansard, April 8, 1842.

† H., April 26, 1842.

‡ H., April 18, 1853.

said he, "is supposed to favour landlords, which I do not deny; but it also favours property which has not that claim to favour which landed property and household property might perhaps fairly urge as a ground of exemption from taxation." Mr. Gladstone was here referring to settled personal property, that is to say, property subject to trusts and in the hands of trustees, which, like realty, was still exempt from all taxation on death. •

The Bill gave rise to considerable opposition at its different stages. The old weapons which had been used against Pitt sixty years before, were refurbished, and again brought out of the armoury. The argument that the taxation of successions to land was the taxation of capital, was emphasized by Mr. Disraeli. "For my part," said he, "I believe that all taxes on successions, whatever shape they may take, are unsound in principle. They are taxes on capital. They are unsound in principle because they lead to partition, which in my opinion is a very great evil and much to be deprecated." •

Protracted debates followed on the details of the measure, but its principle was accepted by the House on the most important division by a majority of 83 in a House of 453 members, and eventually it passed into law.†

• H., May 2, 1853.

† 16 & 17 Vict. c. 51.

The imposition of the Succession Duty was not only an important step in itself, involving a great principle, but it was, moreover, the first new tax that had been imposed since the Great War. The object aimed at by Mr. Gladstone was two-fold. He desired to obtain sufficient revenue to enable him to carry out his project for the gradual extinction of the income tax, and at the same time to render it possible to introduce further beneficial changes in the fiscal system of the country.

The Succession Duty was "a fair and right tax to adopt for itself," but it also had the merit of redressing in some measure the inequality existing between permanent and precarious incomes. "Let me," said Mr. Gladstone, "point out to you that if you think that intelligence and skill under our system of taxation (*i.e.* the income tax) pay too much and property too little, there are means of equalizing the burdens of the two classes in a manner which would be, on the whole, safe, honourable, and efficacious."\*

<sup>cc</sup> Besides directly taxing realty, the Act of 1853 <sup>ii.</sup> tically extended the Legacy Duty from personal property passing by death under a will or intestacy, <sup>His</sup> <sup>speech</sup> <sup>Duty to</sup> property passing by death, both real and personal, and thus a vast amount of property

\* Hansard; trusts was for the first time brought into

\* H., April 18, 1853.

charge.\* The exemption of real property from Probate Duty was, however, not interfered with, and this exemption still exists. Leaseholds, which in law are personal estate, and, as such, had been hitherto charged with Legacy Duty as well as with Probate Duty, were now exempted from the former, but were brought within the scope of the Succession Duty Act as real estate. Like the Legacy Duty, the Succession Duty was made to depend upon the consanguinity of the successor, and the value of the succession, and the rates for Succession Duty were fixed at a scale exactly similar to that in force under the Legacy Duty Acts.

While real property was thus brought under charge, it was at the same time treated very much more tenderly than personal property, on the ground that it had to bear a heavy burden of rates. The heir to real property was permitted to spread the duty over more than four years, paying it in eight half-yearly instalments; the first instalment not being payable until twelve months after he became entitled. The system of payment by instalments, it may be noted, formed a feature of Pitt's rejected Bill of 1796. It was necessary, it was argued, to permit payment of the duty in this easy manner: otherwise, by forcing sales, and in other ways, un-contemplated social changes would be brought about by that which was intended to be merely a

\* See "Report of Commissioners of Inland Revenue," 1870, p. 97.

fiscal measure. The Succession Duty on land calculated as it was from the net annual rentals, was in effect a tax upon the rent and not upon the corpus of the land; \* and, being payable by instalments, no necessity would under ordinary circumstances arise, as almost always happens in the case of personal estate, for a sale of any portion of the property in order to satisfy the demands of the Crown.

Another, and more solid exemption was granted to the heir to real property. He was not taxed, as in the case of personal property, on the market value of the property to which he had inherited, but only on the capitalized value of his life-interest after deduction of the incumbrances. An heir to an absolute interest in land paid duty on the basis that he was entitled to a life interest only, and the amount of duty payable was therefore made dependent on his age. Yet such a man could, of course, sell the land which he had inherited, and hold the purchase money, after having paid to the revenue a sum small as compared with that which he would have had to pay if he had succeeded to the purchase money instead of the land. While those who had inherited landed property absolutely unfettered by any restrictions, were thus taxed on succession as though they were entitled to interests for life only, those who really were only entitled to

\* Cf. Thring, p. 7.

limited interests of this kind had a further benefit extended to them. If a life-renter died before all the instalments due from him on succession had become payable, the remaining instalments lapsed, and the unpaid duty was lost to the revenue.

The produce of the Succession Duty greatly disappointed all expectations. Mr. Gladstone himself estimated the amount of revenue to be received from the tax at £500,000 for the immediate year, rising to £1,200,000 in the following year, and to £1,600,000 for 1855, and ultimately to reach £2,000,000 a year. This estimate, however, was considerably under that of the opponents of the Bill: they doubled the estimate of two millions, to the intense alarm of themselves and of the landowners. Mr. Cairns (Lord Cairns) considered it idle to suppose that the amount collected would be limited to two millions, and declared that the duties would amount to four millions a year,\* an estimate which was extended by Mr. Malins (afterwards Vice-Chancellor Malins) to no less than eight millions; and other speakers and writers of authority estimated the receipts at from three to four millions. "The Chancellor of the Exchequer," exclaimed one angry peer, "will be a kind of vulture soaring over society, waiting for the rich harvest which death will pour into his treasury." †

All these were strangely exaggerated estimates

\* H., April 29, 1853. † Lord Malmesbury. H., July 22, 1853.



In 1854, the tax yielded under a quarter of a million; by 1860, instead of the two million a year, it had reached only £600,000. Even in 1870, its produce was only £750,000; in 1880, £788,000; and in 1885, when the yield of the tax reached its maximum, only £935,000.

Mr. Gladstone subsequently attributed the failure of his predictions to the previously unappreciated fact that real property went in a direct line, in a much larger number of cases than personal property, and was, therefore, to a larger extent, liable only to the lowest percentage of charge, namely, one per cent. But it is clear that this explanation can account only for a part of the failure, and not for the enormous discrepancy which occurred between the estimated and the actual receipts. The chief reason, probably, was that sufficient allowance had not been made for the encumbered state of real property. Encumbrances, already taxed under Pitt's Act of 1805, escaped Mr. Gladstone's of 1853, with the result that the value of the property which became liable to the Succession Duty was very much less than the estimate.\* The plan, moreover, of taxation by way of annuity, instead of upon the saleable value, vastly diminished the productiveness of the duty. Further, there is little doubt but that the estimate

\* Cf. Sir Stafford Northcote's "Twenty Years of Financial Policy," pp. 208-210.

of the amount of money subject to settlements was much too high.\*

As a model of good draftsmanship, dealing with a complicated subject, the Succession Duty Act is without equal, and it has never required any amendment. Many of its clauses, it may be mentioned, are taken bodily from Pitt's Bill of 1796, of which Lord Eldon is reputed to have been the draftsman.

Between 1853 and 1888, several unsuccessful attempts were made to increase the Succession Duty. In 1888, Mr. Goschen increased the tax; but at the same time introduced fresh confusion by practically converting the Succession Duty into two separate duties, and thereby in effect adding another to the list of existing Death Duties.† While the old rates of 1, 3, 5, 6, and 10 per cent. were allowed to remain in force for such property as was liable to Probate Duty in addition to Succession Duty (*e.g.* leaseholds), the rates payable in respect of all other classes of property (*e.g.* realty and settled personalty) were raised to the very awkward figures of 1½, 4½, 6½, 7½, and 11½ per cent. Concurrently with this increase in the Succession Duty, Mr. Goschen proposed to hand over one-half of the Probate Duty to the local authorities in aid of local taxation. Thus, he argued, the

\* "Report of Inland Revenue Commissioners," 1870, p. 97.

† 51 Vict. c. 8.

half of the Probate Duty which was to be paid in relief of local burdens "disappears from Imperial taxation," and by a slight increase in the Succession Duty, "you will have equal rates on the two kinds of property for Imperial purposes." \* This ingenious contrivance, with its nominally equal percentages may have seemed to some a step in the direction of equality and reform. Of course equality was not really gained or even approached by this change. Personalty was liable, just as before, to the full three per cent. Probate Duty, though half of it would in future go to a local taxation account. Realty was to have its burden slightly increased on the one hand, but against this it was to receive a considerable sum in aid of rates; the sum so to be received (amounting to over two millions a year) was more than double any possible estimate of the whole produce of the Death Duties arising from land. The actual produce of the Succession Duty prior to 1888 was under £900,000; which, when the addition of 1888 was fully realised, would be increased to about £1,200,000.† Of this, however, one-third would be paid by personalty, leaving the burden on realty at no more than £800,000 a year.‡

Two other small changes were also introduced

\* H., March 26, 1888.

† Mr. Goschen estimated an increase of £50,000 in the current year, to rise to £368,000 in nine years.

‡ Mr. Gladstone estimated that two-sixths of the Succession Duty contributed by personalty (H., April 23, 1888).

in 1888. Legacies charged on realty, and moneys arising from the sale of land, which had hitherto been liable to Legacy Duty, were made liable to Succession instead of to Legacy Duty. This change has had the effect of greatly increasing the difficulties of administration, and the labours of the officials at Somerset House.

The other change was the extension of the time for payment of the Succession Duty on real estate. In lieu of the eight half-yearly instalments, a successor was enabled to discharge the duty by two equal moieties, the first to be paid by four equal yearly instalments, and the second moiety on the day for payment of the last instalment of the first moiety. The payment of no less than five-eighths of the whole amount of duty payable, might thus be postponed until four years after death.

## VI.—THE ESTATE DUTY.

The last and most modern of all the Death Duties is the "Estate Duty," imposed by Mr. Goschen in 1889. Apparently intended to be a first step towards the general simplification, equalisation, and re-arrangement of the Death Duties as a whole, its imposition has resulted in the creation of fresh anomalies, and has made confusion worse confounded. Mr. Goschen's original good intentions may be gathered from his Budget

speech of 1889. After declaring (and in this differing from Mr. Disraeli in 1853 \*) that he preferred looking to accumulations, "to the surplus which can be put by," rather than to an increase in the income tax for additional revenue; and giving as his reason, that it would be generally recognized that it was the men whose fortunes were considerable who paid least in proportion to their aggregate income and property, he added, "I propose to look to estates which amount to £10,000 and upwards, £10,000 representing an income of about £300 or £400 a year and not more. What I propose is to levy an additional tax of one per cent. on all estates of more than £10,000, whether they consist of realty or personalty, and to do this by means of a new duty, partly because I do not wish to mix it up with the Probate Duty, and partly because it is not desirable that the inequalities which attach to the existing Death Duties, and which can be justified in them, should attach to the new tax." "The new duty," he proceeded, "will be charged similarly on both realty and personalty—that is to say, on the capital value when the property passes absolutely." †

Mr. Goschen's performance fell, however, very far short of his promises. As so often had been the case before with regard to the taxation of

\* See p. 21.

† H., April 15, 1889.

successions to landed property, the pressure put upon the Chancellor of the Exchequer by the landed interest proved too strong to resist, and when the Bill was produced, it bore but little likeness to the scheme foreshadowed in the Budget speech. The Bill eventually passed into law almost in the form in which it was introduced.\*

So far as personal property is concerned, the "Estate" Duty is well named, for it was made chargeable on all personal estates of £10,000 and upwards, passing by will or on intestacy. Like the Probate Duty, it is payable out of the estate before division, the shares into which the property may be divided by will, or by operation of law, in no way affecting the amount of duty payable; every estate consisting of personalty exceeding £10,000, is chargeable under the Act on its full value. But, in the case of realty, a totally different principle prevails, and the Estate Duty is only charged in cases where the value of any particular succession exceeds £10,000, or under a will or intestacy is made up to £10,000 by other benefits. Nominally a tax in the nature of Probate Duty, falling with equal force on all estates of £10,000 and upwards, whether they consist of personalty or realty, practically, by its mode of levy, it constitutes in the case of realty, a Succession Duty only, from which successions of under £10,000

\* 52 Vict. c. 7.

may be exempt. Thus, while the Act renders it impossible for a man who leaves £10,000 worth of personalty to escape the Estate Duty, the man who leaves £15,000 worth of realty, and devises it in two equal shares, may have the satisfaction of feeling that his estate will not contribute one penny of Estate Duty to the National Exchequer.

Nor is this the only difference in principle adopted for the taxation of realty and personalty in the Estate Duty. The Estate Duty on personalty is payable at once, the duty on realty is made payable by successive instalments extending over four years, in the same way as the amended Succession Duty. Again, the duty was made chargeable on the full capital value of personal property, but the capital value of land for the purposes of duty was practically to be ascertained by rule of thumb from the net rental only. In short, the anomalies of the Succession Duty were repeated in the mode prescribed for assessing the Estate Duty on landed property. For the purpose of assessment, the term "annual value," was to retain the limited meaning put upon it in Lord Seston's case, referred to later on, and building land was only to be liable to pay duty on its agricultural value.\* Moreover, an entirely new anomaly was imported, the Act declaring that the duty payable in respect of the "principal value" of landed

\* See p. 50.

property "shall not in any case exceed the amount which would be chargeable upon an annuity equal to the annual value, according to the highest value in Table III. in the Schedule of the Succession Duty Act"—a table that deals with the values of annuities for terms of years certain, up to ninety-five years.\* Rent is, of course, in its nature a perpetual annuity, but, for the assessment of Estate Duty, it was to be considered only as a terminable annuity, the utmost duration of which was ninety-five years. Freehold land, in fact, was to be valued for the purposes of taxation, on the assumption that it was not freehold, but of long leasehold tenure. At every point, landed property is hedged round and protected at the expense of personalty, and in no single particular can it be said that the Estate Duty has been "charged similarly on both realty and personalty."

The history of the Death Duties has been one long tale of tinkering and tacking. Each successive Chancellor of the Exchequer has lacked either the courage or the sessional time to make any effectual attempt to deal with the duties as a whole, and to reduce them to a more equitable and simple form. To satisfy the demands of the Exchequer for the moment, a new duty has been created or an old duty fractionally increased. The result is that no

\* See p. 55.



less than five different duties have sprung up duties which contain subdivisions, eccentricities, and anomalies without end, and which together form a maze which no one who has not devoted much time and patient study to the subject can hope to unravel.

#### VII.—THE DUTY ON CORPORATE PROPERTY.

THE list of Death Duties, strictly so called, has been exhausted above. Under one or other of them every form of property contributes a toll to the Revenue on the death of the owner. Some owners, however, do not die. Corporations are immortal, and, until a few years ago, their immortality entirely relieved them from the taxes falling on others who did not enjoy this advantage. In 1863, Mr. Gladstone attempted to bring corporate property, including property belonging to charities, under charge by means of an income tax.\* His proposals were, however, met with the clamour which powerful corporations and vested interests on their defence can always ensure, and with the opposition which they so well know how to create. So vehement was the outcry, so passionate were the appeals to sentiment, that Mr. Gladstone was reluctantly obliged to withdraw the obnoxious Bill.

\* H., April 16, 1863.

After this defeat no further attempt was made to impose a tax on corporate property as an equivalent for the Death Duties, until, under stress of war expenditure, Mr. Childers, in 1885, reproduced the proposals of 1863. He was, however, careful to avoid the pitfall into which Mr. Gladstone had fallen. Religious bodies and charities were to be exempt, and no societies were to be taxed in respect of income derived from the donations and contributions of living persons. The tax, moreover, was not to be extended to property acquired by any corporation within the previous thirty years; nor to property used for trading purposes, such property being represented by shares already liable to Death Duties, as the property of individuals.\*

The amount of the income tax, by means of which it was proposed to extend the Death Duties to corporations, was fixed at five per cent. It must be remembered, said Mr. Childers, that "if a corporation could be supposed to die, the property passing to its successor would pay a duty of thirteen per cent." As, however, it was hardly fair to suppose that the higher rate of succession to a stranger would always be incurred, the demands of the Exchequer were to be confined to an annual tax of five per cent. Before these proposals could become law a change of government occurred, but

\* H., April 30, 1885.

the Bill was immediately re-introduced by the new Chancellor of the Exchequer, Sir Michael Hicks-Beach,\* and passed substantially without alteration. †

Owing to the numerous exemptions contained in the Act, the operation of the tax has been limited, and it has not been productive of much revenue. ‡ The object, however, of its imposition was not so much to swell the receipts as to establish a principle of taxation at once fair and equitable.

\* H., July 9, 1885.

† 48 & 49 Vict. c. 51.

‡ £40,733 for the year 1888-89.

## PART II.

### THE EXISTING DEATH DUTIES, AND THEIR RELATIVE INCI- DENCE ON REAL AND PER- SONAL ESTATE.

#### I.—DISTINCTIONS BETWEEN REALTY AND PERSONALTY.

THERE has long been a controversy in this country with regard to the burdens borne by Realty and Personalty respectively. The landed interest has never ceased to complain that personal property did not contribute its fair share towards local taxation. On the other hand, it has always been contended that there is no injustice involved in charging local rates exclusively on the owners of house and landed property, inasmuch as the benefit goes to them; and that realty contributes no adequate amount to Imperial taxation. The landed interest has always been up in arms at the suggestion that all classes of property should be taxed

equally upon succession, and has hitherto been successful in throwing the bulk of such taxation upon personal property. A change seems, indeed, to have come over the respective classes of taxpayers since the days of Sir Robert Walpole, who once remarked that "the country gentlemen were like sheep who quietly suffered themselves to be shorn and re-shorn; the moneyed men like hogs, who never failed to grunt and stir if even a bristle were touched." \*

With the larger question of the incidence of taxation generally, on real and personal estate respectively, this Handbook makes no attempt to deal; its scope is confined strictly to the Death Duties. In any scheme, however, for the remodelling of the Death Duties upon an equal basis, it would doubtless be necessary to consider whether some change would not be thereby necessitated in other forms of taxation.

The existing Death Duties—the Probate, Account, Legacy, Succession, and Estate Duties—have already been enumerated. Not one of these duties is equal in its incidence on real and personal property. The three first are now chargeable on personalty only; the last two are chargeable, it is true, on both classes of property, but fall with unequal incidence—an inequality which is mainly due to the mode prescribed in each case for the assessment of the capital value of landed property.

The mere fact that there are as many as five different duties—different in name, in rate, and in mode of levy—is alone almost sufficient proof that unnecessary confusion exists. Not only are there these five different and distinct duties, but the number may be fairly increased to six when we remember that the consanguinity scale for the Succession Duty now differs according to the class of property involved.\* On every side, from every point of view, the Death Duties are full of anomalies and complications. Amended, and re-amended, as they have been by successive Chancellors of the Exchequer, and resting upon a heterogeneous collection of Acts of Parliament, they have become difficult to understand and costly to administer.

The division of property into "real" and "personal" estate was in its origin a natural one; that is to say, into movable and immovable property. But this natural distinction has been somewhat lost in the many exceptions to which time and altered circumstances have given rise. For our purpose it is enough to state that, while freehold and copyhold land is real property, leasehold land in law is not, even though the term of the lease may be extended to a thousand years, and the rent reserved to the landlord may be only nominal in amount. Leaseholds, however, while subject to Probate Duty like other personal property, are

\* See pp. 27, 46.

charged as realty with Succession Duty, instead of with Legacy Duty.

Personal property, other than leaseholds, includes money, chattels of all kinds, and stocks and shares. The shares of some companies, however, are real property, and being taxed as such, escape Probate Duty.\* Examples of this curious exception are to be found in the shares of the New River Company, the Aire and Calder Canal, the Kennet and Avon Canal, the Droitwich Canal, the Leeds Cloth Market, and the shares of some two or three Welsh Railways.

## II.—THE PROBATE AND ACCOUNT DUTIES.

In dealing in detail with the anomalies and eccentricities of the various Death Duties, the Probate and Account Duties must be taken together, for each duty is the complement of the other. Under the former duty, all personal property passing by will is taxed; while the latter charges with a like tax personal property, which, though technically not passing by will, is to all intents and purposes in the same category. Gifts not made *bond fide* within twelve months of death are, for instance, subject to Account Duty, and personal property comprised in a settlement for which no consideration has been given, is charge-

\* Wallace, p. 7.

able in the same manner.\* Real property is entirely free from the burden of these two duties. The same exemption applies in favour of settled personal property, that is to say, property comprised in a settlement for which some consideration has been given; for instance (the commonest example perhaps), a settlement made in consideration of marriage.

The Probate and Account Duties are at once easy to understand and inexpensive to administer: a sum of three per cent. is simply deducted from the estate in the hands of the executor or trustee, before it is distributed among those entitled to it. Indeed there is little fault to be found with these two duties, save that their sphere is too limited. There does not seem to be any logical reason why realty, and personalty which is subject to a settlement, should not pay an equal toll. In the defence of realty, various arguments have from time to time been brought forward, and will no doubt be produced again; but there is not a shred of reason for the advantage which settled personalty enjoys over personalty which is not settled. In effect the law says, "Put your money into settlement, and you will escape the Probate Duty." Thus a considerable encouragement is given to the undesirable practice of tying up stocks and shares in settlement, and to the creation of life-renters.

\* See p. 12.



### III.—THE LEGACY DUTY.

Like the Probate Duty, the Legacy Duty is chargeable exclusively on personal estate passing under a will or intestacy, but, unlike the Probate Duty, which is always levied at the same rate, the rate of the Legacy Duty varies according to the relationship existing between the legatee and the deceased. The Legacy Duty, moreover, differs considerably from the Probate Duty both in the time of levy and in the mode of collection. While Probate Duty must be deducted out of an estate before any division is made of the property, Legacy Duty is only payable at the time that the legacy or share in question actually reaches the hands of the legatee. In some cases, it is true, both Probate and Legacy Duty are paid practically at the same time, and are deducted simultaneously before the estate is actually divided. This, however, can only be the case where the provisions of the will are simple in their nature, and testators as a rule do not make simple wills. Posthumous vanity produces many vagaries, and a desire to retain the control of property for longer than the allotted span of years is responsible for the gift of many an annuity instead of a capital sum; and the "dead hand" is seen in the creation of many a life-estate. Estates for life are frequently given

in succession to one person after another, followed by an absolute gift to some person who perhaps is not yet born, or who for some other reason cannot be ascertained at the time of the testator's death.

When all the persons successively entitled are chargeable with duty at one and the same rate—for instance, when they are all nephews and nieces of the deceased—the levy of the Legacy Duty is a simple matter, and the tax is charged on the capital sum involved as though a legacy had been given out and out to one person. If, however, the successive life-renters and ultimate legatees are not in the same degree of relationship to the deceased, great confusion is at once imported into the levy of the Legacy Duty, and a very long time may elapse before the accounts relating to the estate in question can be closed. How long the period covered may be, we see clearly from the reports of the Commissioners of Inland Revenue. Writing in 1870 of reversionary and contingent legacies, they reported that they were working off old arrears, and, as an example of this work, gave the year 1814 which had been worked through by them.\* There were, they said, in the books of this year two hundred and forty-two accounts which were still open at the beginning of 1870: of these, some had been cleared by

\* "Report of the Inland Revenue Commissioners," 1870, p. 96.

payment of duty, others had been discharged as altogether irrecoverable ; and the result was that there remained twenty-one cases, which, being still reversionary, "would require future operations." Mr. Wallace, in his excellent *Epitome of the Death Duties*, mentions a recent case in which the tenant for life survived the testator for sixty years. On her death a legacy of £100,000 became divisible. Every one of the original legatees entitled to the money, subject to her prior life interest in it, and they were ninety-nine in number, was then dead. Consequently reference had to be made to the wills of each of these ninety-nine persons, and to the accounts relating to their several estates. It was then found that many of their respective legatees were dead, and the destination of the several legacies had to be followed through the estates of all the persons respectively interested in them.

This feature of the Legacy Duty gives rise as time goes on to enormous complications of accounts, complications which would never arise if wills rivalled in simplicity the well-known lines—

As to all my worldly goods I have in store,  
I leave to my dear wife for evermore ;  
I freely give, I will no limit fix :  
This is my will, and she executrix.

**IV.—THE SUCCESSION DUTY.**

While the area of the Legacy Duty is confined to personal property passing under a will or on intestacy, the Succession Duty forms a tax which is in some measure analogous to it, and which is levied on those forms of property that are exempt from Legacy Duty. No class of property is chargeable with both Legacy Duty and Succession Duty: liability to one of these duties implies exemption from the other. Legacy Duty was formerly levied on leasehold property, realty left by will in trust for sale, and legacies of money charged upon realty. These are now relieved from Legacy Duty, and are charged with Succession Duty, along with the classes of property for which the Succession Duty was originally created, viz. realty and settled personalty.

Before the recent changes, the Legacy and Succession Duties were equal in their incidence on personal property of all kinds. Whether subject to a settlement or not, all personal property was charged with one or other of these duties at the same rate and on the same consanguinity scale, the duty being always levied on the market value of the property as ascertained by valuation. The scale of the Legacy Duties still remains at the old figures of 1, 3, 5, 6, and 10 per cent. but the Suc-

cession Duties, on all property not subject to Probate Duty, were raised in 1888 to  $1\frac{1}{2}$ ,  $4\frac{1}{2}$ ,  $6\frac{1}{2}$ ,  $7\frac{1}{2}$ , and  $11\frac{1}{2}$  per cent. respectively. The object of this increase in the scale of the Succession Duty was professedly, as has been already mentioned, to "equalise the amount of the contributions of real and personal property"—an object, laudable in itself, but which yet remains to be accomplished.\*

Probably the fractional addition to the scale of the Succession Duty would never have been imposed, if Mr. Goschen had appreciated the confusion which would thereby necessarily be imported into the labour of administering both the Legacy and the Succession Duties. A few words will make it clear how this confusion arises. For a man who owns both land and other property, and who, in ordinary parlance, does not wish to make an "eldest son," the commonest form of will is a gift of all his property of every kind to executors upon trust to sell, in order that his debts and the legacies given by his will may be paid out of the proceeds, and the residue divided into shares. No sale, as a matter of fact, usually takes place, the trust for sale being often only inserted in order to provide the machinery for the division of the property. Under such a will, the legacies are payable out of a blended fund, arising in part from the sale of realty, and in part from the sale of personalty.

\* See p. 28.

Previously to 1888, the rate of duty on the whole would have been the same, but now the two halves of each legacy are liable to duty at different rates according to the relative proportions of realty and personalty which make up the whole estate. For instance, if a testator possessed of £3000 worth of land and £6000 worth of personalty, makes by his will a blended fund of all his property, for the purpose of dividing it among those whom he wishes to benefit, and bequeaths a legacy of £1000 to a nephew; part of this sum is now chargeable with Legacy Duty, and part with Succession Duty, while before the amendment of the law Legacy Duty alone would have been payable on the whole. As the testator leaves in all twice as much personalty as realty, two-thirds of the legacy will pay Legacy Duty and the other third Succession Duty. In other words, four and a half per cent. will be payable on £333 6s. 8d. and three per cent. on the balance of £666 13s. 4d. The extra work entailed by these apportionments must be very great, and the time of those concerned in the administration of the Death Duties wasted in working out endless sums in rule of three.

Except in name, the Succession Duty on land was never a counterpart to the Legacy Duty or to the Succession Duty on personalty. The same consanguinity scale originally prevailed in each,

but there the likeness ended. Even this point in common has now disappeared. The most marked difference in the treatment of real and personal property under the Succession Duty Act is to be found, perhaps, in the method prescribed in either case for ascertaining the capital value. With stocks and shares the matter is simple enough; the market price of the day is taken, and the duty is assessed on the sum so arrived at. Thus, if Consols stand at par, the Succession Duty on £10,000 Consols, on descent to a lineal, would be £100 under the old scale, and £150 under the new scale of 1888. In a word, personalty liable to Succession Duty is always strictly valued for the purpose of assessing the duty; and the duty is levied on the full capital value. The successor pays the same amount of duty, whether his age be nine or ninety, and no mitigating circumstances can lessen the demands of the Exchequer on him.

If we turn from personal to real property, the contrast is complete at every point. While a strict valuation of personalty is required, and the full capital value is subject to duty whatever the age of the successor, the capital value of realty is never ascertained by valuation, and, it may be added, is scarcely ever taxed to anything approaching its full value. The amount of duty payable on real property varies greatly according to the age of the successor; an old man has a considerable advan-

tage over a young man, though even the youngest successor rarely pays duty on more than half the capital value of the land which he has inherited. Lastly, all duty on personalty is payable at the time of the succession, while the successor to realty is allowed to pay by easy instalments extending over four years or more.

The capital value of real property for the assessment of Succession Duty, is the capitalized value of an annuity equal to the net rental of the land for the life of the successor, and is ascertained in the following way. The successor is required to state the annual value of the land and the outgoings therefrom, and the net annual value or rental thus arrived at is capitalized, according to the age of the successor by reference to the tables contained in an appendix to the Succession Duty Act.\* A concrete example will make this system of valuation clearer. The results obtained from any example will, of course, depend largely on the percentage of capital value which is taken to constitute the net annual value. A great deal of agricultural land throughout the country does not produce more than one to two per cent. net on its capital value after payment of all outgoings. Again, there is much land, the annual profits of which are little or nothing, but the saleable value of which is great. Land, for instance, may be used for

\* See p. 51.



agricultural purposes and yet be capable of immediate development as building land. The Succession Duty on property of this kind is calculated on the actual annual value; and absolutely no duty is payable in respect of land which yields no annual return. Thus Lord Sefton, when he succeeded, on the death of his father in 1855, to the family estates, refused to pay Succession Duty on certain sandbanks near the Mersey, about ten acres in extent, on the ground that they were unproductive and had no annual value. Seven years later (1862) he sold some of this very land, one piece at the rate of £1500 an acre, and another actually at the rate of £4000 an acre. Thereupon, the Inland Revenue authorities claimed that duty was at least payable on the purchase-money actually received by Lord Sefton. The case was eventually taken before the House of Lords, who held that no duty was payable by Lord Sefton because the sandbanks had (as acknowledged by the Crown) no actual or potential annual value at the time of his succession, and consequently were not capable of being assessed for duty.\* While much landed property is comparatively unproductive, there is, of course, much which yields a considerable annual profit, and freehold house property may be estimated to yield three and a half to five per cent. net on its saleable value.

\* *Attorney-General v. Lord Sefton*, 11, *House of Lords Cases*, 257.

With such a variety of net rentals, or net annual values, it is difficult to fix on a percentage which accurately represents the average net return on the selling value of landed property throughout the country. After inquiring from many solicitors and land agents on the subject, it appears that two and a half to three per cent. is not far from the mark, and three per cent. has accordingly been adopted throughout these pages as representing the average net rental of landed property.

Let us take then, as a concrete example, a freehold estate of the capital or rateable value of £10,000, producing, after payment of all outgoings, a net rental of £300 a year. If the successor is only one year old at the time of his becoming entitled, duty will be payable on a capital sum of £5677 *4s. 6d.* If he be four years old, on £5786 *8s.*; if twenty-one, on £5159 *11s.*; if forty, on £4463 *10s.*; if fifty, on £3728 *18s. 6d.*; if seventy, on £2032 *7s.*; if ninety years old, on £400 *7s.*\* In the case of personalty, duty would, as already mentioned, be payable in every one of these cases on the full £10,000. But the successor to an absolute interest in real estate, an interest, moreover, which may be immediately sold and converted into money, never, at the worst, pays Succession Duty on much more than one-half the selling value of the property. A child of four

\* See Table I. of the Succession Duty Act, 1853.

years old has the greatest expectation of life, and consequently pays duty on the highest sum; but this expectation is, as we have seen, reckoned only at £5786 8s., while the actual selling value is no less than £10,000. Thus, if the duty is taken to be payable at the lowest rate (one and a half per cent.), a child of four years old will only be liable to pay £86 15s. 6d. instead of the £150 which would be the duty payable if the property had, instead of realty, been personalty subject to Succession Duty. The contrast between the amount of Succession Duty, payable by realty and by personalty respectively, can easily be made to appear much more striking by taking the case of a very old man succeeding to property. For instance, if a man aged ninety-five inherited from his brother realty of the value of £10,000, together with a sum of £10,000 of settled personalty, he would, under the Succession Duty Act, only be liable to pay £5 7s., Succession Duty on the land, while the corresponding duty on the personalty would amount to no less than £450. Moreover, the £450 would be payable at once, while the elderly heir of our example would have the privilege of spreading the payment of the £5 7s. over four years—a privilege, however, which an already indulgent nature would probably not permit him to enjoy to the full extent. This extraordinary difference becomes even more marked if we suppose the £10,000 per-

onalty to be inherited under the brother's will, and not to be subject to any settlement. For then not less than £600 duty (£300 Probate Duty, and £300 Legacy Duty) would be payable, as compared with the £5 7s. Succession Duty payable on land of equal value. An extreme instance of this kind is, however, obviously useless for purposes of general comparison.

As has been already mentioned, Succession Duty on personalty is payable at the time of succession, that is, when the property in question is transferred or paid to the successor. On the other hand, the corresponding duty on landed property is now payable in such a manner, that the payment of five-eighths of the duty may be postponed until four years after the death.\*

Before leaving the subject of the Succession Duty, a few words concerning the taxation of leaseholds may not be out of place. Much property of this kind exists throughout the country, and few people realise how much more the landholder who is only a lessee contributes in taxation generally than the freeholder. Each form of property pays rates, but, while in the case of freeholds liability to rates implies exemption from the Death Duties, this is not the case with leaseholds. Freeholds are taxed on the indulgent scale above referred to, but leaseholds are liable to practically the same Death

\* See p. 29.

Duties as free personalty; that is to say, the highest duties imposed on any class of property. Freeholds and leaseholds, in short, are at the opposite ends of the scale of Imperial taxation.

#### V.—THE ESTATE DUTY.

It has been pointed out above, that the Estate Duty is no exception to the general rule that the Death Duties are all unequal in their incidence, and fall much more heavily on personalty than on realty.\* It will be sufficient to repeat that every estate of £10,000 and upwards, consisting of personalty, is chargeable with Estate Duty, alike when one person inherits the whole property, and when it is divisible into shares; while realty is never subject to Estate Duty, except in cases where the succession or inheritance of any particular person is of the value of £10,000 and upwards, or when, under a will or intestacy, it is made up to that sum by other benefits. Obviously this is a very considerable concession to one class of property at the expense of the other. Like the Succession Duty, the Estate Duty on realty is payable by instalments, an advantage which is denied to personalty. The system adopted in the Succession Duty Act of only

\* See p. 31.

charging successors on their life-interest in land was, it is true, discarded, and the Estate Duty, when payable at all, is charged nominally on the capital value of land. The mode, however, prescribed for ascertaining the capital value is such as to render it unlikely that it will ever be correctly ascertained. No valuation by a professional surveyor is required, but the delusive basis of "actual annual value" is continued for the purpose of ascertaining the capital value. Moreover, no land, whatever may be its real market value, can be assessed for the purpose of levying Estate Duty at more than twenty-four and a half years' purchase of the actual net rental; though it is notorious that much realty is worth more than twenty-four and a half years' purchase of the net rental, for the net rental may bear no true relation whatever to the capital value.\* Restrictions of this kind can have no other effect than to render justice impossible between the two classes of property.

#### VI.—RECAPITULATION OF ANOMALIES.

To recapitulate—the chief anomalies of the Death Duties are the following:—

1. Free personalty pays three per cent. Probate Duty, and personalty, subject to a "voluntary"

\* See p. 33, and see Table III. of the Succession Duty Act.

settlement, Account Duty at a like rate, while realty and the bulk of settled personalty escape.

2. Personalty, whether settled or free, is always liable to duty on its full capital value, while realty is practically never so liable ; for—

(a) The Succession Duty on realty is charged only on the value of the life-interest of the successor therein.

(b) The Estate Duty, it is true, purports to be charged on the capital value of realty, but owing to the mode of valuation prescribed, it is certain that realty will constantly be undervalued.

3. All the Death Duties on personalty are payable when due, but all the duties on realty are payable by easy instalments extending over four years or more.

4. The Estate Duty is levied on personalty whenever an estate amounts to £10,000 and upwards, but is only levied on realty when any individual succession amounts to £10,000 and upwards, or when, under a will or intestacy, it is made up to that sum by other benefits.

It is, comparatively speaking, an easy matter to point out the individual anomalies which are to be found in the existing Death Duties, and to show that real and personal estate are taxed under them at very different rates. The real difficulty lies in ascertaining with justice and accuracy the true

relation between these rates, and in weighing fairly the relative pressure of the Death Duties on each class of property.

This difficulty is, of course, due to the fact that such of the duties as are levied on landed property fluctuate in every case according to the net rental of the property and the age of the successor. Thus two unknown quantities have to be ascertained before any comparison can be made. Three per cent. probably fairly represents the average net produce of landed property all round, after payment of all outgoings, though no means exist by which this figure can be mathematically proved to be correct. The age of succession to landed property of course fluctuates as much as the duration of life. A child may inherit property at the moment of birth or may not become entitled until an extreme old age has been attained. Very young and very old successors, however, are comparatively rare, and successions commonly take place, about middle age. The age of forty has been considered by many statisticians as representing the average age of succession; but thirty-five has here been taken as the average age, in order to avoid the possibility of minimising the weight of the Death Duties on landed property, and in order to obtain comparative results which may be relied on as just and true.

The fact that Death Duties levied on landed



property are payable by instalments extending over four years or more adds another difficulty to any just comparison of the duties on each class of property, for a discount must be subtracted from the duty payable in any particular case on landed property, for the purpose of obtaining the "present value."

In the tables given below, an attempt has been made by means of comparative results for the years 1887, 1888, and 1889, to show the relative incidence of the existing Death Duties, and the effect of the legislation of the past two years.

In 1887, free personalty, descending from father to son, paid more than seven times as much duty as realty of equal capital value. After the addition to the Succession Duty in 1888, the proportion fell to that of five to one. This proportion is maintained at the present time, except in cases where Estate Duty is payable. In such cases the relative proportions have again undergone a change. To take, for instance, the example given in the tables of an estate consisting of personalty of the value of £15,000, and of realty of the same value. If the realty be left intact to one child, even then the amount of duty payable on it amounts to one-third only of the sum payable on an estate of equal value consisting of personalty. If, on the other hand, it be divided between two or more children, in shares each under the value of £10,000, it may escape the duty altogether; while

personal estate under similar circumstances is charged with duty on the full £15,000. In this latter case the general proportion of Death Duties payable by personalty compared to that payable by realty again rises to that of six to one.

Realty, it is true, now pays somewhat more in proportion than it did before the changes of the past two years, but practically no progress has been made towards equality of taxation on each class of property.

1887.

	Free Personal Property not subject to any Trust or Settlement. Market value, £15,000.	Trust, or Settled Personal Property. Market value, £15,000.	Real Property. Successor 35 years of age. Market value, £15,000. Net rental, £450.
To Lineals.	Probate Duty, 3% . . . . £ 450	£	£ s. d.
	Legacy Duty . . . . . nil.	Succession Duty, 1% . . . 150	Succession Duty, 1% . . . 63 10*
	Total . . . . . <u>£450</u>	Total . . . . . <u>£150</u>	Total . . . . . <u>£63 10</u>
To Brothers.	Probate Duty . . . . . 450		
	Legacy Duty, 3% . . . . . 450	Succession Duty, 3% . . . 450	Succession Duty, 3% . . . 191 0*
	Total . . . . . <u>£900</u>	Total . . . . . <u>£450</u>	Total . . . . . <u>£191 0</u>

To Co.	Total . . . . .	<u>£1200</u>	Total . . . . .	<u>£750</u>	Total . . . . .	<u>£318 0</u>
To Second Cousins.	Probate Duty . . . . .	450	Succession Duty, 6% . . . . .	900	Succession Duty, 6% . . . . .	381 10
	Legacy Duty, 6% . . . . .	<u>900</u>		<u>£300</u>		<u>£381 10</u>
	Total . . . . .	<u>£1350</u>				
On descent to Strangers in Blood.	Probate Duty . . . . .	450	Succession Duty, 10% . . . . .	1500	Succession Duty, 10% . . . . .	636 0
	Legacy Duty, 10% . . . . .	<u>1500</u>		<u>£1500</u>		<u>£836 0</u>
	Total . . . . .	<u>£1950</u>				

\* The capitalized value of an annuity of £450 a year to a man of 35 years of age is, under Table I. of the Succession Duty Act, £7086 3s. 9d.; 1% on this sum is £70 13s. 3d. The "present value" of £70 13s. 3d., payable by eight half-yearly instalments, is £63 12s.

1888.

	Free Personal Property not subject to any Trust or Settlement. Market value, £15,000.	Trust, or Settled Personal Property. Market value, £15,000.	Real Property. Successor 35 years of age. Market value, £15,000. Net rental, £450.
To Lineals.	Probate Duty, 3% . . . . . 6	Probate Duty . . . . . 6	Probate Duty . . . . . 6 <sup>s.</sup>
	Legacy Duty . . . . . nil.	Succession Duty, 1½% . . . . . 225	Succession Duty, 1½% . . . . . 93 0*
	Total . . . . . <u>£450</u>	Total . . . . . <u>£235</u>	Total . . . . . <u>£99 0</u>
To Brothers.	Probate Duty . . . . . 450		
	Legacy Duty, 3% . . . . . 450	Succession Duty, 4½% . . . . . 675	Succession Duty, 4½% . . . . . 279 0
	Total . . . . . <u>£900</u>	Total . . . . . <u>£675</u>	* Total . . . . . <u>£279 0</u>

To First Cousins	Legacy Duty, 5% . . . . 750 Totals . . . . . <u>£1200</u>	Succession Duty, 6½% . . . . 975 Total . . . . . <u>£975</u>	Succession Duty, 6½% . . . . 403 10 Total . . . . . <u>£403 10</u>
To Second Cousins	Probate Duty . . . . . 450 Legacy Duty, 6% . . . . . 900 Total . . . . . <u>£1350</u>	Succession Duty, 7½% . . . . 1125 Total . . . . . <u>£1125</u>	Succession Duty, 7½% . . . . 465 10 Total . . . . . <u>£465 10</u>
On descent to Strangers in Blood	Probate Duty . . . . . 450 Legacy Duty, 10% . . . . . 1500 Total . . . . . <u>£1950</u>	Succession Duty, 11½% . . . . 1725 Total . . . . . <u>£1725</u>	Succession Duty, 11½% . . . . 713 10 Total . . . . . <u>£713 10</u>

\* One and a half per cent. on £7086 3s. 9d. (see note on p. 61) is £106. This duty of £106 may be paid in two equal moieties, the first to be paid by four equal yearly instalments, and the second moiety on the day for payment of the last instalment of the first moiety. The "present value" of the first moiety is £47 14s., and of the second moiety £45 8s. 3d., making together £93 2s. 3d.

1889.

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		Trust, or Settled Personal Property. Market value, £15,000.			Real Property. Successor 35 years of age. ●Market value, £15,000. Net rental, £450.		
Personal Property not subject to any Trust or Settlement. Market value, £15,000.			When one Successor inherits the whole.	When two Successors inherit in equal shares.*		When one Successor inherits the whole.	When two Successors inherit in equal shares.*
To Lineals.	Probate Duty, 3% . . .	£ 450	£	£		£	£
	Legacy Duty, 1% . . .	nil.	225	225	Succession Duty, 1½% . . .	93†	93
	Estate Duty, 1% . . .	150	150	nil.	Estate Duty, 1% . . .	96†	nil.
	Total . . .	£600	£375	£225	Totals . . .	£189	£93
To Brothers.	Probate Duty . . .	450					
	Legacy Duty, 3% . . .	450	675	675	Succession Duty, 4½% . . .	279	279
	Estate Duty . . .	150	150	nil.	Estate Duty . . .	96	nil.
	Total . . .	£1,050	£825	£675	Totals . . .	£375	£279

To First Cousins	Legacy Duty, 5% . . . 750	Succession Duty, 6½% . . . 975	975	Succession Duty, 6½% . . . 403 10	403 10
	Estate Duty . . . 150	Estate Duty . . . 150	nil.	Estate Duty . . . 96 0	nil.
	Total . . . £1,350	Totals . . . £1,125	£975	Totals . . . £499 10	£403 10
To Second Cousins	Probate Duty . . . 450	Succession Duty, 7½% . . . 1,125	1,125	Succession Duty, 7½% . . . 465 10	465 10
	Legacy Duty, 6% . . . 900	Estate Duty . . . 150	nil.	Estate Duty . . . 96 0	nil.
	Total . . . £1,400	Totals . . . £1,275	£1,125	Totals . . . £561 10	£465 10
On descent to Strangers in Blood.	Probate Duty . . . 450	Succession Duty, 11½% . . . 1,725	1,725	Succession Duty, 11½% . . . 713 10	713 10
	Legacy Duty, 10% . . . 1500	Estate Duty . . . 150	nil.	Estate Duty . . . 96 0	nil.
	Total . . . £2,100	Totals . . . £1,875	£1,725	• Totals . . . £809 10	£713 10

\* Or in shares in any proportion, so long as neither share exceeds £10,000.

† See note on p. 63: The Succession Duty payable is the same as in 1888.

‡ The capital value of the Succession, computed at the highest possible assessment under Table III. of the Succession Duty Act, 1853, is £10,978 19s. 9d. Estate Duty on this sum at 1% is £109 15s. 10d., payable in two equal moieties, the first to be paid by four equal yearly instalments, and the second moiety on the day for payment of the last instalment of the first moiety. The "present value" of the first moiety is £49 5s. 6½d., and of the second £46 18s. 5½d., making together £96 3s.



## PART III.

### REFORM.

#### I.—DEATH DUTIES AS A MEANS OF TAXATION.

To the man who has to pay it, no form of tax is pleasant. However sound may be the principles on which it rests, and however attractive the garb in which it is disguised, in his eyes it is full of faults. A perfect tax is, as every financier has found, an impossibility—

Whoe'er expects a faultless "tax" to see,  
Expects what never was nor e'er shall be.

The Death Duties have not the advantage of an attractive title, and a name may go for a good deal in taxation, as Sir Robert Walpole found to his cost when he labelled his Warehousing Bill with the hated name of Excise, and an ill-chosen name may go far in damning a fiscal proposal which in itself is good. The fact that, notwithstanding their gloomy name, the Death Duties are not very

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unpopular, says a good deal in their favour. On the whole they are, probably, less disliked than almost any other form of taxation.

The reason is not far to seek. With some few exceptions, the liability to duty is always accompanied by an accession of wealth, and payment loses some of its unpleasantness when the means are ready to hand. Then, though the more distant the heir or legatee, the larger the sum in which he is mulcted, the very unexpectedness of the inheritance makes him willing enough to pay the State a share of his good fortune. Indeed, the heavier rates of the Legacy and Succession Duties are usually paid with far greater cheerfulness than those at the other end of the scale. The nearest of kin possess what has been called a "natural expectancy," and they resent the payment of a heavy tax on succession to property which they consider as theirs by right. "I find," said Mr. Gladstone, in his Budget speech of 1881, "that the able gentleman who has the superintendence of the Legacy and Probate Duties at the Board of Inland Revenue, says that almost all his difficulties are with the people who pay one per cent. ; while the people who are subject to the higher rates of duty pay them with comparative cheerfulness."\*

The Death Duties possess one great advantage over almost every other tax, namely, that their

\* H., April 4, 1881.

levy or increase does not in any way fetter or disturb trade or industry, or affect the spending power of existing incomes. In their effects they are neutral, and in this neutrality lies their greatest merit.

As a source of revenue, the Death Duties are of the highest importance; and it may safely be predicted that no Chancellor of the Exchequer will ever venture to dispense with them as a permanent part of our fiscal system. Since their first imposition, the wealth of the country has advanced with rapid strides, and the product of the Death Duties has increased in proportion. The rate of this increase may be gathered with accuracy from the Legacy Duty returns, for the Legacy Duty, alone among the Death Duties, was free from any amendment from the early years of the century until 1881. In 1816 (the first year of the scale at present in operation), the Legacy Duty produced £711,000; in 1853, the product was £1,384,000; and for the year ending March 31, 1881, no less than £2,827,000.\* In 1805 (the first year in which any record exists of the product of the Probate Duty), the whole revenue derived from the then existing taxation on succession—the Probate and Legacy Duties—amounted to only £494,000. The revenue from the Death Duties has since then steadily increased, until now, reinforced by the Succession and Account Duties, it amounts to the solid sum of no less than

\* See Appendix A.

eight millions a year, and forms one of the most important branches of the revenue of the country.\*

## II.—TAXATION OF CAPITAL.

The argument which has most frequently been urged against the principle of the Death Duties is that they are a tax upon capital ; and many speakers and writers of weight have, on this ground, from time to time declared that an income tax was to be preferred to a tax on successions, as a means of raising the necessary revenue. Taxes payable out of capital, it has been argued, ought not to be applied to current expenditure, since by "destroying capital," and thus diminishing the produce from other taxes, they cost the country more than would a corresponding tax upon income. But against this it may well be urged, that capital is to a great extent only accumulated income, and that there is no essential difference between the invested surplus of past years, and the surplus of income over expenditure belonging exclusively to a current year. A tax upon capital cannot be accurately said to cost the country more than a tax upon income ; the cost to the country is in each case the same, and capital paid in taxes is not "destroyed," but

\* Of this about two millions a year now go to a Local Taxation Account. The proceeds of the Estate Duty are not yet known.

simply redistributed; while the revenue derived from it enables other taxes more disturbing to trade, or more costly of collection, to be reduced or repealed.

The opinion of financiers and public men on the question of taxes on succession, seems to have undergone of late years a very considerable change. Much of the strong feeling which was shown at the close of the last century against the taxation of capital, may doubtless be traced to the teaching of Adam Smith, who, though not discussing the subject at length in the *Wealth of Nations*, there expressed his opinion that taxes upon capital were wasteful and "unthrifty" in their nature. In 1796, when the principle of taxing capital was discussed in connection with Pitt's Legacy and Succession Duty Bills, the English language seemed unable to provide the various speakers with adequate terms of abuse. Such taxation was described as "confiscation," and as "rendering the Sovereign heir to all the capital of the country." The epithets "unjust," "impracticable," "vicious," "absurd," and "odious," were freely used in the course of the debate.\* It was solemnly declared that the taxation of capital "could not fail to hurt the prosperity of the country," and that "in a course of years it would swallow up the whole capital." Almost the only apologist for the principle of extended taxa-

\* Parl. Hist. vol. xxxii. p. 1026 *et seq.*

tion of property on death was Mr. Windham, and he did not venture to assert more than that "it was not so clear as was represented that all taxes upon capital were bad."

Even so late as 1853, in the debate on the Succession Duty Act, taxes on capital were again stigmatized as unsound in principle and injurious in practice. But, since then, each successive addition to the Death Duties—except where the sacred rights of land have been touched—has been accepted as just and satisfactory. And when Mr. Goschen, in 1889, declared his intention of taxing "the growing mass of accumulations," no objection was made to his proposal on the ground that the taxation of capital was involved, nor was any suggestion made that his proposal was either injurious to the country or financially unsound.

### III.—GRADUATION OF THE DEATH DUTIES.

This is not the place to enter into any discussion of the question whether it would be advantageous or not to introduce the principle of graduated taxation into our fiscal system. But it is not out of place to point out that, if such a principle were accepted, it could be far more easily applied in the case of the Death Duties than in that of any other tax.

Already, indeed, a step has been taken in this direction by the imposition of the Estate Duty; and it is of little moment that its author should have subsequently denied the soft impeachment that he was laying the foundation of a system of graduated taxation. Mr. Goschen's original argument in favour of the Estate Duty, namely, that on the whole it would be found "that the men whose fortunes were considerable were those who paid least in proportion to their aggregate income," is the chief argument used by those who advocate graduated taxation; and the fact remains that estates of above a certain value were to be taxed, while those below that value were to escape.

The system of exemption and abatement, as applied in the case of the Income Tax, though containing the germ, does not necessarily involve the full principle of graduation. The limit of exemption—which has risen from £100, to which it was lowered in 1853, to £150—is founded on the twofold principle of "compassion" and "necessity." It is founded, that is, on the assumption that the "territory of labour"—the weekly wage—should be exempt, both on account of the difficulty of collection, and because the levy of direct taxation on small incomes would seriously trench on the means available for the necessities of life. The system of abatement was introduced in order to render less abrupt the transition from total exemption

to full payment; and the limit and amount of the abatement was, like the exemption, calculated to exclude from taxation that portion of the income expended on articles essential for existence. The limit for abatement has risen from £150, in 1853, to £400, and the amount of the abatement itself from £60 in 1863 to £120.

Thus graduation exists in a very effective manner on incomes below £400. With the Income Tax at sixpence in the pound, an income of £150 pays nothing, one of £180 pays at the rate of about a halfpenny in the pound, one of £250 pays twopence and one of £350 about threepence in the pound. But while the principle of graduation, as applied to the Income Tax, might be carried somewhat further on the existing lines, it could not, without a total change in the system of levy, assessment, and collection, be extended to cover all incomes. As at present levied, the Income Tax possesses two virtues. In the first place it is to a large extent almost self-collecting, and in the second place it is, in accord with that which is undoubtedly the general feeling, inasmuch as it does not necessitate any disclosure of the total individual income. A system of graduation, on the other hand, would necessarily entail a declaration of the *whole* income of each individual taxpayer. In the case of the Death Duties, however, the introduction of even an elaborate scheme of graduation would involve



no change in the system of levy ; for already the value of the property to be taxed has to be declared. Thus, it would be as simple to raise the necessary taxation on a graduated as on a uniform scale, especially if the proposal suggested later on in these pages of an universal Probate Duty were accepted.

In any comparison that may be made between the Income Tax<sup>a</sup> and the Death Duties, the advantage will be found to be on the side of the latter, both in regard to justice of incidence and economy of collection. The Income Tax, as has always been acknowledged, presses somewhat hardly on intelligence and skill, and Mr. Gladstone, in 1853, in his exhaustive discussion of the Income Tax, frankly admitted his total inability to meet the feeling against it by any attempt to vary the tax according to the source of the income.\* The only, or, at all events, the simplest, means by which this inequality of taxation between permanent and precarious incomes can be redressed, is the taxation of the capital from which permanent incomes are derived.

\* H., April 18, 1853.

## IV.—PAST SCHEMES OF REFORM.

## Mr. LOWE.

Before entering into the question of the reform of the Death Duties, it is necessary that past schemes of reform which have been proposed in the House of Commons, but which have not resulted in legislation, should be given their proper place and importance. From such schemes, and from the debates which they provoked, much that is useful may be learnt, and by their study, some of the many pitfalls which surround the subject may be avoided.

During the last twenty years two important but abortive attempts have been made to deal with the Death Duties—one by Mr. Lowe in 1871, and the other by Mr. Childers in 1885. The proposals of 1871—comprised in the unfortunate Budget known as the "Match Tax Budget"—consisted, broadly, as regards the Probate Duty, in the abolition of the distinction between testate and intestate estates, and the revision and simplification of the scale.\* Both these reforms were carried out in 1880 and 1881. The most important part of Mr. Lowe's scheme, however, and the only part which concerns us now, was a proposal to raise

\* H., April 20, 1871.

the scale of the Legacy and Succession Duties on the nearest of kin. The one per cent. duty was to be raised to two per cent., and the three per cent. duty to three and a half per cent. ; while the five, six, and ten per cent. duties were to remain unaltered. Thus the scale was to "rise symmetrically from two per cent. for lineals to three and a half per cent. for brothers, and from three and a half per cent. to five per cent. for first cousins, or children of the same grandfather."

Speaking of the consanguinity scale, Mr. Lowe said, "Now, I am not myself a great admirer of this scale in the abstract. The true basis of taxation is equality, because it in the first place renders its incidence more just, and in the second place lighter ; whereas under this scale you have persons who receive the same benefit, but who pay differently for it." The proposal to increase the amount of duty payable by those nearest in relationship to the deceased, went, however, entirely contrary to public sentiment, and accordingly met with considerable opposition. Mr. Lowe openly acknowledged that his own desires were in favour of equality for all degrees of consanguinity ; and he had obviously only refrained from proposing such a step because the feeling in favour of the scale was so "thoroughly ingrained in the minds of the people, that it would be in vain to seek to make any great alteration in it." Plainly, therefore, if

the objectionable inch were given, a still more objectionable ell would be afterwards demanded.

The debates, which eventually resulted in the withdrawal of Mr. Lowe's proposals, plainly show the general unwillingness at that time to change the scale of consanguinity, and to increase the burdens on the nearest of kin. The proposed increase was characterized as a tax on the home and the family, and Mr. Disraeli declared his belief that the Chancellor of the Exchequer had "put himself in entire opposition to the traditions, and even the passionate convictions of this country, and had identified himself with a principle of taxation which had never been recognized by the laws of any State, ancient or modern."\*

This particular incident in the history of the Legacy and Succession Duties is practically worthless, except<sup>d</sup> as a warning of what to avoid, and can hardly be ranked as a serious effort in the direction of general reform. Mr. Lowe's object was, indeed, not reform, but money; he was actuated by no particular principle in making his proposals, but simply wished "to find something on which he could lay hold," in order to provide against a deficit in the Estimates. Revenue had to be obtained, and a slight increase in the Death Duties seemed to be the source which was nearest at hand.

\* H., April 27, 1871.

## V.—PAST SCHEMES OF REFORM.

## Mr. CHILDERS.

The proposals of 1885 were of a very different character. Mr. Childers, while also desiring revenue—which he sorely needed, for the estimated deficit was no less than fourteen millions—aimed at the introduction of a comprehensive scheme of reform, namely, to assimilate the incidence of the Death Duties on real and personal property. “In the matter of the Probate, Legacy, and Succession Duties,” said he, “there has hitherto been one law for real estate, and another for personal estate. Personal estate has been subject to Probate Duty; real estate has been exempt from it. Personal estate has been subject to Legacy and Succession Duties, with reference to its full market value; real estate has been taxable with reference only to its value for the successor’s life, although he may have been in a position to sell it, and put in his pocket the full market value of the estate. This inequality will be adjusted, and real estate will no longer bear what may be called a very small and disproportionate share of these taxes.”\* This wide scheme unfortunately proved abortive. On the second reading of the Customs and In-

\* H., April 30, 1885.

land Revenue Bill, which embodied these and the other Budget proposals, a hostile amendment was moved.\* The Government, who had declared that the division would be treated by them as vital, were left in a minority of twelve, and resigned. Though never realized, Mr. Childers' proposals must always remain historically interesting. They stand out as the one considerable effort in the direction of equality and simplicity in the Death Duties, and as the probable basis of reform in the future.

Shortly stated, Mr. Childers' proposals were to impose a Probate or Account Duty, or an equivalent Succession Duty on all property passing by death. A Probate or Account Duty was to be levied on all property passing by will or settlement, or on intestacy, other than realty, and charges by way of annuity on realty. Thus, for instance, the Probate Duty was to be extended to real estate directed to be sold. Actual realty, and charges by way of annuity on realty, not being made liable to Probate or Account Duty, were to be charged with increased Legacy or Succession Duty as the case might be, in the form of an addition of three per cent. to the existing rates. The exemption in the case of the nearest of kin, introduced under the Act of 1881,† was to be extended, and the one per cent. Legacy or Succession Duty formerly

\* H., June 8, 1855.

† See p. 18.

payable on property made subject to the new Probate or Account Duty, was to be abolished. Similarly, in the case of property escaping the new Probate or Account Duty, but made liable to increased Succession Duty, lineals were to be charged with an additional two per cent. only instead of three.

In order that all forms of property might be made liable to an equal rate of duty, it was proposed to raise the Succession Duty on property not made liable to the new Probate or Account Duty.

Lineals, whether succeeding to realty or personalty, were thus, in effect, to pay three per cent. on the value of the property to which they succeeded, the scale rising in the old proportions, until it reached thirteen per cent. in the case of strangers in blood. Under one title or another, property of every kind was, as far as possible, to contribute, in the shape of Death Duties, an equal tax to the Imperial Exchequer.

Two duties—a Probate Duty and a Succession Duty—would have been sufficient to carry out Mr. Childers' scheme, but all the four existing duties were nevertheless allowed to continue, because of the technical difficulties which stood in the way of their amalgamation.

One of the most important features of the scheme of 1885 was the proposal to tax the capital value of landed property, and to sweep away the

anomaly which had hitherto existed in this respect. This proposal was, however, unfortunately marred by the appearance in the Bill of restrictions on the valuation of realty similar to those introduced by Mr. Goschen in connection with the Estate Duty.\* Unless property is valued on equal terms, any mere equality of percentages must be simply delusive. No true equality can be attained in the taxation of different kinds of property on death, so long as the sum to be taxed is ascertained on different principles.

#### VI.—POSSIBLE REFORM OF THE DEATH DUTIES.

The two objects to be kept in view in any reform of the Death Duties, are equality and simplicity. It is alike essential that these duties should be equal in their incidence on all kinds of property, and that they should be rendered intelligible to the ordinary taxpayer. If equality is to be attained, it is obvious that either the duties at present chargeable on personal estate must be made less, or the duties to which real estate is liable must be increased. There must either be a process of levelling up, or else of levelling down. No Chancellor of the Exchequer would for a moment con-

\* Bill 154, Sess. 1885, sec. 34.



template the relinquishment or material reduction of such a valuable source of revenue as the Probate Duty, and consequently it may be taken for granted that the process, when it comes, will be one of levelling up.

Apart from the Estate Duty, in which the question of graduated taxation is involved,\* an ideal reform of the existing Death Duties would be the following :—

1. The extension of the Probate Duty to all classes of property passing at death, whether realty or personalty, and whether settled or free from settlement.

2. The imposition of a duty analogous to the Legacy and Succession Duties, and varying, like the Legacy Duty, according to a scale of consanguinity of 1, 3, 5, 6, and 10 per cent.

3. The assessment of all kinds of property alike, for the purpose of the Death Duties, on its true capital value.

A reform on the above lines would sweep away all existing anomalies, and four of the existing duties would be reduced to half that number.

Each Chancellor of the Exchequer who has attempted to deal with the Death Duties, has complained of the immense difficulties of the subject. "The deeper we go into the question," said Mr. Goschen in 1889, "the more insoluble are the

\* See p. 72.

problems presented. It is administratively impossible to put realty on the same footing as personalty, if you maintain the present system of duties, or the present legal machinery affecting the devolution of land." •

Realty and personalty at present devolve on the heir by means of different legal machinery. Personalty (including leaseholds) passes through the hands of the executor to the legatees; realty passes direct to the person to whom it is left by the will. Probate of the will is necessary before a legacy can be paid, but is not necessary to enable a man to enter into possession of land which has been devised to him. On this technical difference between personalty and realty, rests the practical difficulty in extending the Probate Duty to realty. This is the stumbling block which has hitherto barred the way. It was for this reason that, in 1885, Mr. Childers proposed an increase of three per cent. to the Succession Duty as part of his scheme of reform, instead of proposing directly to include realty within the scope of the Probate Duty.

No practical difficulty would stand in the way of the extension of the Probate Duty to realty, if realty descended with the rest of a dead man's property to his executor. An administrative change in this direction would be a step onwards

• H., April 15, 1889.

towards the assimilation of the law of realty and of personalty, and towards the general simplification of the law relating to property. A clause declaring that landed property, like personalty, should vest in the executor on the death of the owner, actually formed part of the valuable, but hitherto unsuccessful measure, introduced for the third time in 1889, by Lord Halsbury, under the title of the "Land Transfer Bill;"\* and it is obvious that such a change as this would be of considerable value for purposes other than the levy of Death Duties. A purely administrative change is all that is required, a change in legal machinery and nothing more; and no rights of property need be in any way affected by such an amendment of the law.

There remains the question of "settled" property. No insuperable obstacle seems to stand in the way of the extension of the Probate Duty to property of this kind also, though difficulties of a minor character exist. The chief difficulty is to fix upon the person who must be made responsible to the authorities at Somerset House, for the accuracy of the account, and the payment of the duty. One solution of this difficulty would be to make it part of the executor's duty to produce a p.orn account of the particulars and value of the "T. ed property, together with his own affidavit as Gosca general estate. One of the trustees of the

\* Land Transfer Bill, 1889, Part IV. sec. 38.

settlement, with the assistance of a professional valuer, would obviously be the person best qualified to swear to the value of the settled property. In order that the executor should feel the full weight of his responsibility, the general estate in his hands might be made primarily liable for the due payment of the duty on the settled property, the trustees being only liable in a secondary degree. The executor would pay the whole duty, and the trustees would be liable to repay<sup>3</sup> him their part. All such matters, however, are questions of detail. The practical possibility of the extension of the Probate Duty to settled property is clearly proved, if proof be needed, by the fact that property passing by deed, in some cases already pays Probate Duty under the name of Account Duty.

In any scheme for the remodelling of the Death Duties, it is clearly necessary that a consanguinity scale should find a place. A scale varying according to the relationship of the heir to the dead man is, as we have already seen, undoubtedly popular with the vast majority of the people who have ever considered the subject, and is in agreement with their notions of justice.

Thus we arrive at the following conclusions: First, that it is practically possible to introduce a tax in the nature of an universal Probate Duty to be levied equally on all kinds of property; and, secondly, that another tax, on the lines of the

present Legacy and Succession Duties, would be at once a just and popular addition to the universal Probate Duty.

The "annual value" of land is, of course, an important fact to be taken into account in making a valuation of the capital value; but other circumstances ought to be also considered. The annual value used as the sole basis for ascertaining the capital value, must always be inefficient and may be very misleading.

In the valuation of land for the assessment of duty, the same principle as that at present in use for personal property of uncertain value should in fairness be adopted. Pictures, plate, and other chattels, have to be valued by a professional valuer, and there could be no more real difficulty in putting a value on a piece of land than on a picture. In each case the value arrived at is a matter of opinion, and as such not perhaps perfect. But there can be but little doubt that by means of a sworn valuation of this kind, a far more satisfactory result would be arrived at than under the system proposed by Mr. Childers in 1885, and adopted by Mr. Goschen in the case of the Estate Duty in 1889.\*

It has hitherto always been considered that

\* See pp. 33, 55, 81.

realty and personalty cannot in justice be treated alike as to time for payment of duty, and that the heir to realty ought to be permitted to discharge his debt to the revenue by means of instalments. Probably in any scheme for the re-arrangement of the Death Duties, this anomaly will again find a place. An heir succeeding to realty without personalty, if called upon for the whole duty at once, could only raise the sum due from him by means of a mortgage, or a sale of a small piece of the land ; and, if he were forced to adopt either of these two means for raising the money, a serious injustice might be inflicted on him. A mortgage implies legal expenses ; and land, especially a portion of an estate, is not always a saleable commodity like a sum of Consols. Further, though the tendency of modern legislation is rather to discourage the accumulation of large landed properties, and to encourage the free sale of land, and the increase of smaller owners, such social changes should be brought about by specific legislation, and not indirectly by means of a measure purely fiscal in its nature.

A reform of the Death Duties on the lines sketched out above, would entail a considerable addition to the amount at present paid by realty on death, and would raise a *prima facie* case for relief in other directions. It must not be forgotten,

however, that the product of the Succession Duty has never approached the estimate of two millions made by Mr. Gladstone in 1853—even if that estimate was founded on somewhat of a miscalculation.\* That estimate was at the time considered very moderate, and the House of Commons legalized a duty which was estimated to produce two millions a year. But the actual product of the Succession Duty has never reached a million, and has averaged under three quarters of a million. Realty and settled personalty have, therefore, for nearly forty years escaped more than half the duty which the legislature intended to impose upon them, and a further addition to their burdens can hardly in justice be refused.

The difficulties of drafting a measure of reform, at once simplifying the Death Duties, and placing them on a more equitable basis, would certainly be considerable; while the nicety and magnitude of the interests involved would of necessity entail a great consumption of sessional time. But the task would be one worthy of any Chancellor of the Exchequer, and its successful accomplishment would be an abiding memorial of his financial ability.

\* See p. 26, 27, 28.

## APPENDIX A.

### PRODUCT OF THE DEATH DUTIES.

COMPILED FROM THE REPORTS OF THE INLAND REVENUE  
COMMISSIONERS.

	Probate, Ad- ministration, and Inven- tory Duty.	Legacy Duty.		Total.
	£	£		£
1796-97	... ..	33,734*	... ..	33,734
1797-98	... ..	79,692	... ..	79,692
1798-99	... ..	100,823	... ..	100,822
1799	... ..	57,938	... ..	57,938
1800	... ..	141,231	... ..	141,231
1801	... ..	113,870	... ..	113,870
1802	... ..	135,201	... ..	135,201
1803	... ..	157,002	... ..	157,002
1804	... ..	187,952	... ..	187,952
1805	314,523	180,126	... ..	494,649
1806	354,878	229,020	... ..	583,898
1807	381,638	300,321	... ..	681,959
1808	401,980	324,834	... ..	726,814
1809	433,374	546,421	... ..	979,795
1810	440,703	441,645	... ..	882,378
1811	446,073	443,776	... ..	889,849
1812	430,746	483,307	... ..	914,053

\* No accounts exist of the Legacy Duty before 1796, or of the Probate Duty before 1805.



	Probate, Ad- ministration, and Invent- ory Duty.	Legacy Duty.		Total.
	£	£		£
1813	433,961	571,301	... ..	1,005,262
1814	525,811	695,242	... ..	1,221,053
1815	531,717	766,106	... ..	1,297,823
1816	656,799	711,683	... ..	1,368,482
1817	734,858	995,176	... ..	1,730,034
1818	748,516	904,083	... ..	1,625,599
1819	753,051	898,371	... ..	1,651,422
1820	789,306	906,281	... ..	1,695,587
1821	823,847	979,420	... ..	1,803,267
1822	767,359	1,069,836	... ..	1,837,195
1823	850,011	997,538	... ..	1,847,549
1824	883,054	1,073,011	... ..	1,956,065
1825	909,063	1,087,165	... ..	1,996,228
1826	853,140	944,377	... ..	1,797,517
1827	900,956	1,068,803	... ..	1,969,759
1828	919,254	1,197,852	... ..	2,117,106
1829	924,383	1,208,035	... ..	2,132,418
1830	941,064	1,247,890	... ..	2,188,954
1831	928,668	1,163,812	... ..	2,092,480
1832	884,688	1,231,027	... ..	2,115,715
1833	924,006	1,175,481	... ..	2,099,487
1834	976,173	1,239,012	... ..	2,215,185
1835	940,577	1,206,178	... ..	2,146,745
1836	957,461	1,197,501	... ..	2,154,962
1837	1,068,256	1,208,975	... ..	2,277,231
1838	976,393	1,308,107	... ..	2,284,500
1839	922,199	1,188,381	... ..	2,110,580
1840	989,434	1,202,577	... ..	2,192,011
1841	1,011,874	1,209,126	... ..	2,221,000
1842	972,387	1,294,719	... ..	2,267,106
1843	998,965	1,241,777	... ..	2,240,742
1844	1,027,884	1,252,171	... ..	2,280,055
1845	1,095,806	1,328,570	... ..	2,424,376
1846	1,054,575	1,247,555	... ..	2,302,130
1847	1,147,025	1,319,523	... ..	2,466,548

	Probate, Ad- ministration, and Inven- tory Duty. £	Legacy Duty. £		Total. £
1848	1,041,497	1,223,665	... ..	2,265,162
1849	1,107,587	1,359,534	... ..	2,467,120
1850	1,031,402	1,311,396	... ..	2,342,798
1851	1,063,401	1,315,281	... ..	2,378,682
1852	1,135,302	1,380,336	... ..	2,515,638
		Legacy and Succession Duty.		
1853	1,162,602	1,383,922	... ..	2,546,524
1854-55	1,235,333	1,530,843	... ..	2,766,176
1855-56	1,245,074	1,712,785	... ..	2,957,859
1856-57	1,241,007	1,880,988	... ..	3,121,995
1857-58	1,279,913	1,864,725	... ..	3,135,638
		Legacy Duty.	Succession Duty. £	
1858-59	1,338,089	1,647,125	564,697	3,549,911
1859-60	1,333,206	1,528,246	601,775	3,463,227
1860-61	1,394,814	1,566,767	602,813	3,564,394
1861-62	1,419,166	1,676,365	601,359	3,696,890
1862-63	1,443,023	1,730,878	657,629	3,831,530
1863-64	1,582,173	1,672,915	591,049	3,846,137
1864-65	1,642,872	1,783,846	563,238	3,989,956
1865-66	1,690,968	1,997,146	615,255	4,303,369
1866-67	1,735,869	1,933,307	643,661	4,312,837
1867-68	1,771,833	2,154,343	740,038	4,666,214
1868-69	1,728,700	2,060,333	724,665	4,513,698
1869-70	1,915,470	2,220,518	750,252	4,886,240
1870-71	1,989,319	2,157,200	806,173	4,952,692
1871-72	1,989,133	2,569,784	802,016	5,360,933
1872-73	2,074,657	2,355,531	835,395	5,265,583
1873-74	2,196,412	2,562,951	862,898	5,622,261
1874-75	2,289,240	2,591,629	820,893	5,701,762
1875-76	2,390,339	2,712,937	836,030	5,939,306
1876-77	2,339,914	2,829,171	855,274	6,024,359
1877-78	2,378,145	2,935,343	796,515	6,110,003

## APPENDIX.

	Probate, Ad- ministration, and Inven- tory Duty.	Legacy Duty.	Succession Duty.	Total.
	£	£	£	£
1878-79	2,440,180	2,594,202	725,174	5,759,556
1879-80	2,677,862	2,933,618	788,404	6,399,884
1880-81	3,218,307	2,827,378	780,453	6,826,138
1881-82	3,693,274*	2,814,145	742,428	7,249,847
1882-83	3,886,164*	2,723,722	827,777	7,437,663
1883-84	4,178,503*	2,506,010	845,966	7,530,479
1884-85	4,062,630*	2,821,780	935,054	7,810,464
1885-86	4,103,644*	2,474,722	858,241	7,436,607
1886-87	4,026,469*	2,560,725	814,763	7,401,957
1887-88	4,596,620*	2,814,560	830,503	8,241,683
1888-89	4,231,559*†	2,830,378	906,469	7,968,406

\* Including the "Account Duty."

† Of this sum £1,410,520 were transferred to Local Taxation Accounts.

## APPENDIX B.

### OFFICIAL LIST OF FORMS IN USE FOR THE PAYMENT OF PROBATE, ACCOUNT-STAMP, LEGACY, AND SUCCESSION DUTY.

#### PROBATE DUTY.

- "B"—Original Affidavit of Value to lead to Probate or Administration: To be used where the gross personal estate is under £100 in value, or where the whole personal estate, wherever situate, and without deduction for debts, etc., does not exceed £300 in value, the Deceased in either case having died on or after 1st June, 1881.
- "A"—Original Affidavit of Value to lead to Probate or Administration: To be used where Form "B" is not applicable.
- "D"—Corrective Affidavit of Value: To be used where the grant was taken out on or after the 1st June, 1881.
- No. 13a.—Corrective Affidavit of Value: To be used where the grant was taken out before that date.

#### ACCOUNT-STAMP DUTY.

- "C"—For duty under 44 Vict. cap. 12, s. 38, and 52 Vict. cap. 7, s. 11, on Personal Property, including Leaseholds, passing under Voluntary Settlement, or Joint Tenancy or as a *donatio mortis causa* or gifts made within twelve months of death.

## ESTATE DUTY.

- "E"—Statement to be delivered with Affidavit "A," where the Estate and Effects in respect whereof duty is charged on the Affidavit or Inventory exceeds £10,000, and where application for the grant of probate or letters of administration was made on or after 1st June, 1889.
- "F"—Statement of the Personal or Moveable property included in an Account "C," where the value of such property exceeds £10,000.
- "G"—Corrective Statement of Value: To be used where insufficient Estate Duty has been paid on a Form "E."
- No. 13.—Statement of Value to be delivered with an Account of any succession on the death of any person dying on or after 1st June, 1889, where the value of the succession exceeds £10,000, or where, in the case of real estate passing under a will or intestacy, the value of the succession, together with the value of any other benefit taken by the successor under the said will or intestacy, exceeds £10,000.

## LEGACY DUTY.

- No. 1.—For specific Legacies, and for pecuniary Legacies payable out of Real and Personal Estate where the Deceased died prior to 1st July, 1888, or where the Deceased died on or after that date payable wholly out of Personal Estate. For shares of residue, where the amount of the residue has been arrived at by a General Account on the Form No. 3, and (in duplicate) for an account supplemental to that account. (See No. 11.)
- No. 2.—For Instalments of Legacy Duty on Annuities. (See No. 12.)
- No. 3.—(In Duplicate)—For General Residuary Accounts.
- No. 8.—(In Duplicate)—For the proceeds of sale or principal value of Real Property directed by will to be sold, where the Deceased died before 1st July, 1888.
- No. 11.—For pecuniary Legacies and shares of residue when payable out of a Blended Fund arising from Real Estate

directed to be sold and Personal Estate, or when charged on Real Estate in aid of Personal Estate. To be used only where the Deceased died on or after 1st July, 1888.

- No. 12.—For Instalments of Duty on Annuities where the Annuities are payable out of a Blended Fund arising from Real Estate directed to be sold and Personal Estate, or charged on Real Estate in aid of Personal Estate, and when the Deceased died on or after 1st July, 1888.
- No. 20.—For small estates under £100 in value, where upwards of £80 is deposited in a Savings Bank or due by a Friendly Society, and a certificate of exemption from Legacy Duty is required, to obtain payment of the money.

#### SUCCESSION DUTY.

- No. 1.—For pecuniary Legacies payable wholly out of Real Estate or the proceeds of sale thereof, where the Deceased died on or after 1st July, 1888.
- No. 4.—(In Duplicate)—For Personal Property (including settled funds, money charged upon or arising from the sale of Real Property, and the proceeds of sale of Church Patronage) where the property is at once taken absolutely, or by different persons in succession, all liable to duty at the same rate, and the duty is chargeable upon the capital. (See also No. 1.)
- No. 5.—(In Duplicate)—For Personal Property chargeable by way of Annuity, including annuities charged on Real Property either by deed or by the will of any person dying on or after 1st July, 1888.
- No. 6.—(In Duplicate)—For Real Property, including Leaseholds.
- No. 7.—For the second and subsequent Instalments of Duty on Real and Personal Property.
- No. 8.—(In Duplicate)—For the proceeds of sale or principal value of Real Property directed to be sold or sold under a power. (See also "No. 8" under "Legacy Duty.")

- No. 9.—(In Duplicate)—For the cesser of terminable charges upon Real Property, including the cesser of dower.
- No. 10.—(In Duplicate)—For the proceeds of sale of Timber.
- No. 11.—See “No. 11” under “Legacy Duty.”
- No. 12.—See “No. 12” under “Legacy Duty.”
- No. 19.—(In Duplicate)—For Duty payable in expectancy. This Form is not supplied until a commutation has been agreed to. Application should be made in writing to the Controller of Legacy and Succession Duties, Somerset House, London, W.C., stating the reason for the application (sale or mortgage), the full particulars of the property, the title, the names and dates of birth of the tenants for life and in remainder, and the gross amount of the sale money or the amount of the mortgage.

#### FORMS IN USE FOR CLAIMING A RETURN OF DUTY.

##### PROBATE DUTY.

- “D”—Where the original grant was taken out on or after the 1st June, 1881.
- No. 131.—Where the original grant was taken out before the 1st June, 1881, and the return is claimed on the ground of over estimate.
- No. 132.—Where the original grant was taken out before the 1st June, 1881, and the return is claimed on the ground of debts paid.
- NOTE.—Vouchers for the payment of the Debts must be produced.

##### ESTATE DUTY.

- “G”—To be used where too much Estate Duty has been paid on a Form “E.”

#### FOR THE RETURN OF ACCOUNT-STAMP, LEGACY, AND SUCCESSION DUTY.

No special Forms are provided. The circumstances should be embodied in an affidavit by the person by whom the Duty was paid. The stamped receipt for the Duty

should be annexed, and evidence in support of the claim produced.

This long list of forms will plainly show how complicated is the administration of the existing Death Duties. Each successive amendment of the law has usually implied the creation of several additional forms, and with them, fresh complexity of administration.



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