

Income Tax in Common Law Jurisdictions

From the Origins to 1820

PETER HARRIS

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INCOME TAX IN COMMON LAW JURISDICTIONS

Many common law countries inherited British income tax rules. Whether the inheritance was direct or indirect, the rationale and origins of some of the central rules seem almost lost in history. Commonly, they are simply explained as being of British origin without further explanation, but even in Britain the origins of some of these rules are less than clear. This book traces the roots of the income tax and its precursors in Britain and in its former colonies to 1820. Harris focuses on four issues that are central to common law income taxes and which are of particular current relevance: the capital—revenue distinction, the taxation of corporations, taxation on both a source and residence basis, and the schedular approach to taxation. He uses an historical perspective to make observations about the future direction of income tax in the modern world. Volume II will cover the period 1820 to 2000.

PETER HARRIS is a solicitor whose primary interest is in tax law. He is also a Senior Lecturer at the Faculty of Law of the University of Cambridge, Deputy Director of the Faculty's Centre for Tax Law, and a Tutor, Director of Studies and Fellow at Churchill College.

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Well known in both academic and practitioner circles in the UK and internationally, Professor Tiley brings to the Series his wealth of experience in the tax world of study, practice and writing. He was made a CBE for service to tax law in 2003.

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From the Origins to 1820

PETER HARRIS



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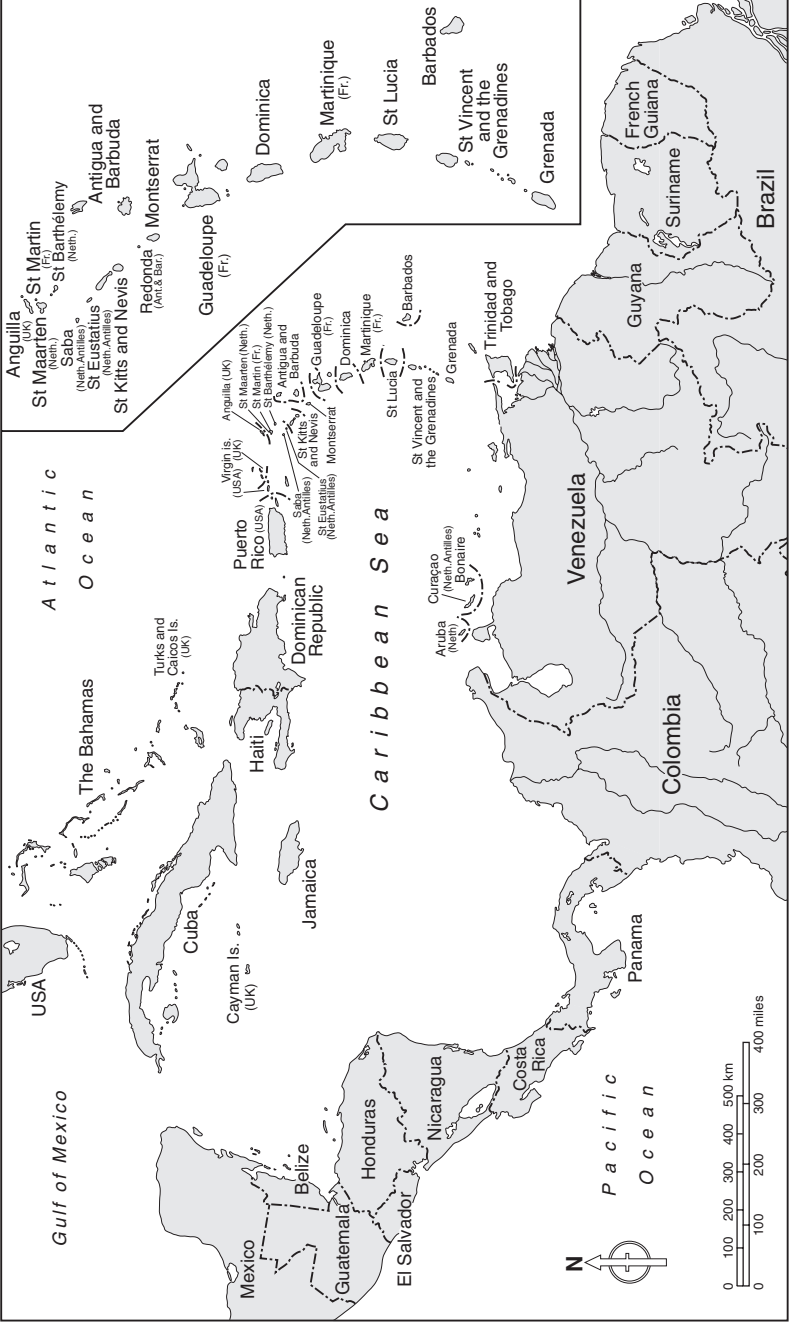
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The United Kingdom

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- Magna Carta (17 John) (1215) (UK)
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Statute of Marlborough (52 Hen. III) (1267) (UK)
Statutes of Westminster (3 Edw.) (1275) (UK)
Statutes of Gloucester (6 Edw.) (1278) (UK)
Statute of Mortmain (*De viris religiosis*) (7 Edw. I) (1279) (UK)
Statutes of Westminster II (13 Edw. I) (1285) (UK)
Quia Emptores Terrarum (18 Edw. I) (1290) (UK)
Statute the Second (14 Edw. III) (1340) (UK)
Statute of Labourers (23 Edw. III.) (1349) (UK)
Statute made at Cambridge (12 Ric. II.) (1388) (UK)
Statute (15 Ric. II.) (1391) (UK)
An Act agaynst fraudulent feoffmints tendinge to defraude the Kinge
of his wardes (4 Hen. VII c. 17) (1489) (UK)
An Act for a Subsidy to be granted to the King, and for discharge of
some persons from payment thereof (12 Hen. VII. c. 13) (1497) (UK)
De execucoibs conta feoffatos faciend (19 Hen. VII. c. 15) (1504) (UK)
An Act of Aid (19 Hen. VII. c. 32) (1504) (UK)
An Act of Subsidy (4 Hen. VIII. c. 19) (1512) (UK)
An Act of Subsidy (5 Hen. VIII. c. 17) (1514) (UK)
The Subsidy (6 Hen. VIII. c. 26) (1515) (UK)
The Subsidy 15th and 10th (7 Hen. VIII. c. 9) (1515) (UK)
An Act of Subsidy (14&15 Hen. VIII. c. 16) (1523) (UK)
An Act concerning the amendment of Bridge and High Ways (22 Hen.
VIII. c. 5) (1530/31) (UK)
An Act concerning where and under what manner the Jails within this
Realm shall be edified and made (23 Hen. VIII. c. 2) (1531/32) (UK)

- An Act concerning the Kynges Highnes to be supreme heed of the Church of Englande & to have auctoryte to refourme & redresse all errours heresydes & abuses yn the same (26 Hen. VIII. c. 1) (1534) (UK)
- An Act concerning the payment of First Fruits of all dignities benefices and promotions spiritual; & also concerning on annual pension of the tenth part of all the possessions of the Church, spiritual and temporal, granted to the King's Highness & his heirs (26 Hen. VIII. c. 3) (1534) (UK)
- An Act containing a grant of Subsidy unto the King's Highness for a 15 and 10th (26 Hen. VIII. c. 19) (1534) (UK)
- An Act concerning uses & wylles (27 Hen. VIII. c. 10) (1536) (UK)
- An Act for punishment of sturdy vagabonds and beggars (27 Hen. VIII. c. 25) (1536) (UK)
- An Act for Lawes & Justice to be ministred in Wales in like fourme as it is in this Realme (27 Hen. VIII. c. 26) (1536) (UK)
- An Act howe Lands may be willed by Testament (32 Hen. VIII. c. 1) (1540) (UK)
- Bill for the Subsidy (32 Hen. VIII. c. 50) (1540) (UK)
- An Act for certaine Ordinaunces in the Kinges Majesties Domynion and Principallitie of Wales (34&35 Hen. VIII. c. 26) (1543) (UK)
- An Act for the Subsidy of the Temporality (34&35 Hen. VIII. c. 27) (1543) (UK)
- An Act concerning the Grant of one entire Subsidy and two whole Fifteenths and Tenths granted by the Temporality (37 Hen. VIII. c. 25) (1545) (UK)
- An Act for a Relief granted to the King Majesty by the Temporality (2&3 Edw. VI. c. 36) (1549) (UK)
- An Act concerning the release of the branches in the Last Act of Relief for the payments for Sheep and Clothes; And also a grant of a Subsidy to be paid in one year (3&4 Edw. VI. c. 23) (1549) (UK)
- An Act for the Grant of a Subsidy and two 15th and 10th by the Temporality (7 Edw. VI. c. 12) (1553) (UK)
- An Act for the Release of the last Subsidy of the Temporality (1 Mary, Session 2, c. 17) (1553) (UK)
- An Acte for the repaying of Shierboune Cawseye (1 Mary, Session 2, c. 32) (1553) (UK)
- An Act for the Reliefe of the Poore (2&3 Phil. & Mar. c. 5) (1555) (UK)
- An Act for a Subsidy to the King and Queen Mary (2&3 Phil. & Mar. c. 23) (1555) (UK)

- An Act of a Subsidy and one 15th granted by the Lords and Commons (4&5 Phil. & Mar. c. 11) (1558) (UK)
- An Act of a Subsidy and two 15th and 10th by the Temporality (1 Eliz. c. 21) (1559) (UK)
- An Act for the Relief of the Poor (5 Eliz. c. 3) (1562/63) (UK)
- A Subsidy with two 15th and 10th, granted by the Temporality (5 Eliz. c. 31) (1563) (UK)
- An Act of a 15th and 10th granted by the Temporality (8 Eliz. c. 18) (1566) (UK)
- An Act of a Subsidy and Two 15th and 10th granted by the Temporality (13 Eliz. c. 27) (1571) (UK)
- An Act of Two 15th and 10th and One Subsidy granted by the Temporality (18 Eliz. c. 23) (1576) (UK)
- An Act for a Subsidy and Two 15th granted by the Temporality (23 Eliz. c. 15) (1581) (UK)
- An Acte for the followinge of Huye and Crye (27 Eliz. c. 13) (1584/85) (UK)
- An Act of one entire Subsidy and Two 15th and 10th granted by the Temporality (27 Eliz. c. 29) (1585) (UK)
- An Act for the grant of one entire Subsidy and Two 15th and 10th granted by the Temporality (29 Eliz. c. 8) (1587) (UK)
- An Act for the granting of Four 15th and 10th, and two entire Subsidies to our most gracious Sovereign Land the Queen most Excellent (31 Eliz. c. 15) (1589) (UK)
- An Act for the Grant of Three entire Subsidies and Six 15th and 10th, granted by the Temporality (35 Eliz. c. 13) (1593) (UK)
- An Act for the Relief of the Poor (39 Eliz. c. 3) (1597/98) (UK)
- An Act for the Grant of Three Subsidies and Six 15th and 10th (39 Eliz. c. 27) (1597/98) (UK)
- An Act for the Relief of the Poor (43 Eliz. c. 2) (1601) (UK)
- An Act for the Grant of Four entire Subsidies and Eight 15th and 10th granted by the Temporality (43 Eliz. c. 18) (1601) (UK)
- An Acte for repairing of the Highway from Nonsuch to Taleworthe, in the Parishes of Ewell and Longditton, in the County of Surrey, leading to Kingston upon Thames in the County aforesaide (3 James I. c. 19) (1605/06) (UK)
- An Act for the Grant of Three entire Subsidies and Six 15th and 10th granted by the Temporality (3 James I. c. 26) (1605/06) (UK)
- An Act for the Grant of One entire Subsidy and One 15th and 10th granted by the Temporality (7 James I. c. 23) (1610) (UK)

- An Act for payment of Three Subsidies and Three 15th by the Temporality (21 James I. c. 33) (1624) (UK)
- An Act for the Grant of two entire Subsidies granted by the Temporality (1 Char. I. c. 6) (1625) (UK)
- An Act for the Grant of five entire Subsidies granted by the Temporality (3 Char. I. c. 8) (1628) (UK)
- An Act for the relief of His Majesty's Army and the Northern Parts of the Kingdom (16 Char. I. c. 2) (1640) (UK)
- An Act for the further relief of His Majesty's Army and the Northern Parts of the Kingdom (16 Char. I. c. 4) (1641) (UK)
- An Act for the speedy provision of money for disbanding the Armies and settling the peace of the two Kingdoms of England and Scotland (16 Char. I. c. 9) (1641) (UK)
- An Act for the raising and levying of Monies for the necessary defence and great affairs of the Kingdoms of England and Ireland and for the payment of debts undertaken by the Parliament (16 Char. I. c. 32) (1642) (UK)
- An Act for putting in execution an Ordinance mentioned in this Act (12 Char. II. c. 2) (1660) (UK)
- An Act for the speedy provision of money for disbanding and paying off the forces of this Kingdom both by Land and Sea (12 Char. II. c. 9) (1660) (UK)
- An Act for the Encouraging and increasing of Shipping and Navigation (12 Char. II. c. 18) (1660) (UK)
- An Act taking away the Court of Wards and Liveries and Tenures in Capite and by Knights Service and Purveyance, and for setting a Revenue upon his Majesty in Lieu thereof (12 Char. II. c. 24) (1660) (UK)
- An Act for granting unto the Kings Majesty twelve hundred and threescore thousand pounds to be assessed and levied by an assessment of threescore and ten thousand pounds by the month for eighteen months (13 Char. II., Session 2, c. 3) (1661) (UK)
- An Act for the better Releife of the Poore of this Kingdom (14 Char. II. c. 12) (1662) (UK)
- An Act for establishing an additional Revenue upon His Majesty His Heirs & Successors for the better support of His and their Crown and Dignity (14 Char. II. c. 10) (1662) (UK)
- An Act for the Encouragement of Trade (15 Char. II. c. 7) (1663) (UK)
- An Act for granting Four entire Subsidies to His Majesty by the Temporality (15 Char. II. c. 9) (1663) (UK)

- An Act for granting a Royal Aid unto the King's Majesty of Twenty four hundred threescore and seventeen thousand and five hundred Pounds to be raised levied and paid in the space of Three Years (16&17 Char. II. c. 1) (1665) (UK)
- An Act for raising Moneys by a Poll, and otherwise towards the Maintenance of the present War (18&19 Char. II. c. 1) (1667) (UK)
- An Act for granting a Subsidy to his Majesty for Supply of his Extraordinary Occasions (22&23 Char. II. c. 3) (1671) (UK)
- An Act for raising the sum of twelve hundred thirty eight thousand seven hundred and fifty pounds for supply of his Majesty's extraordinary occasions (25 Char. II. c. 1) (1673) (UK)
- An Act for preventing Dangers which may happen from Popish Recusants (25 Char. II. c. 2) (1673) (UK)
- An Act for the encouragement of the Greenland and Eastland Trades, and for the better securing the Plantation Trade (25 Char. II. c. 7) (1673) (UK)
- An Act for raising the Sum of Five hundred eighty four thousand nine hundred seventy eight pounds two shillings and two pence half-penny for the speedy building Thirty Ships of War (29 Char. II. c. 1) (1677) (UK)
- An Act for raising Money by a Poll and otherwise to enable His Majesty to enter into an actual War against the French King and for prohibiting several French Commodities (29&30 Char. II. c. 1) (1678) (UK)
- An Act for granting a Supply to His Majesty of Six hundred nineteen thousand three hundred eighty eight pounds eleven shillings and nine pence for disbanding the Army and other uses therein mentioned (30 Char. II. c. 1) (1678) (UK)
- An Act for the more effectually preserving the Kings Person and Government by disabling Papists from sitting in either House of Parlyament (30 Char. II., Session 2, c. 1) (1678) (UK)
- An Act for granting a Supply to His Majesty of Two hundred and six thousand four hundred sixty two pounds seventeen shillings and three pence for paying off and disbanding the Forces raised since the Nine and twentieth of September One thousand six hundred seventy seven (31 Char. II. c. 1) (1679) (UK)
- An Act for the granting a present Aid to Their Majesties (1 Will.&Mar. c. 3) (1688) (UK)
- An Act for the taking away the Revenue arising by Hearth-Money (1 Will.&Mar. c. 10) (1688) (UK)

- An Act for Raising Money by a Poll and otherwise towards the Reducing of Ireland (1 Will.&Mar. c. 13) (1688) (UK)
- An Act for a Grant to Their Majesties of an Aid of Twelve pence in the Pound for One Year for the necessary Defence of Their Realm (1 Will.&Mar. c. 20) (1688) (UK)
- An Act for a Grant to Their Majesties of an Aid of Two shillings in the Pound for One Year (1 Will.&Mar. Sess. 2. c. 1) (1688) (UK)
- An Act for Raising Money by a Poll and otherwise towards the Reducing of Ireland and Prosecuting the War against France (2 Will.&Mar. c. 2) (1689) (UK)
- An Act for Granting an Aid to Their Majesties of the Sum of Sixteen hundred fifty one thousand seven hundred and two pounds eighteen shillings (2 Will.&Mar. Sess. 2. c. 1) (1690) (UK)
- An Act for Granting an Aid to Their Majesties of the Sum of Sixteen hundred fifty one thousand seven hundred and two pounds eighteen shillings towards the Carrying on a Vigorous War against France (3 Will.&Mar. c. 5) (1691) (UK)
- An Act for raising money by a Poll payable quarterly for One year for the carrying on a vigorous War against France (3 Will.&Mar. c. 6) (1691) (UK)
- An Act for granting to Their Majesties an Aid of Four Shillings in the Pound for One year for carrying on a vigorous War against France (4 Will.&Mar. c. 1) (1692) (UK)
- An Act for continuing certain Act therein mentioned and for charging several Joint Stocks (4 Will.&Mar. c. 15) (1692) (UK)
- An Act for granting to Their Majesties an Aid of Four Shillings in the Pound for One year for carrying on a vigorous War against France (5 Will.&Mar. c. 1) (1693) (UK)
- An Act for raising money by a Poll payable quarterly for One year for carrying on a vigorous War against France (5&6 Will.&Mar. c. 14) (1693) (UK)
- An Act for the licensing and regulating Hackney-Coaches and Stage-Coaches (5&6 Will.&Mar. c. 22) (1693) (UK)
- An Act for granting to his Majesty an Aid of Four shillings in the Pound for One Year and for applying the yearly sum of Three hundred thousand Pounds for Five years out of the Duties of Tunnage and Poundage and other sums of money payable upon Merchandise exported and imported for carrying on the War against France with vigour (6&7 Will.&Mar. c. 3) (1694) (UK)

- An Act for granting to His Majesty an Aid of Four Shillings in the Pound for carrying on the War against France (7&8 Will. III. c. 5) (1695/96) (UK)
- An Act for granting to His Majesty several Rates or Duties upon Houses for making good the Deficiency of the clipped Money (7&8 Will. III. c. 18) (1695/96) (UK)
- An Act for granting an Aid to His Majesty as well by a Land Tax as by several Subsidies and other Duties payable for One Year (8&9 Will. III. c. 6) (1696/97) (UK)
- An Act for granting to His Majesty a further Subsidy of Tunnage and Poundage upon Merchandises imported for the Term of Two Years & Three Quarters & an additional Land Tax for One Year for carrying on the War against France (8&9 Will. III. c. 24) (1696/97) (UK)
- An Act for licensing Hawkers and Pedlars for a further provision for the Payment of the Interest of the Transport Debt for the reducing of Ireland (8&9 Will. III. c. 25) (1696/97) (UK)
- An Act for granting to His Majesty the Sum of One Million four hundred eighty four thousand and fifteen Pounds one Shilling eleven Pence three Farthings for disbanding Forces paying Seamen and other Uses therein mentioned (9 Will. III. c. 10) (1697/98) (UK)
- An Act for granting to His Majesty an Aid by a Quarterly Poll for One Year (9 Will. III. c. 38) (1697/98) (UK)
- An Act for granting to His Majesty the Sum of One Million four hundred eighty four thousand and fifteen one Shilling eleven Pence three Farthings for disbanding the Army providing for the Navy and for other necessary Occasions (10 Will. III. c. 9) (1698) (UK)
- An Act for granting an Aid to His Majesty by Sale of the forfeited and other Estates and Interests in Ireland and by a Land Tax in England for the several Purposes therein mentioned (11 Will. III. c. 2) (1698/99) (UK)
- An Act for granting an Aid to His Majesty for defraying the Expence of His Navy Guards and Garrisons for One Year and for other necessary Occasions (12&13 Will. III. c. 10) (1700/01) (UK)
- An Act for granting an Aid to Her Majesty by diverse Subsidies and a Land Tax (1 Anne c. 6) (1702) (UK)
- An Act for granting to Her Majesty a Land Tax for carrying on the War against France and Spain (1 Anne, Session 2, c. 1) (1702) (UK)
- An Act for granting to Her Majesty several Subsidies for carrying on the War against France and Spain (1 Anne, Session 2, c. 17) (1702) (UK)

- An Act for granting an Aid to Her Majesty by a Land Tax to be raised in the Year One thousand seven hundred and four (2&3 Anne c. 1) (1703) (UK)
- An Act for granting an Aid to Her Majesty by a Land Tax to be raised in the Year One thousand seven hundred and six (4&5 Anne c. 1) (1705) (UK)
- An Act for granting an Aid to Her Majesty to be raised by a Land Tax in Great Britain for the Service of the Year One thousand seven hundred and eight (6 Anne c. 35) (1707) (UK)
- An Act for rendring the Union of the Two Kingdoms more intire and complete (6 Anne c. 40) (1707) (UK)
- An Act for the more easy assessing, collecting and levyng of County Rates (12 Geo. II. c. 29) (1739) (UK)
- An Act for repealing the several Rates and Duties upon Houses, Windows and Lights; and for granting to His Majesty other rates and Duties upon Houses, Windows or Lights; and for raising the Sum of four millions four hundred thousand Pounds by Annuities, to be charged on the said Rates or Duties (20 Geo. II. c. 3) (1747) (UK)
- An Act for granting to His Majesty several Rates and Duties upon Coaches, and other Carriages therein mentioned; and for raising the Sum of one million by way of Lottery, to be charged upon the said Rates and Duties (20 Geo. II. c. 10) (1747) (UK)
- An Act to regulate and restrain Paper Bills of Credit in His Majesty's Colonies or Plantations of Rhode Island and Providence Plantations, Connecticut, the Massachusets Bay, and New Hampshire in America; and to prevent the same being legal Tenders in Payment of Money (24 Geo. II c. 53) (1751) (UK)
- An Act to regulate and restrain Paper Bills of Credit in His Majesty's Colonies or Plantations of Rhode Island and Providence Plantations, Connecticut, the Massachusets Bay and New Hampshire in America; and to prevent the same being legal Tenders in Payments of Money (24 Geo. II. c. 53) (1764) (UK)
- An Act for granting to His Majesty several Rates and Duties upon Offices and Pensions; and upon Houses; and upon Windows or Lights; and for raising the Sum of five Millions by Annuities, and a Lottery, to be charged on the said Rates and Duties (31 Geo. II. c. 22) (1758) (UK)
- An Act for granting certain Duties in the British Colonies and Plantations in America . . . (4 Geo. III. c. 15) (1764) (UK)

- An Act for vesting the Fort of Senegal, and its Dependencies, in the Company of Merchants trading to Africa (4 Geo. III. c. 20) (1764) (UK)
- An Act to prevent Paper Bills of Credit, hereafter to be issued in any of His Majesty's Colonies or Plantations in America, from being declared to be legal Tender in Payments of Money; and to prevent the legal Tender of such Bills as are now subsisting, from being prolonged beyond the Periods limited for calling in and sinking the same (4 Geo. III. c. 34) (1764) (UK)
- An Act for granting and applying certain Stamp Duties, and other Duties, in the British Colonies and Plantations in America . . . (5 Geo. III. c. 12) (1765) (UK)
- An Act for laying certain Duties upon Gum Senega and Gum Arabic imported into or exported from Great Britain, and for continuing the Exportation of Gum Senega from Africa to Great Britain only (5 Geo. III. c. 37) (1765) (UK)
- An Act for repealing the Act made in the last Session of Parliament, intituled, An Act for vesting the Fort of Senegal, and its Dependencies, in the Company of Merchants trading to Africa; and to vest as well the said Fort and its Dependencies, as all other the British Forts and Settlements upon the Coast of Africa, lying between the Port of Sallee and Cape Rouge, together with all the Property, Estate and Effects of the Company of Merchants trading to Africa, in or upon the said Forts, Settlements and their Dependencies, in His Majesty; and for securing, extending and improving the Trade to Africa (5 Geo. III. c. 44) (1765) (UK)
- An Act to repeal an Act made in the last Session of Parliament, intituled, "An Act for granting and applying certain Stamp Duties, and other Duties, in the British Colonies and Plantations in America . . ." (6 Geo. III. c. 11) (1766) (UK)
- An Act for the better securing the Dependency of His Majesty's Dominions in America upon the Crown and Parliament of Great Britian (6 Geo. III. c. 12) (1766) (UK)
- An Act for granting certain Duties in the British Colonies and Plantations in America; for allowing a Drawback of the Duties of Customs upon the Exportation . . . (7 Geo. III. c. 46) (1767) (UK)
- An Act to repeal so much of an Act made in the Seventh Year of His present Majesty's Reign, intituled "An Act for granting certain Duties in the British Colonies and Plantations in America; for allowing

- a Drawback of the Duties of Customs upon the Exportation . . .” (10 Geo. III. c. 17) (1770) (UK)
- An Act to allow a Drawback of the Duties of Customs on the Exportation of Tea to any of His Majesty’s Colonies or Plantations in America; to increase the Deposit on Bohea Tea to be sold at the Indian Company’s Sales; and to empower the Commissioners of the Treasury to grant Licences to the East India Company to export Tea Duty-free (13 Geo. III. c. 44) (1773) (UK)
- An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe (13 Geo. III. c. 63) (1773) (UK)
- An Act to discontinue, in such Manner, and for such Time as are therein mentioned, the landing and discharging, lading or shipping, of Goods, Wares and Merchandise, at the Town, and within the Harbour, of Boston, in the Province of Massachuset’s Bay, in North America (14 Geo. III. c. 19) (1774) (UK)
- An Act for the better regulating the Government of the Province of the Massachuset’s Bay, in New England (14 Geo. III. c. 45) (1774) (UK)
- An Act for making more effectual Provision for the Government of the Province of Quebec in North America (14 Geo. III. c. 83) (1774) (UK)
- An Act to establish a Fund towards further defraying the Charges of the Administration of Justice, and Support of the Civil Government within the Province of Quebec, in America (14 Geo. III. c. 88) (1774) (UK)
- An Act for granting to His Majesty a Duty upon all Servants retained or employed in the several Capacities therein mentioned . . . (17 Geo. III. c. 39) (1777) (UK)
- An Act for removing all Doubts and Aprehensions concerning Taxation by the Parliament of Great Britian in any of the Colonies, Provinces and Plantations in North America and the West Indies; and for repealing so much of an Act, made in the Seventh Year of the Reign of His present Majesty, as imposes a Duty on Tea imported from Great Britian into any Colony or Plantation in America, or relates thereto (18 Geo. III. c. 12) (1778) (UK)
- An Act for granting to His Majesty certain Duties upon all inhabited Houses within the Kingdom of Great Britian (18 Geo. III. c. 26) (1778) (UK)
- An Act for repealing an Act, made in the Fifth Year of the Reign of His present Majesty, intituled, An Act for repealing the Act made in the last Session of Parliament, intituled, An Act for vesting the Fort of

Senegal, and its Dependencies, in the Company of Merchants trading to Africa; and to vest as well the said Fort and its Dependencies, as all other the British Forts and Settlements upon the Coast of Africa, lying between the Port of Sallee and Cape Rouge, together with all the Property, Estate and Effects of the Company of Merchants trading to Africa, in or upon the said Forts, Settlements and their Dependencies, in His Majesty; and for securing, extending and improving the Trade to Africa; and for vesting James Fort, in the River Gambia, and its Dependencies, and all other the British Forts and Settlements between the Port of Sallee and Cape Rouge, in the Company of Merchants trading to Africa; and for securing and regulating the Trade to Africa (23 Geo. III c. 65) (1783) (UK)

An Act for granting to His Majesty certain Duties on Horses kept for the Purpose of Riding, and on Horses used in drawing certain Carriages, in respect whereof any Duty of Excise is made payable (24 Geo. III. c. 31) (1784) (UK)

An Act for laying certain Duties upon Licences to be taken out by the Makers of, and Dealers in Excisable Commodities therein mentioned (24 Geo. III. c. 41) (1784) (UK)

An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India; and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of Offences committed in the East Indies (24 Geo. III., Session 2, c. 25) (1784) (UK)

An Act for granting to His Majesty certain Duties on Certificates issues with respect to the killing of Game (24 Geo. III., Session 2, c. 43) (1784) (UK)

An Act for granting to His Majesty certain Duties on Shops within Great Britain (25 Geo. III. c. 30) (1785) (UK)

An Act to repeal the Duties on Male Servants; and for granting new Duties on Male and Female Servants (25 Geo. III. c. 43) (1785) (UK)

An Act for transferring the Receipt and Management of certain Duties therein mentioned from the Commissioners of Excise and the Commissioners of Stamps respectively, to the Commissioners for the Affairs of Taxes; and also for making further Provisions in respect to the said Duties so transferred (25 Geo. III. c. 47) (1785) (UK)

An Act for granting to His Majesty certain Stamp Duties on Licences to be taken out by Persons using or exercising the Trade or Business of a Pawnbroker (25 Geo. III. c. 48) (1785) (UK)

- An Act for granting to His Majesty certain Duties upon Licences to be taken out by Coachmakers; and also certain Duties upon Carriages to be built for Sale (25 Geo. III. c. 49) (1785) (UK)
- An Act for granting to His Majesty certain Duties on Clocks and Watches (37 Geo. III. c. 108) (1797) (UK)
- An Act for granting an Aid to His Majesty by a Land Tax, to be raised in Great Britain, for the Service of the Year One thousand seven hundred and ninety eight (38 Geo. III. c. 5) (1798) (UK)
- An Act for granting to His Majesty an Aid and Contribution for the Prosecution of the War (38 Geo. III. c. 16) (1798) (UK)
- An Act for making perpetual, subject to Redemption and Purchase in the manner therein stated, the several Sums of Money now charged in Great Britain as a Land Tax for one Year, from the twenty fifth Day of March One thousand seven hundred and ninety eight (38 Geo. III c. 60) (1798) (UK)
- An Act to repeal the Duties imposed by an Act, made in the last Session of Parliament, for granting an Aid and Contribution for the Prosecution of the War; and to make more effectual Provision for the like Purpose, by granting certain Duties upon Income, in lieu of the said Duties (39 Geo. III c. 13) (1799) (UK)
- An Act for extending the Time for returning Statements under an Act, passed in the present Session of Parliament, intituled, “An Act to repeal the Duties imposed by an Act, made in the last Session of Parliament, for granting an Aid and Contribution for the Prosecution of the War; and to make more effectual Provision for the like Purpose, by granting certain Duties upon Income, in lieu of the said Duties”; and to amend the said Act (39 Geo. III c. 22) (1799) (UK)
- An Act for the better ascertaining and collecting the Duties granted by several Acts passed in the last Session of Parliament, relating to the Duties on Income: and to explain and amend the said Acts (39&40 Geo. III c. 49) (1800) (UK)
- An Act for repealing the Duties on Income; for the effectual Collection of Arrears of the said Duties, and accounting for the same; and for charging the Annuities specifically charged thereon upon the Consolidated Fund of Great Britain (42 Geo. III. c. 42) (1802) (UK)
- An Act for granting to his Majesty, until the sixth Day of May next after the Ratification of a Definitive Treaty of Peace, a Contribution on the Profits arising from Property, Professions, Trades, and Offices (43 Geo. III c. 122) (1803) (UK)

- An Act for granting to His Majesty additional Duties in Great Britain, on the Amount of Assessments to be charged on the Profits arising from Property, Professions, Trades, and Offices (45 Geo. III c. 15) (1805) (UK)
- An Act to repeal certain Parts of an Act, made in the Forty-third Year of His present Majesty, for granting a Contribution on the Profits arising from Property, Professions, Trades, and Offices; and to consolidate, and render more effectual, the Provisions for collecting the said Duties (45 Geo. III c. 49) (1805) (UK)
- An Act for granting to His Majesty, during the present War, and until the Sixth Day of April next after the Ratification of a Definitive Treaty of Peace, further additional Rates and Duties in Great Britain [on the Rates and Duties on Profits] arising from Property Professions Trades and Offices; and for repealing an Act passed in the Forty-fifth Year of His present Majesty, for repealing certain Parts of an Act made in the Forty-third Year of His present Majesty, for granting a Contribution on the Profits arising from Property Professions Trades and Offices; and to consolidate and render more effectual the Provisions for collecting the said Duties (46 Geo. III c. 65) (1806) (UK)
- An Act for transferring to His Majesty, certain Possessions and Rights vested in the Sierre Leone Company, and for shortening the Duration of the said Company; and for preventing any dealing or trafficking in the buying or selling of Slaves within the Colony of Sierre Leone (47 Geo. III, Session 2, c. 44) (1808) (UK)
- An Act for continuing in the East India Company, for a further Term, the Possession of the British Territories in India, together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same; and for regulating the Trade to and from the Places within the Limits of the said Company's Charter (53 Geo. III. c. 155) (1813) (UK)
- An Act to stay Proceedings against any Governor or other Persons concerned in imposing and levying Duties in New South Wales; to continue, until the First Day of January One thousand eight hundred and twenty one, certain Duties; and to empower the said Governor to levy a Duty on Spirits made in the said Colony (59 Geo. III c. 114) (1819) (UK)
- Regulation of Railways Act, 1868 (UK)
- Settled Land Act, 1882 (UK)
- Finance Act 1963 (UK)

Laws of the Interregnum, 1642–1660

- An Ordinance for the assessing of all such as have not contributed upon the Propositions of both Houses of Parliament, for the raising of Money, Plate, Horse, Horsemen, and Arms, for defence of the King, Kingdom and Parliament, or have not contributed proportionably to their Estates (26 November 1642) (UK)
- An Ordinance to appoint Sir William Waller Serjeant Major General of the Forces in Gloucester and other adjacent Counties, and for paying his Army (11 February 1643/44) (UK)
- An Ordinance for the speedy raising and levying of Money for the maintenance of the Army Raised by the Parliament, And other great Affairs of the Commonwealth, by a Weekly Assessment upon the Cities of London and Westminster, and every County and City of the Kingdom of England, and Dominion of Wales (24 February 1643/44) (UK)
- An Ordinance for the speedy raising and levying of money throughout the whole Kingdom of England, and dominion of Wales for the relief of the Commonwealth, by taxing such as have not at all contributed or lent, or not according to their Estates and Abilities (7 May 1643) (UK)
- An Ordinance for Raising and maintaining of Forces for the defence of the Kingdom, under the Command of Sir Thomas Fairfax, Knight (17 February 1645/46) (UK)
- An Ordinance for the raising of Monies to be employed towards the maintenance of Forces within this Kingdom, under the Command of Sir Thomas Fairfax Knight. And for the speedy transporting of, and paying the Forces for the carrying on the War of Ireland (23 June 1647) (UK)
- An Ordinance For raising of Twenty thousand pounds a Month for the Relief of Ireland (16 February 1648/49) (UK)
- An Ordinance for Raising Moneys to be employed for the maintenance of the Forces under the Command of Sir Thomas Fairfax Knight (17 March 1648/49) (UK)
- An Act For Raising Ninety thousand pounds per Mensem, For the Maintenance of the Forces raised by Authority of Parliament, for the Service of England and Ireland, For Six Months, from the 25th of March, 1649 to the 29th of September, 1649 (7 April 1649) (UK)
- An Act for prohibiting Trade with the Barbadoes, Virginia, Bermuda and Antego (3 October 1650) (UK)

- An Act for raising of One hundred and twenty thousand pounds per mensem for Four Months, To commence the Five and twentieth of December 1650. for Maintenance of the Forces in England, Ireland and Scotland, Raised by Authority of Parliament for the Service of this Commonwealth (26 November 1650) (UK)
- An Act for increase of Shipping, and Encouragement of the Navigation of this Nation (9 October 1651) (UK)
- An Act for an Assessment at the Rate of One hundred and twenty thousand Pounds by the Month for Six Months, from the Five and twentieth day of December, One thousand six hundred fifty two; to the Four and twentieth day of June next ensuing, towards the Maintenance of the Armies in England, Ireland and Scotland; as also for the Navy (10 December 1652) (UK)
- An Act for an Assessment upon England at the Rate of Sixty thousand Pounds by the Month, for three Months (9 June 1657) (UK)
- An Act for an Assessment of One hundred Thousand Pounds by the Month, upon England, Scotland, and Ireland, for Six Months (26 January 1660/61) (UK)

America

Canada

Cape Breton

- An Ordinance for Granting to His Majesty a Duty of Impost on Rum and other Distilled Spirituous Liquors (14 December 1801) (Cape Breton)

New Brunswick

- An Act for laying out repairing and amending, highways, roads, and Streets, and for appointing Commissioners and Surveyors of highways, within the Several Towns or Parishes within this Province (No. 32) (1786) (New Brunswick)
- An Act to oblige absent Proprietors to pay a proportion of any Public Charge, and to repair Highways (No. 40) (1786) (New Brunswick)
- An Act for Assessing, Collecting and Levying, County Rates (No. 42) (1786) (New Brunswick)
- An Act to Regulate and Provide for the Support of the Poor in this Province (No. 43) (1786) (New Brunswick)

- An Act for appointing Commissioners of Sewers (No. 45) (1786) (New Brunswick)
- An Act for raising a Revenue in this Province (No. 55) (1786) (New Brunswick)

Nova Scotia

- An Act for granting a Bounty upon Fish and Oyl and for laying a Duty upon Spirituous Liquers as a Fund for the Payment thereof, and for effectually Securing the payment of the said Duty (29 April 1751) (Nova Scotia)
- An Act laying a Duty of three pence per Gallon on Spirituous Liquors imported from the Neighbouring Colonies and to encourage the Distilling thereof in this Province and for granting a Bounty of Ten Shillings per Ton upon all Vessells or Boats built within the said Province (31 July 1751) (Nova Scotia)
- An Act for confirming the Proceedings on the severall Resolutions of the Governors and Council of this Province, relating to the Duties of Impost on Rum, and other distilled Liquors; and enabling the late Collector or Receiver to recover the Monies unpaid for any Bonds or Notes remaining in his Hands; And for establishing and regulating several Duties of Impost on Wines, Beer, Rum, and other distilled Spiritous Liquors for the future (32 Geo. II c. 1) (1758) (Nova Scotia)
- An Act in Addition to an Act, intituled, An Act for the Relief of the Poor in the Town of Halifax: Made and passed in the 33rd Year of His Majesty's Reign (33 Geo. II Session 2 c. 12) (1759) (Nova Scotia)
- An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor (3 Geo. III c. 7) (1763) (Nova Scotia)
- An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned (5 Geo. III c. 6) (1765) (Nova Scotia)
- An Act in Addition to, and Amendment of an Act made in the fifth Year of His Present Majesty's Reign, intituled An Act for the Raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned (No. 140) (1768) (Nova Scotia)
- An Act for raising a fund for the purpose of making and repairing Bridges and Roads of Communication thro' the Province (No. 201) (1772) (Nova Scotia)

- An Act for raising a tax on the Inhabitants of this Province for defraying the Expence of Maintaining and Supporting the Militia of the said Province, and for the defence of the same (No. 247) (1775) (Nova Scotia)
- An Act for laying a Tax upon Lands Tenements and Hereditaments in the Province for a certain limited Time (No. 306) (1779) (Nova Scotia)
- An Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the Funded Debt only Excepted (No. 444) (1791) (Nova Scotia)
- An Act to amend and render more productive an Act passed in the thirty first year of his present Majesty's Reign Intituled "An Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the Funded Debt only Excepted" (No. 479) (1793) (Nova Scotia)
- An Act in Amendment of an Act passed in the thirty first Year of his present Majesty's Reign Intituled an Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the funded Debt only excepted And to suspend the Operation of such parts of the said Act and the several Acts in Amendment thereof as relate to any new Tax or Assessment hereafter to be made (No. 533) (1796) (Nova Scotia)

Prince Edward Island

- An Act laying an imposition upon retailers of Rum and other distilled Spirituos Liquors (No. 20) (17 October 1774) (Prince Edward Island)
- An act in addition to and Amendment of an Act made and passed in the 14th year of His Majesty's Reign, Intituled an act impowering His Excellency the Governor or other Commander In Chief for the time being to direct the making of Public Roads and to appoint persons to carry the same into Execution (No. 29) (11 July 1776) (Prince Edward Island)
- An Act to oblige the respective Proprietors of Lots or Townships of Land or of parts of Lots or Townships of Land in this Island and who have contributed nothing towards the Settlement or Improvement of this Island and whose Lands be in waste and uncultivated State to pay their proportion of the public Charges for the making and repairing

- of the Highways, Roads and Bridges of the said Island (No. 105) (5 April 1790) (Prince Edward Island)
- An Act for appointing Commissioners of Sewers (No. 131) (13 February 1796) (Prince Edward Island)
- An Act for altering and Changing the name of this Island from Saint John to that of Prince Edward Island (No. 134) (26 November 1798) (Prince Edward Island)
- An Act to alter and amend An Act made and passed in the Thirtieth year of His present Majesty's Reign intituled An Act to oblige the respective Proprietors of Lots or Townships of Land or of parts of Lots or Townships of Land in this Island and who have contributed nothing towards the Settlement or Improvement of this Island and whose Lands be in waste and uncultivated State to pay their proportion of the public Charges for the making and repairing of the Highways, Roads and Bridges of the said Island (No. 165) (8 April 1808) (Prince Edward Island)
- An Act for raising the Sum of Sixteen Hundred Pounds for the purposes of Erecting Buildings for the Meeting of the General Assembly, the Supreme Court and its Offices and other public Offices in Charlotte Town And for Building two Goals vizt one in Prince County and one in King's County in this Island (No. 177) (10 May 1809) (Prince Edward Island)

Quebec (Lower Canada)

- An Act for the making repairs & altering the Highways & Bridges, within this Province, and for other purposes (7 May 1796) (Quebec)

Upper Canada (Ontario)

- An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly (9 July 1793) (Upper Canada)
- An Act to amend certain parts of an Act passed in the thirty third year of the Reign of his present Majesty intituled An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly (7 July 1794) (Upper Canada)

- An Act to amend an Act intituled “An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly” (1795, presumed) (Upper Canada)
- An Act for the more uniform laying of Assessments throughout this Province (1798, presumed) (Upper Canada)
- An Act for the more uniform laying of Assessments and Rates throughout this Province (30 June 1800) (Upper Canada)
- An Act particularizing the Property, real and Personal, which during the Continuance thereof shall be subject to Assessment and Rates, and fixing the several Valuations at which Each and every Particular of such Property shall be rated and assessed (5 March 1803) (Upper Canada)
- An act to repeal the several laws now in force, relative to levying and collecting rates and assessments in this province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this province (12 July 1819) (Upper Canada)

The United States

Federal

- An Act making provision for the payment of the Debt of the United States (4 August 1790) (United States)
- An Act to provide for the valuation of Lands and Dwelling-Houses, and the enumeration of Slaves within the United States (9 July 1798) (United States)
- An Act to lay and collect a direct tax within the United States (14 July 1798) (United States)
- An Act to provide for completing the valuation of lands and dwelling-houses and the enumeration of slaves in South Carolina, and for other purposes (30 January 1805) (United States)
- An Act for the assessment and collection of direct taxes and internal duties (22 July 1813) (United States)
- An Act to lay and collect a direct tax within the United States (2 August 1813) (United States)
- An Act to provide additional revenues for defraying the expenses of government, and maintaining the public credit, by laying a direct tax

upon the United States, and to provide for assessing and collecting the same (9 January 1815) (United States)

An Act to abolish the internal duties (23 December 1817) (United States)

Connecticut

Rates in Acts and Laws of His Majesties Colony of Connecticut in New England (1702) (Connecticut)

An Act for Assessing Allowed Attorneys at the Law, in the Annual List, for their Faculty (1725) (Connecticut)

An Act for the Direction of Listers in their Office, and Duty (1750) (Connecticut)

Acts and Laws of His Majesty's Colony of Connecticut in New-England in America (1769) (Connecticut)

An Act in addition to a Law of this Colony, intituled, "An Act for the direction of Listers in their "Office and Duty." (1771) (Connecticut)

Acts and Laws of the State of Connecticut, in America (1784) (Connecticut)

Acts and Laws of the State of Connecticut, in America (1796) (Connecticut)

An Act for the Assessment of Taxes (1819) (Connecticut)

Delaware

An Act for raising the Sum of One Thousand Pounds, for defraying the Charges of Victualling and Transporting the Troops raised within this Government for the intended Expedition against some Part of the Spanish West Indies (1741) (Delaware)

An Act for ascertaining the proportion of the government charges hereafter to be paid by the several counties of New-Castle, Kent and Sussex, on Delaware (1742) (Delaware)

An Act for raising County-Rates and Levies (1743) (Delaware)

An Act for Re-printing, Exchanging and Re-emitting Twenty Thousand Pounds of the Bills of Credit of this Government, to be let out on Loan; and for striking the further Sum of Seven Thousand Pounds in such Bills, and giving the same to his Majesty's Use, and for providing a Fund for sinking the same (7 May 1759) (Delaware)

An Act for printing and emitting Fifteen Thousand Pounds in Bills of Credit of this State, to be let out on Loan; and for striking the further Sum of Ten Thousand Pounds in such Bills for the Use of this State,

- and for providing a Fund for sinking the same (22 February 1777) (Delaware)
- An Act for raising One Hundred and Ninety-eight Thousand Dollars in the Delaware State, for the Service of the Year One Thousand Seven Hundred and Seventy-nine, by a general Tax (2 February 1779) (Delaware)
- An Act for raising One Million Three Hundred and Sixty Thousand Dollars, in the Delaware State, between the first day of February and the first day of October in the year One Thousand Seven Hundred and Eighty; and for other purposes therein mentioned (25 December 1779) (Delaware)
- An Act for calling out of circulation and canceling the quota of this state, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes (12 February 1781) (Delaware)
- An Act for the valuation of real and personal property within this state (9 February 1796) (Delaware)
- An Act making provision for the support of government for the year of our Lord One Thousand Seven Hundred and Ninety-seven (21 January 1797) (Delaware)
- An Act making provision for the support of Government for the year one thousand eight hundred and sixteen (February 1816) (Delaware)

Georgia

- An Act For Raising and Granting to His Majesty a Sum of Money to defray the Expenses of the Courts of Oyer and Terminer and other Contingencies of Government (21 February 1755) (Georgia)
- An Act for raising and granting to his Majesty the Sum of one thousand, one Hundred pounds Sterling for putting the town of Savannah, and the out forts in the several parishes of this province in a better State of defence (24 April 1760) (Georgia)
- An Act For Granting to his Majesty the sum of Three Thousand, Three Hundred and Seventy Five pounds Four Shillings and One Penny for the use and support of the Government of Georgia . . . (11 April 1768) (Georgia)
- An Act For Granting to His Majesty the sum of Five Thousand one hundred and Seventy One pounds fifteen Shillings and tenpence half penny for the use and Support of the Government of Georgia . . . (29 September 1773) (Georgia)

- An Act for raising the sum of twelve thousand pounds for the use and support of the Government of the State of Georgia for the year one thousand seven hundred and seventy-eight, to be raised at certain Rates and after the Method therein mentioned (4 May 1778) (Georgia)
- An Act, for Imposing a Tax on the Inhabitants of the State of Georgia, for the use and Support of the Government thereof . . . (31 July 1783) (Georgia)
- An Act, For imposing a Tax on the Inhabitants of the State of Georgia and other Persons holding Property real or Personal therein for the use and support of the Government thereof . . . (21 February 1785) (Georgia)
- An Act To impose on the inhabitants of this state for the support of the government for the year one thousand seven hundred and ninety-three (20 December 1792) (Georgia)
- An Act to raise a Tax for the support of Government for the year one thousand eight hundred and five (December 1804) (Georgia)
- An Act To raise a Tax for the support of Government for the political year 1818 (9 December 1817) (Georgia)

Maryland

- An Act For the common defraying of certain Publick charges (March 1638/39) (Maryland)
- An Act For Granting of one Subsedye (March 1641/42) (Maryland)
- An Order concerning the Assessment of this yeares Leavy & c. (April 1650) (Maryland)
- An Act Concerning the Leavying of Warre within the Province (April 1650) (Maryland)
- An Order for the raising of the Leavies (March 1650/51) (Maryland)
- Publique Levies (October 1654) (Maryland)
- Concerning Public Charge (1657) (Maryland)
- An acte Impowring the Governor and Councill to Rayse forces and mayntayne a warre without the Prouince and to ayde the Sasquehannough Indians (April/May 1661) (Maryland)
- An Act for the payment of the Publick Charge of the Province (April/ May 1669) (Maryland)
- An Act of Repeale of all Laws heretofore made in this Province and confirming all Laws made this General Assembly (May/June 1692) (Maryland)

- An Act empowering Commissioners of the County Courts to leavy and raise Moneys to defray the necessary charges of their Countyes (May/June 1692) (Maryland)
- An Act for the Constables taking a List of Taxables (May/June 1692) (Maryland)
- An Act for payment and Assessing the Publick Charges of this Province (1694) (Maryland)
- An Act for the payment and assessment of the publick Charge of this province (October/November 1710) (Maryland)
- An Act for the Assessment and Payment of the Publick Charge of this Province (September/October 1742) (Maryland)
- An Act for his Majesty's Service (24 July 1754) (Maryland)
- An Act for granting a Supply of Forty Thousand Pounds for his Majesty's Service, and striking Thirty Four Thousand and Fifteen Pounds Six Shillings thereof, in Bills of Credit, and raising a Fund for sinking the same (February/May 1756) (Maryland)
- An Act to assess and impose an equal Tax on all Property within this State (1777 Chap. 21) (Maryland)
- An Act for the assessment of property within this state (1779 Chap. 35) (Maryland)
- An Act to ascertain the value of the land in the several counties of this state for the purpose of laying the public assessments (March 1785) (Maryland)
- An Act for the valuation of personal property within this state (March 1785) (Maryland)
- An Act to raise the supplies for the year seventeen hundred and eighty-six (November 1785)
- An act for the valuation of real and personal property in the several counties of this State (November 1812) (Maryland)

Massachusetts

- An Act for Granting to Their Majesties an Assessment upon Polls & Estates (8 June 1692) (Massachusetts)
- An Act for Regulating the former Assessment, and for Granting an Additional Supply of Money (8 June 1692, Second Session) (Massachusetts)
- An Act for Granting unto Their Majesties a Tax of Twelve Pence a Poll, and One Penny on the Pound for Estates (30 May 1694) (Massachusetts)

- An Act, For granting a Tax upon Polls & Estates (29 May 1695)
(Massachusetts)
- An Act, For granting unto His Majesty a Tax upon Polls and Estate
(27 May 1696) (Massachusetts)
- An Act, For granting unto His Majesty a Tax upon Polls and Estates
(26 May 1697, third session) (Massachusetts)
- An Act, For granting unto His Majesty a Tax upon Polls and Estates
(25 May 1698) (Massachusetts)
- An Act directing how Rates or Taxes to be Granted by the General
Assembly shall be assessed and collected (31 May 1699)
(Massachusetts)
- An Act for granting unto His Majesty, A Tax upon Polls and Estates
(13 March 1700/01) (Massachusetts)
- An Act for better inquiry into the Rateable Estate of the respective
Towns (10 March 1702/03) (Massachusetts)
- An Act for Apportioning and Assessing of four several Taxes on Polls
and Estate, Pursuant to the Funds and Grants made to Her Majesty,
by the General Assembly, in the years 1704, 1705 and 1706 (29 May
1706) (Massachusetts)
- An Act for Apportioning and Assessing a Tax of Six Thousand
Pounds ... (May 1727) (Massachusetts)
- An Act for apportioning and assessing a Tax of Forty four
Thousand nine hundred and thirty Pounds ... (25 May 1737)
(Massachusetts)
- An Act for apportioning and assessing a Tax of Thirteen thousand
pounds ... (31 May 1738) (Massachusetts)
- An Act for apportioning and assessing the Sum of Eighty-one Thousand
three Hundred eighty-six Pounds thirteen Shillings and four Pence ...
(25 May 1757) (Massachusetts)
- An Act for apportioning and assessing a Tax of Ten Thousand three
hundred and twelve Pounds ten Shillings ... (7 June 1774)
(Massachusetts)
- An Act for apportioning and assessing a Tax ... (24 October 1777)
(Massachusetts)
- An Act for apportioning and assessing a Tax ... (1793, Tax No. 10)
(Massachusetts)
- An Act To apportion and assess a Tax of one hundred and thirty three
thousand, three hundred and two dollars ... (18 February 1819)
(Massachusetts)

New England

- An Act for the continuing and establishing of several Rates, Duties & Imports (3 March 1686/87) (New England)
- An Act for declaring the several laws made by the Governor and Council to be in force within the late Colony of Connecticut now annexed to this Government, and for settling the Times and Places of holding Courts there (29 December 1687) (New England)

New Hampshire

- General Lawes (1680) (New Hampshire)
- An Act for ye Supporte of ye Government, Repairing fortifications, strengthening the frontiers, & c. (October 1692) (New Hampshire)
- An Act for raising of money for supporte of the Government, in repairing Fortifications & for re-imbursing of the Treasury (August 1693) (New Hampshire)
- An Act for raising money for supporte of ye Government, in Repairing Fortifications and making provision for souldiers (1694) (New Hampshire)
- An Act for ye raising of six hundred and fifty pound to defray ye Publick charge of ye Province (8 June 1697) (New Hampshire)
- An Act for raising 550lbs for defraying the public charges of this Province (13 July 1701) (New Hampshire)
- A Bill for a Tax or assessment of 500lbs (19 January 1702/03) (New Hampshire)
- An act To Levy a Tax of one thousand pounds on The Poles & Estates within this Province (1 June 1723) (New Hampshire)
- An Act for the supply of the Treasury with the sum of six thousand five hundred pounds in Bills of Credit, for the discharge of the Publick debts of this Province and for other purposes in this Act hereafter mentioned (March 1736/37) (New Hampshire)
- An act for granting unto his most excellent Majesty the sum of Four thousand seven hundred and Twenty pounds in Bills of Credit on this Province equal to so much Proclamation money for supplying the Treasury for discharging the Public Debts and for other purposes in this Act hereafter mentioned, and for appropriating and drawing in of the Said Bills into the Treasury again (April 1742) (New Hampshire)
- An act for Emitting the sum of Twenty five thousand Pounds in Bills of Credit on this Province equal to so much Proclamation Money upon Loan, and for granting to his Majesty the Interest that shall arise

- thereby for the purposes in the said act mentioned (April 1742) (New Hampshire)
- An Act for the more equal proportioning the towns (23 June 1742) (New Hampshire)
- An Act for granting unto his Most Excellent Majesty the sum of Ten Thousand pounds Sterling for Levying, Clothing & Paying of Five hundred and thirty four men for securing his Majesty's Conquest in North America & for Levying One hundred & forty three men for recruiting his Majesty's Regular Corps in North America (22 March 1762) (New Hampshire)
- Acts and Laws of His Majesty's Province of New Hampshire in New-England With sundry Acts of Parliament (1771) (New Hampshire)
- An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs (2 January 1772) (New Hampshire)
- An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs (1776) (New Hampshire)
- An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs; and also for repealing certain acts herein after mentioned (11 June 1784) (New Hampshire)
- An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs; and also for repealing certain acts herein after mentioned (7 February 1789) (New Hampshire)
- An Act for establishing an equitable method of making taxes, and for ascertaining the powers of Selectmen (8 February 1791)
- An Act for making and establishing a new proportion for the assessment of public taxes among the several towns and places within this state, and to authorize the treasurer to issue his warrants for levying the same (21 December 1816) (New Hampshire)

New Jersey

- An Act for raising of Money for their Majesty's Service (1692) (East New Jersey)
- An Act for a Subsidy for Support of the Government (1693) (West New Jersey)
- An Act for raising a Tax (1696) (West New Jersey)

- An Act for Raising a Revenue for the Support of Her Majesties Government within this Province of New-Jersey, for two Years (December 1704) (New Jersey)
- An Act for Support of this Her Majesties Government of Nova Caesarea or New-Jersey, for One Year (March 1709/10) (New Jersey)
- An Act for raising Three Thousand Pounds for her Majesty's Service in this present Juncture (30 June 1709) (New Jersey)
- An Act for levying a Fund at different Periods by Provincial Taxes, for sinking the Sum of Fifteen Thousand three Hundred and two Pounds and four pence, now outstanding in Bills of Credit made current for His Majesty's Service in the late War (1753) (New Jersey)
- An Act to settle the Quotas of the several Counties in this Colony for the levying Taxes (6 December 1769) (New Jersey)
- An Act to raise a Fund by Taxation for discharging the Debts and defraying the necessary Expenses of the State of New-Jersey (26 March 1778) (New Jersey)
- An Act to raise the Sum of One Million of Pounds in the State of New-Jersey (8 June 1779) (New Jersey)
- An Act to raise the Sum of Three Million Three Hundred and Seventy-five Thousand Pounds, in the State of New-Jersey (18 December 1779) (New Jersey)
- An Act for raising a Revenue of Thirty-one Thousand Two Hundred and Fifty-nine Pounds Five Shillings per Annum, for the Term of twenty-five Years, for the Purpose of paying the Interest and Principal of Debts due from the United States, agreeably to a Recommendation of Congress of the eighteenth Day of April, One Thousand Seven Hundred and Eighty-three, and for appropriating the same (20 December 1783) (New Jersey)
- An Act to raise the Sum of Fifteen Thousand Pounds, in the Year One Thousand Seven Hundred and Ninety-four (17 February 1794) (New Jersey)
- An act to raise the sum of thirty thousand dollars, for the year of our Lord one thousand eight hundred and nineteen (10 February 1819) (New Jersey)

New York

- Duke of York's Laws (1665–75) (New York)
- A Continued Bill for defraying the requisite Charges of the Government (30 October 1683) (New York)

- An act for Repealing the former Lawes ab't Country Rates and allowances to the Justices of the Peace (1 November 1683) (New York)
- An Act for the Defraying of the publike & necessary Charge of each respective Citty, towne and County throughout the Province & for maintaining the poore, and preventing vagabonds (1 November 1683) (New York)
- A Bill ffor a ffree and Voluntary P'sent To The Govern'r (2 November 1683) (New York)
- Bill for raising of $\frac{1}{2}$ pence pr pound of every mans estate for the defraying ye expenses for the good of the province in England (14 June 1687) (New York)
- The Bill for Raiseing a penny in ye pound out of ye Estates of ye ffreeholders & Inhabitants of ye Kings, Queens, Dukes and Dutcheses Countys of Richmond, Orange, Westchester & Suffolk (20 August 1687) (New York)
- Bill to Raise one halfe penny per pound off all persons Estates in the Cittys and Countys of New York and in ye County of Ulster (2 September 1687) (New York)
- An act for raising the sume of two thousand five hundred and fifty-five pounds six shillings by or before the first day of November next (17 May 1688) (New York)
- An act for Raising Three pence in the Pound of all Reall and Personall visible Estate of all and singular the Inhabitanance of this Province, one halfe thereof to be paid at or before the 21 January Then next Ensuing and the other halfe at or before the 25th of March next Ensuing & that Assessors and Collectors for executing of sd Act be chosen by the freehollder of each Towne within this Province (15 September 1690) (New York)
- An Act for the defraying of the Publike and necessary charge throughout this Province and maintaining the poor and preventing Vagabonds (13 May 1691) (New York)
- An Act for the Raising and Levying of two Thousand pounds for paying and defraying the Incidentall charges, according to establishment of one hundred fusiliers with their officers for one whole Yeare (13 May 1691) (New York)
- An Act for raising and paying One hundred and fifty men to be forthwith raised for the Defence and reinforcement of Albany for six months (29 September 1691) (New York)

- An Act for granting their Majesties the Rate of one Penny per Pound upon all the Real and Personal Estates within the Province of New-York (12 November 1692) (New York)
- A Bill Granting unto his Ma'ty the Sume of two thousand pound fifteen hundred pounds whereof to be allowed to his Excel Richard Earl of Bellomont and five hundred Pounds to Capt. John Nanfan Leiv't Gov'r (16 May 1699) (New York)
- An Act for raising a Fund for the Defence of the Fronteers & other Uses (21 October 1706) (New York)
- An Act for Levying Six Thousand Pounds (1709) (New York)
- An Act for levying the Sum of Ten Thousand Pounds (1711) (New York)
- An Act for Discharging a Debt to the late Agents for this Colony at the Court of Great Britain, For Finishing and Compleating the Buildings in his Majesty's Fort George; for borrowing certain Sums for those purposes, out of the Funds therein mentioned, and for laying a Tax to make good such parts thereof as stand appropriated to particular uses (June 1726) (New York)
- An Act for raising a Supply of Forty Thousand Pounds by a Tax on Estates real and personal, for carrying on an Expedition against the French in Canada . . . (June 1746) (New York)
- An Act for Raising a Supply of Forty five thousand Pounds by a Tax on Estates Real and Personal for putting this Colony into a proper Posture of Defence for furthering his Majesties designs against his Enemy's in North America and other the purposes therein Mentioned; for Emitting Bills of Credit for the like Sum and for Sinking and Cancelling the Said Bills in Short Periods (19 February 1755) (New York)
- An Act for Raising a Supply of One hundred thousand Pounds for levying Paying and Cloathing Two thousand six hundred and Eighty effective men officers Included for forming with the Forces of the Neighbouring Colonies, an Army of Twenty thousand men To invade in Conjunction with a Body of his Majesty's Regular Troops the French Possessions in Canada; For Emitting Bills of Credit for the like Sum; and for Sinking and Cancelling the said Bills in Short Periods (7 March 1759) (New York)
- An Act for Emitting Bill of Credit to the amount of One Hundred and Fifty thousand pounds to enable his Majesties General to Pay the Debts Contracted and to Carry on His Majesties Service in North

- America and for Sinking the same within twelve months (3 July 1759) (New York)
- An Act for raising and collecting the Arrears of Taxes due to this Colony, from the City and County of New-York (16 February 1771) (New York)
- An Act for emitting the Sum of One Hundred And Twenty Thousand Pounds, in Bills of Credit, to be put out on Loan, and to appropriate the Interest arising thereon, to the Payment of the Debts of this Colony, and to such public Exigencies as the Circumstances of this Colony may, from Time to Time, render necessary (16 February 1771) (New York)
- An Act for raising Monies to be applied towards the public Exigencies of this State (28 March 1778) (New York)
- An Act for the Assessment and Collection of Taxes (1 April 1799) (New York)
- An Act To raise a Sum of Money for the use of this State by Tax, and for the further Support of Government (3 April 1799) (New York)
- An Act For the Assessment and collection of Taxes (5 April 1813) (New York)
- An Act to improve the funds and to provide for the redemption of the funded debt of this state (21 April 1818) (New York)

North Carolina

- An Act Concerning the Charge of the Governor and Councill (1669) (North Carolina)
- An Act for Establishing the Church and Appointing Select Vestrys (1711) (North Carolina)
- An Act for raising the sum of two thousand Pounds annually 'till the Publick Debts are answered and paid, and for the better encouraging the Currency of the Public Bills of Credit (1715) (North Carolina)
- An Act, for granting to His Majesty, the Sum of Fourteen Thousand One Hundred and Fifty Pounds Three Shillings and Two Pence, for the Service of the Public of this Province, and for laying a Tax on the Inhabitants of the same for the Payment thereof; and for Stamping the Sum of Ten Thousand Pound, Bills of Credit, for the more immediate Discharge of Part thereof (1734) (North Carolina)
- An Act for granting unto his Majesty the Sum of Twenty One Thousand Three Hundred and Fifty Pounds, Proclamation Money, and for

stamping and emitting the said Sum of Twenty One Thousand Three Hundred and Fifty Pounds, Public Bills of Credit of this Province, at the Rate of Proclamation Money; to be applied towards building Fortifications in this Province, Payment of the Public Debts, exchanging the present Bills of Credit, and for making proper Provision for defraying the Contingent Charges of the Government; and for repealing the several Laws hereinafter mentioned (1748) (North Carolina)

An Act for granting to his Majesty the Sum of Forty Thousand Pounds, in Public Bills of Credit, at the Rate of Proclamation Money, to be applied towards defraying the Expense of raising and subsisting the Forces for his Majesty's Service in this Province, to be sent to the assistance of his Majesty's Colony of Virginia and for other purposes therein mentioned (1754) (North Carolina)

An Act for granting a further Aid to his Majesty, to repel the French, and Indians in their Alliance, from their Encroachments on his Majesty's Territories in America, and other Purposes (1755) (North Carolina)

An Act for levying a Tax by General Assessment, and other Purposes (1777, Chap. 2) (North Carolina)

An act for ascertaining what property in this state shall be deemed taxable property, the method of assessing the same, and collecting public taxes (April 1782) (North Carolina)

An act for raising a revenue for the support of the government (April 1782) (North Carolina)

An Act providing Means for the Payment of the Domestic Debt, for appropriating certain Monies therein mentioned; and to amend an Act passed the last Session of the General Assembly, entitled "An Act for levying a Tax for Support of Government, and for the Redemption of the old Paper Currency, Continental Money, Specie and other Certificates" (November 1789) (North Carolina)

An Act to raise a revenue for the payment of the civil list and contingent charges of government for the year one thousand seven hundred and ninety four (1794) (North Carolina)

An Act to raise a Revenue for the payment of the Civil List and contingent Charges of the Government, for the year one thousand eight hundred and two (November 1801) (North Carolina)

An Act to provide a Revenue for the payment of the civil list and contingent charges of Government for the year one thousand eight hundred and nineteen (1818) (North Carolina)

Pennsylvania

Act of Union (1682) (Pennsylvania)

Law About County Levies (1684) (Pennsylvania)

An Act for granting to King William and Queen Mary the Rate of One Penny per Pound upon the clear Value of all the Real and Personal Estates, and Six Shillings per Head upon such as are not otherwise rated by this Act. To be employed by the Governor of this Province of Pennsylvania and Territories thereof, for the Time being, towards the Support of this Government (June 1693) (Pennsylvania)

An act for Raising the Rate of one penny per pound & six Shillings per head, upon such as are not otherwise rated thereby, To be Employed by the government for the time being as is herein after limited and appointed (October 1696) (Pennsylvania)

The Law for Raising County Levies (October 1696) (Pennsylvania)

The Law for Raising the rate of one penny per pound and six shillings per head & c. for the support of the government and the payment of the Debt & Defraying the necessarie charges thereof (May 1699) (Pennsylvania)

An Act For the Raising of one Penny per Pound, and Six Shilling per head, for support of Government (October 1700) (Pennsylvania)

An Act For Granting and Raising to the Proprietary and Governour the sum of Two Thousand Pounds (October 1700) (Pennsylvania)

An Act for Raising County Levys (1700) (Pennsylvania)

An Act for Raising a Supply of One Penny in the Pound, and Four Shillings a Head, and for Reviving other Acts therein mentioned (October 1714) (Pennsylvania)

An Act for raising a Supply of One Penny per Pound and Four Shillings a Head (August 1717) (Pennsylvania)

An Act for emitting and making current Fifteen Thousand Pounds in Bills of Credit (October 1722) (Pennsylvania)

An Act for the Emitting and Making current Thirty Thousand Pounds in Bills of Credit (October 1723) (Pennsylvania)

An Act for raising of County Rates and Levies (October 1724) (Pennsylvania)

An Act for granting the Sum of Sixty Thousand Pounds thereof in Bills of Credit, and to provide a Fund for sinking the same (October 1755) (Pennsylvania)

A Supplement to the Act, intituled "An Act for granting the Sum of Sixty Thousand Pounds thereof in Bills of Credit, and to provide

a Fund for sinking the same,” and for granting to His Majesty the additional Sum of One Hundred Thousand Pounds (23 March 1757) (Pennsylvania)

An Act for granting the Sum of One Hundred Thousand Pounds to his Majesty’s Use, and for striking the same in Bills of Credit; and for continuing the several Acts of Assembly of this Province herein after mentioned for sinking the Bills of Credit so to be struck, at the Times, and in the Manner hereinafter directed and appointed (18 August 1758) (Pennsylvania)

An Act for granting to His Majesty the Sum of Fifty-five Thousand Pounds, and for striking the same in Bills of Credit, in the Manner herein after directed, and for providing a Fund for sinking the said Bills of Credit, by a Tax on all Estates real and personal, and Taxables within this Province (May 1764) (Pennsylvania)

An Act for emitting the Sum of Two Hundred Thousand Pounds in Bills of Credit, for the Defense of this State, and providing a Fund for sinking the same by a Tax on all Estates real and personal, and on all Taxables within the same (20 March 1777) (Pennsylvania)

An Act for furnishing the quota of this state towards paying the annual interest of the debts of the United States; and for funding and paying the interest of the public debts of this state (16 March 1785) (Pennsylvania)

An Act to raise and collect county rates and levies (11 April 1799) (Pennsylvania)

Rhode Island

An Act ascertaining what Estate is Rateable, and for proportioning the same in Value (18 September 1744) (Rhode Island)

An Act directing how the Value of the Rateable Estates in this Colony shall be known, and each Town’s Proportion thereof (June 1747) (Rhode Island)

An Act for emitting more bills upon the credit of this colony, for and towards the carrying on the part by this government undertaken in the present expedition, for removing encroachments made by the French (12 June 1755) (Rhode Island)

An Act for taking a true Account of the Value of all Rateable Estates, and the Value of all Rateable Polls, within this Colony (1 February 1757) (Rhode Island)

- An Act for proportioning a rate of £100,000, old tenor, upon the several towns in this colony; and for ordering the same to be assessed, levied and collected, before or upon the last day of October next (17 June 1757) (Rhode Island)
- An Act for printing £10,000, lawful money, to pay off the troops, and get them to Albany; and the sum of £1000, of the like money, to carry on the building of the court house in Providence (May 1760) (Rhode Island)
- An Act for taking a just Estimate of the Rateable Estates in this Colony, in order that the Rates and Taxes may be equally assessed upon the Inhabitants (June 1767) (Rhode Island)
- An Act assessing and apportioning a Rate or Tax of Sixteen Thousand Pounds Lawful Money upon the Inhabitants of this State (26 March 1777) (Rhode Island)
- An Act for Enquiring into the Rateable Property of this State, and for taking a Just Estimate thereof, in order that the Rates and Taxes may be equally assessed upon the Inhabitants (October 1778) (Rhode Island)
- An Act for granting and apportioning a Tax of Six Thousand Pounds, Lawful Money, upon the Inhabitants of this State (June 1791) (Rhode Island)
- An Act for taking a general Estimate of the rateable Property within the State, and of that belonging to the Inhabitants being without the State (June 1795) (Rhode Island)
- An Act for granting and apportioning a Tax of Ten Thousand Dollars (June 1818) (Rhode Island)

South Carolina

- An Act for raising a Tax of Four Hundred Pound, or the Value thereof, for Defraying the publick Charges of this Province (8 June 1682) (South Carolina)
- An Act for raising a Tax of £500 sterling, for the defraying the publick charges of this Province (25 September 1683) (South Carolina)
- An Act for the raising of £500 sterling, besides the Assessors' particular assessments, for the defraying the public charges of this Province (11 April 1685) (South Carolina)
- An Act to levy and impresse Men, Arms, & c. for the defence of the Government, and for the assessing 500 Pounds, & c. (15 October 1686) (South Carolina)

- An Act for raising £300, for building Galleyes and for providing store of provisions for the same, for the defence of the country (28 February 1686/87) (South Carolina)
- An Act for raising money for the Publick use and defence of this Province (28 August 1701) (South Carolina)
- An Act for raising the sum of £4000 on the Real and Personal Estates, and of and from the Profits and Revenues of the Inhabitants of this Province, and establishing of Bills of Credit for satisfying the Debts due by the Publick on account of the Late Expedition against St. Augustine (8 May 1703) (South Carolina)
- An Explanatory Act to an Act entitled an Act for the Raising the Sum of £4000 on the Real and Personal Estates, and of and from the Profits and Revenues of the Inhabitants of this Province, to Pay and Cancell the Bills of Credit now outstanding . . . (17 February 1704/05) (South Carolina)
- An Act for raising the Sum of Fifty-two Thousand Pounds, by stamping and establishing new Bills of Credit and putting the same out to interest, in order to call in and sink the former Bills of Credit, and thereby give a further encouragement to Trade and Commerce (7 June 1712) (South Carolina)
- An Act for raising the sum of Thirty Thousand Pounds of and from the Estates real and personal of the Inhabitants of this Province, in order to sink the like sum of Thirty Thousand Pounds in Bills of Credit, stampd for the more speedy carrying on and defraying the charges of the War against our Indian Enemies and their Confederates, as also for raising the Sum of Thirty Thousand Pounds towards discharging the Debts contracted by the publick since the commencement of the War (27 August 1715) (South Carolina)
- An Act to continue the Currency of Thirty Thousand Pounds in Bills of Credit . . . as also to continue the currency of Five Thousand Pounds in Bills of Credit . . . and also to raise and levy the Sum of Ninety-five Thousand Pounds . . . of and from the Lands and Negroes of the Inhabitants of this Province . . . (30 June 1716) (South Carolina)
- An Act for raising the sum of Seventy Thousand Pounds, on Lands and Negroes, for defraying the Public Debts, sinking the Public Orders, and for the calling in, cancelling and sinking the sum of Thirty Thousand Pounds, which is now standing out in Bills of Credit, over and beside the Bank Bills (20 February 1718/19) (South Carolina)
- An Act for raising the sum of forty-one thousand five hundred and eleven pounds nine shillings and ten pence half-penny, for defraying

- the charges of the Government for one year . . . (9 April 1734) (South Carolina)
- An Act for granting to His Majesty the sum of thirty five thousand eight hundred and thirty-three pounds six shillings and eleven pence three farthings, for defraying the charges of the Government for one year . . . (18 December 1739) (South Carolina)
- An Act for raising and granting to His Majesty, the Sum of Fifty two Thousand Eight Hundred and Twenty-seven Pounds . . . (13 June 1747) (South Carolina)
- An Act for raising and granting to His Majesty, the Sum of Thirty-seven Thousand, Eight Hundred, and Ninety-eight Pounds . . . (11 May 1754) (South Carolina)
- An Act for raising and granting to his Majesty the sum of one hundred and sixty-six thousand four hundred and thirty-eight pounds fourteen shillings and seven pence farthing . . . to defray the charges of this Government . . . (19 May 1758) (South Carolina)
- An act for raising and granting to his Majesty the sum of two hundred and forty six thousand six hundred and ninety three pounds two shillings and five pence . . . to defray the expence of the late expedition against the Cherokee Indians . . . (31 July 1760) (South Carolina)
- An Act for raising and granting to his Majesty the sum of one hundred and sixty three seven hundred and ten pounds six shillings and one penny . . . to defray the charges of this Government . . . (31 July 1760) (South Carolina)
- An Act for raising and granting to his Majesty the sum of two hundred and twenty thousand three hundred and seventy pounds seven shillings and three pence . . . to defray the charges of this Government . . . (6 October 1764) (South Carolina)
- An Act for raising and granting to His Majesty, the Sum of . . . (6 April 1765) (South Carolina)
- An Act for raising and granting to His Majesty, the Sum of . . . (28 May 1767) (South Carolina)
- An Act For raising and paying into the Public Treasury of this State the Tax therein mentioned, for the Use and Service thereof (January 1777) (South Carolina)
- An Act For raising and paying into the Public Treasury of this State the Tax therein mentioned, for the Use and Service thereof (12 March 1783) (South Carolina)
- An Act For raising Supplies for the Year 1790 (20 January 1790) (South Carolina)

An Act for raising Supplies for the year one thousand seven hundred and ninety-six (20 December 1796) (South Carolina)

An Act to raise Supplies for the year one thousand eight hundred and eighteen, and for other purposes therein mentioned (18 December 1819) (South Carolina)

Vermont

An Act directing Listers in their Office and Duty (11 February 1779) (Vermont)

Virginia

An act for raising the sum of twenty thousand pounds, for the protection of his majesty's subjects, against the insults and encroachments of the French; and for other purposes therein mentioned (1754) (Virginia)

An Act to explain an act, intituled, An act for raising the sum of twenty thousand pounds, for the protection of his majesty's subjects, against the insults and encroachments of the French; and for other purposes therein mentioned (1755) (Virginia)

An Act for raising the sum of forty thousand pounds, for the protection of his majesty's subjects on the frontiers of this colony (1755) (Virginia)

An Act for raising the sum of thirty-two thousand pounds, for the relief of the garrison of Fort Loudoun in the Cherokee country (May 1760) (Virginia)

An Act for the better support of the contingent charges of government (1769) (Virginia)

An Act for raising a supply of money for publick exigencies (October 1777) (Virginia)

An act for ascertaining certain taxes and duties, and for establishing a permanent revenue (November 1781) (Virginia)

An act imposing new Taxes (October 1786) (Virginia)

An act concerning the taxes of the year one thousand seven hundred and ninety-one (October 1791) (Virginia)

An Act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue (13 December 1792) (Virginia)

An act imposing taxes for the support of Government (4 March 1819) (Virginia)

The Caribbean

Antigua

- An Act for the settlement of the Custom or Duty of four & an half per Cent (19 May 1668) (Antigua)
- An Act for the Rayseing of a publicque Treasury (15 September 1668) (Antigua)
- An Act for the Rayseing a new Levy (5 March 1679/80) (Antigua)
- An Act for the Continuing the Tax upon Lands re: according to a former Act (8 April 1680) (Antigua)
- An Act for Raising a further Revenue for discharging the necessary charges and for support of the Government of this Island of Antigua for this present year 1688 And for the time of his Excellency Nathaniel Johnsons Personal Residence and Adbode in this Island (1 February 1688/89) (Antigua)
- An Act for raising an Impost on all Liquors Imported into this Island (1697) (Antigua)
- An Act for raising a Tax of 1240000 lbs of Sugar or Value for paying publick Debts & Charges & the Support of the Government (22 April 1697) (Antigua)
- An Act for raising a Tax of 1100000 lbs of Sugar for paying public Debts & Charges & the Support of the Government (22 December 1698) (Antigua)
- An Act for raising a Tax of nine thousand five hundred pounds mony for paying publick Debts and Charges (28 June 1702) (Antigua)
- An Act for raising a Tax of Twelve Thousand Pounds Mony for paying publick Debts and Charges (15 March 1703/04) (Antigua)
- An Act for raising a Tax of Twenty one thousand pounds mony for paying publick Debts and Charges (1 June 1706) (Antigua)
- An Act for raising a Tax of Eighteen thousand pounds money for defraying publick Debts and Charges (4 June 1711) (Antigua)
- An Act for raising a Tax of Sixteen Thousand Pounds money for defraying Publick Debts and Charges (21 May 1713) (Antigua)
- An Act for raising a Tax of Twelve Thousand pounds Money for defraying publick Debts and Charges (25 February 1715/16) (Antigua)
- An Act for Raising a Tax of Thirteen Thousand Pounds money to Defray Publick Debts and Charges (8 February 1716/17) (Antigua)

- An Act for raising a Tax for Paying Publick Debts and Charges and particularly applying the said Tax and what shall be raised by the perpetual Liquor Act (11 April 1721) (Antigua)
- An Act for Raising a Tax for paying Publick Debts and Charges and particularly applying the said Tax (17 February 1726/27) (Antigua)
- An Act for Raising a Tax for Paying Publick Debts and Charges and Particularly applying the said Tax (1 May 1740) (Antigua)
- An Act for Encreasing the Number of White Inhabitants of this Island (11 February 1740/41) (Antigua)
- An Act for Raising a Tax for Paying Publick Debts and Charges and particularly Applying the said Tax (26 April 1750) (Antigua)
- An Act raising a Tax for paying public Debts and Charges and particularly applying the said Tax (5 May 1761) (Antigua)
- An Act raising a Tax for paying public Debts and Charges and particularly applying the said tax (14 May 1763) (Antigua)
- An Act for raising a tax for paying publick debts and charges and particularly applying the said tax (15 June 1764) (Antigua)
- An Act for providing an additional Support for His Excellency William Woodley Esquire during his Government and appointing particular Funds for the payment thereof (17 April 1768) (Antigua)
- An Act for raising a Tax for paying Publick Debts and Charges and particularly applying the said Tax (9 June 1768) (Antigua)
- An Act for raising a Tax for paying Publick Debts and Charges and particularly applying the said Tax (15 June 1770) (Antigua)
- An Act Raising a Tax for paying Public Debts and Charges, and particularly applying the said Tax (13 August 1774) (Antigua)
- An Act raising a Tax for paying Public Debts and Charges and particularly applying the said Tax (16 September 1775) (Antigua)
- An Act raising a Tax for paying Public Debts and Charges and particularly applying the said Tax (16 August 1777) (Antigua)
- An Act raising a Tax for paying Public Debts and Charges and particularly applying the said Tax (12 October 1778) (Antigua)
- An Act for enabling Persons herein named to Borrow a Sum not exceeding Twenty Thousand Pounds Sterling Money of Great Britain on the Public Credit of this Island by means of drawing Bills on the Lords Commissioners of his Majesty's Treasury for the immediate Purchasing of Provisions to be Deposited in Public Granaries in the said Island to be Distributed amongst all the Owners or Possessors of Slaves within the same in Certain proportions and for raising and levying Certain Capitation Taxes on all the said Slaves as a Fund for

paying the Principal and Interest and for Supporting the accruing Expences and for Providing Payment eventually for all Damages Costs and Charges incident to Drawing Bills of Exchange for the said Sum of Money and for Securing and Indemnifying the Persons for drawing and endorsing the said Bills and for Reimbursing the Public thereon by charging each Individual with their Proportion of Cost and Charges (3 July 1779) (Antigua)

An Act for granting an Aid of Negro Labour to His Majesty for the purposes of Erecting Works and Fortifications upon Dows Hill in this Island (31 July 1790) (Antigua)

An Act for raising a Fund to defray the Expences of this Island occasioned by the present War since the first day of June in the Year of our Lord one thousand seven hundred and ninety four (15 June 1795) (Antigua)

An Act for raising a Fund to defray the extraordinary Expences of this Island occasioned by the present War and not yet provided for (27 May 1797) (Antigua)

An Act for providing an additional Support and convenient Habitation for the residence of His Excellency The Right Honorable Ralph Lord Lavington Baron of Lavington during his actual residence within the Government of these His Majesty's Leeward Charibbee Islands and for appointing particular Funds for the payment thereof (26 February 1801) (Antigua)

An Act for laying a tax to be applied to the payment of the public debts and charges of the Island (14 November 1817) (Antigua)

An Act for raising a Sum of Money to be applied to the payment of the Public Debts and Charges of this Island (5 February 1819) (Antigua)

Barbados

An Act for one pound of Cotton or Tobacco, per Acre, to the Governor for this present year (1643) (Barbados)

An Act for payment of twenty pounds of Cotton or Tobacco, per head, by those that are not Free-holders (1643) (Barbados)

An Act for the half pound of Cotton, per Acre (1643) (Barbados)

An Act importing the Customs imposed and granted by the Council and Gentlemen of the Assembly, to the Right Honourable Francis Lord Willoughby of Parnham, Lord Lieutenant General of the Province of Carliola, and Governor of Barbados; and also his Lordship's confirmation of the Rights of the Inhabitants of this Island, to their

- several Estates, with the Tenure and Rent thereon created (25 Oct. 1650) (Barbados)
- An Act for mending the High-ways, with an addition to the same (17 September 1652) (Barbados)
- An Act for the appointing, and regulating a convenient Sallary for the maintenance of the several Ministers within this Island (21 December 1652) (Barbados)
- An Act for the Settling the Trained bands within this Island (1652) (Barbados)
- An Act for Settling the Regiment of Horse within this Island (21 December 1653) (Barbados)
- An Act of Imposition or Levy, upon all Merchants, Store-housekeepers, and Retailers within this Island (12 February 1660/61) (Barbados)
- An additional Act for the more speedy levying, and collecting the five pounds of Sugar per Acre (12 February 1660/61) (Barbados)
- An Act for the better Amending, Repairing, and keeping clean thee common High-ways and known Broad-paths within this Island, leading to Church and Market; and for laying out new Ways, and turning old Ways where it shall be needful (9 January 1661/62) (Barbados)
- An Act for settling an Impost on the Commodities of the growth of this Island (12 September 1663) (Barbados)
- An Act for the speedy raising and collecting of five hundred thousand pounds of Sugar, towards defraying the charges of forifing this Island, against the present danger (10 February 1665/66) (Barbados)
- An Act for the raising a present levy of Sugar, to defray the charges indent to the making of Breast-works, at the several Landing-places about this Island, to answer the present occasion (14 April 1666) (Barbados)
- An Act for the raising a sum of Goods for the needful public use of this Island; and other his Majesty's affairs in the relieving of the Leeward-Islands (9 May 1667) (Barbados)
- An Act requiring the execution of the former Acts for four pounds of Sugar per Acre, fifteen pounds of Sugar per head, and six pounds of sugar per Acre; and for five pounds of Sugar per Head, and two pounds of Sugar per Acre (29 August 1668) (Barbados)
- An Act for levying three pound of Sugar an Acre upon Land, and ten pounds of Sugar per head, upon Negroes (14 January 1674/75) (Barbados)

- An Act to burden those who have Rent-charges, and profits issuing out of Lands and Negroes in this Island, to bear a proportion of Taxes (29 November 1676) (Barbados)
- An Act for raising a levy of two pounds of Sugar per Acre, and five pounds of Sugar per Negro; to defray the charge of rebuilding and repairing our several Fortifications and Breast-works; and for payment of the public Debts of the Island (20 March 1676/77) (Barbados)
- An Act for a Levy upon Land and Negroes; to discharge the necessitous Debts; and for providing for the security of this Island (29 April 1682) (Barbados)
- An Act for a levy upon Negroes (3 September 1685) (Barbados)
- An Act for a levy upon Negroes (17 September 1689) (Barbados)
- An Act for a levy upon Negroes (23 October 1689) (Barbados)
- An Act for a levy upon Negroes (20 November 1689) (Barbados)
- An Act for a levy upon Mills, Negroes and Inhabitants of the several Towns within this Island, for their Houses, Trade and personal Estates (13 May 1691) (Barbados)
- An Act for raising a Levy, to discharge the Debts of this Island (17 April 1694) (Barbados)
- An Act for raising a Levy to set out Ships and encourage Privateers (14 May 1696) (Barbados)
- An Act for raising a levy to discharge the Public Debts of this Island (27 February 1699/1700) (Barbados)
- An Act for raising a Levy to defray the charge of repairing the Fortifications (29 March 1701) (Barbados)
- An Act for laying a duty on Negroes and other Slaves imported to this Island (28 November 1705) (Barbados)
- An Act to raise a Levy on the several Inhabitants of this Island (6 January 1708/09) (Barbados)
- An Act to raise a Levy on the several Inhabitants of this Island (9 June 1713) (Barbados)
- An Act for supporting the honour and dignity of the Government (26 February 1722/23) (Barbados)
- An Act to raise a Levy on the Inhabitants of this Island, and to establish a method to supply the want of Cash, for the payment of the Public debts (31 December 1723) (Barbados)
- An Act for the better support of his Excellency, and the dignity of the Government of this Island (29 May 1733) (Barbados)

- An Act for supplying the deficiency of the Excise; and for raising money for other public uses (16 April 1734) (Barbados)
- An Act for raising a Levy on the Inhabitants of this Island, to supply the deficiency of the Excise, in paying the public debt; and the annual expenses of the Government of this Island (9 December 1737) (Barbados)
- An Act for raising a sum of money yearly, to defray the expences of the Government (28 September 1742) (Barbados)
- An additional Act to an Act, entitled “An Act for raising a sum of money yearly, to defray the expences of the Government” (26 May 1747) (Barbados)
- An Act for raising a Levy, to defray the expenses of the Government (19 February 1754) (Barbados)
- An Act for raising a sum of Money yearly, to defray the Expenses of the Government (31 August 1756) (Barbados)
- An Act for raising an additional Levy on the Inhabitants of this Island, to answer the necessary expences of the Government, for the current year (28 April 1758) (Barbados)
- An Act for discharging the Suspension of the Payment of the present fifteen penny Levy: And also for raising an Additional Levy on the Inhabitants, to Answer the Exigencys, as well as the current Expences of the Present Year (8 October 1761) (Barbados)
- An Act for raising a Sum of Money to defray the Expenses of the Government for the Current Year (24 February 1767) (Barbados)
- An Act for raising a Sum of Money yearly to defray the Expences of the Government (15 March 1768) (Barbados)
- An Act in Addition to an Act Intituled An Act for raising a Sum of Money yearly to defray the Expences of the Government and for Altering the Time appointed by the said Act for the giving in of Slaves Windmills Cattle Mills Potkilns and Carriages (21 January 1772) (Barbados)
- An Act for raising a Sum of Money to defray the Expences of the Government Yearly (17 February 1774) (Barbados)
- An Act in addition to an Act intituled “an Act for raising a Sum of Money to defray the Expences of the Government Yearly” (16 May 1775) (Barbados)
- An Act for raising a further additional Levy on the Inhabitants to defray the expence to be incurred in guarding the Island against Invasion (16 September 1778) (Barbados)

- An Act declaring the right of establishing Fees to be only in the three Branches of the Legislature in their Collective Body, and for the better support of his Excellency and the Dignity of the Government of this Island (21 January 1783) (Barbados)
- An Act for raising a further additional Levy on the Inhabitants of this Island was well for discharging the Debts of the Publick as to defray the Expences of the Government for the present year (9 May 1786) (Barbados)
- An Act for raising a further Additional Levy on the Inhabitants of this Island was well for discharging the debts of the publick as to defray the Expences of the Government for the present year (16 December 1788) (Barbados)
- An Act for raising a sum of money, as well for discharging the debts of the public, as to defray the expences of the government for the present year (18 May 1790) (Barbados)
- An Act for granting to His Excellency a Salary of three thousand pounds per annum for his better Support and the dignity of the Government of this Island and for Establishing a fund for the payment of it (25 January 1791) (Barbados)
- An Act for raising a further additional Levy on the Inhabitants of this Island to defray the Expences of the Government for the Present Year (6 March 1792) (Barbados)
- An Act for raising a Sum of Money, as well for discharging the Debts of the Public as to defray the Expences of the Government for the present Year (11 March 1794) (Barbados)
- An Act for the better support of his Excellency George Loyntz Ricketts Esquire during his Administration of the Government of this Island (4 June 1794) (Barbados)
- An Act for the better support of his Excellency the Right Honorable Francis Lord Seaforth during his Administration of the Government of this Island (14 April 1801) (Barbados)
- An Act for raising an additional Levy on the Inhabitants of this Island to answer the current Expences of the Present Year (18 June 1805) (Barbados)
- An Act for the better support of His Excellency Sir George Beckwith, Knight of The Most Honorable Order of the Bath, His Majesty's Captain General and Governor in Chief of this Island, Chancellor Ordinary and Vice Admiral of the same during his Administration of the Government of this Island (14 August 1810) (Barbados)

- An Act for the better support of His Excellency The Right Honorable Stapleton Lord Combermere, Knight Grand Cross of the Most Honorable Military Order of the Bath and of the Portuguese Royal Military Order of the Tower and Sword His Majesty's Captain General and Governor in Chief of this Island, Chancellor Ordinary and Vice Admiral of the same during his Administration of the Government of this Island (17 June 1817) (Barbados)
- An Act for raising an additional Levy on the Inhabitants of this Island to answer the Current Expenses of the present Year (21 July 1818) (Barbados)

Bahamas

- An Act for Levying divers Sums of money for defraying the Publick Charges of these Islands (10 November 1729) (Bahamas)
- An Act for settling Claims and paying of Quit Rents (10 November 1729) (Bahamas)
- An Act for Levying divers Sums of Money for the Payment of Officers Salaries Defraying the Expences of holding Assemblies and other contingent Charges of the Government (17 December 1734) (Bahamas)
- An Act to impose a further levy upon all Taxables in the Government for the building a Convenient dwelling House and settling a Salary for the Support of a School-Master (1746) (Bahamas)
- An Act for raising a Fund for the payment of Officers Salaries, defraying the Expence of holding Assemblies and other Contingent Charges of the Government of these Islands, and for Ascertaining the said Salaries (30 April 1760) (Bahamas)
- An Act for raising a Fund for the payment of Officers Salaries defraying the Expences of holding Assemblies and other Contingent Charges of the Government of these Islands, and for Ascertaining the said Salaries (11 May 1762) (Bahamas)
- An Act for reviving for a time herein mentioned, an act intituled an act raising a fund for the payment of Officers salaries, defraying the expence of holding assemblies and other contingent charges of the Government of these Islands, and for ascertaining the said salaries (22 May 1764) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments, and for levying the Arrears of Taxes due for the several Years herein

- mentioned, and directing how the same shall be Collected and applied (14 January 1767) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein Mentioned, and directing how the same shall be collected and applied (12 March 1771) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein Mentioned, and directing how the same shall be collected and applied (12 February 1773) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein Mentioned, and directing how the same shall be collected and applied (24 December 1774) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein mentioned, and directing how the same shall be collected and applied (21 December 1776) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein mentioned, and directing how the same shall be collected and applied (3 April 1780) (Bahamas)
- An Act for raising a sum of Money and empowering Commissioners for putting this Island in a better state of Defence (3 April 1780) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein mentioned, and directing how the same shall be collected and applied (21 February 1781) (Bahamas)
- An Act for laying a Poll Tax, and other Taxes and Assessments for the year therein mentioned, and directing how the same shall be collected and applied (20 May 1784) (Bahamas)
- An Act for laying a Poll Tax and certain other Assessments and Taxes for the year therein mentioned and directing how the same shall be collected and applied (26 June 1789) (Bahamas)
- An Act for imposing and laying certain Assessments and Taxes for the Year therein mentioned and directing how the same shall be collected and applied (8 August 1792) (Bahamas)
- An Act for imposing and laying certain Assessments for the Year therein mentioned and directing how the same shall be collected and applied (16 September 1793) (Bahamas)
- An Act to Oblige the several Inhabitants of these Islands and owners of Slaves therein to provide themselves with a sufficient Number of White Men on their respective Plantations or pay certain Sums of Money in case they shall be Deficient (11 May 1797) (Bahamas)

- An Act for imposing and laying certain Rates, Assessments and Taxes for the Year therein mentioned, and directing how the same shall be Collected and applied (18 November 1797) (Bahamas)
- An Act for imposing and laying certain Rates, Assessments and Taxes for the Year therein mentioned, and directing how the same shall be Collected and applied (2 December 1799) (Bahamas)
- An Act for imposing and laying certain Rates, Assessments and Taxes therein mentioned, for altering the mode of assessing the same and for other Purposes therein mentioned (22 December 1806) (Bahamas)
- An Act for imposing and laying certain Rates Assessments and Taxes therein mentioned and for other purposes (29 December 1815) (Bahamas)

Dominica

- An Act for Raising a general Fund for defraying the Public Debts of This Island (2 June 1772) (Dominica)
- An Act for laying a Tax on all Wood Land in this Island and to Encourage the Speedy Cultivation of the same (2 June 1772) (Dominica)
- An Act for raising a Fund towards defraying the present and contingent Debts of this Colony by licencing and taxing Taverns Tippling Houses Billiard Tables etc. in this Island (14 August 1773) (Dominica)
- An Act for Raising a fund towards defraying the Publick Debts of this Island (12 October 1774) (Dominica)
- An Act For laying a Tax on all Wood land in this Island and to Encourage the Speedy Cultivation of the same (1774) (Dominica)
- An Act for raising a Fund towards defraying the Public Debts and contingent Expences of this Colony (2 May 1785) (Dominica)
- An Act for raising a Fund towards paying the publick Debts and contingent Expences of the Colony (4 August 1786) (Dominica)
- An Act to continue for a limited Time An Act of this Island entitled An Act for raising a Fund towards paying the Public Debts and contingent Expences of the Colony (17 November 1787) (Dominica)
- An Act to revive and continue for a further limited Time two several Acts of this Island the one entitled “An Act for raising a Fund towards defraying the present and contingent Debts of the Colony by taxing and licencing under certain Regulations and Restrictions Taverns Punch Houses Tippling Houses and Public Billiard Tables and for

encouraging Persons to keep eating Houses and Lodgings and to prevent Planters or any Person or Person on their Plantations from selling Rum to Slaves” and the other entitled “An Act for raising a fund towards paying the Public Debts and Contingent Expences of the Colony” (22 February 1788) (Dominica)

An Act for raising a Fund towards paying the public Debts and contingent Expences of the Colony (12 March 1789) (Dominica)

An Act to raise a Fund for defraying the Expence of the Civil Government for discharging the Debts of the Colony and for appropriating the said fund and for other purposes (19 April 1803) (Dominica)

An Act to raise a Fund for defraying the Expense of the Civil Government for discharging the Debts of the Colony and for appropriating the said Fund and for other purposes (25 February 1806) (Dominica)

An Act to raise a Fund for defraying the expenses of the Civil Government for discharging the debts of the Colony and for appropriating the said Fund and for other purposes (2 June 1817) (Dominica)

An Act to raise a Fund for defraying the expenses of the Civil Government for discharging the debts of the Colony and for appropriating the said Fund and for other purposes (22 April 1818) (Dominica)

An Act to raise a Fund for defraying the Expense of the Civil Government for discharging the Debts of the Colony and for appropriating the said Fund (19 August 1820) (Dominica)

Grenada

An Ordinance for the better Collecting and Receiving the Capitation Tax (10 February 1766) (Grenada)

An Act for Raising a Sum of Money, to pay off the Debts of these Islands, and to answer the present Exigencies of the Publick (20 April 1767) (Grenada)

An Ordinance for the Establishing an Assembly in the Island of Dominica, and Regulating the Elections thereof (12 September 1767) (Grenada); CO 103/3 p. 127.

An Act for providing an Additional Support for His Excellency William Leyborne Esquire, during his Government, and appointing particular funds for the Payment thereof (4 July 1772) (Grenada)

An Act for Raising a Sum of Money on the Inhabitants of this Island and Appropriating the sum to defray the Incidental Current Expences and to the Discharge of the Publick Debts of these Islands (19 January 1776) (Grenada)

- An Act for providing an Additional Support for His Excellency the Right Honorable Sir George Macartney Knight of the Bath Captain General and Governor in Chief in and over His Majesty's Islands of Grenada the Grenadines and Tobago Chancellor Ordinary and Vice Admiral of the same during his Government and appointing particular funds for the payment of the same (26 July 1776) (Grenada)
- An Act for granting an Aid to His Majesty by Taxes to be raised in the Islands of Grenada and the Grenadines and for appropriating the same towards discharging the Public Debts and defraying the Current Expences of the said Islands (12 October 1778) (Grenada)
- An Act for providing an Additional Support for His Excellency, Edward Mathew, Esquire, Lieutenant-General of His Majesty's Forces, Captain-General and Governor in Chief, in and over the Island of Grenada, and such of the Islands commonly called the Grenadines to the Southward of the Island of Carriacou including that Island and lying between the same and Grenada in America, Chancellor, Ordinary and Vice-Admiral of the same, during his Government, and Appointing particular Funds for the Payment of the same (20 February 1784) (Grenada)
- An Act for granting an Aid to His Majesty by Taxes to be raised in the Island of Grenada and the other Islands thereon depending, and for appropriating the same towards discharging the Public Debts and defraying the Current Expences of the said Islands (5 July 1784) (Grenada)
- An Act for providing an additional Support for His Excellency Charles Green Esquire, Captain General and Governor in Chief, in and over the Island of Grenada, and Such of the Islands commonly called the Grenadines to the Southward of the Island of Carriacou including that Island and lying between the same and Grenada in America Chancellor Ordinary and Vice-Admiral of the same, during his Government, and appropriating particular funds for the purpose (13 May 1797) (Grenada)
- An Act for granting an aid to His Majesty by a general tax to be imposed upon the Inhabitants of Grenada and its Dependencies to be applied towards the discharge of the Public Debts and of the Current and incidental expences of the said Islands (12 July 1800) (Grenada)
- An Act for granting an Aid to His Majesty by Taxes to be imposed upon the Inhabitants of Grenada and its Dependencies and for imposing a Tax upon the Importation of Madeira Wine and Foreign Spirits to be applied towards the Discharge of the Public Debts and of the

Current and Incidental Expences of these Islands (21 June 1809)
(Grenada)

An Act for Granting an Aid to His Majesty by Taxes to be imposed upon the Inhabitants of Grenada and its Dependencies and for imposing a Tax Upon the Importation of Madeira Sicilian Teneriffe and Spanish Wines to be Applied towards the Discharge of the Public Debts and of the Current and incidental Expences of these Islands (28 August 1819)
(Grenada)

Jamaica

An Act for the Speedy Raising of a Publique Treasure (undated, assumed 1664) (Jamaica)

Act for the raising of a Publique Revenue out of all strong Liquors imported or to be imported into the Island (undated, assumed 1664)
(Jamaica)

An Act for raising money for soliciting the Affairs of this his Majesties Island in England (21 September 1682) (Jamaica)

An Act for raising a Publick Revenue for the Support of the Government of this his Majesty's Island (5 September 1683) (Jamaica)

An Act for raising Money for and towards the Defence of this Island (1693) (Jamaica)

An Act for raising Money, as a further Aid to Their Majesties, for and towards the Defence of this Their Island of Jamaica (1693) (Jamaica)

An Act for raising Money to discharge the Debts contracted in the late Invasion of the French (1695) (Jamaica)

An Act for completing the Payment of the Debts contracted during the late Invasion, and erecting and finishing the Fortifications at Port-Morat (1696) (Jamaica)

An Act for raising several Sums of Money to discharge the publick Debts, and providing Funds for the Safeguard of the Island (22 August 1702) (Jamaica)

An Act for raising Money for providing an Addition to the Subsistence of Her Majesty's Officers and Soldiers, and for other Uses (16 June 1703) (Jamaica)

An Act For Raising a Revenue to her Majestie her Heirs and Successors for the Support of the Government of this Island And for Maintaining and repairing Her Majesty's Forts and Fortifications (2 November 1703) (Jamaica)

- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient Number of white People, and to maintain such as shall come over within a certain Time, or pay certain Sums of Money in case they shall be deficient; and applying the same to several Uses (10 November 1716) (Jamaica)
- An Act for granting a Supply to His Majesty, to enable the Treasury to discharge its Debts, and to answer the other Exigences of the Government (10 November 1716) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient Number of white People, and to maintain such as shall come over within a certain Time, or pay certain Sums of Money in case they shall be deficient; and applying the same to several Uses (25 November 1721) (Jamaica)
- An Act for granting a Supply to His Majesty for several Uses (12 November 1723) (Jamaica)
- An Act for granting a Revenue to His Majesty, His Heirs and Successors, for the Support of the Government of this Island; and for reviving and perpetuating the Acts and Laws thereof (10 April 1728) (Jamaica)
- An Act for raising of Money, and applying the same to the Use of Parties to be sent out to dislodge and reduce the rebellious Slaves in the Windward and other Parts of this Island (9 July 1730) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades, Offices and Rents and Applying the same to several Uses (19 February 1730/31) (Jamaica)
- An Act for Raising Several Sums of Money and Applying the Same to Several uses for Subsisting the Officers and Soldiers of the Two Independent Companys, Preventing the Exportation of Several Comodities into the French and Spanish Island and Subjecting the Party Men to the Rules and Articles of Warr in force in this Island in the time of the last Martial Law (1 August 1733) (Jamaica)
- An Act for Raising several Sums of Money, and applying the same to several Uses; and for subsisting the Officers and Soldiers of the Six Independent Companies expected (9 March 1733/34) (Jamaica)
- An Act for raising of Money and Applying the Same to the use of Parties to be Sent out to reduce the Rebellious Negroes (9 March 1733/34) (Jamaica)
- An Act for Raising several sums of Money and Applying the same to several Uses; And for Subsisting the Officers and Soldiers of the Six Independent Companys Expected (31 August 1734) (Jamaica)

- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of Whitemen capable of bearing Arms or White women or pay certain Sums of money in case they shall be deficient and applying the same to several uses and for preventing several abuses . . . (4 June 1742) (Jamaica)
- An Act for raising a Tax by the Poll and on Trade Super Cargoes and Masters of Vessells in the out Ports and on Offices and Rents and applying the same to Several Uses (26 November 1757) (Jamaica)
- An Act for raising a Tax by the Poll and on Trade Super Cargoes and Masters of Vessells in the Out Ports and on Offices and Houses and also for laying a Tax on Certain Carriages applying the same to Several Uses (18 November 1758) (Jamaica)
- An Act for laying a duty on all Wines Rum and other spirituous Liquors retailed within this Island and for laying a further Tax on Licences to be granted for the retailing of Wine and other Liquors and for laying a Tax on Super Cargoes and on the Public Offices, and applying the same to several uses (30 December 1763) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men White Women or Children or pay certain Sums of money in case they shall be deficient and applying the same to several Uses to protect freeholders on the days of choosing Church wardens and Vestrymen and to ascertain who shall be deemed duly qualified to vote at such Elections (30 December 1763) (Jamaica)
- An Act for laying a duty on all Wines Rum and other spirituous Liquors retailed within this Island and for laying a further Tax on Licences to be granted for the retailing of Wine and other Liquors and for laying a Tax on Super Cargoes and on the Public Officers, and applying the same to several Uses (12 August 1766) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades, Super Cargoes, and Masters of Vessels in the Out Ports, and also for laying a Tax on certain Wheel Carriages and applying the same to several Uses (12 September 1766) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men White Women or White Children or pay certain Sums of Money in case they shall be deficient and applying the same to several Uses to protect Freeholders on the days of choosing Church Wardens and Vestry Men and to ascertain who shall be deemed duly qualified to Vote at such Elections (24 December 1773) (Jamaica)

- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men, White Women, or White Children, or pay certain Sums of Money, in case they shall be deficient, and applying the same to several uses, to protect Freeholders on the days of choosing Church Wardens, and Vestrymen and to ascertain, who shall be deemed duly qualified to vote at such Elections (22 December 1777) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades, Supercargoes, and Masters of Vessels in the Out Ports, and also on Offices and Houses and applying the same to several uses (22 December 1777) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades, Super Cargoes and Masters of Vessels in the Out Ports and on Offices and Houses and for laying a Tax on Certain Wheel Carriages and Applying the same to Several uses (1 March 1783) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men, White Women, or White Children, or pay certain Sums of Money, in case they shall be deficient, and applying the same to several Uses, to protect Freeholders on the days of choosing Church Wardens and Vestry Men, and to ascertain who shall be deemed duly qualified to vote at such Elections (23 December 1783) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men, White Women, or White Children, or Pay certain sums of money in case they shall be Deficient, and applying the same to several Uses, to protect Freeholders on the Days of choosing Church Wardens and Vestry Men, and to ascertain who shall be deemed duly qualified to Vote at such Elections (19 December 1789) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades, Super Cargoes and Masters of Vessels in the Out Ports, and on Offices and Houses, and for laying a Tax on certain Wheel Carriages, and applying the same to several Uses (30 March 1790) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades, Super Cargoes and Masters of Vessels in the Out Ports, and on Offices and Houses, and for laying a Tax on certain Wheel Carriages, and applying the same to several Uses (14 December 1793) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of white men, white women, or white Children, or pay certain Sums of Money in case they shall be deficient and applying the same to several uses, To protect freeholders on the

- days of choosing Church Wardens and Vestrymen, and to ascertain who shall be deemed duly qualified to vote at such Elections (14 December 1793) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades, supercargoes and masters of Vessels and on offices and houses, and on certain wheel carriages, and applying the same to several uses (1 May 1796) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of white men, white women, or white Children, or pay certain sums of money in case they shall be deficient and applying the same to several Uses, To protect freeholders on the days of choosing Church Wardens and Vestrymen and to ascertain who shall be deemed duly qualified to Vote at such Elections (1 May 1796) (Jamaica)
- An Act for raising a tax on land within this Island and for applying the same to the public Service (1 May 1796) (Jamaica)
- An Act for raising a Tax on Land within this Island and for applying the same to the Public Service (21 December 1796) (Jamaica)
- An Act for raising a Tax on Land within this Island and for applying the same to the Public Service (14 November 1806) (Jamaica)
- An Act to oblige several Inhabitants of this Island to provide themselves with a Sufficient Number of White persons, or pay Certain Sums of Money in case they shall be deficient (19 December 1806) (Jamaica)
- An Act for raising a Tax by the Poll, and on Trades Supercargoes and Masters of Vessels and on Offices and Houses and on Certain Wheel Carriages and applying the Same to Several Uses (19 December 1806) (Jamaica)
- An Act to oblige the several Inhabitants of this Island to keep a number of White persons serving in the Militia in proportion to the number of Slaves they shall possess and to enable persons of Colour and Negroes of free condition to save deficiencies for their own Slaves and for the Slaves of each other or to pay certain sums of money in case they shall be deficient (19 December 1818) (Jamaica)
- An Act for raising a tax on land within this island and applying the same to the Public Service (18 December 1819) (Jamaica)
- An Act For raising a tax by the poll and on trades supercargoes and masters of vessels and on offices and houses and on certain wheel carriages and applying the same to several uses (18 December 1819) (Jamaica)

Nevis

- An Act for settling an Impost on the Commoditys of the growth of this Island (26 April 1664) (Nevis)
- An Act for Raising a Leavy (24 March 1687/88) (Nevis)
- An Act for raising a Levy on the Freeholders, householders and Traders of the Towns in this Island and on all Slaves belonging to the Plantations and other Inhabitants of the same (1701) (Nevis)
- An Act to Oblige all Persons to give in a List of their Negroes and other Slaves upon Oath (10 March 1701/02) (Nevis)
- An Act for raising a Levy on the freeholders, householders, Traders and Artificers that be Inhabitants of the Towns of this Island and on all Slaves belonging to the Planters and Inhabitants of the Country part of the same (9 March 1705/06) (Nevis)
- An Act for Raising a Levy as well by way of a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of this Island as also on the freeholders, Householders and Traders of the Severall Towns of the Same (11 May 1713) (Nevis)
- An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of this Island of Nevis (29 May 1725) (Nevis)
- An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of this Island of Nevis (16 May 1733) (Nevis)
- An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of the Island of Nevis (10 July 1744) (Nevis)
- An Act for providing an honourable Support for His Excellency George Thomas Esquire during His Government and for laying a Duty upon Negroes for the payment thereof (3 November 1753) (Nevis)
- An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of the Island of Nevis (24 June 1755) (Nevis)
- An Act for Granting an Aid unto his Majesty by a Duty or Tax of three Shillings Current Money per poll on the Negroes and other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis for Repairing the Forts and Fortifications and defraying the other public expences of the said Island (1 July 1777) (Nevis)
- An Act for granting an Aid unto his Majesty by a Duty or Tax of Sixteen Shillings and six pence Current money per poll on the Negroes and

- other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis Also the Sum of fifteen pounds Current Money in the Hundred pound on the Yearly Value of all Houses Warehouses Shops and Tenements in the several Towns . . . (20 May 1784) (Nevis)
- An Act for raising a Fund for paying the Salaries of Matrofoes employed on the Forts of this Island and other Expences of the said Island (17 December 1798) (Nevis)
- An Act for Granting an Aid unto His Majesty by a Duty or Tax of Three Shillings and Six pence per poll on the Negroes and other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis Also the Sum of Two Pounds Ten Shillings in the Hundred Pounds on the Yearly Value of all Houses Ware Houses Shops and Tenements in the several Towns . . . (2 September 1802) (Nevis)
- An Act for raising a Sum of Money towards an Honourable Support for His Excellency Thomas Robyn Esquire Captain General and Governor in Chief in and over His Majesty's Islands of Saint Christopher Nevis Anguilla and the Virgin Islands Chancellor Vice Admiral and Ordinary of the same during his Government and also for laying a Duty or Poll tax on Negroes and other Slaves for the Payment thereof (14 September 1816) (Nevis)
- An Act for Granting an Aid unto His Majesty His Heirs and Successors by a Duty or Tax of Five Shillings Annual Money per poll on the Negroes and other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis And also the Sum of Three Pounds Current Money in the hundred pounds on the Yearly Value of all Houses Ware Houses Shops and Tenements in the several Towns . . . (14 September 1816) (Nevis)
- An Act for granting an Aid unto His Majesty His Heirs and Successors by a Duty or Tax in Current Money on the Yearly Rent of all Houses and other Tenements not belonging to any Sugar Plantation and on the Negroes and other Slaves owned or possessed by the inhabitants or belonging to the Sugar Plantations in the said Island of Nevis and on the Yearly Incomes of the inhabitants of said Island not arising from Sugar Plantations for the discharge of demands against the Public of the same (1 September 1821) (Nevis)

St Kitts

- An Act for raising of Levys to pay the Countrys Debts (15 January 1672/73) (St Kitts)

- An Act For the Levying of Twenty Five pounds of Sugar per poll upon all white persons and Fifty Five pounds Sugar per poll upon all the Slaves within his Majesty's part of the said Island (13 June 1674) (St Kitts)
- An Act For the Levying of Twenty Five pounds of Sugar upon all white persons and Fifty pounds of Sugar upon all the Slaves within his Majesty's part of this Island (31 May 1676) (St Kitts)
- An Act for a Levy of Twenty five pounds of Sugar upon Every working Slave and Twenty five pounds upon all Acres of Land Rented; as also Levyes on the French men's Land that is in the English quarter as formerly in the year 1674 (15 February 1680/81) (St Kitts)
- An Act for raising a Levy to Defray the Publick Charges of this Island (5 June 1704) (St Kitts)
- An Act For Assessing a Levy of five Shillings per Poll on all Slaves to make good the Deficiency of a Former Levy by an Act Entituled An Act for raising a Levy of Twenty Shillings per Poll on all Slaves to Defray the Publick Charges of this Island (23 September 1704) (St Kitts)
- An Act for raising the Quantity of one hundred thousand pounds of good Mustovado Sugar and for Discharging the Rent of a House for the accommodation of his Excellency Daniel Park Esquire During the Continuance of his Government (4 September 1706) (St Kitts)
- An Act for Raising a Levy to Defray the Publick Charges of this Island (29 November 1711) (St Kitts)
- An Act for Raising a Levy to Defray the Publick Debts of this Island (19 February 1714/15) (St Kitts)
- An Act for Raising a Levy to discharge the Publick Debts of this Island (27 November 1716) (St Kitts)
- An Act for Raising a Tax by the Poll on all Slaves in this Island And also for Raising five hundred pounds on the Inland Trade of the same (7 May 1720) (St Kitts)
- An Act for Raising a Tax upon Land in the Island of Saint Christopher and also upon Houses, Warehouses, Shoppes, and Tenements, in the Several Towns of the said Island; as Likewise for Raising all Arrears, due to the Publick and for Setling a Fund thereby, for the Carrying on and Compleating, the Fortifications of Brimstone Hill, and Charles Fort; and other the Fortifications and Batteries of the said Island, and for paying the Publick Debts, and Defraying other the Publick Expences of the said Island (28 June 1722) (St Kitts)

- An Act for Raising a Tax on Negroes and other Slaves and on the Inland trade of the said Island (19 May 1724) (St Kitts)
- An Act for raising a Tax on Negroes & other Slaves within this Island, & on the Value of House Rents in the several Towns within the same, for Building a Wall to compleat Charles Fort, and for repairing the same Fort & other Fortifications, Forts & Batteries of this Island (3 February 1728/29) (St Kitts)
- An Act for Granting to His Majesty a Duty of Eight Shillings per Poll on all Negroes and other Slaves within this Island and also of Five Pounds per Centum on the Rents of all houses Warehouses Shops And Tenements in the Several Towns within the said Island to be applied towards the Discharge of The Public Debts and for Ascertaining and Settling the Salaries of the Several Officers Therein Mentioned (16 August 1732) (St Kitts)
- An Act for Granting an Aid to His Majesty by a Duty or Tax of Eight Shillings per Poll on all Negroes and other Slaves and the further Duty of Five Pounds in the Hundred on all Houses ware Houses Shops and Tenements in the Several Towns within this Island to be applied in and towards Payment of the Public Debts now due And for Defraying the Accruing Expençe of this Current year One Thousand Seven Hundred and Thirty Nine to the Several Officers and others Employed by the Public of the said Island (31 August 1739) (St Kitts)
- An Act for Granting an Aid to His Majesty by a Duty of Five Shillings per Poll on all Negroes and other Slaves and the further Duty of Three pounds in the hundred on value of all houses Warehouses Shops and Tenements in the Several Towns within this Island of St Christopher for and Towards payment of the Publick Debts and Applicable to Such other Uses & purposes as in this Act are herein after more particularly Expressed and Declared (30 October 1747) (St Kitts)
- An Act for Granting an Aid to His Majesty by a Duty or Tax of Ten Shillings Current Money per poll on all Negroes and other slaves and the further Duty of Ten Pounds in the Hundred Pounds on the yearly value of all Houses Warehouses Shops and Tenements in the several Towns Within the said Island for Repairing the Forts and Fortifications and Defraying the other Publick expences of the said Island (30 May 1757) (St Kitts)
- An Act for Granting an Aid to His Majesty by a Duty or Tax of Three Shillings and Six pence Current Money per poll on all Negroes and other Slaves and the further Duty of Three pounds Ten Shillings in the Hundred pounds on the Yearly Value of all Houses Warehouses

Shops and Tenements in the Several Towns within the said Island for Repairing the Forts and Fortifications and defraying the other publick Expences of the said Island (22 March 1766) (St Kitts)

An Act for Granting an Aid to His Majesty by a Duty or Tax of five Shillings current Money per Poll on all Negroes and other Slaves and the further Duty of five pounds in the hundred Pounds on the yearly value of all Houses Warehouses Shops and Tenements in the several Towns within the said Island for repairing the Forts and Fortifications and defraying the other Public Expences of the said Island (18 July 1771) (St Kitts)

An Act for Levying and Raising a Public Tax in this Island to Defray the Public Expences thereof (2 May 1776) (St Kitts)

An Act for granting an Aid to his Majesty by a Duty or Tax of Twenty Shillings Current Money per Poll on all Negroes and other slaves and the further Duty of Twenty Pounds in the Hundred Pounds on the yearly Value of Houses Warehouses Shops and Tenements in the several Towns within the said Island for repairing the Forts and Fortifications for the better Support of His Majesty's Troops stationed in this Island for the defence of the same and defraying the other Public Expences of the said Island (18 March 1780) (St Kitts)

An Act for raising a Tax of Fifteen Shillings per poll on all Negroes and other Slaves and Six Pounds per Centum on the yearly Value of Houses Warehouses Stores Shops and Tenements within the several Towns within the said Island to be applied for and towards the purchase of a certain number of Negroes and other Slaves for the use of the public of this Island and for directing and appointing in what manner such Negroes and other Slaves shall be employed (29 October 1789) (St Kitts)

An Act for raising a certain sum of Money by a duty or Tax of Ten Shillings Current Money per poll on all Negroes and other Slaves and a duty or Tax of thirty shillings Current Money for every single Horse Chaise, Chair Sulkey Curricule and two wheeled Chaise and a duty or Tax of Sixty shillings Current Money for every Phoeaton Post Chaise and four wheeled Chaise and a duty or Tax of twenty shillings Current Money for every riding Chaise Chair or Phoeaton Horse within the said Island and the further duty of Six Pounds in the Hundred Pounds on the Yearly Value of all Houses Warehouses Stores Shops and Tenements in the several Towns within the said Island for the Payment of the Public Debts of this Island and for the other Uses and Services therein declared (9 May 1792) (St Kitts)

An Act for raising with all convenient Speed such a Sum of Money as is adequate to the immediate and pressing Necessities of this Country (19 September 1795) (St Kitts)

An Act for raising such a Sum of Money as shall be adequate to the Annual Expence of this Country (28 May 1801) (St Kitts)

An Act for raising such a sum of Money as shall be adequate to the annual expence of this Country (26 March 1802) (St Kitts)

An Act for raising a Sum of Money and for laying a Tax upon all Sugar made within this Island and upon Income and upon all Salt sold within and exported from this Island and also upon all Lime Lemon and Orange Juice exported from the said Island for the payment of the Public Debts of this Island (10 May 1808) (St Kitts)

An Act for raising an adequate Sum of Money for the exegencies of the Island (7 February 1820) (St Kitts)

St Lucia

An Ordinance fixing the taxes to be raised for the public service in 1820 (11 January 1820) (St Lucia)

St Vincent

An Act for establishing a public Treasury in this Island for the raising a Fund for the Discharge of a public Debt and towards defraying the contingent Expences of the same by a Tax upon Vintners and Retailers of spirituous Liquors and an Impost upon spirituous Liquors imported into this Island and for appointing a Treasurer (11 July 1767) (St Vincent)

An Act for the laying a Tax on Lands and Slaves in this Island (11 July 1767) (St Vincent)

An Act for compelling Owners and Possessors of Slaves to keep proportionable Numbers of white Protestant Servants (27 October 1767) (St Vincent)

An Act for laying a Tax on Lands Slaves and Buildings in this Island (21 August 1769) (St Vincent)

An Act for laying a Tax for paying Publick Debts and Charges and particularly Applying the said Tax (16 March 1774) (St Vincent)

An Act for laying a Tax for paying publick Debts and Charges and particularly applying the said Tax (28 October 1777) (St Vincent)

An Act for laying a Tax for paying Public Debts and Charges and particularly applying the said Tax (15 July 1784) (St Vincent)

- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (9 September 1786) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (11 April 1788) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (20 April 1789) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (9 March 1790) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (16 March 1791) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (15 March 1793) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges, and particularly applying the same (11 September 1793) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (28 February 1797) (St Vincent)
- An Act for obliging Retailers of Rum and other Spirituous Liquors to take out Licences and for laying a Tax on Public Billiard Tables (8 December 1797) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (21 December 1801) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (15 April 1802) (St Vincent)
- An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (13 March 1804) (St Vincent)
- An Act for laying a Tax for Paying Public Debts and Charges and particularly applying the same (25 April 1811) (St Vincent)

Tobago

- An Act to Revive and put in force An Act or pretended Act of the late Colonial Assembly of this Island Entitled An Act to ascertain and fix the amount of Debts due by The Colony and to raise a Sum of Money necessary for the payment of the same (20 March 1794) (Tobago)
- An Act to raise a Sum of Money for discharging the Public debts of the Colony and to appropriate for that Purpose certain Sums of Money now in the Treasurer's hands and any other Sums that may come into his hands (24 December 1794) (Tobago)

- An Act to raise a Sum of Money for defraying the expenses that have already been Incurred in Endeavouring to Secure the Colony against Internal Enemies . . . (12 May 1795) (Tobago)
- An Act to Raise a Sum of Money for Defraying the Expenses already Incurred, and which may be Incurred for the Protection and Security of this Island (20 June 1795) (Tobago)
- An Act for Raising a Sum of Money for the Payment of the Public Debts of this Island, and of such Expences as may be Incurred for the Service of the Colony, and also to Appropriate for that Purpose Certain Sums of Money due on former Money Bills (17 August 1795) (Tobago)
- An Act to encourage the further Introduction of White Inhabitants in this Island (11 August 1797) (Tobago)
- An Act, to raise a Sum of Money for the payment of the expences incurred by reason of the late intended insurrection of the Slaves, and for such other incidental charges as may not be already provided for (3 March 1802) (Tobago)
- An Act to ascertain the Debts of the Island and to raise a Sum of Money for payment thereof and of all such other expences as may be necessary for the service of the Colony, and to appropriate any such Sums of Money now in the Treasurer's hands and other Sums of Money that may come into his hands (22 March 1804) (Tobago)
- An Act to ascertain the Debts of the Colony and to raise a Sum of Money for payment thereof and for payment of all such other expences as may be necessary for the service of the Colony and to appropriate any sums of money for that purpose in the Treasurer's hands (8 September 1810) (Tobago)
- An Act to ascertain the Debts of the Colony and to raise a Sum of money for payment thereof and for payment of all other Expences that may be necessary for the Service of the Colony; and to appropriate any Sums of money to that purpose remaining in the Treasurer's hands not otherwise specifically appropriated or to be appropriated to any other purpose by any other Act or Acts of this Island (24 January 1820) (Tobago)

Africa

Sierra Leone

- An Act to amend and explain an Act "For the making and keeping in repair, the Highways of this Colony" (12 September 1812) (Sierra Leone)

PREFACE

This book (like my last) is borne out of a certain frustration in not being able to find quick but precise answers to what I feel are some basic questions regarding income taxation. When faced with the prospect of a fixed base at Cambridge for the remainder of my working life I decided it best to take the time to delve into history far enough and in just sufficient depth to secure answers to my questions. Academically, I view myself as predominantly a person with a certain expertise in comparative income tax law and, as a result of my background and experience, with a particular focus on common law jurisdictions, i.e. Britain and its former colonies. A common issue I have faced in these jurisdictions is a certain lack of or gap in understanding as to the origins, particularly the ultimate origins, of their income tax laws. As these origins derive from Britain, Cambridge seems an appropriate place from which to pursue this sort of study.

The primary purpose of this study is to seek answers to my questions and, to some extent, fill the gap as to the origins of common law income taxes. In this way I hope this study is relevant for students of the income tax in all common law jurisdictions. My intention has always been to take this study through to the end of the Second Millennium, covering all countries whose income tax may be said to be of the British family or origin. In the result, it has been necessary to break the study into two volumes. This, being the first, covers the period to 1820. Because the introduction of income tax in many common law jurisdictions post-dates 1820, this study does not directly refer to all common law jurisdictions but the matters discussed in this book should be relevant to all such jurisdictions. The connection to those jurisdictions not directly referred to will become clearer when the second volume of this study is published.

There are several subsidiary purposes of this study. The hope is that the background provided in this study will inform the discussion in and add depth to my future research. I also hope that others will find this

work interesting and that it may add a certain perspective to the debate on a number of current income tax issues. As an academic, I have a passion for undertaking tax research and encouraging others to engage in it. The materials accessed in producing this study are many and varied. The issues covered by these materials are enormous and the vast majority are beyond the scope of this book. It is hoped that the structure, ordering and referencing in this study will provide other researchers with lines of investigation and some basic materials with which to begin or progress their research. That is, I hope this study will be used as a reference book for the historical investigation of income tax issues generally.

The primary type of material relied on in this study is statutory. The laws of Britain and its former colonies are available from a very early date. In most cases the statutory material has been published, even if not contemporary to the time of enactment. The nineteenth century saw a general push in Britain and the United States towards publication of many historical laws that had only existed in manuscript form. This did not occur in other historically important jurisdictions, in particular the West Indies and, to some extent, Canada. In these cases the laws were accessed from manuscript duplicates of the originals deposited in the Public Records Office. As a result of the comparative difficulty in accessing these laws, this study may give slightly greater attention to developments in direct taxation in the West Indies and Canada. At a number of places in Chapters 2 and 3 there is a suggestion that certain laws are lost or not publicly available. This is particularly the case with the laws of some West Indian colonies. While care has been taken to access the Public Records Office legislative files, there is a chance that some of these laws survive in the Colonial Papers (General Series), CO 1. A brief perusal of parts of CO 1 suggests that this is unlikely and at best random.

Many of the early colonial laws were not in a form that corresponded to English laws of the time. This was, no doubt, a function of the origins of the legal structure of some of the colonials as private settlements of prominent English aristocrats or chartered corporations. In particular, many early colonial laws did not have titles and so cannot be cited in the usual fashion. Regularly, early colonial laws were simply in the form of a resolution of the relevant assembly kept in the records of the assembly's proceedings. The form of laws was far from uniform until the end of the seventeenth century. Uniformity increased with greater intervention from the British Crown, particularly in the decades before

and after the Glorious Revolution. The first colony to publish its laws was Massachusetts in 1648 and the second was Barbados in 1654. These were compilations rather than session laws. Massachusetts began producing annual session laws from 1661. The other colonies were much slower to start, the earliest published laws for Connecticut dating from 1673 (but only one edition until 1702), New York 1691, Pennsylvania 1693, New Hampshire 1699, Maryland 1700, New Jersey 1703, Rhode Island 1719, Virginia 1730, South Carolina 1732, Delaware 1741 and Georgia 1755.

This study also places substantial reliance on secondary source material. This material is typically used for background purposes or in analysing the provisions of particular laws. Some of this material deals generally with legal or accounting history. Other material is more specific and deals with particular taxes at particular times. Little of the secondary source material accessed is contemporary, most of it is written in historical terms. There is an increasingly large amount of original material available in microfilm, microfiche and electronic format. In particular, this study places heavy reliance on the *Early American Imprints* microfiche series, a large part of which reproduces early American laws.

Many early laws were discriminatory in a way that, through modern eyes, will be viewed as offensive. Often they singled out 'Jews', 'Slaves', 'Negroes', 'Indians' or 'coloureds' for discriminatory treatment. As a matter of historical accuracy and consistency, these terms are used throughout the text, as they were in the original laws. No offence is intended and in no way does this study endorse the modern use of such terms or their basis for any form of discrimination. This matter is further addressed in the Conclusion.

This book is dedicated to John Tiley, David Oliver and the Centre for Tax Law at the Law Faculty of the University of Cambridge. John and David have lent their learned ears to the development of this long and drawn out study. They have showed great patience and provided great encouragement with respect to all my ranting and ravings. They are the best colleagues one could ever hope to have and it is with great sorrow and trepidation that I approach the time of their retirements. If it were within my power, I would continue to enjoy their collegueship by happily forcing them to work beyond retirement. I would also like to thank KPMG for their generous assistance, without which I would not have been in a position to complete this work.

Introduction

The income tax laws of about sixty countries may be said to be of a style or type that derives from or is associated with the income tax law of Britain.¹ Most all of these countries had some form of colonial connection with Britain. It is doubtless that many other income tax laws, which would not typically be considered to be from the ‘British family’, were also influenced at various stages by the British income tax, typically at their inception.² It is also doubtless that the British income tax, at least indirectly, if not directly, was influenced at its modern inception in 1799³ by the tax laws of other European countries and, perhaps, its colonies. Further, it is certain that much of the content of Britain’s 1799 income tax law was derived directly from earlier English direct tax laws stretching back 700 years and more.

To a more limited extent, the same is true of former British colonies. The taxes that ultimately developed into or were the precursors of the income tax were influenced by a greater variety of factors. The early tax systems of the colonies were influenced by each colony’s own peculiar circumstances, other colonies with which they were affiliated, other colonial powers to which they may have been subject and, of course, Britain. Importantly, however, colonies were most prone to importation of tax laws in the early days of their founding. Accordingly, the tax system of a colony founded at a particular date was more prone to be influenced by the tax law of say Britain at that time than another colony

¹ Thuronyi (1998, p. xxiv).

² For example, see Selgiman (1914), with respect to France pp. 273–328, particularly at p. 325, and with respect to Italy pp. 338–55, particularly at p. 340. It seems that the first modern income tax in Germany, that of Prussia in 1891, also sought to follow the British approach in various respects. This was made clear by Professor Manfred Mössner at a presentation given at the University of Cambridge for the Centre for Tax Law of the Law Faculty on 12 November 2002.

³ As this study will note, there are earlier examples of what might be (and sometimes are) termed ‘income taxes’ in Britain that pre-date 1799. However, 1799 is typically accepted as the inception date of the modern income tax.

founded at a different date, which would be more prone to influence of the British tax system at that different date.

This study seeks to trace the roots of the income tax and its precursors in Britain and its former colonies up to 1820. This date is chosen because it sees the end of the first modern income tax in Britain (expired 1817) and gives a few years for that expiration to settle so far as influence in the colonies is concerned. A basic chronological order is adopted as this facilitates a clear understanding of the state of the tax system in Britain and the colonies at the time a particular change takes place. In this way, the study seeks to trace developments and place them in a historical context. The roots and developments identified in this study are not just relevant for Britain and the colonies founded before 1820. When the British income tax was reintroduced in 1842 it was virtually a copy of the law of the Napoleonic Wars. Many essential features of that law still continue today. Accordingly, those countries whose income tax laws fall within the 'British family' of income taxes ultimately have their roots in the matters discussed in this study. The period after 1820 is fruit for further picking.

Focus of the Study

Because this study seeks to cover a period of over 700 years and developments in upwards of thirty jurisdictions, it is by necessity narrowly focused and bounded by various limitations.⁴ First, this is a legal study. So the focus is on the development of the law and, particularly, the wording and concepts used. Of course, in order for law to be understood it must be placed in context. So economic, political and social circumstances and historic events are discussed, particularly where they may have provided the impetus for development of the tax law, e.g. wars and changes in monarchy. But these sorts of circumstances and

⁴ A more detailed consideration of the development of direct taxation in Britain during this period is documented elsewhere and noted in references throughout this study. For general works broadly covering this time period, see Dowell (1965, Vols. I–III), Seligman (1895, pp. 37–53) and Seligman (1914, pp. 41–53) and the references cited therein. More specific time periods are covered by Mitchell (1951) [years 1154–1272], Schofield (2004) [years 1485–1547], Jurkowski *et al.* (1998) [years 1188–1688] and Soos (1997) [years 1512–1803, focusing on taxation at source]. This discussion only covers direct taxation of the laity and not the taxation of the clergy. As a general rule, direct taxes voted by parliament did not extend to the clergy. For an introduction to the history of direct taxation of the clergy, see Soos (1997, pp. 23–32, 45–62) and the references cited therein.

events are not the focus of this study. Further, at a number of points, particularly in the earlier periods covered by this study, the administrative practice in applying a law may have diverged from the language used in the law. This may have been due to a lack of clarity in the law as written but was also influenced by a more flexible or imprecise approach to interpreting laws. While administrative practice will be mentioned at various points, the focus is on the wording of the laws. This wording becomes progressively more precise and prescriptive over the period covered by this study.

The comparative aspect of this study is limited to influence between Britain and its former colonies or between the colonies. This limitation necessarily produces some distortion. As mentioned, it is clear that the tax laws of other European powers, particularly France and the Netherlands, influenced the development of the income tax and its precursors in Britain.⁵ The same is true in the colonies, particularly where a colony changed hands from one European power to another, such as in the cases of Nova Scotia, Quebec, St Lucia, Dominica, St Vincent, Trinidad, Tobago, Ceylon, Guyana and Cape Colony. When a colony changed hands the laws of the previous colonial power would inevitably be continued, at least initially, and many times this also included the continuation of tax laws. The influence of other European powers, whether on the tax laws of Britain or its colonies, is noted where it is obvious from the materials consulted. But such influence is not explored in any depth and is not the focus of this study.

In the same way, this study does not consider regional taxation in depth but, rather, focuses on central levies. There are exceptions where a particular approach in regional taxation is felt to have had a significant impact. This is particularly the case in the colonies, which in their infancy are likely to have viewed themselves as a regional branch of England. In this case local taxation in England may have had greater impact on the development of tax systems in the colonies than taxation by the central government of Britain. There are also points at which local taxation in the colonies is of particular importance. The colonies were far from uniform in their governmental structure. In some colonies, such as those in New England, the primary government structure was the township, in others the district was the more

⁵ That this would be the case is obvious from the central influence of Roman and cannon law, the strong links between religion and government, the Norman conquest of England and the intermarriages within the European royal families.

important locality, such as in some of the southern American colonies, while in others the central government seems to have had prominence and this seems to have been the case in many of the colonies in the West Indies.

The purpose of this study is to provide background to facilitate a deeper understanding of the nature of the income tax for those countries whose income taxes have been influenced by Britain's income tax. It is about the origins or roots of the income tax. Therefore, it covers many taxes that are not technically income taxes but might be viewed as precursors of or from the same family of taxes as the income tax. This aspect also limits the scope of this study. Which taxes fall within that family of taxes is a matter of some conjecture and so the types or categories of taxes that are covered by this study require further explanation.

Most broad-based taxes fall on one of the stages of wealth, whether creation, holding, transfer or consumption of wealth. The reason for this connection between wealth and taxes is that taxes must be paid from wealth. Typically taxes are paid in money although, particularly during the period covered by this study, taxes were also payable in kind (whether in the form of produce such as corn, sugar or tobacco, or statute labour). An income tax is essentially a tax on creations of wealth. Wealth is created through the provision of wealth (capital), labour or both. A difficulty with the development of the income tax (and continually) is measuring the wealth created, which varies from period to period. But, as is often pointed out, the holding of wealth may be presumed to produce income (often call 'notional income') and in many ways wealth is easier to value than a stream of income flowing from it.⁶ Accordingly, taxes on the holding of wealth may reach or act as a proxy for taxation of income.

The same is true of taxes on individuals. Such taxes are often called 'poll' or 'capitation' taxes. In their simplest form, these taxes are a flat amount per head. But even in this form the tax will be circumscribed by various limitations such as the exclusion of children and the exclusion of wives, etc. Limitations and categorisations may become more sophisticated in order to reach the 'faculty' or 'income earning capacity' of a particular person. The process here is similar to that for capital, it essentially involves the valuing of human beings, i.e. valuation

⁶ For a start, wealth can be measured at a particular point in time whereas income is measured over a period of time.

of human capital. Hence, poll taxes may categorise individuals according to different ranks, professions, trades, occupations, etc. and tax each category differently. So in a rough and ready manner, poll taxes will reach income from labour in the same way as taxes on the holding of wealth reach income from capital.

So the types of taxes that fall for consideration in this study are wealth taxes, poll taxes and taxes more clearly on the creation of wealth. These are the taxes from which the modern income tax developed. Indeed, some of these taxes were simply incorporated into the modern income tax when implemented by Britain in 1799. This study does not consider consumption taxes and so excludes virtually all indirect taxes such as customs, excises, etc. Further, it does not consider taxes that focus on the transfer of wealth such as stamp duties and inheritance taxes. Nevertheless, an attempt to cover all aspects of all wealth taxes, poll taxes and taxes more clearly on the creation of wealth would make this study unmanageable. While the general development of these taxes is covered, this study focuses on particular issues raised by these taxes, issues peculiar to these taxes and particularly important in the modern operation of the income tax.

A problem for the student⁷ of a British-style income tax law is that some of the central features of that law cannot be easily explained in a temporal sense. Some more than satisfactory questions may be met with quite unsatisfactory answers. This study focuses on four such questions, although many other interesting issues are addressed along the way. These four questions are:

1. Why do capital gains and losses fall outside the income tax?
2. Why is income calculated separately for different activities, that is, why is a schedular approach adopted?
3. Why are corporations treated as separate taxpayers from their shareholders?
4. Why is the income tax imposed simultaneously on a source and residence basis?

An enquirer might receive various answers to these questions but most answers will, to varying extents, be quite superficial. For example, a standard answer to the first question might be, 'because our courts followed the concept of income in the British income tax law' or

⁷ 'Student' here is used in the sense of someone who 'studies' tax law.

‘because our courts follow a flow concept of income’⁸ or ‘because our courts follow a trust law concept of income’.⁹ All of these answers may be correct but all of them are overly simplistic and add little to a deeper understanding of the issues in question. The determined enquirer will pursue further questions such as: ‘Why did the British income tax law adopt this distinction?’ ‘Why was trust law so important in this context and not, for example, the accounting treatment?’ ‘Why did trust law adopt a flow concept of income?’ and ‘What circumstances meant that the flow concept should dominate over other concepts such as accretions to wealth?’

A natural response to such questions is to turn the discussion to theoretical and conceptual approaches. With respect to the capital–revenue distinction, this may be achieved by contrasting the flow concept of income with the gain concept of income.¹⁰ The same is true of the other questions. The schedular approach may be contrasted with the global approach to income taxation.¹¹ The separate entity theory of the corporation may be contrasted with the conduit theory.¹² Source- and residence-based taxation may be analysed by contrasting the ability to pay theory with the benefits theory or by contrasting the principles of capital import neutrality and capital export neutrality.¹³ No doubt this style of discussion will deepen the understanding of the enquirer. But the limitation of the discussion to theoretical and conceptual approaches leaves important parts of the question unexplored and, at worst, has the potential to distort an evaluation of the importance of one theory or another.

The problem is that some theories tend to ‘pull themselves up by the bootstraps’. Often theories are developed in order to explain existing practices (including some of the theories mentioned in the last paragraph). In time, the validity of the theory may be sought to be justified by reference to the practice of countries. But the theory will not be the *reason* why many countries adopted that approach. That reason is often buried in history. The theory *may* be the reason why a country

⁸ Regarding the flow concept of income, see Fisher (1906, pp. 51–3, 101).

⁹ For example, Parsons (1985, p. 8).

¹⁰ With respect to the gain concept, see Simons (1938, p. 50).

¹¹ See Burns and Krever (1998, pp. 495–9). The distinction is particularly important with respect to losses, i.e. losses on one activity are automatically set against profits on another activity under the global approach but not under the schedular approach.

¹² See Harris (1996, pp. 42–8).

¹³ See Harris (1996, pp. 13–16, 318–20, 452–9).

continues to adopt a particular approach, but caution should be taken with such assertions. A government may be under pressure from lobby groups to change a particular policy but may not wish to do so. In continuing its existing approach a government may feint support for a particular theory that supports the existing approach when the real reason for the continuation may be revenue impact or simply the deadweight costs associated with change. Political inertia is often explained by reference to adherence to particular theories.

Searching for the historical origins of a particular approach facilitates understanding and assists in assessing theories that underlie that approach. Often particular approaches can be more clearly explained by the historical context and circumstances in which they are adopted. If those circumstances have changed or no longer exist that may lead to an appropriate reassessment of the approach. A deeper understanding of the way in which society has developed and is developing should facilitate a deeper discussion of the way in which tax policy needs to adjust. This is the importance of historical research. All of the deeper questions outlined above with respect to the capital–revenue distinction can, to varying extents, be answered by delving into history before 1799. The same is true of deeper questions with respect to the other three questions that are the primary focus of this study.

This study is not exclusively focused on these four questions but it does expand on matters that might help in seeking an answer to them. These matters include, for example, the legal and social context in which the capital–revenue distinction may be relevant. This context covers, in particular, the feudal origins of property holding in England and how that developed into the wide-scale practice of holding property first through uses and then trusts. This context also covers the feudal origins of accounting in which stewardship was so important and the strong link between the origins of accounting and the origins of trust law. In time, these areas grow into and are related with the growth in trade and the development of the corporation as a vehicle for that trade. The origins of the corporate form have a particular link with the expansion of international trade and international trade is linked with the development of overseas colonies.

Structure

This study is structured under five chapters, which follow a basic chronological order. Chapter 1 covers the period to the outbreak of

the English Civil War in 1642. This chapter essentially consists of discussion of English taxes, which go through a number of phases. The discussion begins with the feudal origins of the tax system and its connection with royal government, land holding and religion. The discussion then proceeds through the development of the fifteenth and tenth, a tax notionally levied on movables, and to the initial levy of poll taxes in the fourteenth century. These taxes were likely influenced by the change in society occasioned by the Black Death (bubonic plague) and mark a change in approach to taxation that developed through the War of the Roses and into the early Tudor subsidies. These subsidies were essentially a broader based wealth tax with certain income tax aspects. The end of the Tudor period was relatively stable but matters start to progress again with the unification of the crowns of England and Scotland under the Stuarts. Disputes between the Stuarts and Parliament meant less reliance on the old form of Tudor subsidy and greater emphasis on raising money through local taxes and the ship writs. This period is important because it sees the foundation of the first colonies in the new world.

Chapter 2 covers the period from the outbreak of the English Civil War, through the Commonwealth and to the Glorious Revolution. The English Civil War was a turbulent period during which the tax system moved, in its urgency, towards rationalisation and simplification. The English Civil War also had an impact in the colonies. The exodus of political refugees to the New World added to the existing exodus of people seeking to escape from religious persecution in Great Britain. Further, the preoccupation of Great Britain with the war at home facilitated the development of autonomy in the colonies. Dispute arose after the Restoration when the crown sought to withdraw that autonomy. The fallout naturally affected the tax systems of the colonies. The Restoration also saw the development of the tax system in England. New styles of tax were introduced to fund the wars with France and the Dutch Republic that followed the Restoration and these sowed the seeds for further developments after the Glorious Revolution.

Chapter 3 covers the better part of a century from the Glorious Revolution to the end of the Seven Years War, which resulted in British dominance of the east coast of America. The turbulent decade following the Glorious Revolution gave rise to substantial developments in the English tax system. In the tax laws of this period are virtually all the ingredients that go to make up the income tax of a century later. But just after the turn of the eighteenth century the English direct tax system

first settles once again, this time in the form of the land tax, which was extended to Scotland in 1707. The land tax was, during this period, supplemented with presumptive taxes on the holding of various articles that came to be known as the Assessed Taxes.

The decade after the Glorious Revolution was also a turbulent time for the tax systems in the colonies. Not only were there substantial increases in sophistication of the colonial tax laws but also a change in the types of taxes. This period also sees the word 'income' start to be used on a consistent basis in direct tax laws, in particular in Britain and Massachusetts.¹⁴ As in Britain, the following period saw the direct tax systems in the colonies largely settle, although there were further developments during the wars of the 1740s–60s and particularly the Seven Years War with France. Further, the acquisition of colonies during this period demonstrates the clear connection between colonial taxation and other European powers.

The period from the end of the Seven Years War to the eve of the introduction of the modern income tax in Britain is covered by Chapter 4. The major part of this period may be divided into three. First, in Britain the land tax continued, steadily supplemented with some adjustments in the Assessed Taxes. Second, this study continues to track developments in the newly independent states of the United States in order to check any cross influence with Britain and retained colonies until the income tax was introduced in Britain. Third, the most turbulence in the tax systems during this period is demonstrated in the retained colonies. Some of these were lost to other European powers during the American war and regained with the signing of the Treaty of Versailles. Others, especially the Canadian colonies, were inundated with loyalists from the former United States colonies.

In the final chapter, matters turn to focus on the new disturbances for Britain closer to home in the form of the French army under Napoleon. The chapter begins with a brief consideration of the limited tax developments during the first phase of the wars. Discussion quickly turns to the second phase of the wars and a consideration of a major effort by Prime Minister Pitt to fund the British war effort in the form of the Triple Assessment. This tax was based on a multiple of the Assessed Taxes but limited to a tenth of income. At this time there were other similarly styled taxes in British colonies, particularly the Windward

¹⁴ As noted at pp. 117–9, there is an early but brief reference to 'incomings' in a Massachusetts tax law of 1646.

Islands in the West Indies. The chapter then turns to consider the first modern British income tax, which lasted from 1799 to 1817 (with a short interval in 1802). The chapter rounds the decade out by also considering the settling of taxes during the last three years to 1820.

The discussion in this final chapter focuses on the central questions identified above and seeks to draw conclusions about the origins of these features from the preceding discussion. There can be no categorical answers in this regard, but there can be informed suggestions, comments and assessment. The chapter also takes a brief pause to assess the point reached by the states of the United States by 1820, which is important for an assessment of Canadian developments. The last chapter finishes with a consideration of developments in the colonies. Income styled taxes continued to develop during this period, particularly in the West Indies, and continue after the expiration of the income tax in Britain. Indeed, it seems that some of the West Indian income taxes span the period from the expiration of the income tax in Britain to its reintroduction in 1842. The study finishes with conclusions.

There are five tables scattered throughout this study, one at the end of Chapter 1, another at the end of Chapter 2, two at the end of Chapter 3 and one at the end of Chapter 5. These tables seek to provide a snapshot of the various taxes imposed at various points in time. Table 1 covers taxes imposed in England to 1600. The remaining tables cover taxes of Britain and the colonies as at specific dates, namely circa 1650, 1700, 1750 and 1795. Consistent with the categories of taxes discussed above, the rows in the tables distinguish between *in rem* taxes, or taxes on wealth and returns from wealth, and personal taxes, or taxes on individuals and the activities of individuals. There are also sub-categorisations based on the type of wealth or type of activity in question.

The columns in the tables first deal with the tax base, and sub-categorises depending on whether the tax is per article of wealth (e.g. per acre of land or head of cattle), on the value of wealth or attempts to reach the return from wealth, i.e. income or profits. The second column distinguishes between taxes that are imposed at a specific rate for the whole of the jurisdiction, often called a 'pound rate', and taxes that are apportioned between sub-jurisdictions in fixed amounts so that the actual rate may vary from sub-jurisdiction to sub-jurisdiction, often called a 'quota' system. The final column is devoted to international jurisdiction, i.e. whether the tax is imposed on a source or location basis, a residence or inhabitation basis, or both. Of course, the taxes in question were not designed with these categories and sub-categories

in mind and it is difficult to categorise some taxes and some tax laws simply do not contain sufficient information to enable an appropriate categorisation. This is particularly true of the international jurisdiction column. Therefore, no great reliance should be placed on the accuracy of the tables. Some of the information therein involves attribution on the verge of guesswork. The tables are intended to provide a broad picture only.

To 1641: Searching for Seeds in Feudal England

The deepest roots of some of the central features of the British income tax lie in the feudal system of medieval England. This chapter examines the three-sided set of relationships among subject, king and Church in order to gain a deeper understanding of the direct tax system that would ultimately develop into the income tax. It covers a period of over 500 years, beginning broadly with the Norman Conquest in 1066 and ending just before the English Civil War. This period displays the origins of a number of features that would later shape the modern income tax.

During the period covered England was essentially an agrarian society. The landholding system is the key to understanding the taxes imposed. This system of landholding, under which rights were spread between various interested parties, necessarily involved features in which the capital—revenue distinction is clear, such as in the legal action for waste. Further, this distinction is incorporated in the doctrines of the Christian church and was particularly influential in the way in which the church held and enjoyed property. Entwined in this system is the concept of stewardship whereby landholders would entrust landholdings to various officials (stewards) who, by force of law, were required to account to their principals. In this system are the common seeds of accounting and, ultimately, trust law. Another feature of this period, related to government and landholding, is the sporadic nature of direct taxation. As a matter of fairness, sporadic taxation necessitates the distinction between capital and revenue, especially if tax rates presume taxation of a yearly return on capital only.¹

In a more direct manner, the period covered by this chapter also sees the rise of other central features incorporated in the income tax of 1799. This period sees not only the use of corporations to evade the incidence of feudal fines (in many ways similar to taxes) but also sees the first

¹ If capital receipts are taxed under a tax on yearly value, the recipient is taxed proportionately more than a person with a similar income or similar amount of wealth.

direct taxation of corporations. Further, aspects of taxation adopted by at least the middle of this period may be viewed as the direct forerunners of some of the schedules adopted in the modern income tax, particularly the taxation of land and office holders. The concept of 'inhabitant', developing into a concept of 'resident', also derives from quite early in this period. A little later the concept of source is also developed with the taxation of property 'situated' in England. There is also clear evidence of simultaneous taxation on the basis of source and residence.

This chapter is structured under four primary headings, dividing the chapter into broad time periods. The first period is set deep in medieval England and covers the period to 1332. This period encapsulates not only the traditional feudal levies but sees the development of a form of property tax, which would be levied on and off until the end of the period covered by this chapter. The second heading covers the remainder of the fourteenth century, through the devastation of the Black Death (bubonic plague) and a number of poll taxes that demonstrate the first clear tendencies towards income taxation and taxation on the basis of residence. The heading then proceeds into the early fifteenth century and a tax law incorporating what is arguably the first clear formulation of what became Schedule A of the modern British income tax. The next major calamity is the War of the Roses during which the direct tax system further develops and signals the coming of the Tudor subsidy.

The third heading is devoted to direct taxation under the Tudors. This heading is divided into two parts, the dividing line being the 1530s during which Henry VIII stamped his supremacy on the English legal system including his suppression of the monasteries and other major legal reforms such as the passage of the Statute of Uses and the Statute of Wills. The first part of this heading follows Tudor development of direct taxation and, in particular, efforts to establish periodic reassessments of the tax base. The second period marks somewhat of a decline in the system of direct taxation, which, though imposed with increasing frequency, descended once again into a fixed assessment. One particularly interesting development during the later Tudor period is a development in regional taxation in the form of the Poor Law, a consequence of the suppression of the monasteries. The Poor Law may have been particularly influential in the early tax systems of some of the colonies in the New World.

The final heading of this chapter covers the reign of the Stuarts to the eve of the Civil War. This period initially covers familiarity in the form of direct taxation. However, disputes between Parliament and the

Crown gave rise to a freeze on Tudor-style funding during the 1620s and Charles I looked elsewhere for revenue. A major source used to meet the shortfall was in revenue raised through the ship writs. This period coincides with the first major settlements in the New World and again the manner in which the ship money was imposed may have influenced the tax laws of the early colonies. The heading ends with James I recalling Parliament in order to raise funds to suppress a rebellion in Scotland. Important subsidies were granted at this time just before the outbreak of the English Civil War. The chapter finishes with a summary.

1.1 To 1332: Before the Settling of the Fifteenth and Tenth

This heading is concerned with the period before the settling of the most frequent form of medieval direct taxation, the fifteenth and tenth. This form of taxation was developed in feudal England, although it was levied well after the medieval period. In order to facilitate a deeper understanding of this levy, it is necessary to consider the basic social and legal structure of feudal England and the types of direct levies that were imposed. To this end this heading is divided into three subheadings. The first subheading seeks to set the scene by outlining pertinent aspects of the social and legal structure of feudal England. The discussion focuses on aspects of feudal England that might be considered to be the origins of matters that are important later in this study. The second subheading discusses the types of direct levies imposed in feudal England. A background to these feudal levies is important for the purposes of the third subheading, which discusses how these feudal levies developed and interacted with a form of property tax that originated with the Saladin Tithe of 1188. In turn, these property taxes developed into the fifteenth and tenth, which is discussed under the next heading.

Setting the Scene in Feudal England

This subheading seeks to set the scene for this study by discussing pertinent aspects of the social and legal structure of feudal England. This is necessary in order to identify the origins of matters that are important later in this study and to facilitate an understanding of some of the terminology used in the early tax laws, which are discussed later in this chapter. The subheading begins by discussing the manner in which England was divided into localities. It proceeds to discuss the forms of

landholding in feudal England and, in particular, the landholding of the crown (the royal demesne). The landholding of the crown was an important source of revenue in medieval times and this is discussed in the context of the structure of state departments of the crown and the collection of revenue from the royal demesne.

The subheading then proceeds to discuss three areas that demonstrate the early relevance of the capital—revenue distinction and which may constitute the origins of practices and legal structures that ultimately prove important in the development of the income tax. These areas are the landholding of the Christian Church, the legal actions for waste and account, and the early accounting practices of feudal estate managers.

Subdivision of England

A single Kingdom of England had been established by the tenth century. Before the Norman Conquest in 1066 England was already divided into certain regions. The largest of these regions was the shire or county ‘which have remained substantially the same in name and shape down to the present day’. Shires were divided into ‘hundreds’ being subdivisions of the kingdom and so named because they were occupied by a group of one hundred warriors or one hundred families. Hundreds were further divided into tithings ‘which were notionally groups of ten families under the responsibility of a tithingman’. Baker goes on to note that ‘[t]he sorting of the population into hundreds and tithings was a means of maintaining good order and raising taxes to support the king’. A further division, often coinciding with a tithing, though not necessarily a subdivision of the other divisions, was the village. This was ‘simply a conglomeration of dwellings corresponding in many cases to the later ecclesiastical and administrative unit of the parish’.²

The head officials of these subdivisions were also established well before the Norman conquest. The shire was most closely within the king’s control and the king appointed a ‘shire-reeve’ or ‘sheriff’ who was the head official and supervised adherence to the king’s laws within the subdivisions of the shire. At the hundred level the head official was the ‘reeve’ or ‘high constable’ whose primary job was to keep the peace within the hundred. Similarly, the ‘tithingman’ or ‘petty constable’ was responsible for keeping the peace at the tithing level. Tithings and sometimes hundreds might fall under the control of a particular lord

² Baker (2002, pp. 6–7).

(holding of the king) in which case the lord might have been granted a right to hold court. But even in such cases the king retained some supervisory control.

Landholding and the Royal Demesne

The land system in England under the later Anglo-Saxon kings was feudal 'whereby a tenant "holds" land of a lord', the relationship being termed 'tenure'.³ This system of tenure was 'perfected' by William the Conqueror with the Norman Conquest of England in 1066. The conquest resulted in a 'renegotiation of landholding arrangements'.⁴ The Normans displaced the English nobility and all land was ultimately held of the king. The king retained large tracks of land, known as the royal demesne. The rest was held of the king by tenants-in-chief. After the Conquest, the tenants-in-chief were concentrated in a few Norman families. In return for their holdings the tenants-in-chief owed the king loyalty and military service. In due course this took the form of tenants-in-chief having their holdings from the king measured in terms of 'knight's fees'.⁵

The knight's fee was an amount of land sufficient to maintain a knight with a convenient revenue, usually £20 annually. When in times of need the king summoned a military host, the tenants-in-chief were required to serve in that host and to bring with them sufficient knights to make up the total knight's fee of their holding. A knight's fee typically entitled the king to armed service of a knight amounting to forty days in a year. The knight's fee was the principal form of military tenure, the other forms being castleguard and cornage. The other main types of tenure at the upper end of the feudal order were civil and spiritual. Civil tenure typically required the holder to perform personal services or provide personal provisions for the king, called 'grand' and 'petty serjeanty' respectively. Spiritual tenure involved grants made to ecclesiastical bodies in return for certain religious duties.⁶

In a similar manner to the king, the tenants-in-chief 'parcelled out their dominions in like manner, keeping some for themselves and distributing the rest in return for the loyalty and service of their own tenants'.⁷ These tenants could further grant land to further tenants,

³ Baker (2002, p. 223). ⁴ Baker (2002, p. 224).

⁵ Generally, see Simpson (1986, pp. 2–4).

⁶ Generally regarding the different types of tenures, see Simpson (1986, pp. 7–15).

⁷ Baker (2002, p. 225) and see Simpson (1986, p. 5).

a process known as 'subinfeudation' by which a chain of tenures was created. Each tenant was bound to provide specified services to the person of whom the land was held (the tenant's lord). In return the lord provided protection and security of tenure. This relationship between the tenant and lord was sealed by the ceremony of homage. The holding of the lord against the tenant was known as 'seignory'. As with the king's residual holding, the land that a tenant did not subinfeudate was known as the person's demesne.

Most of the tenants lowest in the tenure chain held of 'manors', typically comprising a village centred upon a large fortified house with an adjacent church. In return for the grant, these lower tenants provided services, chiefly of an agricultural nature. If the services owed to the lord were not fixed the tenure was unfree and called 'villeinage'. If the services were fixed, the tenure was called 'socage'.

In purely feudal terms the right of the lord to the services and the right of the tenant to the land lasted for life and this lifelong status was called 'freehold'. In principle, the land could not be alienated by substitution nor passed on death unless the lord consented and any consent may be subject to a fine. But by the 1130s it was common to insert words of inheritance in charters of grants whereby lords granted land to tenants on the basis that the tenant's heirs would succeed to the land. A tenant's interest that was heritable in this way became known as a 'fee'. At the same time the personal bond between the lord and tenant was breaking down. The services owed by the tenant were now 'mostly turned into rent and were losing value through inflation...'⁸ As a result, landholding became largely heritable and the practice between locations essentially only differed as to the form of succession. This was backed up by actions in the king's courts that became available to enforce these claims of free tenants. So by 1200 the tenant 'was in reality the owner of the land. The lord's rights in his seignory were more like a charge on the tenant's property than the dominion which once they had been.'⁹

As far as alienation was concerned, during the twelfth century this was usually achieved through subinfeudation, which also avoided any charge by the lord on transfer. But again the conversion of services to rents, the reduction in value of rents and the potential loss of incidents of seignory through subinfeudation created an environment in which

⁸ Baker (2002, p. 238).

⁹ Baker (2002, p. 237).

lords may not oppose alienation by substitution. By the thirteenth century it was understood that a heritable fee entitled the holder to alienate the fee in such a way as to bar his own heirs from inheriting, in this case the tenant held a 'fee simple'.¹⁰ The system settled in 1290 with the passing of the statute *Quia Emptores Terrarum*, which required all future alienations to be by substitution rather than subinfeudation and that the lord was to allow substitution without fine.¹¹

The strong ownership rights created through a grant in fee simple may be contrasted with other rights in land of a more temporal nature. The words of inheritance incorporated in the terms of grant might also seek to limit the ability of the donee to alienate the land. This was particularly common on marriage where the grant might be limited to the husband and the wife and the heirs of the husband begotten of the wife. It was also commonly used in grants to younger sons and brothers. On failure of the condition the land would revert to donor or a remainder over. Such a holding was known as a 'fee tail' (cut-down fee). To quell earlier confusion, the statute *De donis conditionalibus* clarified the effectiveness of the remainder over.¹² Marriage gifts and grants in fee tail were an early expression of the instinct towards family settlement, more as to which will be discussed later in the context of uses and trusts (see pp. 39–41 and pp. 125–7).

Hence the two forms of inheritable estates of freehold were fee simple and fee tail. Both of these estates passed according to the laws of inheritance (typically to the first male heir) and could not be devised by will. A lord could also make it clear by the terms of the grant that the tenant only held a tenancy for life, in which case when the tenant died the land would revert to the lord. In this case the inheritable fee remained with the lord. Life interests in land could also be established by granting a wife 'dower' (in which case, upon the death of the husband, the wife held a life interest against the heir) and by the 'curtesy of England' (whereby a widower of an heiress could remain for life as a tenant of his wife's land). All of these interests were freehold estates though not heritable.

¹⁰ Simpson (1986, p. 56).

¹¹ *Quia Emptores Terrarum* (18 Edw. I) (1290) (UK); United Kingdom (1810–1828, Vol. I, p. 106).

¹² Statutes of Westminster II (13 Edw. I) (1285) (UK) c. 1; United Kingdom (1810–1828, Vol. I, p. 71).

Other interests in land were outside the freehold system such as leases for fixed periods or tenancies at will. Leases for fixed periods became particularly popular after the statute *Quia Emptores Terrarum* ended subinfeudation because in many ways it could be used as a substitute for it. Of course, the tenure held by villeins was villeinage, later to be copyhold, and not freehold. Simpson notes that through the middle ages:

[t]he commutation of services naturally enhanced the social status of tenants in villeinage, and, at the same time as it becomes common, we find the name villein tenure giving way to the more modern name of copyhold tenure.¹³

Structure of State and Collection from the Royal Demense

Within the first century after the Conquest, the Normans had substantially restructured the ‘rudimentary court of the Anglo-Saxon kings’. Under the Normans the royal administration consisted of ‘two great departments of state (the Exchequer and the Chancery) and a judicial system whereby the king’s justice was dispensed regularly by members of the king’s *curia* [the king’s court]’.¹⁴ In the Chancery the royal writs and charters were drawn and sealed. So questions relating to royal grants were raised there. These and other questions pertaining to the crown’s business developed into an informal court. The origins of the court of Chancery’s appeal to conscience are at least partly rooted in the influence of Canon lawyers in the Chancery.¹⁵ The Exchequer, by contrast, was the department managing the king’s revenue.

Baker notes that at this early stage the two distinct branches of the constitution, the legislature and the judicature, were not clearly distinguishable. ‘[I]t was settled in medieval times that the notional canon of statutes began with the confirmation of Magna Carta in 1225.’ The form of statutes remained irregular until the Statutes of Westminster (1275), which:

provided a model for the future by reciting the consent of the lords and commons (‘the commonalty of the realm’), these latter being knights of

¹³ Simpson (1986, p. 160). Similarly, Baker (2002, pp. 307–8) suggests the ‘term “villeinage” was increasingly reserved for servile status, and in the context of tenure it gave way in the fifteenth century to the socially neutral “copyhold” ...’.

¹⁴ Baker (2002, p. 12). ¹⁵ Baker (2002, pp. 100–3).

the shires, citizens and burgesses who were summoned to attend . . . In the reign of Edward III the commonalty began to meet as a separate house, to initiate legislation, and to assert a constitutional role.¹⁶

Medieval statutes were not ‘pored over word for word by the lawmakers’ and this ‘accounts both for the freedom with which the older statutes were interpreted and for the otherwise incomprehensible lack of contemporary definitive texts’.¹⁷

Before the Norman Conquest the Anglo-Saxon kings collected most of their revenue from the royal demesne and this continued to be the case immediately after the conquest.¹⁸ The extent of the royal demesne as at 1086 is recorded in the Domesday Book (under the heading *Terra Regis*), which some view as largely compiled for purposes of assessment.¹⁹ The sheriff was responsible for the collection of royal rents in each shire and the Exchequer ‘stringently’ supervised this function.²⁰ An exception to this system was those boroughs and towns that had obtained charters from the king enabling them to collect their own agreed rent free of a sheriff, termed ‘firma burgii’.²¹

This revenue was supplemented with various fines and reliefs arising from the incidents of feudal tenure, in particular military tenure.²² These incidents included aids (discussed below at pp. 30–4), fines on alienation (abolished in 1290, see p. 18 above), relief paid by heirs to secure their inheritance, escheat whereby land would revert to the lord of a tenant who died without an heir, certain customary dues on the death of the lord or the tenant and those arising by wardship and marriage.²³ The latter two require a little further elaboration.

If a tenant died and the tenant’s heir was under twenty-one years of age the heir would typically be unable to perform the services due to the lord. In this case the heir was subject to wardship under which the land returned to the lord for the duration of the heir’s minority.

¹⁶ Baker (2002, pp. 204–5). ¹⁷ Baker (2002, p. 206).

¹⁸ See Frecknall Hughes and Oats (2004, pp. 206–9).

¹⁹ See Dowell (1965, Vol. I, p. 35), Mitchell (1951, pp. 156–7), Sabine (1966, p. 11), Glasscock (1975, p. xiv) and Jurkowski *et al.* (1998, p. xvi).

²⁰ Baker (2002, p. 23).

²¹ Seligman (1895, p. 44) suggests that the sum agreed to by a town ‘was always distributed among the townsmen in proportion to the property of each’.

²² Dowell (1965, Vol. I, pp. 13–21). See also Baker (2002, p. 228).

²³ Simpson (1986, pp. 15–20) and Baker (2002, pp. 238–40). See also Frecknall Hughes and Oats (2004, pp. 209–12).

During this period the lord collected the profits from the land as compensation for the loss of services and the fact that the lord was typically required to raise the heir (ward) during the minority. In the case of a ward to a substantial landholding the incidents of wardship for the lord could be substantial. Further, the lord (guardian) was entitled to select a suitable marriage partner for the ward. If the ward refused or married without consent, the ward was subject to certain fines.²⁴

Landholding of the Church

A number of monastic orders were established in England during the medieval period. These included the Augustinians, Benedictines, Carthusians, Cistercians, Cluniacs and Premonstratians. The abbot and monks of a monastery were recognised as a corporation aggregate, as were deans and chapters of cathedrals and the joint incumbents of a collegiate church.²⁵ Monks, friars and nuns lost their legal personality upon profession to the order and so could not personally hold property.²⁶ This was a principle of canon law and recognised by the common law.²⁷ Property was held by the body of persons making up the monastery (headed by an abbot or abbess) as a corporation, a perpetual legal person, rather than by the individuals making up the monastery.

But the members of these ecclesiastical corporations could not use the corporate property to their own benefit. Church doctrine provided that:

the spiritual Church and Christ enjoyed ownership or *dominium* over the church patrimony [estate]. A bishop was *custos* of a church that he held in *custodia*. Because an individual churchman enjoyed no more than a limited occupancy or an *usus* of church assets, he could not sell the assets or pocket their revenues to build his estate. From such entrusted assets, the clerical *usuarius* was bound to gather revenues and spend them for his

²⁴ Baker (2002, p. 240).

²⁵ See generally Maitland (1900). It seems the position of a parson of a parochial or parish church was less clear.

²⁶ Herman (1998, p. 99) recounts how early Christian communities lacked legal personality under Roman law, which resulted in Church property being held by an interposed person of a fiduciary character. The Edict of Milan of 313 AD 'legitimated church property-holding in an institution known as *Corpus Christianorum*'. The result was the granting of 'juridical personality and attributed a faculty of possession to each church constituted around a bishop' (Herman 1998, p. 101).

²⁷ Baker (2002, p. 467).

modest sustenance, his congregation's needs, and the Church's ultimate benefit.²⁸

So while the clerics could make use of revenues from an estate, they could not dispose of the *corpus* or capital of the estate.²⁹ In order to apply this rule there was necessarily a capital–revenue distinction incorporated in church doctrines.

The origins of the wealth of the English Church are in generous gifts made to religious organisations in return for various services (such as symbolic membership of the organisation, prayers, masses and burial in the communal cemetery) or just for the benefit of the donor's 'eternal salvation'.³⁰ The medieval English Church 'owed its greatest wealth to the patrons of the tenth-century monastic revival'.³¹ The return on the capital gifts grew and produced surplus revenue. '[B]y the 11th century, monastic orders systematically invested surplus resources in interest-bearing loans.'³² Often these loans were perpetual and structured as a capital advance by the monastery in return for perpetual rents from land. The monastic charters often stipulated irredeemable rents 'because redemption of rent amounted to alienating a church asset, a doctrinally prohibited activity'.³³ Even new donations were structured in this way without the capital advance of the monastery.

Donations made to monasteries were often to be applied for specific monastic purposes or offices. It was the job of the medieval abbot to ensure that revenue received was applied appropriately. In this way 'the abbot acted as a modern trustee with discretion to reallocate income. But he lacked authority to invade the corpus because *dominium* of the [capital] was vested in the church patrimony'.³⁴ By the twelfth century this wealth had grown to such an extent that the church was

²⁸ Herman (1998, p. 96). This followed the reasoning of Thomas Aquinas (1225–74), which in turn 'echoed [Saint] Peter's message that the Church's earthly lieutenants could not sell spiritual things because they were not theirs to sell' (Herman 1998, p. 85). Under Roman law, an *usus* gave a right of occupation of an estate 'but denied the occupant's exploitation of the estate for profit'. The *usus* was only a personal right and could not be transferred or inherited (Herman 1998, p. 91).

²⁹ In England this was reinforced by canons promulgated by the Canterbury province at Oxford in 1222, which 'became the basis of English church law for the rest of the Middle Ages ...'. The canons enjoined churchmen 'not to alienate ecclesiastical property in any way to their relatives and friends or to anyone else' (Raban 1982, p. 3).

³⁰ Herman (1993, p. 105).

³¹ Raban (1982, p. 130).

³² Herman (1993, p. 105).

³³ Herman (1998, p. 106).

³⁴ Herman (1998, p. 107).

among the largest landowners in England, a holding estimated at between 26–33 per cent of the land in England.³⁵

The ecclesiastical corporations gave rise to problems with the feudal landholding system. Because corporations do not die and because canon law forbid the corporations from alienating property, the feudal incidents attaching to land held by ecclesiastical corporations were paralysed, the so called ‘dead hand’ of land accumulating in *mortmain*, i.e. to an institution rather than an individual.³⁶ This effect was aggravated through an early form of estate planning. As a way of avoiding incidents, a tenant might alienate land:

to a monastic house in order to hold it of the house, arranging to acquit the monks in respect of the services to the chief lord, and providing some other consideration; the interposition of a corporation between the tenant and the chief lord prevented the accrual to the latter of any of the incidents which would have arisen on the tenant’s death.³⁷

This abuse was addressed in a limited manner (by a ‘specific anti-avoidance rule’) in the 1217 reissue of the Magna Carta.³⁸ But incidents were lost even in the case of genuine gifts to monasteries and the Statute of Mortmain introduced a broader provision in 1279 by which all alienations in mortmain were prohibited.³⁹ Implicitly the Crown had a power to grant licences to alienate in mortmain but required compensation for the lost incidents.⁴⁰ As discussed below, this statute gave impetus to the development of uses.

Action for Waste

At page 22 it was noted how some form of capital–revenue distinction was incorporated in canon law. This distinction arises wherever there is an apportionment of property rights between persons on a time basis. Conceptually, under the income tax the distinction is used for the same purpose, i.e. allocation between different periods of time. Therefore, it is not surprising that a rudimentary form of capital–revenue distinction was also required in the context of feudal landholding. This is clear

³⁵ Raban (1982, p. 7). ³⁶ See Raban (1982, pp. 2–4). ³⁷ Baker (2002, p. 241).

³⁸ Magna Carta (2 Hen. III) (1217) (UK) c. 36; United Kingdom (1810–1828, Vol. I, p. 17).

³⁹ Statute of Mortmain (*De viris religiosis*) (7 Edw. I) (1279) (UK); United Kingdom (1810–1828, Vol. I, p. 51).

⁴⁰ Simpson (1986, p. 56) and Baker (2002, p. 241). Regarding the build up to the statute, see Raban (1982, pp. 14–16).

in the common law action for waste, which essentially arises wherever property rights were apportioned in time. The action was essentially targeted at a person who devalues property to the detriment of another person with a residual interest in the property. Walker notes that the 'earliest references to punishment for waste are in the pipe rolls of Henry II (circa 1177), where guardians were amerced by the Crown'.⁴¹ The action for waste was also available against life tenants and tenants for years.⁴² It seems that the action could also apply to dowagers and land held by the curtesy of England.⁴³

Waste also made frequent appearances in early laws. The Magna Carta of 1215 prohibited guardians from committing waste of their ward's lands and provided for loss of custody and damages.⁴⁴ Under the Provisions of Westminster of 1259 farmers (persons holding land upon payment of rent, usually in kind) committing waste were liable to restore damages in full as were certain guardians.⁴⁵ The Statute of Marlborough of 1267 was more specific providing that farmers within their terms 'shall not make Waste, Sale, nor Exile, of Houses, Woods, Men, or of any Thing . . . that they have to ferm, without special Licence . . . making mention that they may do it . . .'.⁴⁶ In 1278 the Statute of Gloucester provided that either tenancy for life or tenancy for years could be forfeited for deliberate waste and the tenant sued for treble damages.⁴⁷

Perusing the subjects of the early actions for waste is like reading a chapter from a standard textbook on trust law accounting.⁴⁸ For the period 1225 to 1366 Walker identified writs of waste relating to:

plough-teams, forges for making armour, fortified dwellings with chapels and halls above the gates, halls and chambers with 'solars', military chambers, kitchens, brewhouses, mills, parts of mills, and the ovens of manorial privilege. Habitations for animals are frequently

⁴¹ Walker (1978, p. 185). ⁴² See also Baker (2002, pp. 264–5).

⁴³ Walker (1978, p. 186).

⁴⁴ Magna Carta (17 John) (1215) (UK) cc 4–5; United Kingdom (1810–1828, Vol. I, p. 9). These provisions effectively provided for maintenance of the heir's capital.

⁴⁵ Provisions (43 Hen. III) (1259) (UK) cc. 23 and 17, respectively; United Kingdom (1810–1828, Vol. I, p. 8 at pp. 10–11).

⁴⁶ Statute of Marlborough (52 Hen. III) (1267) (UK) c. 23; United Kingdom (1810–1828, Vol. I, p. 19 at p. 24).

⁴⁷ Statutes of Gloucester (6 Edw.) (1278) (UK) c. 5; United Kingdom (1810–1828, Vol. I, p. 45 at p. 48).

⁴⁸ For example, Strachan (1937, chs. 4 and 5).

mentioned: granges, sheep-folds, cow-sheds, stables, falcon-houses, and dove-cotes. One may also read of fish-ponds and gardens, orchards and woods with their oak, elm, hawthorn, pear, apple and cherry trees, gates and fencing, houses of stone and houses so portable that they were carried off and sold ... There are larders, kilns, weaving-rooms, and a 'hospicium' for strangers (or perhaps undesirables such as lepers).⁴⁹

Trees provide a particularly illustrative example of the capital—revenue distinction at work. A tenant or other limited holder of land was clearly entitled to annual crops, which would be renewed each year (and so may be considered revenue). Something like trees, however, could take decades to grow and the issue was who was entitled to their benefit, i.e. at what point are trees considered revenue or capital. Walker notes that the distinction here was whether the trees were considered 'timber'. In capital—revenue speak 'timber' was capital whereas 'undergrowth' was revenue. 'Custom determined what was fair usage of an estate. In areas of limited forest, certain trees and bushes were considered timber, whereas in other areas they would be simply undergrowth of little value.'⁵⁰ A tenant or other limited owner that cut down timber would be liable for waste.

The early cases on waste provide other classic examples of the capital—revenue distinction. The failure to repair a building could be waste. Tearing down a building or selling it separately from the land could be waste. Unfree villeins holding by way of villeinage from their lord might also be considered a capital asset of the lord. Where that lord was only a tenant or other limited owner, the lord might be liable for waste if the services of the villeins were lost through the action of the lord. This might occur when oppressive tallage (a form of taxation, see below at pp. 33–4) 'drove villeins to abandon their holdings'.⁵¹

Defences raised to writs of waste encompass other classic examples of the capital—revenue distinction. Walker notes that a 'common defence was that the estate was in ruinous condition when received; this would explain some dilapidation and justify the cutting of trees "to emend and ameliorate" the estate'.⁵² The connection with the doctrine of initial repairs in income tax jurisprudence seems more than coincidental. Tenants were also entitled to use a certain amount of wood and brush

⁴⁹ Walker (1978, pp. 193–4). ⁵⁰ Walker (1978, p. 195).

⁵¹ Walker (1978, p. 195). As Baker (2002, p. 470) notes "'Exile of men" was one of the species of waste listed in the Statute of Marlborough 1267, c. 23.' See above at note 46.

⁵² Walker (1978, p. 197).

for repair and firewood. The custom in this regard varied from place to place and Walker notes that the question of whether a reasonable amount had been exceeded was often an issue faced by juries. Walker also notes that '[u]sually tearing down of something old to replace it with something new was not termed waste, nor was cutting trees called waste if "improvement" resulted, such as new houses or gates.'⁵³ The relationship with the concepts of replacement and improvement used in income tax law seems clear.

Stewardship and Accounting

The concept of stewardship was a common feature of the feudal system. It involved the managing of property for other people and there were many situations in which a relationship of stewardship might arise. The reeve of a manor was a familiar example, a person to whom the day-to-day running of the manor was entrusted. The concept might be extended to guardians, sheriffs and many positions in the Christian Church. A common feature of these examples of stewards was their liability to account to their principal.⁵⁴ This liability was subject to legislative action in the thirteenth century.

The action of account against guardians was at least implicitly recognised in the Magna Carta of 1215.⁵⁵ The Provisions of 1259 provided an action of account against guardians of land held in socage⁵⁶ and this was repeated in the Statute of Marlborough of 1267.⁵⁷ In this case the guardian was usually a near relative of the infant heir and 'was effectively turned into a trustee who (after 1267) could be compelled to render an account to the heir when he came of age at 14'.⁵⁸ The position was different with respect to a guardian of military tenure. In this case

⁵³ Walker (1978, p. 198).

⁵⁴ There were examples of stewardship involving accounting in earlier church history. Herman (1998, p. 102) describes the confiding of church property to *oeconomes*, persons 'who temporarily administered church property and rendered periodic accounts of receipts and disbursements'. Apparently this form of 'confided administration' occurred in England as early as the fourth century but was gradually abandoned.

⁵⁵ Magna Carta (17 John) (1215) (UK) cc 4–5; United Kingdom (1810–1828, Vol. I, p. 9).

⁵⁶ Provisions (43 Hen. III) (1259) (UK) c. 17; United Kingdom (1810–1828, Vol. I, p. 8 at p. 10).

⁵⁷ Statute of Marlborough (52 Hen. III) (1267) (UK) c. 17; United Kingdom (1810–1828, Vol. I, p. 19 at p. 24).

⁵⁸ Baker (2002, p. 240) and see also Simpson (1986, p. 19).

there was no liability to account and the guardian was entitled to the profits from the land until the ward reached twenty-one years of age. In 1285 a statutory action for account was granted against defaulting bailiffs (estate managers).⁵⁹ The liability to account required one person ‘to enter into an account in order to discover what, if anything, was owing . . .’ to another. If the court ordered an account, the person was committed to prison and auditors were appointed to hear the account.⁶⁰

Baker notes that all early actions were brought against bailiffs. By the first decade of the fourteenth century court actions were being brought seeking an account from merchant partners. Noke suggests that the action may have been significant in the ‘growth of partnership as a form of business enterprise in England’.⁶¹ And by 1320 the action was extended to enable an infant beneficiary to require an account from a person who had received money to the use of the beneficiary.⁶² Nevertheless, the early use of the action was focused on estate managers and it is useful to consider the early accounting practices of such managers.

The virtually universal early form of stewardship accounting was charge and discharge. This method was used by all significant economic entities such as ‘landed estates, local authorities, and religious and educational organisations . . .’.⁶³ Under this system a steward was charged with amounts for which the steward was responsible and discharged for payments the steward was authorised to make. The steward was liable to pay to the lord (account for) the amount by which the charge exceeded the discharge. Baxter notes that:

[t]he system had the enormous advantage, in an illiterate society, of not requiring written documents. If need be, it would be worked instead with an ‘exchequer’ — lines on a table to act as columns for units, tens, scores, etc., and small pieces (like draughtsmen) to represent numbers. The petty official who handled the pieces at the English royal court was in time to blossom into the Chancellor of the Exchequer. Officers in attendance to check the steward’s explanations did not read but heard them — hence ‘auditor’ . . .⁶⁴

⁵⁹ Statutes of Westminster II (13 Edw. I) (1285) (UK) c. 11; United Kingdom (1810–1828, Vol. I, p. 71 at p. 80).

⁶⁰ Baker (2002, p. 363). ⁶¹ Noke (2000, p. 118).

⁶² *Taillour v. Medwe* (1320) 104 Seldon Society (annual volumes, 1887–) 39. See Baker (2002, p. 363).

⁶³ Edwards (2000a, p. 343). ⁶⁴ Baxter (1980, p. 69).

Sheriffs were chief reeve or steward of the Crown in the shires. They were subject to fiscal supervision by the Exchequer. Baker notes that:

[a]s early as the 1120s we learn of a sheriff, fearsome and mighty in his own county, trembling in his boots when the time came for his reckoning at the chequered table.⁶⁵

It seems appropriate to presume an interrelationship between the legal liability to account and the development of written accounts. A legal liability might be an impetus leading to the formalisation of accounts. Similarly, legal liabilities might presume a certain state of affairs as, indeed, statutes in the second half of the thirteenth century presumed the existence of written accounts. By the end of this century written charge and discharge accounts were ‘a normal technique of estate management everywhere, on every type of estate ...’.⁶⁶ The accounts were typically made up for a single year, usually from Michaelmas (29 September) to Michaelmas. There was a charge and discharge account for cash. Noke describes the money account, which was essentially a cash statement, in the following terms:

In general the money account began, where appropriate, with the arrears from the preceding account, usually described as ‘*arregagia*’ or ‘*reragio*’ ... The Charge then listed all items of receipt, notably the *Redditus Manerii* (the rents), the *Exitus Manerii* (receipts from sales of produce and livestock) and the *Perquisita* (fines and amercements of the manorial court). The sum of total receipts was followed by the Discharge; the *Liberatio* (case liveries to the lord) and the various expenses, usually divided into *Expensa Necessaria*, expenses associated with the running of the manor (no distinction being made between what we would call capital and revenue items), and *Expensa Forinseca* ... being foreign expenses unconnected with the economic running of the manor, usually involving entertainment of the lord or his officials. Then came either a single total of expenses and liveries, or a total of expenses then followed by a total of expenses and liveries; a net balance was then struck – ‘*et sic debet*’.⁶⁷

There were typically further and separate accounts for each type of goods held by the steward and these were maintained ‘on the same principle as for cash’. The types of goods for which separate accounts were maintained included corn, other crops and various types of

⁶⁵ Baker (2002, p. 23). ⁶⁶ Harvey (1994, p. 92). ⁶⁷ Noke (2000, p. 104).

livestock, with separate accounts being maintained for different types of the same goods.⁶⁸

These accounts were ‘designed to enable the steward to inform the lord of the manor how resources entrusted to him (the charge) had been applied (the discharge)’.⁶⁹ They were not designed to facilitate profit calculation but it seems clear that at least some medieval estates used the information in the charge and discharge accounts as a basis of profit calculation.⁷⁰ While the concept of profit was not well developed, it is clear that there was a basic application of the capital–revenue distinction and this was particularly clear in the reference to ‘yearly value’ or ‘yearly worth’. Circa 1286 Walter of Henley recommended that ‘According to that youre landes be woorte by yeare by extente youe doe order your life and no higher at alle.’⁷¹

An ‘extent’ was typically a written document setting out the value of property held by a manor.⁷² In most extents land was valued at its annual rental value, i.e. its yearly value.⁷³ Walter suggested wood should be valued at what can be sold yearly (less charges) ‘without waste or destruction . . .’.⁷⁴ providing a link between the concept of waste and a primitive concept of income. In the result, the clear message from Walter is that a person’s expenditure should not exceed income or else the person will erode their capital. So by the late 1200s the capital–revenue distinction had foundations not only in canon law and the common law but also in estate management.

⁶⁸ Harvey (1994, p. 94). ⁶⁹ Edwards (2000a, p. 343).

⁷⁰ Yamey (1977, p. 13) notes that ‘some estates as early as the time of Edward I made use of additional records or compilations to give convenient summary views of their financial position or the profitability of their activities’.

⁷¹ Walter of Henley’s Husbandry c. 3 in Oschinsky (1971, p. 309). At page 144 Oschinsky says that the text probably dates between 1276 and 1290 with the most likely date being 1286.

⁷² Scorgie (2000, p. 13) quotes Bennett finding that an extent ‘set out in the greatest detail exactly what was to be demanded of every single landholder on the manor. It first dealt with the freeholders, and this was a comparatively brief matter, for once the rent was paid little but an occasional service . . . was expected of them. The unfree, however, were another matter: they had to render numerous rents and services, and often every detail of what was to be demanded of them was set out in the minutest fashion.’

⁷³ Noke (2000, p. 111). And according to Walter of Henley it seems likely that all income producing assets were valued according to their yearly value; Walter of Henley’s Husbandry cc. 16–19 in Oschinsky (1971, p. 313).

⁷⁴ Walter of Henley’s Husbandry c. 18 in Oschinsky (1971, p. 313).

Feudal Levies

As mentioned, before the Norman Conquest of 1066 the king derived most of his revenue in the form of rents from the vast possession of land (the royal demesne). This was supplemented with the king's incidents of feudal tenure, including aids.⁷⁵ An aid was an exaction by a lord 'from his tenants to assist him in meeting any financial difficulties'.⁷⁶ In 1215, the Magna Carta limited the ability of lords to raise aids to three cases: to ransom the lord from captivity; to knight the lord's eldest son; and to provide a dowry for the lord's eldest daughter.⁷⁷ The Statutes of Westminster provided some limitations as to the amounts that could be levied even on these occasions.⁷⁸ 'The king was not to levy other aids without the consent of the great council of the realm.'⁷⁹ Such other aides were not necessarily tied to feudal tenure.

An exception was customs, which, as the name suggests, did not require consent for their imposition. This form of indirect taxation was a right inherent in the king's roll as defender of the realm. Customs were levied upon merchandise exported from or imported into England and these were 'regarded rather as licences or concessions than as taxes and, further, the royal prerogative relating to foreign affairs ... was relevant'.⁸⁰ Unreasonable amounts were limited to some extent by the Magna Carta.⁸¹

Other aids in the form of direct taxation were only levied sporadically as the need arose, when rent from the royal demesne and customs proved inadequate. The typical circumstance in which direct taxes were levied was to meet the fiscal burden of military campaigns. In this way '[c]onstitutional theory ... matched the duty of the king to defend the realm with a reciprocal duty on the part of his subjects to grant him

⁷⁵ Simpson (1986, p. 22) notes that feudal incidents can be 'viewed essentially as a form of taxation ...'.

⁷⁶ Baker (2002, p. 238).

⁷⁷ Magna Carta (17 John) (1215) (UK) cc 12 and 14; United Kingdom (1810–1828, Vol. I, p. 9).

⁷⁸ Statutes of Westminster (3 Edw) (1275) (UK) c. 36; United Kingdom (1810–1828, Vol. I, p. 26 at p. 35).

⁷⁹ Baker (2002, p. 238).

⁸⁰ Phillips *et al.* (2001, p. 43).

⁸¹ Magna Carta (17 John) (1215) (UK) c. 41; United Kingdom (1810–1828, Vol. I, p. 9). See also Dowell (1965, Vol. I, pp. xiv–xix and 75–81).

financial aid in providing for this defence.⁸² This subheading briefly considers four typical types of feudal direct taxation in the forms of the geld, carucage, scutage and tallage.

Geld

Dowell discusses sporadic taxes or 'gelds' of a direct nature before the Norman Conquest in the form of the shipgeld and the danegeld. The first was a tax imposed on 'special occasions of imminent peril' and required shires to contribute towards ships and their equipment for the protection of the kingdom. The contribution between shires was in proportion to the number of hundreds they contained.⁸³ The danegald was also levied by reference to land but, as the name suggests, the proceeds were used to 'bribe away' would-be Dane invaders. It was levied by reference to hides. A 'hide' was a subdivision of a hundred being an area of land such as might be ploughed with one plough in a year, usually considered sufficient for the support of one family.⁸⁴

The tax base of the geld is somewhat sketchy. Mitchell suggests that the danegeld was:

based on a valuation of land, movables, and revenues; the assessment seems to have been employed to determine the relative capacity to pay among the hundreds of each shire and was represented by the number of hides or carucates or sulungs allotted to each hundred. This number was therefore a measure of the valuation of taxable property in the hundred, not the actual number of hides or carucates therein – fiscal units rather than real units. The amount was reckoned at a certain number of shillings per unit.⁸⁵

The previous subheading noted the importance of 'revenue' and 'annual' or 'yearly' value both in canon law and estate management in feudal England. Indeed, the word 'revenue' would have been understood to signify 'the yearly rent that accrues to every man from his lands

⁸² Schofield (1988, p. 228). Similarly, Mitchell (1951, p. 234) notes the principle that 'in time of great need the vassals ought to come to their lord's assistance, first in services and payments in kind and, by a later interpretation, with money. It was only an occasional levy, taken under extraordinary circumstances.'

⁸³ Dowell (1965, Vol. I, pp. 6–8).

⁸⁴ Dowell (1965, Vol. I, pp. 8–10) discusses gelds levied between 991 and 1051.

⁸⁵ Mitchell (1951, p. 112).

and possessions'.⁸⁶ So in an agrarian society, the geld broadly resembles a presumptive income tax, presumptive because it would not have been based on an actual measure of the revenue but at best the expected or potential revenue. In due course the geld became 'a general tax on land levied when there was a need for extraordinary expenditure ...'.⁸⁷

Carucage

The danegeld continued to be levied under the Normans, until its last collection in 1162.⁸⁸ As early as 1194 the geld was adapted to become an assessment known as a 'carucage'.⁸⁹ Originally this levy was imposed on the same basis as the geld but it was also levied by reference to the number of ox plough teams or on the 'carucate' (a measure of land that could be ploughed by one ox plough team in a season).⁹⁰ The assessment was made by the king's commissioners, at this time a knight and a clerk for each shire, who accounted for the funds to the sheriff. A commissioner was a person holding a commission (written authority or direction) from the king to act in a specified capacity such as to carry out an investigation.⁹¹ Baker notes how the increased use of commissioners by the king (rather than use of local officials, including the sheriff) was part of a general move involving removal of authority from the localities, i.e. a push towards greater centralisation and control by the king.⁹² The carucage as a form of tax faded out in 1224, largely as a result of the successful tax on movables discussed below.⁹³

⁸⁶ Saunders (1977, p. 302) defining the term. See also the definition provided by the *Oxford English Dictionary Online*; Simpson *et al.* (2004) (online), accessed 10 October 2004.

⁸⁷ Jurkowski *et al.* (1998, p. xvi). ⁸⁸ Jurkowski *et al.* (1998, p. xvii).

⁸⁹ Mitchell (1951, p. 234). The 1194 levy was imposed as part of the ransom for Richard I, mentioned below at p. 35, see Jurkowski *et al.* (1998, p. 4).

⁹⁰ It seems the 'carucate' was similar to the 'hide', although 'hide' was in use at an earlier date. See the definitions of these terms in the *Oxford English Dictionary Online*; Simpson *et al.* (2004) (online), accessed 10 October 2004.

⁹¹ For an extract from a commission of 1334, see below at note 136.

⁹² For example, see Baker (2002, pp. 25–6) and the discussion regarding the justices of the peace below at note 201.

⁹³ Generally regarding the carucage, see Dowell (1965, Vol. I, pp. 34–7) and Jurkowski *et al.* (1998, pp. xvii–xix).

Scutage

As discussed above at page 16, the principal form of military tenure was the knight's fee and this carried with it an obligation to provide armed service of a knight for so many days in a year, typically forty days. As early as 1100 it was possible for this military obligation to be commuted for a money payment, later termed 'scutage' or 'shield money'.⁹⁴ The scutage was levied intermittently as various military expeditions required. It developed to require the tenants-in-chief to make a return to the Exchequer of the number of knight's fees for which the tenant was liable.⁹⁵ The tenants-in-chief were liable for the scutage but could recover it from the tenants holding land of them. As disputes arose as to its imposition, the scutage proved increasingly difficult to collect and in 1340 it virtually faded away when Edward III abandoned the collection of outstanding scutages in return for a parliamentary grant.⁹⁶

Tallages

Tenants of the royal demesne also had a duty to support the king out of their goods. Originally goods were assessed as an alternative to the geld and carucage, and increasingly so as these other forms of tax faded away. These assessments were usually termed 'tallages'⁹⁷ and could, but rarely did, amount to a tenth of the tenant's movables.⁹⁸ The quantum of

⁹⁴ Mitchell (1951, p. 5) and Jurkowski *et al.* (1998, p. xix, note 27). For a discussion of scutage during the time of King John, see Frecknall Hughes and Oats (2004, pp. 213–17).

⁹⁵ Irritation caused by numerous scutages levied by King John resulted in Article 12 of Magna Carta (17 John) (1215) (UK) requiring that 'no scutage or aid shall be imposed in our kingdom unless by common counsel of our kingdom ...'; United Kingdom (1810–1828, Vol. I, p. 9). The translation is from Rothwell (1975, p. 318). For the purposes of raising such an aid, Article 14 provides for the summoning of the common counsel consisting of prelates, earls, barons and other tenants in chief. The limitation in Article 12 was not repeated in the subsequent re-issues of the Magna Charta. See also Mitchell (1951, pp. 179, 192).

⁹⁶ Jurkowski *et al.* (1998, p. xxi). See also Dowell (1965, Vol. I, pp. 38–48). Baker (2002, p. 228) notes how similar commutations were made of other services and that these faded out in a similar manner to the scutage. 'By the middle of the thirteenth century hardly any personal services were being paid for with land, except at the lowest level.'

⁹⁷ Mitchell (1951, p. 238) notes that only gradually did this levy assume the name 'tallage'. 'At first it was called auxilium, donum, and assisa in the pipe roll.'

⁹⁸ Mitchell (1951, p. 348) suggests that 'both real and personal property were assessed in levying a tallage. The question we must ask is, what was the ratio of the tax to the value of the property? ... We get no information from the rolls that enables us to answer this query definitely.'

tallages was typically settled through separate negotiation with towns and the demesne.⁹⁹ Like the other forms of taxes, tallages were levied sporadically but often at the same time as scutage. Typically, a tallage was assessed by sets of three commissioners who were instructed by writ to act within certain shires and to make assessments ‘according to the ability of the tenants . . .’¹⁰⁰ The assessment and collection of the tallage was similar to that for the carucage. The commissioners were to create rolls of assessment and deliver them, under seal, to the sheriff who was to collect and account for the levy at the Exchequer.¹⁰¹ The tallage was rarely imposed after 1283 partly as a result of its decreasing yield due to alienation of the royal demesne.¹⁰²

Property Tax Grants Leading to the Fifteenth and Tenth

During the thirteenth century the danegeld, carucage, scutage and tallage were merged into a more general taxation of moveable property authorised by Parliament. This taxation has its origins in the Saladin Tithe of 1188, an ecclesiastical tithe levied by various countries throughout Europe to support the third crusade.¹⁰³ This tithe was imposed during the penultimate year of the reign of Henry II in the following terms:

This year all must give a tenth of their rents and movable goods in free alms to the assistance of the land of Jerusalem, excepting arms, horses and clothing of knights, and also excepting horses, books, clothes and vestments and all things of clergy used in divine service, and precious stones of both clerics and laymen.¹⁰⁴

⁹⁹ ‘[T]allage . . . was levied at the will of the king, but the amount was paid by negotiation between royal officials, assessors, and the inhabitants of the area or its lord or custodian’ Mitchell (1951, p. 330).

¹⁰⁰ Dowell (1965, Vol. I, p. 56) referring to the tallage of 1304.

¹⁰¹ Mitchell (1951, p. 238).

¹⁰² See also below at note 114. Generally regarding tallage, see Dowell (1965, Vol. I, pp. 49–58) and see Jurkowski *et al.* (1998, pp. xxiii–xxiv). Subsequent to 1283, Dowell notes tallages of 1288, 1294, 1303, 1312 and 1332. Mitchell (1951, pp. 241–2) discusses how these later levies began to resemble the form and assessment of property grants discussed next.

¹⁰³ Jurkowski *et al.* (1998, p. xiii) notes earlier levies of a similar kind for 1166 and 1185. See also Mitchell (1951, pp. 114–19).

¹⁰⁴ Translation of the Ordinance of the ‘Saladin Tithe’ first paragraph reproduced in Jurkowski *et al.* (1998, p. 1). The latin text of the ordinance imposing the tithe is reproduced in Dowell (1965, Vol. I, Appendix I, pp. 227–8).

While the specific exceptions suggest a potentially broad tax base, the primary focus of this levy would have been the annual produce from agriculture. The levy would have been largely paid in kind, typically agricultural produce. In this context, 'rent' would have covered in-kind payments by a tenant farmer to a lord and 'movable goods' the produce left to the tenant.¹⁰⁵

The second clause provided the administrative machinery. As usual, the levy was to be collected by the king's officials but in this case in the presence of the parish priest and certain other church officials, thus emphasising the ecclesiastical connection with this levy. The sanction for non-payment was excommunication. Where the officials suspected that a person gave less than required, the law provided for the appointment of a panel of four to six locals who were required to state on oath how much the person should have paid. So as Mitchell notes, this involved a 'definite effort for the first time to base the levy upon a careful assessment of property depending not on a man's conscience or an anathema but on the judgment of neighbors under the direction of royal representatives'.¹⁰⁶

While there is no clear record of the amount collected through the Saladin Tithe, it seems clear that it well exceeded the other forms of levy used previously.¹⁰⁷ Henry II died before he could undertake the crusade but his son Richard I did so. Richard was captured in 1192 on his way back from the crusade and his brother John, as regent, raised the huge amount that was required to pay his ransom. Among other levies, a tax of one fourth of rents and, more questionably, movable goods was imposed along the lines of the Saladin Tithe.¹⁰⁸ Mitchell rates this massive levy as 'the most important levy of the twelfth century'.¹⁰⁹

¹⁰⁵ Saunders (1977, p. 279) defines 'rent' as '[a] compensation, or return; that is, a profit issuing periodically out of lands or tenements. It does not necessarily consist in the payment of money.' An alternate translation is provided in Douglas and Greenway (1953, p. 420), which, in particular, translates *reditus* as 'revenues' rather than 'rents'. Mitchell (1951, p. 132) speculates as to what was meant by 'revenues'.

¹⁰⁶ Mitchell (1951, p. 122).

¹⁰⁷ See Mitchell (1951, p. 119) and Jurkowski *et al.* (1998, p. 2).

¹⁰⁸ Stenton (1927, pp. xxi–xxiv), Mitchell (1951, pp. 124–6) and Jurkowski *et al.* (1998, pp. 3–4). 'The great yield of the Saladin tithe must have impressed officials, so that when they were called in to raise an enormous sum for the ransom they turned to this tax but at a greatly increased rate ...' Mitchell (1951, p. 124).

¹⁰⁹ Mitchell (1951, p. 123).

John, as king, again used the taxation of rents and movables in 1207.¹¹⁰ In this case the rate was one thirteenth. This was the last of this style of tax imposed on rents but the tax on movables continued to be imposed sporadically during the early thirteenth century. The impositions were levied at various rates (ranging from a fortieth to a tenth) and on various descriptions of movables.¹¹¹

One feature of the new system was employed almost from the start and was never changed: the appointment of a body of county commissioners or taxers (usually appointed by the central government) to supervise the levy in each shire.¹¹²

Sometimes this form of tax was only levied on particular types of persons, quite often the religious orders, clergy and laity. For example, in 1227, a year in which a heavy tallage was collected, the general levy was only made on the religious orders and the clergy. Similarly, in connection with crusading debts and the Welsh campaign of 1277 a general levy was imposed on the laity and the clergy (a scutage was also levied around this time).¹¹³ The assessment usually involved a sworn statement by all persons chargeable as to the value of their movables. As with the tallage, commissioners were to be appointed for each county and were to be assisted by the sheriff. However, unlike the tallage, these grants were generally made by Parliament, particularly after 1283 the time at which the tallage largely faded into disuse.¹¹⁴

Towards the end of the thirteenth century the practice grew of assessing movables more lightly on persons 'living outside the cities, boroughs or royal demesne ...'.¹¹⁵ Dowell notes that by this time the practice in assessment and collection was reasonably settled. Separate writs were issued for each county appointing two knights from outside

¹¹⁰ Jurkowski *et al.* (1998, pp. 7–8).

¹¹¹ Mitchell (1951, p. 113) notes that '[r]evenues were exempted after 1207, but some doubt existed as to where the line should be drawn between taxable and exempt personal property. As a result of this indecision ... each tax was based on a fresh assessment.'

¹¹² Mitchell (1951, p. 64, see also p. 67).

¹¹³ Jurkowski *et al.* (1998, pp. xx–xxi, 20).

¹¹⁴ Dowell (1965, Vol. I, pp. 59–69). See also Mitchell (1951, pp. 240–2) who suggests that the reason why the levy of the tallage ceased was because it began to resemble the general tax on movables. Only the latter required parliamentary consent, so parliament offered to grant the tax on movables 'if the king would rescind his commands to levy a tallage.' See also Mitchell (1951, pp. 397–9).

¹¹⁵ Dowell (1965, Vol. I, p. 70). As to 'boroughs' see below at pp. 38–9.

the county as commissioners to assess and collect the tax. The ordinance for assessment was in the form of an ordinance of the king in council. The commissioners were to appoint assessors who were to take an oath of fidelity to assess all goods 'in field or house or elsewhere' at full value. There were certain exemptions including some basic possessions and the poor.¹¹⁶ The commissioners were required to make out schedules of assessment with the amount at which each person was assessed and proceed to collect the taxes. As usual, the sheriff was to assist the commissioners.¹¹⁷

It seems that in some cases these general taxes were assessed strictly and sometimes more loosely. Dowell notes the assessment of 1332 as particularly strict. This was the year in which Edward III tried to revive the tallage but Parliament granted a fifteenth of the value of movable goods for those living within the towns and royal demesne and a tenth for those living outside. This caused the king to recall the commissions for the assessment of the tallage.¹¹⁸ However, the fifteenth and tenth was imposed strictly and caused many complaints.

Glasscock suggests that 'only local rolls of the period before 1334 ... give details of the movable goods of the taxpayers, their value, and the resulting tax charges'. By reference to local rolls of 1283, 1297 and 1332, Glasscock suggests that:

movables in rural areas usually meant the larger domestic animals (horses, cattle, sheep, and pigs), grains (wheat, barley, oats, rye, and mixed corn), other crops (peas, beans), hay and fodder, and very occasionally carts and items of merchandise. Personal effects were officially exempt from taxation and there is rarely mention of household goods, utensils and farm implements, poultry or eggs, bread and drink, cheese and other foods ... [C]learly it was customary practice for the taxers to ignore the essential goods which a household needed for day-to-day living.¹¹⁹

¹¹⁶ Jurkowski *et al.* (1998, pp. xxix–xxx) suggest that the first comprehensive list of exemptions for the poor and necessities of life was in the 1225 levy. Mitchell (1951, p. 139) lists the exemptions.

¹¹⁷ Dowell (1965, Vol. I, pp. 70–3) and Jurkowski *et al.* (1998, pp. xxvi–xxx). An example of the ordinance used for 1322 appears in French in Dowell (1965, Vol. I, Appendix III, pp. 237–40).

¹¹⁸ Dowell (1965, Vol. I, p. 57).

¹¹⁹ Glasscock (1975, p. xxv, p. xiii). Dowell (1965, Vol. III, p. 69) notes that 'generally speaking these taxes were levied outside the towns upon the cattle and crops of the landowners, and in towns upon the capital value of stock in trade and chattels'. Gray (1934, p. 607) notes that '[m]ovables were interpreted as being principally grains and livestock, while household goods and merchandise were added in the towns'.

1.2 The Fourteenth Century Through the War of the Roses

This heading traces the development of direct taxation from the settling of the fifteenth and tenth in 1334 to the end of the War of the Roses. The turbulent events of this period, including the Black Death (1348–9), the Hundred Years War (1337–1453) with France and the internal conflict known as the War of the Roses (1455–85), left their mark on the form of direct taxation employed. This period sees the embryonic development of particular features that are ultimately incorporated into the income tax. These features include the early development of what would become Schedule A and the source and residence basis of the income tax. We also see the first mention of the taxation of corporations and other artificial entities. All this coincides with an initial rise in the importance of Parliament in taxation matters. In 1340 the king conceded the principle that no taxation should be imposed without the consent of the commonalty.¹²⁰ This rise in parliamentary power was, in time, accompanied with a more precise and deliberate approach to legislation. The difference between fourteenth and fifteenth century tax legislation, in terms of detail and precision, is quite marked. This development also predates the introduction of printed Acts of Parliament in 1484.¹²¹

Fourteenth- and fifteenth-century England was still dominantly an agrarian society but the seeds for the subsequent trade explosion were already being sown. The middle of the fourteenth century saw the initial granting of incorporation of ‘boroughs’ by royal charter, which would develop into the ‘classic’ age of incorporation a century later. The boroughs were fortified or ‘walled’ towns that were controlled by burgesses. In effect, incorporation meant freedom from feudal lords. The chartered boroughs:

had total control over the trading which took place within the city walls (and lack of it in the immediate environs). They had their own courts and fines collected from offenders accrued to them, not the Crown. They owned much of the land and buildings, extracted rents therefrom, and levied tolls on traders. They were run on behalf of the burgesses and a major objective was to control the town’s manufacture and trade.¹²²

¹²⁰ Statute the Second (14 Edw. III) (1340) (UK) c. 1; United Kingdom (1810–1828, Vol. I, p. 289 at p. 290). See also Baker (2002, p. 205) regarding the development of the commonalty.

¹²¹ Generally regarding the development of legislation during the fifteenth century, see Baker (2002, p. 207).

¹²² Jones (1994, pp. 387–8).

Baker notes that the borough was administratively and judicially similar to the hundred and that the borough and hundred were 'reckoned to be mutually exclusive'.¹²³

The manor continued to be the nucleus of the agrarian economy. During the period of the later twelfth to early fourteenth centuries many lords engaged in substantial demesne farming. But from the mid-fourteenth century leasing manors became the 'usual way of running an estate ...'.¹²⁴ The form of manor accounts did not change, however, and the charge—discharge form still dominated, even if the range of entries was reduced. Further, the charge—discharge system was the system used for all types of local government, including the incorporated boroughs.¹²⁵

While the form of accounting developed little in the period covered by this heading, the form of holding land did see a major change. This period saw the rise of holding land by way of use and by the end of it this form of landholding was dominant.¹²⁶ This heading begins with a brief discussion of the form and development of the use. This is important for a deeper appreciation of the development of direct taxation during this period, given that landholding is the focal point in an agrarian economy. The heading then proceeds to consider the settling of the fifteenth and tenth into a form that would remain virtually unchanged for 300 years. Third, the heading considers the important poll taxes beginning in 1377 that led to the development of the subsidy. The heading is rounded off with a brief consideration of the development of regional levies.

Holding Property by Way of Use

The precise origins of the use are unclear but the Franciscan friars provide an early example of its implementation in thirteenth-century

¹²³ Baker (2002, pp. 6–7).

¹²⁴ Harvey (1994, p. 106). Before this period, Harvey (1994, p. 105) notes a development whereby reeves and other officials managing demesne estates for lords were required to return a minimum yield, which then developed into a fixed yield. Any amount derived from the estate above the fixed yield was the manager's to keep. The leasing of manors was a further step for lords seeking a fixed return. See also Postles (1994, p. 116).

¹²⁵ Jones (1994, p. 397). Jones goes on to note that '[t]he charge — discharge accounts were nowhere concerned with separating out the revenue position from capital'.

¹²⁶ Baker (2002, p. 251) notes that '[b]y 1502 it could be asserted that the greater part of the land in England was held in use'.

England.¹²⁷ Unlike other religious orders, the Franciscans could not hold property as a *collegium* or a *communitas* but a papal interpretation of 1230 confirmed that they could appoint a 'spiritual friend' (like a trustee) to hold their money and property. An advantage of holding property through nominees in this way was that it appeared to 'sidestep' the Statute of Mortmain of 1279 (as to which, see above at p. 23). Herman notes how holding property in this way was also consistent with the way in which the Christian church held property before it secured legal personality.¹²⁸

Irrespective of whether the use has its origins in canon law concepts, in the fourteenth century it began to extend into the landholdings of the laity. Helmholz describes a typical laity use in the following terms:

A person who held freehold land (called the feoffor in the English common law) conveyed it to grantees (the feoffees to uses), who would hold the land either for the benefit of the feoffor or that of other beneficiaries to be named. Typically, the feoffment instructed the feoffees to hold the land for the benefit, not of any particular new beneficiaries, but of those persons the feoffor would later name in his last will and testament. In the meantime the trustees were to hold title for the feoffor's benefit. Using the technical terms of the common law, the feoffees were said to hold the land *ad opus*.¹²⁹

Uses were strictly enforced by Chancery and by the fifteenth century disputes concerning uses accounted for a major part of the Chancellor's business. By this time Chancery jurisprudence had 'turned the interest of the beneficiary into a new kind of ownership'.¹³⁰ Because the use involved 'a personal confidence reposed in a human conscience', a corporation could not be a feoffee to uses.¹³¹

Perhaps the major employment of the use was to circumvent the strict rules of the common law on inheritance of land (see above at pp. 17–18). Under the common law system of patrimony the first male heir inherited all land. Granting property to use enabled a person to

¹²⁷ Simpson (1986, p. 173) suggests there are 'examples of uses of land back in Domesday Book, by the time we reach the thirteenth century the practice of putting lands in use has become fairly common'.

¹²⁸ Herman (1998, pp. 93, 108–9). See also Baker (2002, p. 249).

¹²⁹ Helmholz (1998, pp. 155–6). See also Simpson (1986, pp. 173, 183).

¹³⁰ Baker (2002, p. 251). ¹³¹ Baker (2002, p. 310).

provide for others including a wife, daughters and younger sons. Uses (and dower) were a mechanism for withdrawing property from the patrimony and, therefore, enhanced a person's control of land after their death. Further, as title did not pass by descent the feudal incidents and, in particular, wardship were avoided.¹³² Fourteenth-century family settlements typically involved property being held to the use of the settlor and spouse (jointure) or to the use of certain named beneficiaries for life with a remainder over, often with a number of remainders, typically granted in tail.¹³³ In this way the issues arising from the division of rights to land into time periods mentioned at page 23 (such as issues as to waste) continued under uses.

Uses were also granted for purposes other than family settlements such as to 'secure debts or other obligations, to avoid creditors, to evade litigation and to circumvent the Statute of Mortmain'.¹³⁴ Biancalana continues to note how the flexibility of a grant to uses was particularly attractive in the context of the uncertainty of the times. This uncertainty included the Black Death and raising finance for military expeditions to France with the possibility of death abroad.¹³⁵ There are also many early examples of uses granted over chattels.

Settling of the Fifteenth and Tenth

The merging of the danegeld, carucage, scutage and tallage into a more general taxation of moveable property was discussed above at pages 34–7. It was also noted how this form of taxation developed to tax persons living in the cities and boroughs and on the royal demesne more heavily than those living outside. The strictness of the 1332 assessment was also noted, giving rise to many complaints. As a result of these complaints, the fifteenth and tenth granted for 1334 empowered the commissioners to settle with various counties and towns a sum to be

¹³² Simpson (1986, pp. 174–5, 182) and Baker (2002, pp. 249, 269). Simpson (1986, p. 183) notes that the avoidance of incidents was effected by the multiple use of feoffees as joint tenants. '[W]hen one joint tenant died his interest accrued to the surviving joint tenants, and did not pass to his heir, so that the legal estate never passed by descent at all ...'

¹³³ See Biancalana (1998, p. 132). Baker (2002, p. 284) notes that the usual form of family settlement was 'in the form of an entail, sometimes with successive entails in remainder to named persons, who took not as heirs but as named living persons with vested remainders'.

¹³⁴ Biancalana (1998, p. 112). ¹³⁵ Biancalana (1998, pp. 123–4).

paid as a composition for the tax.¹³⁶ The amount of the assessment was entered on the assessment rolls for the particular counties and towns and it was the counties and towns that were required to assess and collect the contributions from various persons. Glasscock notes:

It is not known how local communities raised the sums agreed upon in 1334. In all probability the method varied from place to place, but we can say with certainty that in general the agreed quotas of 1334 were reached without taking into account movable property of a large percentage of the people in every township and borough whose movable goods were valued at less than ten shillings.¹³⁷

The sum raised by this fifteenth and tenth was about £39,000.¹³⁸

From this point, the practice became for Parliament to grant a fifteenth and tenth to be levied according to the manner for 1334. In effect, this meant that this form of grant was for a specific sum of about £39,000 and the counties and towns were to pay the same amount as they had been assessed for in 1334.¹³⁹ This liability to pay a set amount

¹³⁶ A commission for the 1334 levy reads: 'Appointment of the abbot of Cerne and John Mauge, in consideration of abuses which are said to have occurred in the collection of the last tenth and fifteenth, to treat with the commonalties of the cities and boroughs, and the men of the boroughs and ancient demesne lands, in the county of Dorset and to agree on the sums to be paid by them in respect of the tenth and fifteenth granted to the king in the last Parliament . . . Should the commonalties and men refuse to come to an agreement with them, the abbot and John Mauge with a clerk to be chosen by them are to assess the amount to be paid by the county. . .'. United Kingdom (1891—, p. 38). At page 39 the commission was extended to other areas.

¹³⁷ Glasscock (1975, p. xxii).

¹³⁸ Dowell (1965, Vol. I, pp. 85–7). Schofield (1988, p. 230) notes that the 'fifteenth and tenth was a simple tax of fixed yield, levied on communities rather than individuals . . . [H]ow the sum to be raised was to be apportioned amongst individuals was left to each community to decide'. Cannan (1896, p. 4) notes that this is the essential difference between a rate and a tax, i.e. a rate is a specified amount to be levied from taxpayers according to a particular manner but not specific about the rate of the levy whereas a tax prescribes the manner and rate at which the levy is to be imposed but is not specific as to the total amount to be raised.

¹³⁹ For example, the following instructions to commissioners dated 7 April 1336 appear in United Kingdom (1911–1962, Vol. IV, p. 480): 'Commission to Henry de Trethewey and John Billion to sue and receive from the cities, boroughs and towns in the county of Cornwall as much money of the fifteenth and tenth granted . . . in the Parliament summoned at Westminster on Monday after Sunday in mid-Lent last, as they paid in the last such grant, and no more . . . and order to them to go personally from place to place . . . and to summon from each town two men and the reeve, and from each city and borough the mayor, bailiffs and four men, and to enjoin on them to levy and

was a collective responsibility of each locality and collectors generally distrained for any shortfall 'on the inhabitants in general, without attempting to allocate any particular responsibility for the failure of the vill to produce the tax'.¹⁴⁰ This system of grants continued in force for nearly 300 years, although the total amount received for a grant diminished on account of decaying towns.¹⁴¹ Sometimes a fraction of a fifteenth and tenth was granted and sometimes multiples of it.¹⁴²

It has been suggested that the apportioned amount was levied from local persons in the same manner as local rates (as to which see below at pp. 52–3).¹⁴³ Schofield agrees that 'the evidence shows that the way in which this division of the tax charge of the vill amongst the inhabitants was effected was entirely a matter of local custom'.¹⁴⁴ Schofield goes on to note suggestions that over time the fifteenth and tenth became essentially a charge on land. After considering the limited evidence he suggests that 'to a very great extent in practice, the fifteenth and tenth after 1334 was still based on an assessment of moveable goods and chattels'.¹⁴⁵ Where this practice continued a separate assessment would be required for each fifteenth and tenth. However, it is true that in a number of localities land was the basis of assessment. In some vills there was a simple apportionment over the land in the vill and this apportionment was used for successive fifteenth and tenths, i.e. without reassessment. In other cases there was a fresh assessment on the value of land.¹⁴⁶

The jurisdictional basis of the fifteenth and tenth also varied between localities. Schofield suggests '[i]t is reasonably clear that the general legal position was that the traditional tax charged on a vill was charged on the inhabitants of that vill.' This is consistent with the fifteenth and tenth

deliver the money so that it can be answered for at the said terms; and because those whom the collectors deputed under them and lords and others of the richer folk of the towns, cities and boroughs have paid nothing but levied the whole from the others, order to the said commissioners to let them know that it is the king's intention that all pay their portions, else the king will appoint persons to tax their goods and levy the fifteenth and tenth therefrom . . .'. A more detailed form for the assessment by the commissioners for the county of Northumberland is reproduced at page 487. This form provides for the exemption of various goods and poor persons from assessment.

¹⁴⁰ Schofield (2004, p. 50).

¹⁴¹ Schofield (2004, pp. 170–2) tabulates the yields of the fifteenth and tenth from 1488–1547.

¹⁴² Dowell (1965, Vol. I, pp. 87–8, Vol. III, p. 69) and Jurkowski *et al.* (1998, pp. xxxi–xxxiv).

¹⁴³ Cannan (1896, p. 13). ¹⁴⁴ Schofield (2004, p. 36). ¹⁴⁵ Schofield (2004, p. 38).

¹⁴⁶ Schofield (2004, pp. 36–41).

being in principle a charge on persons with respect to their movables. However, in practice there were exceptions to this rule particularly in the case of localities imposing tax on the basis of land, where the occupier was inevitably charged.¹⁴⁷ This embryonic distinction between taxation on the basis of residence and on the basis of source or situs would soon be developed further in the early poll taxes and subsidies.

Over the centuries during which the fifteenth and tenth was collected anomalies and inaccuracies crept in. The continual copying of the assessment rolls resulted in inaccuracies and the wealth distribution of 1334 changed dramatically, calling into question the fairness between the localities of a system based on assessments made hundreds of years earlier. Further, by relinquishing the incidence of the tax to the officials of various communities, there was no supervision to provide relief to the poor. The varying assessment patterns between localities were also viewed as undesirable.¹⁴⁸

Despite these difficulties, the fifteenth and tenth was the backbone of English direct taxation during the fourteenth and fifteenth centuries. Schofield notes:

Throughout the fifteenth century the fifteenth and tenth was universally regarded as the normal form of parliamentary taxation. Other ways of raising taxes were tried from time to time. Several were outright failures: none were ever repeated. In contrast, the fifteenth and tenth was granted again and again, and more than once was called upon to replace a more experimental tax that had failed.¹⁴⁹

Beginning in the late fifteenth century, the fifteenth and tenth was first supplemented and then gradually replaced with a form of tax that became known as the subsidy. Before a consideration of the development of the subsidy under the early Tudors (see p. 54) it remains to consider some of these 'experimental' failures.

Limited use of Poll Taxes and Subsidies on Annual Value

Various attempts were made to supplement direct taxation by way of fifteenth and tenth. The early attempts were not particularly successful

¹⁴⁷ Schofield (2004, pp. 42–3).

¹⁴⁸ Jurkowski *et al.* (1998, p. xxviii). See also Schofield (1988, p. 230) who notes the effects of inflation. Gray (1934, p. 607) notes that '[f]rom a modern point of view the tax was one which had never fallen equitably upon the possessors of national wealth and one which had proved for the most part unresponsive to economic change'.

¹⁴⁹ Schofield (2004, p. 27).

but the attempts ultimately led to taxation by way of the Tudor subsidy. The infamous poll taxes pre-dating the Peasant Revolt began in 1377 when England was under attack from France during the Hundred Years War.¹⁵⁰ This was the year in which the child king Richard II came to the throne (aged ten) and the regent, John of Gaunt, effectively ruled England. Under the 1377 levy, instructions to commissioners were relatively simple. For example, the commissioners for the county of Kent were instructed to:

levy in the county of Kent . . . the subsidy of 4*d.* from every lay man and woman over the age of 14 years, except true and genuine mendicants, which was granted to the king . . . in the Parliament summoned at Westminster on the quinzaine of Hilary last . . .¹⁵¹

This was followed by a graduated poll tax in 1379. Under this levy, various categories of persons, including merchants, artificers, sergeants and franklins of the country, farmers, solicitors and hostlers were to be assessed at one of a number of amounts 'according to the condition of their estate'.¹⁵² The 1379 tax is the first considered by this study to be expressly levied on the basis of residence:

[E]ach foreign merchant . . . pays according to his condition as other residents. And these payments above named shall be levied from no person except in the place where he is living and nowhere else . . .¹⁵³

Another particularly heavy poll tax was levied in 1380.¹⁵⁴ The 1380 tax is interesting because of its express requirement that each person pay according to their 'ability'.¹⁵⁵ 'Ability' was defined for

¹⁵⁰ Jurkowski *et al.* (1998, pp. xxxiv–xxxv) note an earlier isolated effort to raise a poll tax in 1222.

¹⁵¹ Commission dated 4 March 1377; see United Kingdom (1911–1962, Vol. VIII, p. 386). A 'mendicant' was a member of certain Christian religious orders.

¹⁵² A translated version of this law appears in Myers (1969, pp. 125–6). Jurkowski *et al.* (1998, p. 58) confusingly refer to this as 'a combined poll tax and graduated income tax on the laity . . .'. At best this seems to have been a classified poll tax. See also Dowell (1965, Vol. I, pp. 93–6).

¹⁵³ Myers (1969, p. 126). See also Dowell (1965, Vol. I, pp. 96, 98).

¹⁵⁴ A translated version of this law appears in Myers (1969, pp. 126–7).

¹⁵⁵ '[E]ach lay person shall be charged equally according to his ability, and in the following manner: that is to say, that for the total sum to be accounted for in each township the well-to-do shall according to their ability help the less. . . and that no person shall be charged to pay, except in the place where he and his wife and children dwell, or in the place where he remains in service . . .' Myers (1969, p. 127).

various categories of individuals by reference to 'the value of their estate'.¹⁵⁶

These taxes played an important part in the Peasant Revolt of 1381 during which a mob of up to 100,000 disgruntled peasants descended on London causing much damage and murdering the Archbishop of Canterbury.¹⁵⁷ After this revolt the landowners took upon themselves the fifteenth and tenth of 1382, which was assessed by reference to crops and cattle or the profits of their land.¹⁵⁸ The poll taxes did not continue.

John of Gaunt's son came to the throne in 1399 after defeating Richard II in battle. It is during his reign as Henry IV that a new practice grew of making isolated grants of taxes on various forms of property, with the earlier grants often covering some forms of income. The first of these arose in 1404 when Parliament granted Henry IV £12,000 to be levied by way of a tax on property.¹⁵⁹ This tax was essentially levied at the rate of 5 per cent on the 'yearly value' of land. Importantly, the tax base was the yearly value 'beyond reprise or yearly charge', so at least some forms of deductions were permitted.¹⁶⁰ Persons having 'annuities or pensions, without doing service or office, or rents charged for life or for term of years or on condition until they be advanced or better provision be made for them' also expressly fell within charge and, at least in form, this seems to have been a tax on the gross amount.¹⁶¹ The tax was also levied at the same rate on persons holding less than 20s per annum worth of land but possessing 'goods and chattels' to the value of £20. No person was to be taxed both on their land and their goods. In the usual manner, commissioners were appointed and, with the assistance of sheriffs, were to make the assessments. Collectors were separately appointed to collect the tax.¹⁶²

¹⁵⁶ Myers (1969, p. 127).

¹⁵⁷ Dowell (1965, Vol. I, pp. 91–103) and Jurkowski *et al.* (1998, pp. xxxiv–xxxvii).

¹⁵⁸ Dowell (1965, Vol. I, pp. 104–5).

¹⁵⁹ A detailed commission for this tax dated 24 March 1404 is reproduced in United Kingdom (1911–1962, Vol. XII, pp. 251–4). The grant was specific and lengthy as to the various tenures of land to be charged. See also Jurkowski *et al.* (1998, pp. 74–5).

¹⁶⁰ See also discussion at note 244 regarding deductions with respect to the subsidy of 1534.

¹⁶¹ United Kingdom (1911–1962, Vol. XII, p. 251).

¹⁶² The commission reproduced in United Kingdom (1911–1962, Vol. XII, pp. 251–4) required the Commissioners and sheriff of the county of Derby to 'make inquisition in the said county touching the names of all persons bound to contribute to the payment of the subsidy which . . . was granted to the king by the commons of the realm, by the assent of the lords spiritual and temporal, in the last Parliament . . . in form and manner following, to wit, 20s. of each person, man or woman, within the realm of

Unlike the poll taxes, the jurisdiction of this tax seems to have been essentially based on source. The tax extended to 'persons having lands, tenements and possessions, and goods and chattels ... within the allegiance of England ...'.¹⁶³ There seems a clear analogy between this tax and the earlier 1207 levy on revenues and movables and its precedents. Of course, this tax was substantially more sophisticated than the earlier levies.¹⁶⁴ The reference to 'yearly value' of land is consistent with the point noted above at page 29 that in most extents land was valued at its annual rental value. Further, this example of taxation of land seems to be the earliest (and clearest) direct precursor to Schedule A of the British income tax. The taxation of annuities, pensions and rents is also interesting and contains elements that would ultimately develop into Schedule E and parts of Schedule D.

Similar taxes were imposed later in 1404 at 5 per cent (with a high exemption) and in 1411 at 1.7 per cent but in both cases the levy was only on the annual value of land.¹⁶⁵ These were the last such levies during the reign of Henry IV. Further levies were granted during

England ... having in demesne lands or tenements held ... by service of a knight's fee, and 10s. of each persons ... as above, by service of half a knight's fee, and so of holders of more or less than a knight's fee, in proportion; 12d. of all persons who have lands, tenements or rents to the value of 20s., a year beyond reprise or yearly charge, not held by knight service ... and 2s. of those who hold such lands and tenements to the yearly value of 40s., and so on in proportion at the rate of 12d. for each 20s. of yearly value; 12d. of each person who has no lands or tenements held by knight service and no lands or tenements of the clear yearly value of 20s. but who has on the day of the grant goods and chattels to the value of 20l., and 2s. of him who has goods and chattels to the value of 40l., and so on in proportion at the rate of 12d. for each 20l.; provided that no person, who has no land held by knight service, and no land to the clear value of 20s. a year ... nor goods and chattels to the value of 20l., be bound to pay to the subsidy ... that all who pay the subsidy by reason of their tenure or by reason of the value of their lands be wholly discharged of paying thereto by reason of their goods and chattels The commission proceeded to require that the levy not 'be drawn into a precedent' and all records of levy 'be utterly burnt, destroyed and annulled for ever'. This probably explains why Dowell fails to discuss the tax.

¹⁶³ United Kingdom (1911–1962, Vol. XII, p. 252).

¹⁶⁴ The recital of the Parliamentary grant in United Kingdom (1911–1962, Vol. XII, pp. 251–4) runs to two and a half closely printed pages whereas the ordinance of the Saladin Tithe ran to about a half a page.

¹⁶⁵ Dowell (1965, Vol. I, pp. 106–7) and Jurkowski *et al.* (1998, pp. 76, 78–9). A commission for the levy and collection of the second 1404 tax is reproduced in United Kingdom (1911–1962, Vol. XII, p. 289). Gray (1934, p. 608) suggests that the 1411 effort 'should be looked upon as the first important subsidy in the sixteenth-century connotation of the term'. As with the situation of Dowell mentioned in note 162, it may be that Gray was unaware of the first 1404 levy.

the reign of his grandson, Henry VI. In 1428 there was a limited levy on households and on the knight's fee,¹⁶⁶ whereas in 1431 there was a heavier 5 per cent levy more generally on land (with a low exemption of £5) that caused such complaints that it was annulled.¹⁶⁷

In 1435 there was an attempt at a graduated tax on 'yearly value' of land. This tax differed from the earlier precedent of 1404 in that it did not seek to tax the value of movables as such but only sought to reach the 'yearly value' of 'freehold'¹⁶⁸ interests in land. The charging words were in the following terms:

[E]very person seised of manors, lands, tenements, rents, annuities, offices or any other temporal possessions in England, as of freehold to his own proper use, or any other person or persons to his use, of the yearly value of 100s. beyond reprises and charges, shall pay 2s. 6d., and 6d. for every 20s. above the said 100s. up to a yearly value of 100l . . .¹⁶⁹

There was an annual exemption of £5 and the rates were graduated from 2.5 to 10 per cent. As is evident from the charging words, this was essentially a tax on the basis of source. To this end, provision was made for the examination and assessment of persons 'beyond the sea' through their attorneys.¹⁷⁰ The main difference between this tax and that of 1404 is the lack of taxation of movables. Further, this is the first tax considered by this study that expressly incorporates taxation of land held by way of use and, as discussed above at pages 39–41, this is consistent with the rise in importance of this form of landholding. It seems unlikely that the assessments tried to reach actual income and more likely that they were based on some sort of presumed return from the items chargeable.¹⁷¹

¹⁶⁶ A commission for this tax is reproduced in United Kingdom (1911–1962, Vol. XV, pp. 214–15).

¹⁶⁷ Dowell (1965, Vol. I, pp. 107–10) and Jurkowski *et al.* (1998, pp. 85–6, 88–9).

¹⁶⁸ As noted above at pp. 17–19, 'freehold' did not include land held by leasehold or copyhold.

¹⁶⁹ United Kingdom (1911–1962, Vol. XVI, p. 257), which reproduces a commission for this tax that incorporates the grant. Of course, the grant is also reproduced in the Parliamentary Rolls but in old English; see United Kingdom (1832, Vol. IV, p. 486). (This is the first tax considered by this study that appears in the Parliamentary Rolls in English, the earlier taxes appear in Latin or French.) The grant went on to provide for other progressive rates. See also Jurkowski *et al.* (1998, pp. 91–2).

¹⁷⁰ United Kingdom (1911–1962, Vol. XVI, p. 258). See also United Kingdom (1832, Vol. IV, p. 487).

¹⁷¹ In comparing returned incomes under this assessment with other sources, Pugh and Ross (1953, p. 11) suggest 'it is clear that the assessments of many of the king's nearest relatives among the baronage . . . provide the strongest grounds for suspecting large-scale evasion and under-assessment'.

A similar progressive tax was imposed on a broader basis in 1450 under two heads. The first head taxed land in the following terms:

[E]very person having full estate of freehold to his own use, or to whose use any person or persons have such estate in any lands, tenements, rents, services, annuities, offices, fees, profits or commodities temporal, within your said Realm, to the yearly value of 20s. over the yearly charge thereof, 6*d.*¹⁷²

Use of the word ‘profits’ here is interesting, being the first use of this term in tax laws considered by this study. It seems likely that this is not a reference to ‘profits’ in the sense used in the 1799 income tax (see below at pp. 409–11). Rather, this seems to be a reference to an incorporeal right ‘allowing the holder of the right to take away something of value – turf, wood, grass, fish – from the burdened land’.¹⁷³

The 1450 law reduced the exemption threshold to £1 and graduated rates again rose to 10 per cent but this time at a faster rate and with an element of differentiation. The second head charged:

[E]very person having any office, wages, fee or fees, term of years, or otherwise than of the estate of freehold, to the yearly value of 40s., 12*d.*¹⁷⁴

Other than this larger exemption of £2, the rates proceeded for the second head in the same manner as for the first head. There were no specific jurisdictional limits for this second head but the shire Commissioners were instructed to examine ‘all persones reseáuntes or beyng in eny of your seid Shires . . .’.¹⁷⁵ So residence or presence may be presumed to have been a necessary condition. This tax is also the first considered by this study to specifically mention the taxation of corporations and guardians in the following terms:

[A]ll manors, lands, tenements, rents, services, offices, fees, annuities, profits, and commodities temporal, being in the hands of any persons corporate, for such possessions belonging to them, or in the hands of any person or persons to their use and behove, be charged and chargeable

¹⁷² United Kingdom (1832, Vol. V, p. 172; modernised by the author). United Kingdom (1911–1962, Vol. XVIII, p. 167) reproduces a commission for this tax. The grant proceeded to cover copyhold for a term of life. It seems likely that the use of the word ‘commodities’ here is in the sense of an advantage or benefit.

¹⁷³ Simpson (1986, p. 107) contrasting profits with an easement.

¹⁷⁴ United Kingdom (1832, Vol. V, p. 173; modernised by the author).

¹⁷⁵ United Kingdom (1832, Vol. V, p. 173).

to the said Subsidy . . . And that every person being within age of 21 years, his lands and tenements being in ward of his Guardian by course of the common law . . . be discharged of the said Subsidy . . . And that the Guardian of the same lands and tenements, be chargeable of the Subsidy . . .¹⁷⁶

The 1450 levy was granted in substitution for a fifteenth and tenth. Dowell notes the difficulty in collecting this tax, which was based on attendance, examination and assessment of taxpayers. It seems the levy was still being collected as late as 1459.¹⁷⁷

A different effort was made in 1472 during the War of the Roses in the reign of Edward IV, the first and longest reigning monarch of the House of York. This levy was imposed in order to raise a force of 13,000 archers for a year. For this purpose, a grant was made by the Commons and the Lords by reference to the holding of land in the following terms:

We your said Commons . . . grant by these presents to pay the tenth part of the value of a year only, of the issues and profits of all manors, Lands and Tenements, Rents, Fees, Annuities, Offices, Corrodies and Pensions, which any person temporal, corporate or not corporate, of this your Realm . . . has, holds, possesses or occupies, jointly or severally, in fee simple, any manner fee tail, or in succession, or term of his own life . . . or in ward . . . the same year to commence at the feast of the Circumcision of our Lord last past; the Rents and Services going out of the said Lands and Tenements, and other the premises, by the said year, thereof only to be deducted and rebated . . .¹⁷⁸

Contrast the use of the word ‘profits’ here (in the context of ‘issues and profits’) with the use of that term in the tax of 1450. In particular, ‘profits’ has been removed from the general list of freehold estates and is rather used as descriptive of the produce from estates, a replacement for ‘yearly value’ of such estates used in 1450. ‘Yearly value’ seems to contemplate a notional income but ‘issues and profits’ might imply a more precise assessment incorporating a realisation criterion. This is particularly possible considering that this law also incorporated

¹⁷⁶ United Kingdom (1832, Vol. V, p. 173; modernised by the author). So, for example, it seems this would have covered rents received by the incorporated boroughs.

¹⁷⁷ Dowell (1965, Vol. I, pp. 116–18) and Jurkowski *et al.* (1998, pp. 102–4).

¹⁷⁸ United Kingdom (1832, Vol. VI, p. 4; modernised by the author). A ‘corody’ was a provision or allowance for maintenance or sustenance, typically from a religious institution; see Simpson (1986, p. 103).

a specified year of assessment ('to commence at the feast of the Circumcision of our Lord last past'). Whether there was such a distinction in the tax base between the laws of 1450 and 1472 in administration or intent is speculative, but the difference in wording is clear.

The 1472 grant also covered holdings of land 'by copyhold, or at will, after the custom of the same holding'. The Lords made a separate but similar grant. However, the Lord's grant made it clear that the tax was limited to 'ownership' or 'use' 'in England, Wales, and Marches of the same'.¹⁷⁹

The 1472 law was quite sophisticated by comparison to earlier levies. It incorporated express search and examination powers, an express year of assessment (see quote) and power to distrain persons and their land and goods.¹⁸⁰ It seems that the cost of archers to be supported by each county was apportioned and 'the assessments made by the commissioners would have been carried out . . . with the overall county quota in mind'.¹⁸¹ Only a fraction of the expected yield of this tax was ever levied and it had to be supplemented by fifteenth and tenths and a subsidy apportioned between the counties and cities that was to be levied on persons with little land that had substantial movables. However, even the latter subsidy was converted into a one and three-quarters fifteenth and tenth.¹⁸²

Regional Levies

While this study is not directly concerned with local or regional taxation, it is useful to briefly outline the development of local taxation in England. It seems that local taxation in England was at least one of the factors that initially influenced the form of direct taxation in the American Colonies.

¹⁷⁹ United Kingdom (1832, Vol. VI, p. 6). Regarding the extension of English laws and administration to Wales, see Baker (2002, pp. 30–1). The principality of Wales was annexed to the English Crown in 1283 but the Welsh marcher lordships did not become 'attendant' to the English Crown until 1354. It was not until 1536 that the Welsh subjects were 'granted the same laws and liberties as the English, including representation in parliament'. The extension of the subsidies to Wales is interesting in that, by custom, Wales was not subject to the fifteenth and tenth; Schofield (2004, p. 63). Presumably, this was because of the date of settlement of the portions for different localities, i.e. 1334 predates 1354.

¹⁸⁰ United Kingdom (1832, Vol. VI, pp. 4–6 [Commons], 6–8 [Lords]).

¹⁸¹ Jurkowski *et al.* (1998, p. 112).

¹⁸² Dowell (1965, Vol. I, pp. 121–5) and Jurkowski *et al.* (1998, pp. 111–15).

The origins of local taxation in England are found in the common law.¹⁸³ These took the form of the Constables' (sometimes 'Town') Rate, the Hundred Rate and the Shire or County Rate. As their names suggest, these rates were imposed on the various subdivisions of England and, in particular, the Constables' Rate was imposed on the tithing or town. The Constables' Rates were imposed by custom and were not regulated by statute during the period covered by this study. The incidence and tax base of these rates would have varied from locality to locality but it is likely that they bore some relationship with an assessment of property or 'ability'.¹⁸⁴

The Hundred Rate was generally divided among the tithings or townships within the hundred by the high constable or bailiff. The amount allocated to each tithing or township was then levied in the same manner as the Constables' Rate, although in this case the tax was often called the Tithing or Town Sess. The County Rate was apportioned between the hundreds of the county and there collected in the same manner as the Hundred Rate. In this way all these taxes were contributory, i.e. the tax imposed by the constable of a tithing contributed to the Hundred Rate and the Hundred Rate to the County Rate. Further:

The County Rate was sometimes again contributory towards the common national burdens; the King's aids, taxes, and subsidies being in early times imposed by means of the Sheriff of the County, who assigned their shares to the respective Hundreds within which the necessary portions were collected by the officers of the several Townships.¹⁸⁵

The fifteenth and tenth (discussed above at pp. 41–4) was a tax apportioned in this manner.

So in its origins, the overall fiscal system of England involved the allocation of responsibility for assessing most forms of direct taxation down to the smallest local grouping where it was allocated according to local custom. This, perhaps, explains why direct assessment under the fifteenth and tenth (and later the Tudor subsidy and the land tax) descended towards a quota system. That system was consistent with the practice regarding the various forms of local taxation and the English did not take kindly to being assessed twice, i.e. once according to local custom and again centrally.

¹⁸³ Cannan (1896, p. 10) doubts 'if any clear and important cases of local rates are likely to be found earlier than the thirteenth century'.

¹⁸⁴ United Kingdom (1843, p. 6). ¹⁸⁵ United Kingdom (1843, p. 6).

While the quota system is clear from various statutes, as noted above, the basis of assessment for local purposes most often was not. However, Cannan draws together fragments to present a relatively clear picture in this respect. As early as 1340 he notes a church rate for the purposes of repairing the church imposed 'according to the quantity of the possessions and revenues which [persons] have in the said parishes . . .'.¹⁸⁶ There is a similarity between the basis of this charge and that of the Saladin Tithe of 1188. Cannan proceeds to note royal letters beginning as early as 1378 ordering the repair of the walls of various towns and various persons who have 'lands, tenements, and revenues or merchandise' to contribute towards the cost of repair 'according to their ability and possessions'.¹⁸⁷ Cannan surmises that with respect to local rates 'in the fourteenth and fifteenth century the accepted view was that each inhabitant should pay according to his ability or substance . . .'.¹⁸⁸ The above discussion has noted reference to 'ability' earlier in the levy of tallow (at p. 34) and also in the poll tax of 1380 (at pp. 45–6).

It is also important briefly to note the manner in which the poor were supported because this proved important in the development of local taxation during the reign of the Tudors and later. Support of the poor was originally a local church (parochial) issue. This support imposed a charge of an undefined amount on the revenues of the secular clergy.¹⁸⁹ Regulation of the poor by the central government was a 'growth, not a creation'.¹⁹⁰ The regulation of the poor was inevitably connected with the repression of vagrants and beggars and so the early poor laws developed out of early statutes concerning labour that were enacted as a result of the labour shortage following the Black Death (1348–9).¹⁹¹ The labour shortage gave rise to a need to distinguish between able-bodied persons, where the view was that they should work instead of

¹⁸⁶ Cannan (1896, p. 15). ¹⁸⁷ Cannan (1896, p. 17).

¹⁸⁸ Cannan (1896, pp. 29–30).

¹⁸⁹ Leonard (1965, pp. 2–3) recounts forms of relief in Anglo-Saxon times. She notes that the 'nearest approach we have to state interference with the relief of the poor is found in the law of Ethelred, which probably enforced the existing custom with regard to tithe. One third part "of the tithe which belonged to the Church" was to be given to 'Gods poor and needy men in thraldom'. See also United Kingdom (1843, p. 11), Pratt (1827, p. 118) and Leonard (1965, p. 6).

¹⁹⁰ Leonard (1965, p. 2).

¹⁹¹ See Statute of Labourers (23 Edw. III.) (1349) (UK) and Statute made at Cambridge (12 Ric. II.) (1388) (UK) c. 3 and c. 7; United Kingdom (1810–1828, Vol. I, p. 307, Vol. II, p. 55, respectively). Leonard (1965, p. 5) suggests the latter is often regarded as 'the first English poor law'.

begging, and the old and disabled, who were unable to help themselves. Nevertheless, during the fourteenth century provision for the poor was still a parochial issue and at times law reinforced the obligation on the Church.¹⁹²

1.3 The Turbulent Tudors

The development of direct taxation stepped up a further gear during the reign of the Tudors, particularly during the reign of Henry VIII. The subsidies that developed during the rule of the Houses of Lancaster and York continued to develop during the reign of Henry VII and the earlier years of the reign of Henry VIII. This heading first discusses this period. Further, it is during this period that the fifteenth and tenth lost its status as an independent source of revenue. '[A]fter 1512 Parliament never granted a fifteenth and tenth without also granting a subsidy.'¹⁹³ Second, the heading then turns to discuss some of the substantial legal reforms that occurred during the later reign of Henry VIII, to the extent they are relevant to the development of direct taxation. These reforms had a direct impact on the manner in which the crown was funded. Third, the heading discusses the development of the subsidies during the later period of the reign of the House of Tudor. It is during this period that the subsidy settled from a system in principle based on direct assessment to one based on a presumed quota system, much in the same way that the fifteenth and tenth settled during the fourteenth century. Finally, the heading discusses developments in regional levies. This is another area where some of the legal reforms of Henry VIII had a substantial and lasting impact.

Early Tudor Subsidies

Henry Tudor defeated Richard III at the Battle of Bosworth Field in 1485 and began the reign of the House of Tudor. In 1489 Henry VII was granted his first subsidy in order to raise an army of 10,000 archers. This subsidy was much along the lines of the subsidy of 1472 but continued

¹⁹² For example, see Statute (15 Ric. II.) (1391) (UK) c. 6; United Kingdom (1810–1828, Vol. II, p. 80), which expressly required provision for the poor to be made on appropriation of benefices. (A 'benefice' was an ecclesiastical living.)

¹⁹³ Soos (1997, p. 32).

the trend of increasing sophistication.¹⁹⁴ Like the grants of 1404 and 1450, the 1489 grant was under two heads. The first head covered land in the following terms:

We your said Commons . . . by the advise and assent of the Lords Spiritual and Temporal . . . grant by this present Indenture unto You . . . the tenth part of the value of a year only, of the issues and profits of all manner of Honours, Castles, Lordships, Manors, Lands, Tenements, Rents, Fees, Annuities, Offices, Corrodies, Pensions and Feefermes, which any person Temporal, corporate or not corporate, of this Realm . . . has, holds, possesses or occupys, jointly or severally, in England, Wales and the Marches of the same, in Fee Simple . . .¹⁹⁵

A similar year of assessment as in 1472 was used and ‘rents, fees and services, going out of the said Lands and Tenements, and other premises, by the said year, thereof only to be deducted . . .’¹⁹⁶ The second head of charge was in the following terms:

And over this, We your said Commons grant to your said Highness . . . that every person . . . being in Value in all manner of Goods and Chattels of 10 Marks [six and two-thirds pounds], pay . . . 20*d*, and so upward after the said rate to the highest . . .¹⁹⁷

A taxpayer was to be assessed with respect to this second tax ‘only in every such place where he is most conversant, inhabited and commorant’.¹⁹⁸ So this is the first tax considered by this study that expressly incorporates both a source and residence basis, source with respect to the first head and residence with respect to the second head (although as noted at p. 49 this may be presumed for the 1450 levy but was not express). Despite the terms of the grant, it seems that again the burden of the tax was to some extent distributed according to the quota system

¹⁹⁴ See also Schofield (2004, p. 74). Baker (2002, p. 207) notes that this increasing sophistication coincided with the advent of printing and from 1484 ‘acts of parliament were printed as soon as they were passed . . .’.

¹⁹⁵ United Kingdom (1832, Vol. VI, p. 421; modernised by the author). The grant proceeded to cover similar holdings as the 1472 grant. Further, as with the 1472 grant the separate grant by the Lords made it clear that it covered uses; United Kingdom (1832, Vol. VI, p. 423).

¹⁹⁶ United Kingdom (1832, Vol. VI, p. 421; modernised by the author).

¹⁹⁷ United Kingdom (1832, Vol. VI, p. 421; modernised by the author). Various personal goods were excepted.

¹⁹⁸ United Kingdom (1832, Vol. VI, p. 421; modernised by the author). The reference to ‘commorant’ is a reference to a person residing or dwelling.

for the fifteenth and tenth. Again the levy produced less than expectations, blamed on low assessments, particularly those on goods. The uncollected tax was remitted in favour of a grant of a fifteenth and tenth.¹⁹⁹

There were two further subsidies during the reign of Henry VII. The first in 1497 was apportioned among the shires in the same manner as the fifteenth and tenth but the tax was only to be levied on certain persons possessing certain holdings of land 'to the yearly value of 20s. above all charges . . . or any person . . . having goods or chattels . . . to the value of 10 marks [six and two-thirds pounds] . . .'. The levy was to be 'assessed by the discretion of the Justices of Peace . . .'.²⁰⁰ The express reference to 'Justices of Peace' is consistent with their rise as local administrators.²⁰¹ So like the fifteenth and tenth a quota system was used but unlike the fifteenth and tenth the quota only applied at the shire level and individual contributions were determined by 'statutorily appointed commissioners'.²⁰² Only land 'within any of the said Shires Cities Boroughs or Towns' was charged. Persons with goods or chattels were to be charged only where they 'dwell' but there were exceptions, e.g. corn where it grew or was stacked and retailers where they

¹⁹⁹ Dowell (1965, Vol. I, pp. 127–9) and Jurkowski *et al.* (1998, pp. 122–5). See also Schofield (2004, p. 79).

²⁰⁰ An Act for a Subsidy to be granted to the King, and for discharge of some persons from payment thereof (12 Hen. VII. c. 13) (1497) (UK); United Kingdom (1810–1828, Vol. II, p. 644; modernised by the author). Notably, the charging words with respect to land had been shortened to cover 'lands or tenements or other hereditaments or possessions in lands or tenements in fee simple fee tail freehold at Will after the Custom of the Maner Warde execution or ancient demesne . . .'. This time there was no reference to corporate persons.

²⁰¹ Baker (2002, pp. 24–5) notes that '[a]s early as 1200 the practice had begun of appointing a number of knights in each county to 'keep the peace', a phrase which imported a militia or police function rather than one of judicature . . . [B]y a series of statutes in the reign of Edward III (1327–77) the judicial functions of these officials were increased and regularised, so that they became "justices of the peace".' The justices of the peace could only act with a commission from the king but from the middle of the thirteenth century they become an important officer in various types of direct taxation. Baker goes on '[t]he rise of the justices of the peace corresponds very closely with the demise of the county and hundred as institutions for the despatch of public judicial and administrative business . . . Parliament repeatedly ignored the existence of the old county assembly as it heaped new duties of all kinds upon commissioned magistrates. It might be said that in reality the Crown had taken the county from the sheriff and put it into commission.'

²⁰² Schofield (2004, p. 80).

retailed.²⁰³ This subsidy was payable in two instalments but it seems the second instalment was never levied.²⁰⁴ The subsidy of 1504 was in similar form.²⁰⁵

The initial subsidies of the sixteenth century continued a practice that had grown with the subsidies of the previous century of granting a specified amount, e.g. as with the subsidies for the archers. This practice continued with the graduated poll tax levied in 1512, the first aid or subsidy granted to Henry VIII. Subject to certain exemptions, it was to be paid by 'every person . . . within this Realm of England . . .'.²⁰⁶ Fixed amounts were imposed on certain piers but residually the tax was progressively categorised according to three heads. The first head was landholding. The form of this head more closely followed that of the 1489 subsidy rather than the later subsidies of Henry VII but did refer to the usual 'yearly value'.²⁰⁷ The second head was with respect to the value of goods or chattels. There was now a third head that applied to:

every labourer journeyman artificer handcraftman and servant as well as man and woman above the age of 15 years taking wages or other profits for wages . . .²⁰⁸

Double rates were applied to non-citizens. A person was to be taxed where the person 'keep his house or dwelling or where he then shall be most conversant abiding or resident or shall have his most resort unto and shall be best known . . .'.²⁰⁹ Consistent with the levy of 1404, taxpayers were to be taxed under only one head but that which

²⁰³ 12 Hen. VII. c. 13; United Kingdom (1810–1828, Vol. II, p. 645).

²⁰⁴ Jurkowski *et al.* (1998, pp. 127–8) and Schofield (2004, p. 83).

²⁰⁵ An Act of Aid (19 Hen. VII. c. 32) (1504) (UK); United Kingdom (1810–1828, Vol. II, pp. 675–82). See also Jurkowski *et al.* (1998, p. 129) and Schofield (2004, pp. 84–5).

²⁰⁶ An Act of Subsidy (4 Hen. VIII. c. 19) (1512) (UK); United Kingdom (1810–1828, Vol. III, pp. 74–89). See also Jurkowski *et al.* (1998, pp. 130–2) and Schofield (2004, pp. 85–7). However, with respect to the land head of charge the statute proceeded to only include land 'within this Realm of England . . .'.

²⁰⁷ '[L]ands tenements or rents freehold copyhold or ancient demesne fees offices annuities or corrodies to his own use . . .' 4 Hen. VIII. c. 19; United Kingdom (1810–1828, Vol. III, p. 75; modernised by the author).

²⁰⁸ 4 Hen. VIII. c. 19; United Kingdom (1810–1828, Vol. III, p. 75; modernised by the author). Jurkowski *et al.* (1998, p. 131) notes that this was the first time since 1450 that wage earners were charged.

²⁰⁹ 4 Hen. VIII. c. 19; United Kingdom (1810–1828, Vol. III, p. 78; modernised by the author).

produced the most tax. Soos suggests that this law also contained the 'the first instance of taxation at source or withholding found in the direct taxes levied in England' with respect to the tax on servants, which was to be paid by their masters but recoverable by the masters through deduction from wages.²¹⁰ The length and detail of the subsidy statute by this stage should not be underestimated. At five A3 pages in size 10 font (excluding the schedule of named commissioners) it was already longer than most colonial income tax laws introduced 400 years later.

This tax produced only a third of its expected yield and resulted in further subsidies, the first in 1514 and, on its failure, two further in 1515. The 1514 levy was not classified in the same way as that of 1512. Rather, it was imposed at 2.5 per cent per pound of the three heads used in the 1512 levy, above thresholds of £1 (wages and annual value of land) and £2 (movables) backed up with a poll tax on all individuals over fifteen years of age not otherwise chargeable.²¹¹ The charge on movables was caste in somewhat different terms. It now expressly included plate and household goods and the charge expressly extended to goods 'within this realm of England as in the parts beyond the sea . . .'. Further, as with the subsidy of 1512, the usual restriction to land 'within' England was not used.

The two levies of 1515 were similar but again the movables head was extended, this time to cover debts receivable less debts owed.²¹² However, this time there was no residual poll tax on citizens. The 1515 law also developed the jurisdictional limits on the taxation of non-residents, whether citizens or not. The subsidies had long provided for taxation only in the place where a person dwelt or was resident and also for the taxation of non-residents by attorney. Further, the taxation of land was typically limited to land in England (however, the levies of 1512, 1514 and 1515 did not contain this limitation). The 1515 law somewhat clarified the jurisdictional limits. Non-residents were, in effect, to be taxed on a source basis (whereas residents were taxable on

²¹⁰ Soos (1997, pp. 37–8, 62).

²¹¹ An Act of Subsidy (5 Hen. VIII. c. 17) (1514) (UK); United Kingdom (1810–1828, Vol. III, pp. 105–11). See also Jurkowski *et al.* (1998, pp. 132–3) and Schofield (2004, pp. 87–8).

²¹² The Subsidy (6 Hen. VIII. c. 26) (1515) (UK); United Kingdom (1810–1828, Vol. III, pp. 156–75). See also Jurkowski *et al.* (1998, pp. 133–4) and Schofield (2004, pp. 89–90).

a worldwide basis, at least, as under the 1514 levy, with respect to movables) in the following terms:

[E]very person . . . which at time of the said assessing or taxation . . . shall be out of this Realm, and shall have goods and chattels lands or tenements fees or annuities within the same realm out of the places before reprised in this act, shall be charged for the same by certificate of the inhabitants in the parts where such goods chattels lands tenements or other the premises then shall be, or in such other place where such person or his factor deputy or attorney shall have his most resort unto within this realm . . .²¹³

For the first time since 1489, the 1515 subsidy incorporated a reference to the taxation of guardians (and those holding to the use of another) and corporations in the following terms:

[A]ll coin plate goods and chattels being in the rule or Custody of any person . . . to the use of any other person within Age or of full age, or to the use of any corporation fraternity guild mystery or commonality being incorporate or not incorporate, be and shall be rated set and charged by reason of this act . . . and the sum thereof taxed . . . taken of them that shall have such goods in custody. . .²¹⁴

The reference to ‘guilds’ demonstrates their growth in importance to this time. The most prominent of these were the merchant and craft guilds, which were centred in the towns where they had grown in importance and influence, particularly with the increase in trade and swelling of town populations after the time of the Black Death (1348–9). The references to ‘fraternity’, ‘mystery’ and ‘incorporate or not incorporate’ are also interesting. It seems that these phrases were intended to cover partnerships as tax subjects, rather than their individual members, i.e. a separate entity approach.²¹⁵ As noted above at page 27, the courts would entertain actions by partners for an account

²¹³ 6 Hen. VIII. c. 26; United Kingdom (1810–1828, Vol. III, p. 157). Miller (1955, p. 17) provides an interesting account with respect to the 1523 subsidy (incorporating a similar provision) of a couple of peers living in Calais in the royal service at the time of the subsidy. It seems that these peers were exempt from the subsidy but Miller seems to agree that the Act ‘actually only exempted land in Calais and the fees and wages of royal officials there . . .’.

²¹⁴ 6 Hen. VIII. c. 26; United Kingdom (1810–1828, Vol. III, p. 157; modernised by the author). Interestingly, this provision was followed by the provision for taxing non-residents, thus collecting together the provisions on the taxation of persons by proxy.

²¹⁵ In particular, the *Oxford English Dictionary Online* includes within the definition of ‘mystery’ (with citations from this time period) the following: ‘Craft, art; a trade, profession, calling’. Simpson *et al.* (2004) (online), accessed 10 October 2004.

and so it seems likely that at least some partnerships were maintaining basic partnership accounts by this time.

The length of the 1515 law was more than double that of 1512. Despite its intricacy the tax was a failure and had to be supplemented with a fifteenth and tenth.²¹⁶ Nevertheless, Schofield notes that an important transformation had taken place since 1512. 'Thus by 1515 the subsidy act had reached the form that was to remain virtually unchanged throughout the early Tudor period.' The second levy of 1515 was 'identical' to the first.²¹⁷

The next subsidy is that of 1523, which was granted over a four-year period.²¹⁸ Under the payments for the first two years, people were charged according to the yearly value of land (5 per cent) or two progressive rates on the value of goods and net debts (2.5 and 5 per cent). In this case the third head applied a poll tax to persons, not otherwise chargeable, having £2 in goods or £1 of wages.²¹⁹ Again foreigners typically paid double. Payments for the third and fourth years targeted the wealthy, the third those with land (5 per cent of yearly value over £50) and the fourth those with movables (5 per cent of value over £50). The law was in much the same form as that of 1515 and, as before, people only paid according to the higher of their land or goods, not both.²²⁰ The law had virtually the same jurisdictional rules as the levy of 1515.²²¹ In the usual way, the subsidy raised grossly less than the expected sum.

²¹⁶ The Subsidy 15th and 10th (7 Hen. VIII. c. 9) (1515) (UK); United Kingdom (1810–1828, Vol. III, pp. 195–9). See also Dowell (1965, Vol. I, pp. 129–30) and Jurkowski *et al.* (1998, p. 134).

²¹⁷ Schofield (2004, p. 89).

²¹⁸ An Act of Subsidy (14&15 Hen. VIII. c. 16) (1523) (UK); United Kingdom (1810–1828, Vol. III, pp. 230–41). See also Dowell (1965, Vol. I, pp. 130–2), Jurkowski *et al.* (1998, pp. 137–9) and Schofield (2004, p. 90).

²¹⁹ Soos (1997, pp. 22, 35) notes that this was the last Tudor subsidy to cover wages and the poll tax on citizens. But see Schofield (2004, pp. 102–3) citing evidence to the effect that wages paid by the year continued to be assessable under the first head of charge as 'other yearly profits'.

²²⁰ However, Miller (1955, p. 16) notes that this subsidy was important in that the special position of the peerage was recognised. 'From this date the peerage was always assessed as a class by special commissioners and the assessment entered on a single roll based simply on this distinction of rank: no attempt was made to fit the peerage into the regional system by which the rest of the country was assessed for the subsidy'. An earlier isolated example of this approach was the subsidy of 1435.

²²¹ An Act of Subsidy 14&15 Hen. VIII. c. 16; United Kingdom (1810–1828, Vol. III, p. 232).

Statutes of Uses and Wills and the Dissolution of the Monasteries

As noted at page 41, the rise of uses deprived lords of valuable feudal incidents, particularly those such as wardship available on inheritance. By the time of the Tudors most land was held directly of the king and so the king was the greatest loser of these incidents.²²² As disputes over rights to the Crown settled during the reign of the Tudors, the Crown sought to revive some of these lost incidents. Henry VII was a prudent money manager and made only a limited effort to address the issue by providing that where the feoffor of a use died intestate the feoffor's heir was subject to the same incidents as if the feoffor had died still holding the land.²²³ The effect was to place increased importance on the creation of wills. Henry VIII was not so frugal and in the second half of his reign he took measures to substantially supplement his revenue.

Henry VIII's fiscal assault peeked in the 1530s. First, in order to validate his divorce of Katherine of Aragon (which the Pope refused to approve) he caused Parliament to pass the Act of Supremacy of 1534.²²⁴ This law confirmed Henry as the 'Supreme Head of the Church of England' and made two important provisions. First, the king and his successors were to have 'all honors, dignities, preeminences, jurisdictions, privileges, authorities, immunities, profits, and commodities to the said dignity of the supreme head of the same Church belonging and appertaining . . .'.²²⁵ Second, the king and his successors were to have:

full power and authority from time to time to visit, repress, redress, record, order, correct, restrain, and amend all such errors, heresies, abuses, offenses, contempts and enormities, whatsoever they be, which by any manner of spiritual authority or jurisdiction ought or may lawfully

²²² Simpson (1986, p. 22) notes that by the Tudor period the effect of *Quia Emptores* (see above at p. 18) and the doctrine of escheat (reverting of land to the lord, see above at p. 20) was that land held from lords other than the king 'had become uncommon, whilst at the same time the technique of evading incidents had reached a perfection . . .'.

²²³ An Act agaynst fraudulent feoffments tendinge to defraude the Kinge of his wardes (4 Hen. VII c. 17) (1489) (UK) and De execucoibs conta feoffatos faciend (19 Hen. VII. c. 15) (1504) (UK); United Kingdom (1810–1828, Vol. II, pp. 540, 660, respectively).

²²⁴ An Act concerning the Kynges Highnes to be supreme heed of the Churche of Englande & to have auctoryte to refourme & redresse all errours heresydes & abuses yn the same (26 Hen. VIII. c. 1) (1534) (UK); United Kingdom (1810–1828, Vol. III, p. 492).

²²⁵ The use of the word 'profits' here appears more consistent with a reference to freehold estate as in the 1450 tax law rather than in the sense of the produce or issue from land as used in the 1472 tax law and after (see above at p. 49).

be reformed, repressed, ordered, redressed, corrected, restrained, or amended . . .

This move facilitated not only control over the Church and its finances²²⁶ but empowered Henry to dissolve the monasteries, a move that began two years later.

Henry VIII was also determined to regain substantial portions of the Crown's lost incidents. This form of revenue had the benefit of not requiring parliamentary consent.²²⁷ In 1535 he brought a test case to challenge uses as a way of avoiding feudal incidences.²²⁸ In the case the judges accepted (it seems with the coaxing or coercing of Henry) that 'it was against the very nature of land to be devisable by will, and so a will of the use of land was just as invalid as a will of the land itself . . .'²²⁹ As the title to much of the land in England at that time would have been derived at some point through a use, the decision created much uncertainty and paved the way for the Statute of Uses of 1536.²³⁰ This law validated the title to land passing under wills of persons dying before 1536 but those of future wills would be invalid. It also treated the beneficiary of a use as the legal owner of the land. This meant that when the beneficiary of the use died, the feudal incidents on death would be imposed.²³¹

Henry VIII's revenue was further supplemented when, as supreme head of the Church in England, he began in 1536 to dissolve the monasteries and confiscate their property. Much of the land was sold to the nobility at favourable prices. But grants of the confiscated land were all made in the form of knight's fee, i.e. 'for an antiquated Norman service which no one performed . . .'. The reason for this is clear; knight service attracted the reinvigorated incident of wardship.²³² The last of the monasteries was dissolved in 1540. The dissolution of the monasteries had a major impact on the development of local taxation, as to which see pages 72–7.

²²⁶ See also An Act concerning the payment of First Fruits of all dignities benefices and promotions spiritual; & also concerning on annual pension of the tenth part of all the possessions of the Church, spiritual and temporal, granted to the King's Highness & his heirs (26 Hen. VIII. c. 3) (1534) (UK); United Kingdom (1810–1828, Vol. III, p. 493).

²²⁷ See Simpson (1986, p. 184) and Baker (2002, p. 253).

²²⁸ Re Lord Dacre of the South (1535) B. & M. 105. ²²⁹ Baker (2002, p. 255).

²³⁰ An Act concerning uses & wylles (27 Hen. VIII. c. 10) (1536) (UK); United Kingdom (1810–1828, Vol. III, p. 539).

²³¹ See Simpson (1986, pp. 23, 184–8). ²³² Baker (2002, p. 241).

A further consequence of Lord Dacre's Case in 1535 was that land could not be devised by will and the heir would inherit under the system of patrimony. In the face of protests, Henry VIII gave way a few years later in the form of the Statute of Wills of 1540.²³³ This statute 'conferred for the first time the legal power to dispose of freeholds by will, save that tenants by knight service had to leave at least one third to descend'. Even under the post-1540 situation, Henry's renewed revenue from feudal incidents was substantial and he appointed a Court of Wards to supervise it.²³⁴

The Statute of Uses raised many difficult legal issues²³⁵ and it was not long before gaps in the statute became evident. In particular, the statute did not execute the 'active use'.

If the feoffee had duties to perform, such as the collection and distribution of income, the payment of debts, the management of an estate, or the execution of a conveyance, the use could not be executed by operation of law, and so the feoffee had to retain the legal estate.²³⁶

Further, the courts decided as early as 1580 that the statute did not execute uses declared on terms of years.²³⁷ Baker notes that the most important gap in the statute was the double use 'where land was held by X to the use of X himself to the use of Y, or by X to the use of Y to the use of Z'. In the latter case the law courts would not enforce the second use (it being repugnant to the first) but Chancery, with its appeal to conscience, would do so in particular situations and this would contribute in a substantial way to the increased business of the court of Chancery in the sixteenth century. It is during this period that Chancery's form of justice acquired the name 'equity'.²³⁸ Indeed, the word 'trust' was 'originally a synonym for "use", but came to be used to denote equitable estates not executed by the Statute of Uses ...'. Accordingly, the concept of the trust has its origins in the Statute of Uses and the enforcement of trusts was connected to the court of Chancery.²³⁹

²³³ An Act howe Lands may be willed by Testament (32 Hen. VIII. c. 1) (1540) (UK); United Kingdom (1810–1828, Vol. III, p. 744).

²³⁴ Simpson (1986, pp. 191–2) and Baker (2002, pp. 256–7).

²³⁵ As to which, see Simpson (1986, pp. 194–6) and Baker (2002, pp. 285–6).

²³⁶ Baker (2002, p. 290) and see Simpson (1986, p. 201).

²³⁷ Simpson (1986, p. 194). ²³⁸ Baker (2002, p. 106).

²³⁹ Baker (2002, p. 290, note 52, p. 104). See also Simpson (1986, pp. 199–207) and Jones (1998, pp. 173, 177, note 33).

As noted at pages 26–7, the action for account was available in the courts of law. Jones suggests that in its application to uses this action was effectively for ‘breach of trust’ and its origins may be traced as early as 1320.²⁴⁰ With the rise in business of the court of Chancery following the Statute of Uses the action for account in Chancery developed a close relationship with the trust, to the point where the ‘distinction’ between the two was ‘difficult’.²⁴¹ Baker notes how the common law action of account eventually ‘collapsed in the face of the more efficient Chancery procedure for taking accounts’. Similarly, Chancery granted equitable relief for waste and in many cases the relief was broader than that available in the courts of law. In short, by the time of the passage of the Statute of Uses, all the necessary elements existed for the development of the law of trusts and, ultimately, the concept of trust law income. The most important of these elements have their origins in the feudal form of landholding and the use.

Later Tudor Subsidies

Henry VIII was granted one subsidy during the turbulent 1530s. In 1534 ‘[f]or the first time, the king received a grant of a subsidy not specifically for the purposes of financing a military expedition’.²⁴² The tax²⁴³ was levied at the same rate on the ‘clear yearly value’ of land and the value of ‘goods chattels or debts’ with an exemption of £20.²⁴⁴ The rate was 5 per cent for citizen individuals and 10 per cent for others including ‘Guilds fraternities brotherhoods and other companies of lay persons being corporate or not corporate . . .’. This law also sees a return to a more substantial jurisdictional limitation, particularly with respect to land, which appears to have disappeared since 1504. The tax was to be:

assessed taxed levied collected and taken of all man’s land and tenements of freehold copyhold or customary tenure, and of

²⁴⁰ Jones (1997, p. 189). ²⁴¹ Jones (1997, p. 191).

²⁴² Jurkowski *et al.* (1998, p. 140).

²⁴³ An Act containing a grant of Subsidy unto the King’s Highness for a 15th and 10th (26 Hen. VIII. c. 19) (1534) (UK); United Kingdom (1810–1828, Vol. III, pp. 516–24). See also Jurkowski *et al.* (1998, pp. 140–1) and Schofield (2004, p. 91).

²⁴⁴ Schofield (1988, p. 241) interprets the words ‘clear yearly value’ to mean that ‘charges such as management expenses, annuities payable to others, and the wages of deputies in office need to be identified and excluded’. He proceeds to note that after the 1540 subsidy the reference to ‘clear’ was dropped but he presumes that the tax was still levied on a net rather than gross basis. See also Schofield (2004, p. 103).

goods and chattels within this Realm of England and other his Dominions ...²⁴⁵

There was also a more general deduction provision for debts, which was not expressly limited to the calculation of the value of movables.²⁴⁶ As usual, persons were only taxable with respect to land or goods and not both. The law also contained an interesting provision exempting farmers from tax with respect to money or goods 'for those their farm holds ...'. The provision also asserted that the landlord was to pay with respect to the land, any agreement 'to the contrary of this act notwithstanding'.²⁴⁷ A fifteenth and tenth was levied at the same time.

In 1540, Henry VIII was granted a subsidy at the rate of 5 per cent on the yearly value of land and 2.5 per cent on the value of goods and net debts, each above an exemption of £20.²⁴⁸ The charging provision of this law was more consistent with that of 1523 than 1534. It did not clearly limit the charge to land within the realm (but expressly charged movables outside) and made clear that the deduction of debts was limited to the calculation of the value of movables. The provision that appears to limit the taxation of non-residents to a basis of source was also included in a form consistent with 1523. This subsidy was granted together with four fifteenth and tenths.

Another subsidy was granted in 1543, again on the annual value of land and the value of movables at progressive rates rising to 10 per cent in the case of goods and net debts and 15 per cent in the case

²⁴⁵ 26 Hen. VIII. c. 19; United Kingdom (1810–1828, Vol. III, p. 517). The reference to 'Dominions' is interesting although it is not clear exactly what it covered (by this stage a list of commissioners for specific areas was not incorporated in the act). The previous subsidy of 1523 expressly exempted inhabitants of Ireland, Wales, Calais, Guernsey and Jersey as did the next subsidy of 1540; see 14&15 Hen. VIII. c. 16 (UK) and 32 Hen. VIII. c. 50 (UK); United Kingdom (1810–1828, Vol. III, pp. 239, 824, respectively). As the 1534 act contained no such express exception it may be that the intention was to tax the inhabitants of these areas.

²⁴⁶ 'Excepted and deducted out of the premises such sums of money as every of them owe and intend in his conscience truly to pay ...' 26 Hen. VIII. c. 19; United Kingdom (1810–1828, Vol. III, p. 517).

²⁴⁷ 26 Hen. VIII. c. 19; United Kingdom (1810–1828, Vol. III, p. 523). This seems to be the ultimate origin of the anti-abuse rule originally incorporated in Schedule A of the income tax. See also Soos (1997, p. 62) for a similar provision in taxation at source of clerical subsidies in 1557–8 and 1575–6 and following.

²⁴⁸ Bill for the Subsidy (32 Hen. VIII. c. 50) (1540) (UK); United Kingdom (1810–1828, Vol. III, pp. 812–25). See also Dowell (1965, Vol. I, p. 139), Jurkowski *et al.* (1998, p. 142) and Schofield (2004, p. 91).

of land.²⁴⁹ This was the first subsidy to expressly apply to persons 'borne within this Realme of England Wales or other the Kings Dominions',²⁵⁰ coming seven years after Wales was incorporated into the realm and immediately as Wales was divided into counties.²⁵¹ The inhabitants of Ireland, Calais, Jersey and Guernsey continued to be expressly exempt.²⁵²

A further subsidy was granted in 1545 at progressive rates rising to 6.7 per cent on the value of movables and net debts and 10 per cent on the annual value of land.²⁵³ Since the levy of 1514, the land head of charge had included yearly value that a person had 'at Will in any . . . other yearly profits . . .'.²⁵⁴ Schofield notes the potential breadth of this provision, suggesting it comprised:

any income from any source provided it was received yearly. Thus wages were included in this category if they were paid by the year, but not if they were paid by the day, week or month. The scope of this category must be clearly emphasised because there is a misleading tendency to regard it as having been confined to income from lands alone.²⁵⁵

One could perhaps be forgiven for considering that the head was limited to real property. As mentioned at page 49, the word 'profits' had a particular legal meaning relating to certain rights over land, which could be held in much the same manner as other real property. But as early as 1472 the word 'profits' seems to have been used in tax laws as meaning the produce from real property rather than a form of real

²⁴⁹ An Act for the Subsidy of the Temporality (34&35 Hen. VIII. c. 27) (1543) (UK); United Kingdom (1810–1828, Vol. III, pp. 938–51). See also Jurkowski *et al.* (1998, pp. 143–4).

²⁵⁰ 34&35 Hen. VIII. c. 27; United Kingdom (1810–1828, Vol. III, p. 939; modernised by the author).

²⁵¹ An Act for Lawes & Justice to be ministred in Wales in like fourme as it is in this Realme (27 Hen. VIII. c. 26) (1536) (UK) and An Act for certaine Ordinaunces in the Kinges Majesties Domynion and Principallitie of Wales (34&35 Hen. VIII. c. 26) (1543) (UK); United Kingdom (1810–1828, Vol. III, pp. 563, 926, respectively).

²⁵² 37 Hen. VIII. c. 25; United Kingdom (1810–1828, Vol. III, p. 1031).

²⁵³ An Act concerning the Grant of one entire Subsidy and two whole Fifteenths and Tenths granted by the Temporality (37 Hen. VIII. c. 25) (1545) (UK); United Kingdom (1810–1828, Vol. III, pp. 1019–32). See also Dowell (1965, Vol. I, p. 140) and Jurkowski *et al.* (1998, pp. 146–7). It seems that the progressive rates for movables may only have been available to residents (whether citizens or not).

²⁵⁴ An Act of Subsidy (5 Hen. VIII. c. 17) (1514) (UK); United Kingdom (1810–1828, Vol. III, p. 106).

²⁵⁵ Schofield (2004, p. 102).

property. The importance of Schofield's work in this respect is that he provides evidence of persons being taxed with respect to 'profits' that do not involve the technical legal sense of the word. So by the first half of the sixteenth century, at least, the word 'profits' was being used in tax laws in the sense of produce or gain. For the first time since the introduction of the words 'other yearly profits', the law of 1545 expressly exempted from this head 'yearly wages due to servants for their yearly service, being of the sum of forty shillings, or under and not above ...'.²⁵⁶ This law also changed from the 1543 imposition on persons 'borne' in England and Wales to those 'resident' there.²⁵⁷ Two fifteenth and tenths were granted at the same time as the 1545 charge.

The reign of Edward VI began in 1547 and in 1549 he was granted a subsidy based on movables and debts in the usual manner. It was to be supplemented with a tax on sheep kept and cloth made in England but these were later amended so as to just extend the subsidy on movables for a further year.²⁵⁸ This was followed in 1553 with two fifteenth and tenths and a subsidy on goods and debts at progressive rates to 6.7 per cent and the annual value of land at 10 per cent.²⁵⁹ This subsidy largely followed the form of the subsidies of Henry VIII. However, in this case the yearly wages of servants were exempt (other than servants of the king taking a wage of £5 or more). This was to prove a standard exemption in future subsidies.²⁶⁰ The law also provided further particularity with respect to the limits of the charge on land and it is useful to recap on the typical jurisdictional limits of the subsidies by this time.

By this time, the lower rates under the movables head were charged on:

every person borne within this Realm of England Wales or other the King's Dominions; as of all and every Fraternity Guild Corporation

²⁵⁶ 37 Hen. VIII. c. 25; United Kingdom (1810–1828, Vol. III, p. 1021; modernised by the author).

²⁵⁷ 37 Hen. VIII. c. 25; United Kingdom (1810–1828, Vol. III, p. 1020).

²⁵⁸ An Act for a Relief granted to the King Majesty by the Temporality (2&3 Edw. VI. c. 36) (1549) (UK) and An Act concerning the release of the branches in the Last Act of Relief for the payments for Sheep and Clothes; And also a grant of a Subsidy to be paid in one year (3&4 Edw. VI. c. 23) (1549) (UK); United Kingdom (1810–1828, Vol. IV, pp. 78–93, 122–4, respectively). See also Jurkowski *et al.* (1998, pp. 148–9).

²⁵⁹ An Act for the Grant of a Subsidy and two 15th and 10th by the Temporality (7 Edw. VI. c. 12) (1553) (UK); United Kingdom (1810–1828, Vol. IV, pp. 176–89). See also Dowell (1965, Vol. I, p. 143) and Jurkowski *et al.* (1998, pp. 151–2).

²⁶⁰ Kennedy (1964, p. 22).

Mystery Brotherhood and Commonality incorporated or not incorporated
within England Wales or other the King's Dominions . . .

Movables of a corporation, etc. were to be charged to the person 'in the Rule or Custody' of the movables. The higher rates were charged on 'every Alien and Stranger borne out of the King's Obeysaunce, as well Citizens as other inhabiting within this Realm . . .'. In both cases the charge extended to movables 'as well within this Realm as without' and debts receivable less debts owed. The charge on the yearly value of land was similarly differentiated between citizens and corporations, etc. on the one hand and aliens on the other. In a similar manner as the first head listed the types of movables covered and then applied a worldwide basis, the 1553 subsidy now listed the types of interests covered by the second head and stated 'as well within ancient demesne and other places privileged as elsewhere'.²⁶¹ It seems the effect was to impose a worldwide basis with respect to the land charge as well. One confusing point is that the second head simply applied to 'aliens' without the limiting reference to 'inhabiting within the Realm' (unless this was to be implied by the previous reference to aliens under the first head). So it is unclear from the wording whether non-resident aliens were to be taxed with respect to any land they might have in England (but it seems likely that in practice this would be the case).

A subsequent provision (proximate to the charging provision) provided that persons (whether alien or not) 'inhabiting within this Realm' that at the time of assessing were out of the realm and had movables and land within the realm were to be charged for these by certificate of local inhabitants or by the person's 'Factor deputy or attorney'. Further, the provision that provided for assessment and taxation where a person was resident (in the administrative provisions) also provided that a person that was chargeable and that was out of the realm at the time of assessment was to be charged 'where he was last abiding'.²⁶² It is difficult to draw concrete conclusions from these provisions but there are at least solid foundations (the seeds having been sown more than 100 years earlier) of taxation on the basis of source and, particularly, taxation on the basis of residence (or inhabiting). In the usual way, inhabitants of Ireland, Calais, Jersey and Guernsey were expressly exempt with respect to land, property and offices there.²⁶³

²⁶¹ 7 Edw. VI. c. 12; United Kingdom (1810–1828, Vol. IV, pp. 178–9).

²⁶² 7 Edw. VI. c. 12; United Kingdom (1810–1828, Vol. IV, pp. 179, 182–3).

²⁶³ 7 Edw. VI. c. 12; United Kingdom (1810–1828, Vol. IV, p. 188).

With the death of Edward IV in 1553, Queen Mary released this subsidy.²⁶⁴ But in 1555 Mary was granted a similar subsidy.²⁶⁵ She and Philip (her consort) were granted another with a fifteenth and tenth in 1558.²⁶⁶ The rates ranged to 13.3 per cent of the value of movables and debts and 20 per cent of the annual value of land with the usual double rates for aliens. By the time that Elizabeth came to the throne the form of the subsidies were relatively settled. They continued to be levied during her reign and in a similar manner, the value of movables and the annual value of land were taxed at varying rates but typically with a lower rate on goods. Elizabeth was granted subsidies for 1559,²⁶⁷ 1563,²⁶⁸ 1566,²⁶⁹ 1571,²⁷⁰ 1576,²⁷¹ 1581,²⁷² 1585,²⁷³ 1587,²⁷⁴ 1589,²⁷⁵

²⁶⁴ An Act for the Release of the last Subsidy of the Temporality (1 Mary, Session 2, c. 17) (1553) (UK); United Kingdom (1810–1828, Vol. IV, p. 218).

²⁶⁵ An Act for a Subsidy to the King and Queen Mary (2&3 Phil. & Mar. c. 23) (1555) (UK); United Kingdom (1810–1828, Vol. IV, pp. 301–12). See also Dowell (1965, Vol. I, p. 144) and Jurkowski *et al.* (1998, pp. 154–5).

²⁶⁶ An Act of a Subsidy and one 15th granted by the Lords and Commons (4&5 Phil. & Mar. c. 11) (1558) (UK); United Kingdom (1810–1828, Vol. IV, pp. 336–48). See also Dowell (1965, Vol. I, p. 146) and Jurkowski *et al.* (1998, p. 155).

²⁶⁷ An Act of a Subsidy and two 15th and 10th by the Temporality (1 Eliz. c. 21) (1559) (UK); United Kingdom (1810–1828, Vol. IV, pp. 384–96). See also Jurkowski *et al.* (1998, p. 156).

²⁶⁸ A Subsidy with two 15th and 10th, granted by the Temporality (5 Eliz. c. 31) (1563) (UK); United Kingdom (1810–1828, Vol. IV, pp. 464–78). See also Jurkowski *et al.* (1998, p. 157).

²⁶⁹ An Act of a 15th and 10th granted by the Temporality (8 Eliz. c. 18) (1566) (UK); United Kingdom (1810–1828, Vol. IV, pp. 505–19). See also Jurkowski *et al.* (1998, p. 158).

²⁷⁰ An Act of a Subsidy and Two 15th and 10th granted by the Temporality (13 Eliz. c. 27) (1571) (UK); United Kingdom (1810–1828, Vol. IV, pp. 505–19). See also Jurkowski *et al.* (1998, p. 159).

²⁷¹ An Act of Two 15th and 10th and One Subsidy granted by the Temporality (18 Eliz. c. 23) (1576) (UK); United Kingdom (1810–1828, Vol. IV, pp. 638–51). See also Jurkowski *et al.* (1998, p. 160).

²⁷² An Act for a Subsidy and Two 15th granted by the Temporality (23 Eliz. c. 15) (1581) (UK); United Kingdom (1810–1828, Vol. IV, pp. 684–98). See also Jurkowski *et al.* (1998, p. 161).

²⁷³ An Act of one entire Subsidy and Two 15th and 10th granted by the Temporality (27 Eliz. c. 29) (1585) (UK); United Kingdom (1810–1828, Vol. IV, pp. 744–57). See also Jurkowski *et al.* (1998, pp. 161–2).

²⁷⁴ An Act for the grant of one entire Subsidy and Two 15th and 10th granted by the Temporality (29 Eliz. c. 8) (1587) (UK); United Kingdom (1810–1828, Vol. IV, pp. 778–92). See also Jurkowski *et al.* (1998, pp. 162–3).

²⁷⁵ An Act for the granting of Four 15th and 10th, and two entire Subsidies to our most gracious Sovereign Land the Queen most Excellent (31 Eliz. c. 15) (1589) (UK); United Kingdom (1810–1828, Vol. IV, pp. 818–34). See also Jurkowski *et al.* (1998, p. 164).

1593,²⁷⁶ 1597²⁷⁷ and 1601.²⁷⁸ Fifteenth and tenths were granted, in single and multiple levies at the same times in the same laws. Often a subsidy was granted at the same time as two fifteenth and tenths. Towards the end of Elizabeth's reign multiple subsidies were granted with double the number of fifteenth and tenths ranging to a maximum of four subsidies and eight fifteenth and tenths in 1601.²⁷⁹

Dowell discusses the typical form of the Tudor subsidies. The taxpayers were divided into two classes, the landowners and persons charged with respect to their movables. Sometimes the exemption threshold was supported with a light poll tax and as a rule aliens paid double the rate of citizens. The rates typically rose to 20 per cent for the yearly value of land and 13.3 per cent for the value of movables. The tax with respect to movables was levied on their actual value whereas the tax on land was with respect to yearly value.²⁸⁰ Importantly, movables expressly included plate, stock of merchandise, all manner of corn and grain, household stuff, other movable goods and debts receivable, less debts owed. The land head still residually included 'other yearly profits' but the law subsequently exempted yearly wages of servants (except servants of the queen taking wages above a threshold). Often the subsidy was collected in two parts with the first part forming two-thirds of the total. In the usual way, a person was charged only to the tax on land or the tax on movables and not both.²⁸¹ Senior officers of the crown appointed commissioners for the management of the tax. They were divided into sets of district commissioners and appointed assessors who

²⁷⁶ An Act for the Grant of Three entire Subsidies and Six 15th and 10th, granted by the Temporality (35 Eliz. c. 13) (1593) (UK); United Kingdom (1810–1828, Vol. IV, pp. 867–83). See also Jurkowski *et al.* (1998, pp. 165–6).

²⁷⁷ An Act for the Grant of Three Subsidies and Six 15th and 10th (39 Eliz. c. 27) (1597/98) (UK); United Kingdom (1810–1828, Vol. IV, pp. 937–52). See also Jurkowski *et al.* (1998, pp. 168–9).

²⁷⁸ An Act for the Grant of Four entire Subsidies and Eight 15th and 10th granted by the Temporality (43 Eliz. c. 18) (1601) (UK); United Kingdom (1810–1828, Vol. IV, pp. 991–1009). See also Jurkowski *et al.* (1998, p. 169).

²⁷⁹ Dowell (1965, Vol. I, pp. 146–51) and Jurkowski *et al.* (1998, pp. 156–70).

²⁸⁰ See Dowell (1965, Vol. III, p. 71).

²⁸¹ Schofield (1988, p. 236) notes that 'the rates of tax payable on each category were always set so that only those with very large incomes from lands or fees would pay tax under that head. For the rest of the population the tax payable on moveable possessions would normally amount to the greater sum, and it is not at all surprising that the overwhelming majority of Tudor tax payments were in fact based on assessments of the value of moveable goods.'

returned their assessments to the commissioners.²⁸² There was an appeal from the assessors to the commissioners. The commissioners also appointed collectors.²⁸³

Schofield reports that during Henry VIII's reign the 'subsidy assessments on annual incomes would appear to have been tolerably realistic ...' but that the 'quality of assessment may be presumed to have worsened markedly after Henry VIII's death'.²⁸⁴ The waning yield of the subsidies in the second half of the sixteenth century resulted in multiple subsidies. Dowell suggests that the subsidy slipped into the practice of the fifteenth and tenth in that it became synonymous with the grant of a particular amount of money, towards the end of Elizabeth I's reign about £80,000. He suggests that there was virtually no re-assessment from subsidy to subsidy. The localisation through the appointment of district commissioners, assessors and collectors resulted in great variation between parts of the country. The result was gross undervaluation.²⁸⁵ During Elizabeth I's reign this undervaluation accelerated through the removal of oaths. Miller notes:

The ordinary people of England were indeed never required by Tudor subsidy acts to make their declarations upon oath in the first instance; only if they were suspected of returning too low a figure were they to be

²⁸² Schofield (1988, p. 236) suggests that in practice 'the commissioners, who were drawn from the same social stratum as the justices of the peace, subdivided the county so that responsibility for the implementation of the subsidy acts rested with the social leaders of each locality'.

²⁸³ Dowell (1965, Vol. I, pp. 151–4).

²⁸⁴ Schofield (1988, pp. 243, 253). Schofield's work includes an interesting study comparing the subsidy assessments with valuation for probate purposes between the years 1524–72. His conclusion is that the assessments of the value of movable goods was on average only 30 per cent of the probate valuations whereas the assessment of annual income (mostly from land) was 63 per cent. He suggests the difference was due to the greater difficulty in valuing goods. Schofield (1988, pp. 245–9). Schofield concludes at p. 253 that the poorest people were 'being assessed at a much higher than average percentage of their probate valuations, and the richest at a much lower than average percentage'. Similarly, see Schofield (2004, pp. 206–17).

²⁸⁵ Dowell (1965, Vol. I, pp. 154–8). See also Miller (1955, p. 18), which contains a useful table illustrating how the assessments of peers fell off during this period. She (1955, p. 19) also notes that '[i]n the earlier subsidies a number of peers were in fact taxed on goods; in later subsidies all peers and peeresses were taxed on lands'. Schofield (2004, p. 204) suggests that by 1589 the Privy Council 'had apparently abandoned the notion that the assessments should be realistic valuations of wealth of individual taxpayers ...'.

examined on oath. Even this degree of coercion was, however, disliked and in the first parliament of Elizabeth's reign the old formula was dropped: henceforth anyone suspected of having been under-rated in the assessment was to be examined by the commissioners by all ways and means other than by the administration of an oath. There remained the swearing of the assessors to make true inquiry of the value of all persons ratable to the subsidy; and in 1563 the assessor's oath was in its turn abandoned, the house of commons in its debate on the subsidy having concentrated its attention on this point and shown its disapproval of the oath. Moreover, the dropping of the oaths appears to have had direct practical consequences: contemporaries at any rate believed it to be one of the main reasons for the generally low assessments of the later Elizabethan subsidies.²⁸⁶

So by the early seventeenth century the subsidy resembled more a quota system like the fifteenth and tenth than an equal assessment across the country. The statutory rules were largely ignored.²⁸⁷

Developments in Regional Levies

It was during the tumultuous decade of the 1530s that Henry VIII started to supplement the traditional local levies (the Constables', Hundred and County Rates, see pp. 51–3) with more specific rates for purposes such as building bridges, gaols and houses of correction. The statutory examples date from 1530.²⁸⁸ This style of rate, imposed for a specific purpose, would multiply to the point where the system became overly complex and burdensome.²⁸⁹ Some of the purposes for which

²⁸⁶ Miller (1955, p. 28). See also Schofield (1988, pp. 238–40).

²⁸⁷ Jurkowski *et al.* (1998, p. xlv). Schofield (1988, p. 243) describes the assessments during that later part of Elizabeth's reign as an 'openly acknowledged farce'.

²⁸⁸ The laws in question were An Act concerning the amendment of Bridge and High Ways (22 Hen. VIII. c. 5) (1530/31) (UK) and An Act concerning where and under what manner the Jails within this Realm shall be edified and made (23 Hen. VIII. c. 2) (1531/32) (UK); United Kingdom (1810–1828, Vol. III, pp. 321, 363, respectively). Under these laws the justices of the peace for the County had broad discretion to apportion the tax among inhabitants or residents of the town or parish in question, i.e. to subject them 'to suche reasonable ayde and somme of money as they shall thinke by theyre discrecions conveyent . . .'. Regarding justices of the peace, see note 201.

²⁸⁹ For more examples of statutes imposing levies according to 'ability' see Cannan (1896, pp. 39–40) referring to An Acte for the repayring of Shierboune Cawseye (1 Mary, Session 2, c. 32, not printed) (1553) (UK), An Acte for the followinge of Huye and Crye (27 Eliz. c. 13) (1584/85) (UK) (rate for damages to victims of highway robbery) and An Acte for repairing of the Highway from Nonsuch to Taleworthe, in the Parishes of

rates were imposed, such as repairing highways and causeways, resulted in rates being levied with respect to land. As Cannan notes, this immediately raised the issue of whether, where the owner did not occupy the property in question, the levy should be imposed on the tenant or the landlord. The practice developed whereby rates with respect to 'annual repairs' were imposed on tenants whereas 'extraordinary repairs' were imposed on landlords.²⁹⁰ This is another early example of the need to distinguish between capital and revenue expenditure.

However, Henry VIII had a larger impact on local taxation when he began to dissolve the monasteries in 1536. This dissolution had repercussions for the poor that had been supported by the monasteries. As noted above at pages 53–4, support of the poor was originally a parochial issue and the monasteries had provided substantial support in this regard. Having removed this form of support, Henry passed a law in 1536 by which the head officers of cities, shires, towns and parishes became legally obliged to keep the poor and to set to and keep at work certain beggars. However, the funding of this obligation was only by voluntary or charitable alms to be collected by churchwardens and certain other officers. Religious officials were obliged to provoke, e.g. in their sermons, people to make contributions but the offering was still in legal form a voluntary one.²⁹¹ Much of the regulation under this law was not new and followed practice that already existed in some cities and towns such as London.²⁹² Despite the persuasion from the Church,

Ewell and Longditton, in the County of Surrey, leading to Kingston upon Thames in the County aforesaid (3 James I. c. 19) (1605/06) (UK); United Kingdom (1810–1828, Vol. IV, pp. 720, 1094).

²⁹⁰ Cannan (1896, p. 22) referring to a series of lectures from 1622.

²⁹¹ An Act for punishment of sturdy vagabonds and beggars (27 Hen. VIII. c. 25) (1536) (UK); United Kingdom (1810–1828, Vol. III, p. 558). In particular, section 4 provided 'the Church Wardens . . . of every Parish of this Realm shall in good and charitable wise take such discrete and convenient order, by gathering and procuring of such charitable and voluntary alms of the good christen people within the same with boxes every Sunday . . . in such good and discrete wise as the poor impotent lame feeble sick and diseased people, being not able to work, may be provided help and relieved . . .'.

²⁹² For example, see Leonard (1965, p. 26) referring to a 1533 order to the Aldermen of London. For an interesting account of an early draft of the 1536 law, see Elton (1974). This draft was more comprehensive than the law as passed and would have involved the levying of a graduated income tax in order to fund the wages of the unemployed who were to be put to work on public projects.

people made insufficient voluntary contributions and the plight of the poor worsened dramatically.²⁹³

In 1563 Elizabeth backed the voluntary offering with a legal sanction for the non-compliant, turning contributions for the poor into a form of tax.²⁹⁴ The statute provided:

[I]f any person or persons being able to further this charitable Work, do obstinately and frowardly refuse reasonably to give towards the help and relief of the Poor . . . the Parson Vicar or Curate and Churchwardens of the Parish wherein he dwells shall then gently exhort him or them towards the relief of the Poor; and if he or they will no so be persuaded, then upon Certificate of the Parson Vicar or Curate of the Parish to the Bishop . . . the same Bishop . . . shall send for him or them, induce and persuade him or them by charitable means and ways to extend their Charity to the Poor . . . And if the person so sent for, of his or their froward or wilful mind shall obstinately refuse to give weekly to the relief of the Poor according to his or their abilities, that then the Bishop . . . shall have full Power and Authority . . . to bind the said obstinate and wilful persons so refusing unto the Queen by Recognisance, in the sum of Ten Pounds, with the Condition thereupon to be indorsed, that the said obstinate person so refusing shall appear, before the Justices of the Peace of the County . . . at the next General Sessions . . . and if any such obstinate person shall refuse to be bound . . . that then the said Bishop . . . shall have authority by this Act to commit the said obstinate person to Prison, there to remain without Bail . . . until the said obstinate person shall become bound as is aforesaid.²⁹⁵

Here again there is a legislative reference to ‘ability’, this time the ability of the obstinate person.²⁹⁶ The next section dealt with the procedure before the General Sessions. By contrast to the reference to ‘ability’, it provided:

[I]t shall and may be lawful to and for the said Justices . . . to assess tax and limit, upon every such obstinate person so refusing, according

²⁹³ United Kingdom (1843, p. 12) and Leonard (1965, p. 26).

²⁹⁴ Again, this is not the first example of a compulsory tax being levied for the relief of the poor. Leonard (1965, p. 29) notes an earlier levy by the London Common Council of 1547.

²⁹⁵ An Act for the Relief of the Poor (5 Eliz. c. 3) (1562/63) (UK) s. 7; United Kingdom (1810–1828, Vol. IV, p. 412). See also United Kingdom (1843, p. 12).

²⁹⁶ Similar reference to the ‘ability’ of parishioners was also used in An Act for the Reliefe of the Poore (2&3 Phil. & Mar. c. 5) (1555) (UK); United Kingdom (1810–1828, Vol. IV, p. 280). This law replaced that of 1536 but did not include the compulsion of the 1563 law. See also Cannan (1896, p. 61).

to their good discretions, what Sum the said obstinate person shall pay weekly towards the Relief of the Poor within the said Parish where he or she shall inhabit and dwell . . .²⁹⁷

The law was adjusted in important respects in 1572, which are not presently relevant. Cannan suggests that down to 1572 there is 'little doubt' that the Poor Rate was to be levied according to a person's ability to contribute.²⁹⁸ By contrast, Leonard notes that between 1569 and 1597 local authorities used a variety of methods to raise the funds for the poor. In some cases the fifteenth and tenth or subsidy was the basis. In other cases it seems that the previous voluntary offerings were initially used as the basis of assessment.²⁹⁹

Parliamentary Committees revisited the subject of poor relief during 1597. The impetus for this revision was meagre corn harvests between 1594 and 1597, which caused the price of corn to rise dramatically.³⁰⁰ As a result, a series of acts was passed during 1598, including a new law for the relief of the poor.³⁰¹ This law was of limited duration but was effectively 're-enacted' in 1601 in a form that went virtually unaltered for more than two centuries.³⁰² The impact of the 1601 law was not immediate and it is clear that at first the majority of parishes did not levy the Poor Rate.³⁰³ But the Poor Law of 1601 would set the mould for future rates.³⁰⁴

The 1601 law charged tax in the following terms:

[T]he Churchwardens of every Parish . . . shall take order from time to time . . . to raise weekly or otherwise, by Taxation of every Inhabitant . . . and every Occupier of Lands Houses [etc.] in the said Parish in such competent sum and sums of Money as they shall think fit [for putting the poor to work and relief of the poor] to be gathered out of the same Parish according to the Ability of the same Parish . . .³⁰⁵

²⁹⁷ 5 Eliz. c. 3 s. 8; United Kingdom (1810–1828, Vol. IV, p. 412).

²⁹⁸ Cannan (1896, p. 67).

²⁹⁹ Leonard (1965, pp. 116–17). Leonard (1965, p. 118) suggests that during this period '[t]here was no attempt to enforce any theory that the required sum ought to be levied according to the value of lands occupied or according to the wealth of the payer'.

³⁰⁰ Leonard (1965, p. 73).

³⁰¹ An Act for the Relief of the Poor (39 Eliz. c. 3) (1597/98) (UK); United Kingdom (1810–1828, Vol. IV, p. 896).

³⁰² Leonard (1965, p. 79).³⁰³ See Slack (1995, p. 18).

³⁰⁴ United Kingdom (1843, p. 13).

³⁰⁵ An Act for the Relief of the Poor (43 Eliz. c. 2) (1601) (UK) s. 1; United Kingdom (1810–1828, Vol. IV, p. 962). Section 5 provided a right of appeal against assessment to the Justices of the Peace in General Quarter Sessions.

The brief wording of the statute left many questions as to assessment, which would result in copious amounts of litigation regarding the incidence of the tax.³⁰⁶ Cannan seems to feel that the intention in 1597 was still that people be assessed according to their whole ability. That form of tax is consistent with the assessment of inhabitants, like a residence-based tax. However, the reference to the taxation of occupiers of real estate raised issues. If the occupiers of lands were not taxable in respect of the lands they occupied then all owners of lands might migrate to a wealthy parish with the result that not only would their taxes be low in that parish, they would also have removed a large portion of the potential tax base of other parishes. For this reason, a 'source' basis of taxation was contemplated with respect to occupiers, i.e. a parish could rate the occupier of land within the parish even if the owner was not an inhabitant of the parish. In order to avoid double taxation, this meant that the owner must be exempted with respect to real estate occupied by another. In the result, inhabitants could not be assessed with respect to their whole ability.³⁰⁷

In 1843 the Poor Law Commissioners summarised the approach of the courts in identifying property liable to taxation. The courts distinguished between properties expressly enumerated (lands, houses etc.), where it was the occupier that was liable, and property liable by implication, where the inhabitant was liable. In respect of the latter:

[T]he Courts were generally guided by two principles: first, that the property liable by implication was not identical with that made expressly liable; thus, an inhabitant as such was not to be taxed for ability derived from land, houses, &c., but only the occupier: secondly, that the property liable by implication, although not identical, should be analogous with that liable expressly; thus, most of the properties liable expressly . . . are visible and locally situate within the parish, and productive of profit; and the Courts, therefore, held that the property to be liable by implication should also be local and visible and productive of a profit.³⁰⁸

³⁰⁶ United Kingdom (1843, p. 12). Much of this case law is reported in Pratt (1827). In particular, see Chapter II, Heading 6 'In What Proportion the Rate shall be made' and heading 7 'Of the Persons and the Property liable to be rated' (1827, pp. 109–284).

³⁰⁷ Cannan (1896, pp. 76–7, 82–5) referring to case law and resolutions of judges as early as 1633.

³⁰⁸ United Kingdom (1843, p. 20).

As a result of this interpretation inhabitants could only be taxed with respect to personal property. Income from labour and rents was not taxed to inhabitants nor was household furniture or other goods. However, visible stock in trade of a business was taxable, being the only substantial form of property taxed to inhabitants.³⁰⁹ This departure from the earlier 'ability' standard helps explain why the Privy Council's commission with respect to the ship money of 1634 (discussed below at pp. 80–1) was so explicit as to imposing the levy by reference to ability. Although, as Cannan notes, the extent to which the ability standard was departed from, particularly during the seventeenth century, probably varied from parish to parish.³¹⁰

Having identified the property subject to tax, there is still the issue of valuation of that property for the purposes of rating. The Poor Rate expressly imposed the rate according to the 'ability' of the tax subject but the valuation seems to have been largely based on objective criteria. The Poor Law Commissioners suggest that the earliest practice as regards the Poor Rate was 'governed to a considerable extent by regard to the *number of acres* in each occupier's possession'.³¹¹

As with the quota system for central direct taxes and other local taxes, the Poor Rate was levied at a flat percentage of each pound of value of assessable property. The percentage (or pound rate) depended on the total amount to be raised by each parish.³¹² The payment of the Poor Rate was traditionally weekly and often paid at the church doors after Sunday service.³¹³ The introduction of the Poor Rate would ultimately spell the demise of the Constables' Rate as townships gradually became identified with parishes and the parish became the typical district for local taxation purposes.³¹⁴

1.4 Unifying the Crown: The Early Stuarts

In 1603 James VI of Scotland succeeded Elizabeth I to the throne and became James I of England. As a result, the crowns of Scotland and

³⁰⁹ United Kingdom (1843, p. 21) notes that the liability of stock in trade to the Poor Rate was controversial until 1795 and further it varied from district to district. There is an interesting account of how one district's insistence on rating stock in trade accelerated the move of woolstaplers and clothiers north to areas where stock in trade was not rated (1843, pp. 22–3). An early example of the effects of tax competition!

³¹⁰ Cannan (1896, pp. 87–8). ³¹¹ United Kingdom (1843, p. 27), original emphasis.

³¹² United Kingdom (1843, p. 40). ³¹³ United Kingdom (1843, p. 41).

³¹⁴ United Kingdom (1843, p. 6).

England were merged but full political union of England and Scotland would not occur until 1707.³¹⁵ The reign of the early Stuarts marked a new low in the relationship between the English Parliament and the Crown that would ultimately lead to the English Civil War. During the reign of James direct taxation continued in much the same vein as it had under Elizabeth. However, things changed dramatically when Charles I succeeded to the throne in 1625. He too was initially granted the standard type of direct taxation in the form of the Tudor subsidy (but not the fifteenth and tenth). However, disputes came to a head in 1629 when Charles dissolved Parliament and proceeded to rule without it for eleven years.

At least part of the problem was religious. The Puritans rose as a religious force during the reign of James I. They were radical Protestants that wanted to 'purify' the church by paring down church ritual, educating the clergy and limiting the powers of bishops. The Puritans also favoured thrift, education and individual initiative. There was, therefore, a natural affinity with the merchant middle class, which held substantial power in the House of Commons. Charles I, by contrast, sponsored the career of William Laud, a bishop (Archbishop of Canterbury from 1633), who favoured ceremony and harmonious liturgy. The Puritans disliked Laud whose practices they regarded as close to those of Roman Catholics. Laud attempted to force uniformity of worship in every parish in England and this was opposed by the Puritans. Laud was intolerant of opposition and made use of the Courts of Star Chamber and High Commission to inflict punishments on his critics.

The reign of James I also saw the tentative establishment of settlements in the New World (North America and the West Indies). The suspension of Parliament, the persecution of radical religious groups such as the Puritans by the likes of Archbishop Laud, and the potential for land and wealth in the New World free of England's problems sparked a large scale emigration from England beginning around 1630. Many of these emigrants went to the New World, founding settlements based on versions of English practice, including taxation.

This heading begins with a brief discussion of direct taxes granted to the Stuarts before the suspension of Parliament in 1629. It then

³¹⁵ See Baker (2002, p. 34).

considers the manner in which Charles I raised revenue during this suspension and, in particular, revenue raised in the form of the ship writs. The discussion then proceeds to discuss the settlement of the New World and the early forms of taxation imposed there. In the usual way, the early settling of practices, such as taxation, sets a precedent for the future, which locals are often resistant to alter. The heading finishes with a discussion of the important grants made to Charles I during the Long Parliament, which Charles I called in 1640 in order to raise funds to suppress a rebellion in Scotland. These were the last grants before the outbreak of the English Civil War but they would prove influential in the form of direct taxation adopted during the English Civil War and that adopted after the Restoration of the monarchy.

Continued Subsidies but End of the Fifteenth and Tenth

The number of subsidies and fifteenths and tenths granted by Parliament accelerated during the reign of James I and the early part of the reign of Charles I. This was partly as a result of the failure to reassess (as noted above at p. 71) and partly as a result of inflation. James I was granted subsidies in the usual form with fifteenths and tenths in 1606,³¹⁶ 1610,³¹⁷ 1621³¹⁸ and 1624.³¹⁹ Charles I was also made a grant of two subsidies on coming to the crown in 1625.³²⁰ No fifteenths and tenths were granted to Charles I, those granted to James I in 1624 being the last of this style of tax. After 1625 Parliament refused such grants on the basis that they were too 'burdensome to the poor'.³²¹ Charles I was granted five

³¹⁶ An Act for the Grant of Three entire Subsidies and Six 15th and 10th granted by the Temporality (3 James I. c. 26) (1605/06) (UK); United Kingdom (1810–1828, Vol. IV, pp. 1108–26). See also Jurkowski *et al.* (1998, p. 171).

³¹⁷ An Act for the Grant of One entire Subsidy and One 15th and 10th granted by the Temporality (7 James I. c. 23) (1610) (UK); United Kingdom (1810–1828, Vol. IV, pp. 1187–201). See also Jurkowski *et al.* (1998, pp. 173–4).

³¹⁸ Jurkowski *et al.* (1998, pp. 179–80) noting that a roll of statutes for this parliament is lacking but a copy of the subsidy was recently found.

³¹⁹ An Act for payment of Three Subsidies and Three 15th by the Temporality (21 James I. c. 33) (1624) (UK); United Kingdom (1810–1828, Vol. IV, pp. 1247–61). See also Jurkowski *et al.* (1998, pp. 180–1).

³²⁰ An Act for the Grant of two entire Subsidies granted by the Temporality (1 Char. I. c. 6) (1625) (UK); United Kingdom (1810–1828, Vol. V, pp. 9–21). See also Jurkowski *et al.* (1998, pp. 181–2).

³²¹ Jurkowski *et al.* (1998, p. xxxiv).

subsidies in 1628,³²² which were the last before the eleven-year suspension of Parliament beginning in 1629.

The Ship Writs

From 1629–40 government was carried on without a parliament. During this period, in the place of subsidies, the king raised funds through the issue of ship writs.³²³ These were originally a means of gathering a navy in times of war by the issue of writs to London and port towns to furnish and equip ships for the defence of the kingdom (see p. 31 above with respect to the ship geld). This the towns financed through the levy of ship money. The king used this system in a time of comparative peace, beginning in 1634.³²⁴ The first writ was issued to London and dated 20 October 1634. It specified the ships to be raised and then provided that the major and alderman of the city were to ‘Assess all men in the said City ... and the Landholders in the same, not having a Ship ... to contribute to the expenses ...’. The assessment was to be ‘upon every of them according to their Estate and Substances ...’.³²⁵

The writs were extended to other areas and later in 1634 the Lords of the Privy Council provided instructions for the assessing and levying of ship money. A quota system was used, by apportioning required ships to counties and towns. At the local level the amounts payable were to be assessed:

as is accustomed in other Common Payments, which fall out to be payable by the County, Hundreds, Lathes, Divisions, Parishes, and Towns... Wherefore His Majesty’s express Command is, that... no Persons be Assessed unto the same, unless they be known to have estates in Money, or Goods, or other means to live by, over and above their daily Labour: and where you find such Persons to be taxed, you are to take off what shall be set upon them, and lay it upon those that are better able to bear it. And that you may the better spare such poor people, it is

³²² An Act for the Grant of five entire Subsidies granted by the Temporality (3 Char. I. c. 8) (1628) (UK); United Kingdom (1810–1828, Vol. V, pp. 39–52). See also Jurkowski *et al.* (1998, pp. 186–7).

³²³ Dowell (1965, Vol. III, p. 160).

³²⁴ Jurkowski *et al.* (1998, pp. 185–6) note that the idea of ship money had been floated as early as 1603 and in 1628 Charles I got as far as issuing orders but then abandoned the scheme.

³²⁵ Rushworth (1721, Vol. II, pp. 255–9).

His Majesty's pleasure, that where there shall happen to be any man of ability, by reason of gainful Trades, great Stocks of Mony, or other usual Estates, who per-chance have, or occupie little or no Land, and consequently in an ordinary Landscot would pay nothing, or very little; such men be rated and assessed according to their worth and ability . . .³²⁶

The levy of ship money, therefore, provides yet another clear connection between the imposition of local rates and revenue raised for central government. The specific instructions regarding assessment are also interesting. In many ways they are consistent with the basis of the Poor Rate (as to which see pp. 73–7), particularly with the reference to 'ability', and also consistent with at least the original principles (and perhaps wording) of the subsidy. Elaboration of the basis of assessment in this way might also demonstrate where the crown felt there were defects in the current modes of local rates and also evince an effort to ensure that ship money was not levied based on existing assessments for the subsidy. Dowell suggests that 'under the new assessments, the ship money was, certainly, more fairly assessed than any fifteenth and tenth or subsidy hitherto collected . . .'.³²⁷ In 1635 the writs were extended to inland counties and towns and continued until 1639.³²⁸ In 1640 the king was compelled to call a parliament in order to finance a campaign against Scotland.³²⁹

Early Exodus to the New World

As noted in the introduction to this heading, the first serious attempts at colonisation of North America and the West Indies by the English occurred early in the reign of James I. Initial steps were taken by the Virginia Company, which was created by royal charter. However, it was not until the 1620s that the viability of these settlements stabilised and anything like a tax *system* began to emerge. This subheading discusses the early developments in the New World up to the time of the English Civil War. It proceeds in an essentially chronological order, beginning with a consideration of the settlements in Virginia and Maryland, followed by those in the West Indies and finally

³²⁶ Rushworth (1721, Vol. II, pp. 260–1). See also Cannan (1896, pp. 51–2).

³²⁷ Dowell (1965, Vol. III, p. 219).

³²⁸ This method of raising revenue was held to be legal in *R v. Hampden* (Case of Ship-Money) (1637) 3 St. Tr. 825.

³²⁹ Generally regarding the ship writs see Dowell (1965, Vol. III, pp. 210–23).

New England. While New England was last among these settlements, it was to this colony more than the others that the persecuted Puritans fled during the 1630s.

Virginia and Maryland

James I established the Virginia Company by royal charter in 1606. This charter recognised two groups, a London group with interest in the Chesapeake and North Carolina region and a second west-country group interested in the New England region. The first group dispatched ships that arrived in Virginia in April 1607 and settled at the Jamestown site. The second group sent out ships later in 1607 and a settlement was established in Maine but was abandoned by 1609.³³⁰ By contrast, the Jamestown colonists persevered and a new royal charter was granted in May 1609 vesting control of the colony in a joint stock company.³³¹ In accordance with these early charters, the colonists ('planters') were essentially employees of the company and worked the communal land, i.e. a system of communism.³³²

A third charter was granted in 1612 and boundaries were extended further to include the Bermuda Islands.³³³ From 1614 settlers were gradually allowed to work their own land but only as to one month per year, the other eleven at the disposal of the Virginia Company for work on communal land. The Company also sold its shares together with, initially, a right to 100 acres of forest. There was also a labour obligation of thirty-one days for the colony and two and a half barrels of wheat per year. Large proprietary grants of land were also made under which the tenants were subject to the proprietors, not the Company. The terms imposed by the proprietors were typically more favourable than those imposed by the Company. By 1620 there were at least eleven of these proprietary grants, a time at which the population of the colony numbered just over 2,000.³³⁴ These grants contributed to the financial demise of the Company.³³⁵

³³⁰ Simmons (1976, pp. 12–13).

³³¹ Under the first charter the government of the colonies was to rest in a royal council in London.

³³² Ripley (1893, pp. 11–12).

³³³ The Somers Islands or Bermuda Company was formed as a subsidiary of the Virginia Company in 1612. Settlers were sent out in the same year and during the following years the population of this colony soon exceeded that in Jamestown, Virginia. See Simmons (1976, pp. 14–15).

³³⁴ Simmons (1976, p. 24). ³³⁵ Ripley (1893, pp. 12–15).

Other matters led to the demise of the Virginia Company's government of the colony. The first Virginia Assembly met in Jamestown around the middle of 1619 and passed its first laws (although there was no clear authorisation for this meeting). Around the same time the colony was divided into Anglican (Church of England) parishes. With the formation of the Assembly came the first taxes, although the labour and good tributes to the Company and the proprietors may be viewed as early tax equivalents. Ripley suggests there was a tax imposed on 4 August 1619 consisting of one pound of tobacco per poll. The funds raised were used to support a number of officials appointed by the assembly.³³⁶ In a simple society where virtually everyone worked the land, a flat poll tax may not be considered as inequitable as it is in a more complex society with great variations in the wealth of the inhabitants. Other obligations were imposed including the provision of labour to assist in building defences against the Indians. As with the knight's fee in England hundreds of years earlier, this obligation could be commuted into payments of tobacco. Similarly, in 1623 a parish poll tax was enacted providing for the contribution of a bushel of corn to the public granary and a general poll tax of ten pounds of tobacco per poll to defray public debts.³³⁷

Difficulties following a dispute over a proposed tobacco contract with the English government led to the dissolution of the Virginia Company in 1624.³³⁸ As a result, company rule became royal government rule under a royally appointed governor and council. Land grants continued to be made but subject to a nominal rent charge in favour of the king.³³⁹ The Virginia Assembly continued to meet but had been legally stripped of its legislative powers. These were formally returned in 1639.³⁴⁰

Local administration had evolved by 1634 with the creation of eight counties and an administrative structure that largely followed that in England. The counties typically levied a poll tax and the sheriff collected both the general and local taxes. As in England, the vestry collected

³³⁶ Ripley (1893, p. 18).

³³⁷ Virginia (1809–1823, Vol. I, pp. 125, 128, respectively). See also Ripley (1893, pp. 15–19).

³³⁸ The massacre of 347 colonists at the hands of Indians in 1622 also contributed to this dissolution.

³³⁹ Ripley (1893, pp. 46–7). The rate of the quit-rent was one shilling for every fifty acres and was not materially changed until its abolition at the end of the colonial period.

³⁴⁰ Simmons (1976, pp. 42–3).

parish taxes. All these early taxes were effectively poll taxes (levied on 'tithable persons') and payable in kind, typically tobacco.³⁴¹ As in the other colonies, the 1630s was a period of great immigration into Virginia. By the time of the English Civil War, the population in Virginia numbered more than 10,000, a fourfold increase from 1630.³⁴²

As for the later southern colonies, in 1632 Charles I granted the second Baron Baltimore (a catholic) land that now encompasses Maryland. A settlement was made in 1634 with Catholicism as the predominant religion. Unlike the other colonies at this time, Maryland landholding was based on a feudal manorial system but freehold tenements were also granted. Under the royal charter the proprietor was empowered to make laws with the advice of an assembly of freeman. So the powers of this assembly were weaker than in the other colonies at the time. To the time of the English Civil War the population in Maryland grew slowly, by 1640 it numbered no more than 1,000.³⁴³

As in the other colonies, land was subject to a quit-rent under Maryland's proprietary system. In contrast to the poll taxes in Virginia, the earliest recorded tax in Maryland is a tax on personal estates. The tax imposed by the General Assembly in 1639 (which had first met informally in 1635) was in the following terms:

[Certain common charges were to be] levied upon all the Inhabitants of the province rateably to their personal Estates in such Manner and after such proportions as the said Generall Assembly or the said Leutenant Generall and Council shall rates and taxe the same. This Act to continue till the end of the next Generall Assembly.³⁴⁴

There are at least some aspects of this charge that are consistent with the imposition of the Poor Rate in England, particularly in its application to 'inhabitants'. Further, the imposition with respect to 'personal Estates' is not far from the instructions from the Privy Council that people be assessed for ship money only if they have 'estates in Money, or Goods'.

West Indies

The first English settlements in the West Indies were in Barbados and the Leeward Islands in the 1620s, then known as the 'Caribee Islands'.

³⁴¹ See Simmons (1976, p. 44) and Ripley (1893, pp. 25–32).

³⁴² Simmons (1976, p. 25). ³⁴³ Simmons (1976, p. 25).

³⁴⁴ An Act For the common defraying of certain Publick charges (March 1638/39) (Maryland); Maryland Historical Society (1883–1972, Vol. I, p. 59).

St Kitts (Christopher) was settled first in 1624. This was followed by the settlement of Barbados in 1627, Nevis in 1628 and Montserrat and Antigua in 1632.³⁴⁵ The colonies were proprietary colonies but disputes arose as to the status of competing grants from the Crown. Nevertheless, the colonies rapidly prospered, largely as a result of tobacco production, and soon their population outstripped that of the American colonies.³⁴⁶ 'By 1629 there were about 3000 settlers in St Kitts and large cargoes of tobacco were sent home.'³⁴⁷ These numbers swelled to an estimated 20,000 in St Kitts and Nevis by 1640 with around 30,000 in the Caribbee Islands as a whole.³⁴⁸

The early legal history of the Caribbee Island colonies is somewhat sketchy, their records not having survived to the same extent as those of the American colonies. The records of Barbados are more complete than those for the other colonies, probably because it remained in English control and was not subjected to periodic sacking over the ensuing centuries like the other colonies.³⁴⁹ From settlement until 1631 there was dispute as to ownership of Barbados with the island changing hands a number of times. It seems that at this time the settlers were essentially tenants at will.³⁵⁰ The dispute was largely settled in favour of Lord Carlisle, whose grant extended to all the Caribbee Islands. He sent out a governor as early as 1629 who 'divided the island into parishes, with vestries empowered to carry on local government . . .'.³⁵¹ It is likely that local taxation began at the same time.

The terms of grant in favour of Lord Carlisle gave 'authority to make laws and to summon the freemen . . . of each colony to meet in an Assembly. . .'.³⁵² However, it seems that it was not until 1639 that Barbados followed the Virginian lead and established an elected assembly.³⁵³ 'The Barbadian model was developed elsewhere in the English Caribbean, so that by mid-century the principle of representative government had been assumed by the planting elite.'³⁵⁴ By contrast

³⁴⁵ Beckles (1998, p. 221) and Simmons (1976, pp. 20–1).

³⁴⁶ Simmons (1976, p. 20). ³⁴⁷ Newton (1929, p. 172). ³⁴⁸ Newton (1929, p. 174).

³⁴⁹ The Barbados records suffered nevertheless from fire and natural disasters.

³⁵⁰ Harlow (1926, pp. 12–13). ³⁵¹ Burns (1954, p. 223). ³⁵² Burns (1954, p. 279).

³⁵³ Harlow (1926, p. 18). Contrast Burns (1954, p. 281) who suggests that '[t]here is no certainty as to when and how the first representative Assemblies were chosen. In the earliest days, no doubt, when the communities were small, all the freemen probably gathered to discuss matters of common concern and to agree on simple laws and taxation, but fairly soon this must have become impossible and representatives were probably selected by acclamation and general agreement.'

³⁵⁴ Beckles (1998, p. 237).

and in the usual way, a few prominent men of the colonies were, from the earliest date, named to a council, which advised the governor in administrative and judicial matters.³⁵⁵

Under Lord Carlisle land was subject to the usual quit-rent. The tax system of Barbados (at least) seems to have essentially involved a poll tax on inhabitants, typically payable in cotton or tobacco.³⁵⁶ It seems there was also a tax per acre on the transfer of land.³⁵⁷ Poll tax records have been found for Barbados for the period 1635–9.³⁵⁸ From subsequent records (see pp. 145–6 and pp. 162–4) it seems likely that the planters in the other Carlisle Caribbee Island colonies were subject to similar taxes, although this is unverified.

New England

In 1620 a group of radical English Protestants (some of whom had already moved to Holland to avoid religious persecution in England) secured a patent for land from the Virginia Company. The Pilgrims set out on the *Mayflower* and arrived in November 1620 at Plymouth, New England, establishing a small colony there. As in early Jamestown, originally colonists worked for the colony but private land ownership was introduced in 1627, at which time the population numbered only 156.³⁵⁹ It seems that this private land ownership bore with it an obligation to make payment to the common stock or provide a specified number of days public labour per year.³⁶⁰ This seems consistent with the system in Virginia around this time.

In 1621 Ferdinando Gorges obtained a royal charter incorporating the Council for New England. This company was granted territory roughly equivalent to that previously granted to the Plymouth Virginia Company. It acted largely as a land-granting agency and some of its initial grants included those to the Plymouth colony in 1621. In March 1628 a grant of land was made to the New England Company, a group largely made up of English Puritans. The company was incorporated as a joint-stock company within the year as 'The Governor and Company of the Massachusetts Bay in New England'. The incorporation meant

³⁵⁵ See Burns (1954, p. 279).

³⁵⁶ See Harlow (1926, p. 16) referring to deeds of lease issued in the 1630s and in general (1926, p. 146).

³⁵⁷ Harlow (1926, p. 17). ³⁵⁸ Dunn (1973, p. 55).

³⁵⁹ Massachusetts (1855–61, Vol. XI, p. 4). See also Douglas (1892, pp. 14–15).

³⁶⁰ Simmons (1976, p. 25).

that the government of this company and its land grant was based on its royal charter rather than the grant from the Council for New England.³⁶¹ In 1630, the royal charter together with the Governor of the Company, John Winthrop, and nearly 1,000 settlers arrived in Massachusetts.³⁶²

The charter formed the basis of government, providing for administration by the governor, his deputy and a number of assistants, to be elected annually by the stockholders or freemen. These officers and the stockholders were to meet quarterly as the general court to make these elections and pass laws including the levy of taxes. It was not long before freemen who did not hold stock were given the right to send representatives to the general court, their deputies. The power to tax was exercised as early as 28 September 1630 with an impost on the various plantations of the colony. Each plantation was allocated a portion of the cost of maintenance of Captain Patrick and Captain Underhill but how the cost was to be allocated to specific freemen was not specified in the colony records.³⁶³ By contrast, rates appear in the records of Plymouth colony as early as 25 March 1633 referring to an order of the general court of the previous year. This record lists specific people, running to two and a half pages, and the amount they were each obliged to pay.³⁶⁴

In 1631 Massachusetts clarified that the 'qualification for freemanship should be membership in a gathered church ...', thus securing the practice of Congregationalism.³⁶⁵ A number of churches had been established shortly after the arrival of Winthrop's fleet in the summer of 1630. The independent government of each church was generally accepted. Membership of the Church was limited to the 'godly' or 'visible saints' and the male saints constituted the governing body of each church.³⁶⁶ The administration of each church was entrusted to certain officers, the minister, teacher, ruling elder and deacon. 'Uniformity in church government was imposed by the civil authorities,

³⁶¹ Simmons (1976, p. 26).

³⁶² There was an earlier small settlement at Salem in 1628–9 under a prior grant by the Council for New England.

³⁶³ Massachusetts (1853–54, Vol. I, p. 77). See also Douglas (1892, p. 16).

³⁶⁴ Massachusetts (1855–61, Vol. I, pp. 9–11). Two years later there was a similar levy; Massachusetts (1855–61, Vol. 1, pp. 26–9). This was the last of this style where the record specified individuals assessed.

³⁶⁵ Simmons (1976, pp. 28–9). Massachusetts (1853–54, Vol. I, p. 87).

³⁶⁶ Simmons (1976, pp. 29–30).

who also legislated to enforce church attendance and the payment of church taxes in the towns by all the inhabitants, not just the church members.' The church still saw itself as being part of the Church of England.³⁶⁷

Separate towns were soon created, seven by the end of 1630 with clear boundaries. The appointment of town constables followed and then the election of men selected for the managing of the towns, the selectmen. Douglas confirms that the constables collected the early taxes of the colony.³⁶⁸ While only church member-freemen could vote deputies to the general court, even non-freemen could participate in town government.³⁶⁹

Massachusetts continued to impose charges of the 1630 style for various public expenses, i.e. with an allocation of the expense between the several plantations but no specification of the tax base. In 1634 this tax base was specified in a form that would develop into the typical American colonial property and faculty tax.³⁷⁰ The law provided for assessment in the following terms:

[I]n all rates & publique charges, the townes [through their assessors] shall have respect to levy every man according to his estate, & with consideration of all other his abilityes whatsoever, & not according to the number of his persons.³⁷¹

Shortly after Plymouth colony moved in a somewhat different direction with the appointment of assessors to 'set such rates on goods to be sold, and labourers for their hire, as should be meete and just . . .'.³⁷² As with the early Virginian tax law, tax was payable in specie in the New England colonies (and continued to be during the period under consideration).³⁷³

As with the structure of central and local government, it appears clear that the early Massachusetts tax laws were broadly based on their English counterparts.³⁷⁴ The similarity is most strong with respect to local

³⁶⁷ Simmons (1976, p. 30). ³⁶⁸ Douglas (1892, p. 22). ³⁶⁹ Simmons (1976, p. 34).

³⁷⁰ Massachusetts (1853–54, Vol. I, p. 120). See also, Seligman (1914, pp. 368–9).

³⁷¹ It seems clear that this form of assessment applied to all forms of direct tax, irrespective of the level of government at which the tax was imposed.

³⁷² Massachusetts (1855–61, Vol. I, p. 36).

³⁷³ For example, under the Massachusetts law of 8 September 1636 tax could be paid in 'merchantable corn', Massachusetts (1853–54, Vol. I, p. 180). For a longer list of in specie payments and their values, see the law of 13 May 1640; Massachusetts (1853–54, Vol. I, p. 294). See also Douglas (1892, p. 49).

³⁷⁴ For a similar conclusion, see Jones (1896, p. 9).

England levies. The Poor Rate was effectively imposed with respect to a person's estate and the law made specific reference to 'ability', see above at pages 74–6.³⁷⁵ As discussed at that point, there were other English levies that made reference to 'ability' and this was also presumed to be the broad basis of assessment for the Constables' Rate, see page 52. The 'ability' concept had been used in direct tax levies in England as early as the tallage (see p. 34) and was used in the poll tax of 1380. Further, taxation by reference to 'estate' and 'ability' were incorporated in the Privy Council instructions for the levy of ship money in the same year as the 1634 Massachusetts law (see pp. 80–1) and even the Tudor subsidies were broadly based on the taxation of real and personal property. These forms of tax were deeply rooted in England (and, no doubt, other European countries) and it seems likely that the early Massachusetts law was intended to do no more than emulate (perhaps in a more pure form) the existing system of local taxation in England.³⁷⁶

As in the case of the English Hundred Rate, County Rate, fifteenth and tenth, indirectly the Tudor subsidy, the ship money and later the Monthly Assessments of the Commonwealth, Massachusetts used a quota system for apportioning sums to be raised by the general court. Douglas describes how the sum imposed by the general court was to be apportioned between the towns of the colony:

At first the apportionment was made by the general court itself in proportions agreed upon among the deputies, who, as long as the number of towns in the colony remained small, had a better knowledge than any one else of the value of the property in each.³⁷⁷

As the number of towns grew, this system changed. By law of 25 May 1636 a committee was appointed to determine the 'true value of every

³⁷⁵ The American colonies also introduced poor laws based on the English law but these were typically from a later date, e.g. Plymouth Colony 1642, Virginia 1646, Connecticut 1673 and Massachusetts rather late in 1692. As to the poor laws in the American Colonies, see Trattner (1974, pp. 16–18).

³⁷⁶ Seligman (1914, p. 368) suggests it is likely that the Massachusetts law was interpreted to mean land and personal property, i.e. visible property as the basis of assessment. At this time, to a large extent, 'estate' and 'ability' would have overlapped. Cannan (1896, p. 22) makes this point with respect to levies of the fourteenth to sixteenth centuries. However, by the seventeenth century 'ability' begins to take on a broader meaning as demonstrated by the 1634 ship money commission with its emphasis on 'gainful trades'.

³⁷⁷ Douglas (1892, p. 18).

town, & so to make an equal rate . . .'.³⁷⁸ Douglas believes that until 1646 the amount apportioned to a town by the general court or, after 1636, the apportionment committee was further apportioned among taxpayers by the selectmen of the respective towns according to the law of 1634.³⁷⁹

Another similarity with the English system occurred under the order of the general court of 3 May 1635. This order explained that under the 1634 law 'all men shalbe rated in all rates for their whole abilitie, wheresoever it lyes . . .'.³⁸⁰ This seems to confirm the usual English position under the Tudor subsidies that taxpayers were to be assessed with respect to their worldwide estate, i.e. wherever situated, see page 68.³⁸¹ The order went on to provide:

all men that live within this jurisdiction shalbe rated onely in the place where they live to all publique rates, & those that live out of this jurisdiction shall have their goods, stock and land rated in the places where they are in being.³⁸²

Again, not only is this consistent with the English approach under the Tudor subsidy that a person was to be assessed only where they reside but confirms the tax base consisted essentially of property and that non-residents were to be charged on a source (location) basis. Finally, a further similarity with the Tudor subsidy was, as early as 1634, the division of the tax into two or more instalments.³⁸³

By 1640, the population of Massachusetts had expanded to about 8,800.³⁸⁴ By this early date the pressure of population expansion was already being felt and during the later 1630s and early 1640s groups of settlers started to move beyond the boundaries of the Bay Colony. Some of these groups were dissatisfied with the religious strictures of Massachusetts. During the late 1630s there were migrations to the Connecticut River valley and a number of towns were settled in this region. Further, a land grant for a colony at the mouth of the

³⁷⁸ Massachusetts (1853–54, Vol. I, p. 175). See also Douglas (1892, p. 18).

³⁷⁹ Douglas (1892, p. 18). ³⁸⁰ Massachusetts (1853–54, Vol. I, p. 166).

³⁸¹ Interestingly, by law of 6 June 1639 it was made clear that even English estates of Massachusetts settlers were to be assessed but this was adjusted two years later to exclude land in England; Massachusetts (1853–54, Vol. I, pp. 262, 330).

³⁸² Massachusetts (1853–54, Vol. I, p. 168).

³⁸³ Law of 25 September 1634; see Massachusetts (1853–54, Vol. I, p. 129). See also Douglas (1892, p. 22).

³⁸⁴ Simmons (1976, p. 25).

Connecticut River was made in 1632. In 1636 the General Court of Massachusetts granted a commission and a constitution for the new colony's government.³⁸⁵

Unlike in the Bay Colony, under the Connecticut constitution there was no connection between the right to participate in government and membership of the church. Otherwise the structure of government of the two colonies was similar and a general court was held in Connecticut as early as 1637.³⁸⁶ The earliest rate in the records of Connecticut is that of 9 February 1637/8.³⁸⁷ The rate was similar to the early imposts of Massachusetts in that the amount to be raised was apportioned between the towns. There was no individual basis of assessment specified. However, it seems clear that the Massachusetts style system was envisaged and that the assessment was largely made according to estates.³⁸⁸ Once again the rate was payable in specie.

The government of New Plymouth also felt the influence of the Bay Colony and in 1638 it created a new body of deputies (representatives).³⁸⁹ However, like Connecticut, there was no church-based franchise. By 1641 rates were being apportioned between the towns in the same fashion as in Massachusetts.³⁹⁰

In 1638, a London clergyman and several of his parishioners made a further settlement at New Haven. In 1639 the freemen of the settlement made a compact to promote the welfare of the settlement according to their ability in both person and estate.³⁹¹ By 1640 this was reflected in a property tax that was imposed 'halfe upon estates & halfe upon lands'.³⁹² The government of New Haven followed a similar pattern to other New England colonies and, as in the Bay Colony, church membership was a prerequisite for freemanship. So it is not surprising to find a similar style of tax as that imposed in the Bay Colony. Similar settlements were made on the nearby coast and in 1643 a number of these federated to form New Haven Colony.³⁹³

In the late sixteenth and early seventeenth centuries the French established a series of trading posts in the Gulf of St Lawrence as well as

³⁸⁵ Massachusetts (1853–54, Vol. I, pp. 170–1).

³⁸⁶ Simmons (1976, p. 37). ³⁸⁷ Connecticut (1850–90, Vol. I, p. 12).

³⁸⁸ For example, see Connecticut (1850–90, Vol. I, p. 53).

³⁸⁹ Simmons (1976, p. 39). ³⁹⁰ Massachusetts (1855–61, Vol. II, p. 18).

³⁹¹ Connecticut (1857–58, Vol. I, p. 19).

³⁹² Connecticut (1857–58, Vol. I, p. 40). See also Seligman (1914, p. 369).

³⁹³ Simmons (1976, p. 38).

the area east of the Penobscot and south of the St Lawrence River, an area known to the French as Arcadia and to the English as Nova Scotia. The French attempted settlement at Port Royal in Nova Scotia in 1610, but an English force from Virginia sacked the settlement in 1614.³⁹⁴ The French trading posts at the Gulf of St Lawrence did not suffer the same difficulties and the settlement of Quebec was formed, the first French families arriving in 1617.³⁹⁵ In 1621 William Alexander received an English royal charter over the Nova Scotia region. The English settled Port Royal under this charter in 1629 and also took control of the French settlement of Quebec. But in 1632 Port Royal and Quebec were handed back to the French as part of the Treaty of St Germain-en-Laye and the mainly Scotch settlers relocated.³⁹⁶

In 1610, 39 colonists landed in Newfoundland under the auspices of the Newfoundland Company, formed in the same year. Others followed in small numbers but these 'remained desolate fishing villages'.³⁹⁷ George Calvert secured a royal charter for a projected Newfoundland Province, men and supplies had been sent out the year before. By the late 1620s the settlement was deserted.³⁹⁸ The first permanent English settlements in Newfoundland were in 1638.³⁹⁹

The Last Grants to Charles I

As noted in the introduction to this heading, the English Parliament granted Charles I a number of important subsidies at the start of the Long Parliament in order to suppress a rebellion in Scotland. During the period of 1640–1 a total of six (three double) subsidies were granted.⁴⁰⁰ At the same time a poll tax was granted, graduated according to rank of

³⁹⁴ Simmons (1976, p. 17). ³⁹⁵ Simmons (1976, p. 18).

³⁹⁶ Bourinot (1900, p. 7), Simmons (1976, p. 25) and Newton (1929, pp. 154–5).

³⁹⁷ Simmons (1976, pp. 15–16).

³⁹⁸ Simmons (1976, p. 25) and Newton (1929, p. 168).

³⁹⁹ Newton (1929, p. 181). For many years this small settlement refused attempts of the Lords Proprietors to appoint governors. Keith (1912, p. 6) notes that 'Newfoundland was long treated not as a Colony at all, but as a mere temporary place of resort for fisherman from England, and every attempt was made to discourage anything like permanent settlement.'

⁴⁰⁰ An Act for the relief of His Majesty's Army and the Northern Parts of the Kingdom (16 Char. I. c. 2) (1640) (UK) and An Act for the further relief of His Majesty's Army and the Northern Parts of the Kingdom (16 Char. I. c. 4) (1641) (UK); United Kingdom (1810–1828, Vol. V, pp. 58–78, 79–101, respectively). See also Jurkowski *et al.* (1998, pp. xliv–xlv, lxxiii, 190–2).

the taxpayer but in the absence of rank or office it was imposed according to the annual value of the taxpayer's total assets.⁴⁰¹ The tax was largely imposed on people 'inhabiting or residing' in England, Scotland or Ireland.⁴⁰² The residual category covered every person 'who can spend One hundred pounds per annum of his or her own either in Lands Leases Money Stock or otherwise ...'.⁴⁰³ The rates graduated down to a expendable sum of £5 per annum. There was a residual poll tax.

Finally, in 1642 Parliament made a grant of a specific amount being £400,000.⁴⁰⁴ This important law formed the basis of the subsequent weekly and monthly assessments of the Commonwealth. Like the early fifteenth and tenths, this amount was divided up and allocated between counties, cities and towns, and sometimes further subdivided. Commissioners were appointed to each of these. The tax was to be charged under the two familiar heads of movables and land. Citizens and corporations, etc. within the realm were to be charged if the value of their worldwide movables (including debts receivable) exceeded £3. Inhabitant aliens were to be charged at double the rate of citizens, with the usual residual poll tax. Similarly, citizens and corporations, etc. were charged if they had yearly value of £1 or more from land (within the ancient demesne and other privileged places as elsewhere) and aliens to pay double.⁴⁰⁵ The landholders were expressly required to pay towards the sum to be raised 'their proportionate part and portion of such sum ... as are imposed charged and set upon each several County...'.⁴⁰⁶

⁴⁰¹ An Act for the speedy provision of money for disbanding the Armies and settling the peace of the two Kingdoms of England and Scotland (16 Char. I. c. 9) (1641) (UK); United Kingdom (1810–1828), Vol. V, pp. 105–10. See also Dowell (1965, Vol. I, p. 161) and Jurkowski *et al.* (1998, pp. 192–4).

⁴⁰² The English began to extend their statute law to Ireland during the thirteenth century. Ireland had a separate parliament until its abolition by the Act of Union of 1800. See Baker (2002, pp. 32–3).

⁴⁰³ 16 Char. I. c. 9; United Kingdom (1810–1828, Vol. V, p. 105; modernised by the author).

⁴⁰⁴ An Act for the raising and levying of Monies for the necessary defence and great affairs of the Kingdoms of England and Ireland and for the payment of debts undertaken by the Parliament (16 Char. I. c. 32) (1642) (UK); United Kingdom (1810–1828, Vol. V, pp. 145–67). See also Jurkowski *et al.* (1998, pp. 194–6).

⁴⁰⁵ As were Catholic recusants, who had been taxed in a similar manner as aliens since 1625.

⁴⁰⁶ 16 Char. I. c. 32; United Kingdom (1810–1828, Vol. V, p. 147; modernised by the author).

Despite the fixed allocation, this law substantially followed the earlier subsidies. One large difference is that the rule that a person was to be charged on their movables or land but not both was removed. This provision usually followed the provision for assessment only at one place being the place of residence. This earlier provision was also substantially changed such that every person was to be:

rated and set and the sum on him rated and set to be levied in every county for the estate he has either in Lands tenements hereditaments rents annuities fees offices goods cattels and chattels in that county only & if he have an estate . . . in several places in one county then to be rated in the said severall places in each severall county according to such his said estate in the said several places . . .⁴⁰⁷

Debts receivable, however, were to be charged in the place of the taxpayers 'residence or abode'. Jurkowski *et al.* suggest that 'individuals held to be liable to pay the subsidy were to be assessed and charged sums proportional to the values of their estates, at the discretion of the commissioners'.⁴⁰⁸ However, such discretion is not obvious from the face of the law and it may be that the intention was that taxpayers simply pay proportionately on the value of their movables and the annual value of their land.

1.5 Summary

This chapter has considered the development of the English direct tax system, in its social and legal context, over a period of more than 600 years. It also considered the initial steps taken in the development of the direct tax systems of the English colonies in the New World. Consideration of the English tax system, and its history, at the point of the development of the colonial systems is important to facilitate a deeper understanding of the colonial systems and their origins. The introduction identified four features of the British income tax which this study would seek to trace the development of: the capital–revenue distinction; the schedular system; the taxation of corporations; and

⁴⁰⁷ 16 Char. I. c. 32; United Kingdom (1810–1828, Vol. V, p. 161; modernised by the author).

⁴⁰⁸ Jurkowski *et al.* (1998, p. 194). Sums to be charged for offices under the second head were expressly to be 'taxed according to the discretion of the Commissioners . . .' 16 Char. I. c. 32; United Kingdom (1810–1828, Vol. V, p. 147).

taxation on the basis of source and residence. Each of these features demonstrated substantial development in the direct tax laws covered by this chapter.

The chapter began with a consideration of developments before the settling of the dominant form of early direct taxation in the form of the fifteenth and tenth in 1334. This consideration started by looking at some of the legal, economic and social features that were influential in shaping early direct taxation. It noted the early subdivision of England into shires, hundreds and tithings, and the important administrators at the head of these subdivisions: the sheriffs, high constables and petty constables. These administrators were important in the early assessment and collection of taxes.

An understanding of the feudal landholding system in medieval England is crucial to understanding the early development of direct taxation in England. The granting of land for services developed towards commutation, which resulted in an early form of land tax. The forms of feudal landholding often gave rise to a division of rights to landholding into time periods and this gave rise to early examples of the distinction between capital and revenue. This was the very nature of interests such as fee tail, tenancy for life, dower and an interest by the curtesy of England. Another important feature of feudal landholding was that it could not be devolved by will and only the male heir could inherit.

The services or rents attaching to feudal tenure were supplemented with other incidents, which would attach on the happening of particular events such as alienation of landholding by a tenant and inheritance by an underage heir of the tenant (wardship) among others. The Crown was the major landholder, all land being ultimately held of the Crown, and these incidents were an important source of revenue for the Crown. Early estate planners sought to avoid triggering the events giving rise to feudal incidents while at the same time avoiding the strictures of the rule that land could not be devolved by will. In the result, the dominant forms of landholding in medieval England can only be fully understood in the context of this planning.

A lot of early estate planning centred on the Church, one of the major landholders in its own right. As with other forms of feudal landholding, the landholding of the Church also gave rise to issues as to capital and revenue. Clerics were only temporary custodians of church property and so were forbidden from disposing of the capital of the Church but revenue returns could be used for various purposes. Further, the Church had corporate status and this made it a useful tool in estate planning.

The Statute of Mortmain was an early example of legislation designed to address the avoidance of financial obligations (feudal incidents as well as the wealth of the church) through manipulation of the corporate status of the church. It was a sort of precursor to current tax avoidance legislation that, not surprisingly, is also often targeted at abuse of the corporate form.

The need for a capital–revenue distinction, inherent in some forms of feudal landholding (dividing rights into periods of time), was backed up by the legal action for waste. The action for waste was targeted at a person who devalued property to the detriment of another person with a residual interest in the property. A property would only be devalued when something that was not promptly renewable was taken from an estate. Case law developed a quite sophisticated set of rules that dealt with classic issues of capital–revenue distinction. The removal of yearly crops would be revenue and so not waste, whereas the removal of trees or buildings would devalue the property and so did constitute waste. There were early cases involving initial repairs, removal of minerals and even the wasting of unfree tenants (all capital).

Many of the relationships developing out of the administration, landholding and religious systems involved the concept of stewardship, a fiduciary style relationship from which trust law (and the trust law concept of income) would ultimately develop. The steward was a person managing the property of a principal and, in its most common form, the reeve managing a manor for a lord was a steward. Stewards maintained records from an early date in order to ‘account’ to the lord for amounts received (the charge) and amounts paid (the discharge). The account was originally taken in an oral form but would develop into an early form of bookkeeping. The need to account was backed up by the legal action for account, which, no doubt, gave added impetus to the creation of written records.

The discussion then moved from these general features of feudal England to a discussion of the typical types of feudal levy that may be considered precursors to direct taxation. Most of the revenue needed for government was derived from feudal incidents attached to the Crown’s vast holding of land. These were supplemented by various forms of sporadic levies, which the Crown could only extract in certain events but which otherwise required the consent of the great council of the realm. War was the typical circumstance in which such levies were imposed. It is important to emphasise the sporadic nature of these taxes.

They were not imposed every year and there could be and were decades between impositions.

The geld was an early form of direct taxation that the Normans inherited when William the Conqueror gained the Crown. The tax base of the geld is somewhat sketchy but it seems to have been essentially a tax on land, movables and revenues. Towards the end of the twelfth century the geld developed into the carucage and the difference between the two seems to have been more administrative than substantive in calculating the tax base. By contrast, the scutage was imposed on the principal form of military tenure, the knight's fee. In form it was essentially a commutation of the service of a knight attaching to this style of landholding. Often the tallage was imposed at the same time as the scutage. It was imposed on tenants of the royal demesne, often as an alternative to the geld or carucage, and the tax base was the tenant's movable property.

During the thirteenth century these types of taxes merged into a general form of property tax. While this was the form of the tax, it must be remembered that the primary form of asset at this time was land and the value of land was measured by its yearly value or worth, i.e. what could be produced from it in the space of a year. People would often only have a limited range of movable assets and what they would have typically constituted their yearly produce (often from land, such as stores of grain) or personal household items (often exempt from taxation). The origin of the property tax that developed in the thirteenth century is usually considered the Saladin Tithe of 1188. In form it seems that this tax had many similarities with the geld. It was levied on rents and movable goods.

The Saladin Tithe was followed by other important levies late in the twelfth and early in the thirteenth centuries but after 1207 these property grants were only imposed on movables. Towards the end of the thirteenth century the practice grew of assessing movables more heavily on persons living in the cities, boroughs and the royal demesne from those living outside. The extent to which each new imposition resulted in the making of new assessments is not clear but it is apparent that this occurred on a regular basis. The assessment of 1332 was particularly strict, a year in which the king had relinquished the levy of a tallage in favour of a grant of a fifteenth of movables from those living within the royal demesne and the towns and a tenth of those living outside. This would prove to be the last central assessment of this style of tax for the next three hundred years.

The chapter proceeded to consider developments during the fourteenth century through to the end of the War of the Roses. This period saw the rise of holding land by way of use. It is likely that this form of landholding developed primarily as a way of devising land by will, i.e. to avoid the strictures of the common law rule that land could not be devised by will. However, one of the side effects of holding land by way of use was that it avoided many of the incidents attaching to feudal tenure. By the end of the fifteenth century the greater part of land in England was held in use. The use, however, did not upset development of the capital—revenue distinction in the form of the action for waste or stewardship and the liability to account. It just set up new applications of these fundamentals and, in particular, a new form of steward in the form of the feoffee to uses.

The strict assessment of the fifteenth and tenth in 1332 gave rise to complaints. So when a further fifteenth and tenth was granted in 1334, the commissioners were given power to settle the amount of the assessment with the various counties and towns. In this case it was up to the local officials to spread the agreed burden between inhabitants. This provided a direct connection between local taxation and grants made to the king in the form of the fifteenth and tenth. The sum raised by the 1334 levy was about £39,000 and future levies of the fifteenth and tenth were imposed in lump sums on the regions in the same amount as agreed in 1334. The fifteenth and tenth had moved from a rate system to a quota system of taxation. The fifteenth and tenth would continue to be levied in this manner (raising approximately £39,000 for each levy) until its demise in 1625.

The fourteenth century saw other major developments in the form of direct taxation in England. In order to raise money to fight France during the Hundred Years War, a series of poll taxes were imposed. The first of these in 1377 was a true poll tax as generally understood, being a tax at a flat rate per head, with all the regressive features that go with such a tax. However, the second poll tax of 1379 was imposed according to various categories of persons, some of which were graduated according to the ‘condition of their estate’. This tax was expressly levied on the basis of residence. Even greater equity was sought in the poll tax of 1380, which required that persons be assessed according to their ‘ability’, defined by reference to the value of a person’s ‘estate’. The imposition of this tax played a large part in instigating the Peasant Revolt of 1381 and the poll taxes were discontinued.

Some the essential features of the poll taxes were not forgotten but the grants of direct taxation changed substantially with the grant of a subsidy to Henry IV in 1404. This was the first expressly to tax land according to its 'yearly value' and also imposed tax on annuities, pensions and certain rents. The subsidy proceeded to charge tax under a second head, being the value of movables. So here is an example of the earliest form of schedular system. The heads were, however, to be charged in the alternative rather than the cumulative. It seems that, unlike the poll taxes, this tax was imposed on the basis of source. This was followed by similar levies including the important subsidy of 1435 which expressly included taxation of a person with respect to land held by 'any other person or persons to his use', thus encompassing the rise of holding land by way of use.

Further important developments were made in the grant of 1450. The first head was extended to virtually any form of estate (including offices) that could be held by way of freehold and again targeted 'yearly value'. The second head was even broader and covered all wages, fees or 'otherwise', not constituting a freehold estate and again the tax was on yearly value. While the first head seemed to be imposed on the basis of source, the second head seemed to be imposed on the basis of residence. This important levy was also the first to expressly extend to corporations and guardians. It seems clear that the tax was intended to be an income tax but like earlier attempts it was somewhat of a failure. The levy of 1472 during the War of the Roses only incorporated the first head (and so was targeted at land and certain offices) but did expressly extend to Wales.

The chapter then took stock to consider the imposition of regional levies to this time. The base local levy was the Constables' Rate but little is known about the tax base other than that it would have varied in some respect with property or 'ability'. The Hundred Rate was apportioned to tithings within the hundred and the County Rate to hundreds within the county just as the fifteenth and tenth was apportioned to counties and towns. In this way, the English direct tax system from an early date involved allocation through a quota system from the top down. In the same way it involved an allocation of responsibility from the top to the bottom, from the sheriff's responsibility to the Exchequer to the petty constable's responsibility to the high constable.

The chapter then moved to consider developments during the reign of the House of Tudor. The early forms of tax under Henry VII essentially followed the existing system, i.e. the fifteenth and tenth and

the developing subsidy. The schedular subsidy of 1489 again covered two heads, the first covering 'issues and profits' from certain estates and the second 'goods and chattels'. The first head was expressly levied on the basis of source and the second on the basis of residence. Matters began to develop again with the accession of Henry VIII to the throne and the subsidy of 1512. This time a third head was added to the progressive schedular system, again persons paying under the head that produced the most tax. The land head again referred to 'yearly value' and the second to the value of 'goods and chattels'. The third head covered income from labour including 'wages or other profits for wages'. The tax was essentially imposed on a residence basis and the third head subject to deduction at source, i.e. the earliest form of wage withholding. The year 1512 also saw the tying of the fifteenth and tenth to the subsidy. After this date the fifteenth and tenth was never granted in isolation of a subsidy.

Henry VIII was granted further subsidies during the ensuing years. That of 1515 incorporated a reference that seems to have taxed certain partnerships on a separate entity basis, in the same manner as corporations were taxed. At this time the guilds were a good example of the type of corporation subject to tax. The year 1515 is also the first time that net debts owed to a person were expressly included within the tax base. Further, the 1515 law clarified that non-residents were taxed on, effectively, a source basis only. The massive levy of 1523 was imposed over a period of four years. This was the last Tudor subsidy to include the third head taxing wages.

The chapter then took time to consider the important legal and social upheavals of the 1530s. These included the Act of Supremacy and the establishment of the Church of England, the resultant dissolution of the monasteries, the Statute of Uses and the Statute of Wills. These developments had one common theme or effect, the securing of greater revenue for the crown. The establishment of the Church of England was instrumental in the rise of the parish as the core revenue collection region. The dissolution of the monasteries brought Henry VIII not only immediate revenue (through the sale of monastic lands) but enhanced Henry's future feudal incidents from land when he regranted the former monastic land as knight's fees. The Statute of Uses executed certain uses so as to substantially revive the feudal incidents that had been lost as a result of the rise of uses. The Statute of Wills was in some respects concessionary and for the first time permitted, within certain limits, land to descend by will. These developments coincided with the rise in

business of the court of Chancery and the ultimate development of trusts.

Subsidies under the later Tudors settled into a standard form. Attempts at revaluations for assessment purposes lapsed and just as the fifteenth and tenth became synonymous with a grant of about £39,000, the grant of a subsidy became synonymous with a grant of about £80,000. As a result, and with the effects of inflation, subsidies (and fifteenths and tenths) were often granted in multiples, as the needs dictated. Under the later Tudor subsidies, tax was in principle levied under the two usual heads with the person paying under that head which produced most tax. Most wages were expressly exempt. The taxation of corporations (and partnerships) is clear. The jurisdictional limits are not perfectly clear but the concepts of source and residence were firmly established.

Regional levies also saw dramatic development as a result of the activities of Henry VIII. There was an increase in specific rates levied for purposes such as building gaols and bridges. The dissolution of the monasteries also created a problem with respect to support of the poor, a matter in which the monasteries had provided substantial assistance. Henry tried to impose regional responsibility for the support of the poor to be funded with voluntary contributions collected by the churchwardens; this proved ineffective. Elizabeth I backed this up with a legal responsibility for parishioners to contribute and by 1601 this developed into the Poor Rate that was administered at the parish level. It was intended that the Poor Rate (and many of the other specific levies) be imposed by reference to the 'ability' of parishioners. However, interpretation of the express wording of the 1601 law made this difficult and the rate was largely imposed by reference to profitable visible property situated within a particular parish.

Finally, the chapter considered development of the direct tax system in England and the infant colonies in the New World during the reign of the Stuarts to the time of the English Civil War. Subsidies and fifteenths and tenths continued in the same vein as they had under the later Tudors but this funding system came to a halt when Charles I suspended Parliament from 1629 to 1640. Desperate for funds, Charles's advisors sought to raise funds without the assistance of Parliament in the ancient form of the ship writs. Ship money was apportioned among the towns and counties using a quota system. Local officials were instructed to raise the required money according to local custom but with particular

reference to 'ability'. The relationship (if not uniformity) with local levies including the Poor Rate seems clear.

The chapter proceeded to consider the early development of the tax systems in the colonies in the New World that were established during the time of the early Stuarts. Among other factors, the population of the new colonies was swelled, particularly during the 1630s, by the exodus of religious radicals from England seeking to escape persecution. While many aspects of the early settlement of Virginia followed the English lead (such as in the establishment of the Church of England, parishes and counties), taxation was not one. The poll tax was the form of direct taxation used in early Virginia. The situation was different in Maryland, which was largely settled with Catholicism as the predominant religion. The early direct tax system of Maryland was based on the taxation of estates so in this matter Maryland was closer to the standard used in England. It seems that the early position in the West Indian colonies was similar to that in Virginia. The poll tax was used in Barbados and it seems likely that this was also the case with St Kitts, Nevis and Antigua, which were also under the proprietary rule of Lord Carlisle.

The situation was different in New England, which developed in a somewhat different manner to the other colonies. In Massachusetts the predominant Puritans established Congregationalism as the basis of government. Here the early direct tax system bore a striking resemblance to the tax system in England. The tax law of 1634 made express reference to taxation of 'estates' and according to 'ability'. There was a quota system for spreading common burdens between the towns of the colony. Taxes were to be imposed on inhabitants on a worldwide basis, for their ability 'wheresoever it lyes', and non-residents were rated on an essentially source basis. Taxes were also often divided into instalments. It seems the Massachusetts tax system also influenced the early tax systems of Connecticut and Plymouth. In the fledgling colony of New Haven there was also a tax on estate and ability.

The last matter considered by this chapter was the last grants to Charles I after he finally recalled Parliament in the early 1640s. Multiple subsidies were granted but of greater interest was the poll tax that accompanied them. It imposed tax according to the rank of the taxpayer but outside of the specified ranks the tax was imposed according to the annual value of the taxpayer's total assets (with a residual poll tax). In 1642 Charles I was granted a subsidy the form of which would constitute the basis of the weekly and monthly assessments during the Commonwealth. This subsidy essentially followed earlier subsidies

except that a quota system was used to allocate the £400,000 to be raised between counties, cities and towns.

Table 1 provides a summary of the English direct taxes considered by this study up to 1600. The introduction explained the structure and limitation of the tables. Perhaps the most striking feature of Table 1 is the wide variation in styles of direct taxes used during this period. Some other general points may also be made. Land was almost invariably taxed by reference to its 'yearly' or 'annual' value rather than its capital value. So the origins of Schedule A of the income tax are very old, clearly dating from 1404 if not from as far back as the Saladin Tithe of 1188. This is not to suggest that the tax base was an accurate reflection of income from land, but in an approximate manner that seems to be the continuous intention of the legislature. There is also a strong connection between the taxation of land and taxation on a source basis.

By contrast, the taxation of movables was synonymous with taxation by reference to capital value and taxation on the basis of residence (worldwide taxation). To the modern eye, the taxation of the capital value of movables simultaneously with the taxation of annual value of land (often in the alternative) appears strange with the potential to overtax persons holding movables. However, at the time of these impositions the taxation of movables was probably not so unlike taxation of the annual value of land. It is likely that people of these times had very few belongings so what they had might represent profits for the year. This is particularly so where household goods were excluded from charge and considering that movables were typically more undervalued than land. Further, towards the end of the period covered by this chapter rates for movables were often lower and the exemption threshold higher than for land.

Table 1 also reveals an attempt, about every hundred years, to impose a very broad personal tax seeking to encompass all forms of 'ability', hence the Saladin Tithe of 1188, the poll taxes of 1379 and 1380, the subsidies of 1450 and 1512 to which may be added the poll tax of 1641. These efforts have a number of things in common. They were all centred on the taxation of residents or inhabitants. They were all imposed in periods of crisis or high taxation. Further, the yield of each of them was disappointing. The ideal of taxation of a person according to their 'yearly worth' may have been a constant theme but it seems to have been largely unattainable during this period.

This chapter has identified clear precedents of all of the four features of the British income tax identified in the introduction. The different

Table 1. *Direct taxation in England 1300 to 1600*

England 1300–1600	Tax base		Rate application		Jurisdiction		
	Fixed value per item in the law	Capital value (including value estimated by return)	Income/ profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Subject of taxation							
<i>Property</i>							
General							
Land	1428 subsidy (per knight's fee)	1428 subsidy (value of church)	1404, 1411, 1431, 1435, 1450, 1472, 1489, 1497, 1504 subsi- dies; 1512 (classified), 1514–1600 Tudor subsi- dies (except 1549)	1404, 1411, 1428, 1431, 1435, 1450, 1472, 1489 subsidies; 1512–1558 Tudor subsidies (except 1549)	1497, 1504 subsidies; Tudor subsidies (presumed)	1404, 1411, 1428, 1431, 1435, 1450, 1472, 1489, 1497, 1504 subsi- dies; 1512 (but only residents), 1515–1600 Tudor subsidies (except 1549)	1514, 1515, 1523, 1540, 1543, 1545 (not limited), 1553–1600 Tudor subsidies

Movables	1300–1625 15th and 10th (presumed); 1404, 1489, 1497, 1504 subsidies; 1512 (classified), 1514–1600 Tudor subsidies	1404, 1489 subsidies; 1512–1558 Tudor subsidies	1334–1625 15th and 10th (presumed); 1497, 1504 subsidies; 1559–1600 Tudor subsidies (presumed)	1300–1625 15th and 10th (presumed); 1404 subsidy; 1515–1600 Tudor subsidies	1489, 1497, 1504 subsidies; 1512–1600 Tudor subsidies
Intangibles	1515–1600 (debts) Tudor subsidies	1515–1558 Tudor subsidies	1559–1600 Tudor subsidies (presumed)	1515–1600 Tudor subsidies	1515–1600 Tudor subsidies
<i>Personal</i>					
General	1377 poll tax; 1514 (residual poll tax) Tudor subsidy	1379 classified poll tax, 1380 classified poll tax (according to estate); 1512 (classified for lords and knights) Tudor subsidy	1377, 1379, 1380 poll taxes; 1512, 1514 Tudor subsidies	1377, 1379, 1380 poll taxes; 1512, 1514 Tudor subsidies	1377, 1379, 1380 poll taxes; 1512, 1514 Tudor subsidies

(continued)

Table 1. (*cont.*)

Subject of taxation	Tax base		Rate application		Jurisdiction		
	Fixed value per item in the law	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
England 1300–1600							
Office/employment	1512, 1523 (residual poll tax) Tudor subsidies		1450, 1472, 1489 subsidies; 1514–1600 (largely King's servants) Tudor	1450, 1472, 1489 subsidies; 1512–1558 Tudor subsidies (except 1549)	1559–1600 Tudor subsidies (presumed)	1489 subsidies	1450, 1472 (presumed) subsidies; 1512–1600 Tudor subsidies (except 1549)

subsidies
(except
1549)

Independent
Services/
profession

Business/trade

Notes:

1450 subsidy was first to mention corporations ('persons corporate') and guardians and taxed them instead of shareholders or beneficiaries. Then mentioned up to 1489 but then a gap until they reappear in 1515.

'Land' includes issues out of or secured by land such as annuities, pensions and other charges

'Classified' means within a range of income, value or wealth or persons of a particular type such as by profession or income, value or wealth.

heads of the subsidy, beginning as early as 1404, displays the schedular nature of the British tax system. The capital—revenue distinction was inherent in the form of landholding in England, the focal point of an agrarian society. There were further examples of this distinction in canon law. And the sporadic nature of direct taxation together with the link between ‘yearly worth’ and ‘ability’ as the guiding tax philosophy mean that this distinction was essentially embedded in English society and, therefore, its tax system. The express taxation of corporations appears as early as 1450, when it was probably targeted at the likes of guilds. No issue of economic double taxation of corporate profits arises at this time because there is no express effort to tax interests in these corporations or returns from such corporations. The classic jurisdictional limits of source and residence are already well developed by the end of the period covered by this chapter.

1642 to 1688: Religion, Revolt and Restoration

Compared to the 500 years covered by Chapter 1, this chapter covers a comparatively brief period of less than fifty years from the outbreak of the English Civil War through the Restoration and to the eve of the Glorious Revolution in 1688. This was a turbulent period, involving religious clashes, the continuing struggle for power between the Crown and Parliament, expansion of colonies in the New World resulting in jostling to secure new trade and, often as a consequence of these other factors, war. During this period major issues in England continue to spill over and have important effects on developments in the colonies. Inevitably, as with other unsettled times, this period sees major developments both in English direct taxation as well as in the direct tax systems of the colonies.

The chapter is divided under four headings. The first heading is devoted to developments in the tax system during the period of the Commonwealth.¹ It focuses on the form of direct taxation used by the English Parliament but also considers important developments in the colonies, where the issues and fallout of the English Civil War reverberated. The second heading takes stock of developments in landholding and accounting to the 1660s. The period from the passage of the Statute of Uses of 1536 (see above at p. 62) to the Glorious Revolution saw changes in the manner in which land was held in England and, in particular, the form of family settlements. This period sees the increasing use of trusts and by the end of it, as a result of the English Civil War, the abolition of most forms of military tenure. It is also during this period that early fragmented examples begin to appear of accounts distinguishing between capital and revenue entries.

The third heading covers the unsettled period following the restoration of the English Crown. The direct tax system develops during this

¹ For sake of brevity, references to the Commonwealth include the Protectorate.

period in order to fund wars with France and the Netherlands. These wars also had substantial influence in the colonies, in the forms of gains and losses, structure of the colonies and the form of their direct tax systems. The last heading considers the lead up to the Glorious Revolution. The religious clashes and continuing struggle for power between the Crown and Parliament also spilt over into the colonies and again had a substantial impact on their affairs, including their direct tax systems.

2.1 The English Civil War, the Commonwealth and the Protectorate

This heading considers the period from the outbreak of the English Civil War through the Commonwealth and to the Restoration. It focuses on the form of direct taxation used by Parliament to fund the war, which in many ways was a continuation of the existing forms of parliamentary grant but streamlined to cater for the urgency of raising funds. The heading then moves to consider developments in the colonies. The preoccupation of the English with their Civil War created a lax regulatory environment, which facilitated a growth in autonomy in the colonies, autonomy that would prove difficult to claw back when the English later wished to reassert authority after the Restoration. The English Civil War impacted in the colonies in other ways as well, such as in Barbados to which many loyalists fled. The only substantial colonial gain of this period was Jamaica, which was taken from the Spanish in 1655.

Monthly Assessments

During the early years of the English Civil War, Parliament largely raised funds through loans and contributions. In 1642 it passed laws, applicable to various geographical locations, to assess non-contributors.² This was followed with a more general levy in 1643 on persons that had not

² Jurkowski *et al.* (1998, pp. li, 198–205). Typically persons were required to pay ‘according to their Estate, as the said Assessors . . . shall think fit and reasonable . . .’ An Ordinance for the assessing of all such as have not contributed upon the Propositions of both Houses of Parliament, for the raising of Money, Plate, Horse, Horsemen, and Arms, for defence of the King, Kingdom and Parliament, or have not contributed proportionably to their Estates (26 November 1642) (UK); United Kingdom (1911, Vol. I, p. 39). Another typical formulation was ‘rate, tax, assess, or charge, all or any of the said Persons, their Lands, Goods, and Tenements, at such

contributed to the parliamentary forces.³ The contribution was to be paid 'according to their Estate in Lands & Goods as the said respective Assessors or any two of them shall respectively think fit and reasonable . . .'. The levy was limited to 20 per cent of annual value of land or 5 per cent of movables with an exemption of £10 and £100 respectively. The contribution was not successful and was still being levied in 1652.⁴

It was clear that Parliament would have to raise a more consistent flow of revenue and it did this through the system of weekly and monthly assessments. These commenced towards the end of 1642. Some of these periodic assessments were for the defence of the region being taxed and in other cases they were for the national army. An Ordinance of 1644 was largely based on the £400,000 grant to Charles I of 1642 (discussed above at pp. 93–4) and its terms formed the standard for this type of taxation until the Restoration in 1660.⁵ There was a quota system but this time the specified amount was to be raised weekly for six months.⁶ The provision for assessing absentees on the basis of source was not repeated but as with the 1642 royal subsidy, persons were to be assessed in each and every county where their property was situated. The charging words and jurisdictional limits were in the usual form and so the same as those in the 1642 royal subsidy.⁷

Of the various assessments levied during the English Civil War and Commonwealth, one consistent assessment was the national monthly assessment for the parliamentary army. Initially imposed in 1645 in order to fund the formation of Parliament's New Model Army under

Rates, and in such Proportions, as they shall think fit, and the Necessity of the Cause shall require . . .' An Ordinance to appoint Sir William Waller Serjeant Major General of the Forces in Gloucester and other adjacent Counties, and for paying his Army (11 February 1643/44) (UK); United Kingdom (1911, Vol. I, p. 79).

³ An Ordinance for the speedy raising and levying of money throughout the whole Kingdom of England, and dominion of Wales for the relief of the Commonwealth, by taxing such as have not at all contributed or lent, or not according to their Estates and Abilities (7 May 1643) (UK); United Kingdom (1911, Vol. I, pp. 145–55).

⁴ Jurkowski *et al.* (1998, p. 209).

⁵ An Ordinance for the speedy raising and levying of Money for the maintenance of the Army Raised by the Parliament, And other great Affairs of the Commonwealth, by a Weekly Assessment upon the Cities of London and Westminster, and every County and City of the Kingdom of England, and Dominion of Wales (24 February 1643/44) (UK); United Kingdom (1911, Vol. I, pp. 85–100).

⁶ Dowell (1965, Vol. II, p. 4) suggests that the tax 'was partitioned between the several counties and towns named in the ordinance, on a calculation made by reference to the highest return ever made by the particular county or town for a subsidy . . .'.

⁷ Jurkowski *et al.* (1998, pp. li–liii, 205–6). See also Dowell (1965, Vol. II, pp. 4–6).

Fairfax, it effectively remained in place until the Restoration.⁸ The law of 1645 abbreviated earlier charging provisions.⁹ The tax was to be assessed and levied:

upon the Lands, Goods, Annuities, Rents, Offices, or other Estate, real or personal, in such manner and form, and according to the most equal and usual Rates for levying of money . . . or by a certain Rate upon the true yearly values of Lands, Rents, Annuities, Offices, Hereditaments, and according to the true value of Goods, Chattels, Debts, or other estate real or personal within the said several Counties, Cities, limits or places respectively.¹⁰

The result seems to be an essentially source based tax. Jurkowski *et al.* note that this assessment was periodically renewed until 1648.¹¹ Similar wording was used in a further levy of 1647,¹² however an adjunct to this levy used the usual charging words (less the provision for absentees).¹³ Nevertheless, a new general levy for the needs of the army in 1648 required assessment in accordance with the 1647 levy.¹⁴

The Commonwealth also used this new wording in its general assessment law of 1649.¹⁵ This law proceeded to recite complaints regarding the allocation to subdivisions within particular counties. To this end it provided for a new allocation between subdivisions to be

⁸ Jurkowski *et al.* (1998, p. lii).

⁹ This is around the time that Parliament passed resolutions that ultimately led to statutes abolishing military tenure; see Baker (2002, p. 257) and below at p. 124.

¹⁰ An Ordinance for Raising and maintaining of Forces for the defence of the Kingdom, under the Command of Sir Thomas Fairfax, Knight (17 February 1645/46) (UK); United Kingdom (1911, Vol. I, pp. 614–26 at 616). See also Jurkowski *et al.* (1998, pp. 226–7).

¹¹ Jurkowski *et al.* (1998, pp. 226–7).

¹² An Ordinance for the raising of Monies to be employed towards the maintenance of Forces within this Kingdom, under the Command of Sir Thomas Fairfax Knight. And for the speedy transporting of, and paying the Forces for the carrying on the War of Ireland (23 June 1647) (UK); United Kingdom (1911, Vol. I, pp. 958–84 at 981). See also Jurkowski *et al.* (1998, p. 237).

¹³ An Ordinance For raising of Twenty thousand pounds a Month for the Relief of Ireland (16 February 1648/49) (UK); United Kingdom (1911, Vol. I, pp. 1072–105 at 1076–7). See also Jurkowski *et al.* (1998, p. 240).

¹⁴ An Ordinance for Raising Moneys to be employed for the maintenance of the Forces under the Command of Sir Thomas Fairfax Knight (17 March 1648/49) (UK); United Kingdom (1911, Vol. I, pp. 1107–14 at 1107). See also Jurkowski *et al.* (1998, p. 240).

¹⁵ An Act For Raising Ninety thousand pounds per Mensem, For the Maintenance of the Forces raised by Authority of Parliament, for the Service of England and Ireland, For Six Months, from the 25th of March, 1649 to the 29th of September, 1649 (7 April 1649) (UK); United Kingdom (1911, Vol. II, pp. 24–57 at 48–9). See also Jurkowski *et al.* (1998, pp. 244–5).

based on an assessment of each of the subdivision's land and movables with every £20 of movables being treated as an equivalent value as £1 of yearly value of land.¹⁶ Not long after, it seems that this became the basis of assessment for taxpayers.

A law of 1650 for the maintenance of the army provided for taxation and assessment:

by a Pound-rate on the several [subdivisions] in the respective Counties . . . for all and every their Lands, Tenements, Hereditaments, Annuities, Rents, Parks, Warrens, Goods, Chattels, Money, Stock, Merchandise, Office, or any other Real or Personal Estate whatsoever, according to the value thereof; (viz.) so much upon every Twenty shillings Rent, or Yearly value of Land and Real Estate, and so much upon Money, Stock, and other Personal Estate, by an equal Rate; (wherein every Twenty pounds in . . . Personal Estate, shall bear the like charge as shall be laid upon Twenty shillings . . . yearly value of Land) . . .¹⁷

It appears that this law no longer expressly included 'debts' as did the earlier laws. The Act proceeded to require assessors to observe the rules for 'the equal assessing of all Estates both Real and Personal within the Limits, Circuits and Bounds of their respective Divisions . . .'.¹⁸ Despite this rather explicit instruction, the Act further proceeded to give the various cities, counties and towns power by general meeting to ignore the pound rate. Rather, they could 'proceed according to the most just and equal way of Rates held in such places, in the apportioning, levying and assessing the respective sums charged upon them . . .'.¹⁹

Similar provision was made in the assessment laws of 1652²⁰ and 1657.²¹ The final monthly assessment law of the Commonwealth simply

¹⁶ Act of 7 April 1649; United Kingdom (1911, Vol. II, pp. 54–5).

¹⁷ An Act for raising of One hundred and twenty thousand pounds per mensem for Four Months, To commence the Five and twentieth of December 1650. for Maintenance of the Forces in England, Ireland and Scotland, Raised by Authority of Parliament for the Service of this Commonwealth (26 November 1650) (UK); United Kingdom (1911, Vol. II, pp. 456–90 at 484).

¹⁸ Act of 26 November 1650; United Kingdom (1911, Vol. II, p. 486).

¹⁹ Act of 26 November 1650; United Kingdom (1911, Vol. II, p. 489).

²⁰ An Act for an Assessment at the Rate of One hundred and twenty thousand Pounds by the Month for Six Months, from the Five and twentieth day of December, One thousand six hundred fifty two; to the Four and twentieth day of June next ensuing, towards the Maintenance of the Armies in England, Ireland and Scotland; as also for the Navy (10 December 1652) (UK); United Kingdom (1911, Vol. II, pp. 653–88).

²¹ An Act for an Assessment upon England at the Rate of Sixty thousand Pounds by the Month, for three Months (9 June 1657) (UK); United Kingdom (1911, Vol. II, pp. 1058–97). See also Dowell (1965, Vol. III, pp. 73–4).

stated that assessors were to assess 'equally by a pound rate as formerly, according to all Estates both real and personal within the Limits, Circuits and Bounds of their respective Parishes and places'.²² However, this law did expressly include the provision for alteration of the pound rate.²³

The assessment provisions for these monthly assessments were similar. The commissioners for a county or town were to divide into sets of divisional commissioners and appoint surveyors and assessors. After an assessment of the real and personal property for the county or town, rates were to be set so that the total rate levied on the assessed value for the county or town would equal the amount specified in the law for the county or town. The assessments then being made for specific people were delivered to the collectors for the county or parish. Tenants were liable to the tax in respect of land but could deduct the tax from payments of rent to their landlords.²⁴

The Rise of Independent Spirit in the Colonies

The preoccupation of the English with the Civil War provided plenty of opportunity for growth in autonomy and independence in the colonies. It is during this period that local assemblies were either founded or consolidated.²⁵ In these early years, there was little differentiation between the progress of the mainland American colonies and those in the West Indies. As noted at page 85, it were the latter that progressed and prospered first, which showed in comparative population growth. Up to the 1660s the Caribbean settlements attracted more settlers than

²² An Act for an Assessment of One hundred Thousand Pounds by the Month, upon England, Scotland, and Ireland, for Six Months (26 January 1660/1) (UK); United Kingdom (1911, Vol. II, pp. 1355–403 at 1396).

²³ Act of 26 January 1660; United Kingdom (1911, Vol. II, p. 1403).

²⁴ Dowell (1965, Vol. III, pp. 72–81) with reference to the 1657 law. See also Soos (1997, pp. 67–92). Kennedy suggests that the intention of Parliament with respect to the monthly assessments was to implement an income tax. 'But central control over the local taxing authorities was so weak that it had to permit concessions to practicability which left its view of equitable distribution little more than a statement of opinion.' These concessions were the fixed quota system and 'the permission granted to the local authorities to settle the principles of assessment to be applied in their respective districts'. He suggests that the result was a 'stereotyped land tax . . . omitting or grossly under-assessing men with personal property or income from offices' Kennedy (1964, pp. 41–3).

²⁵ Burns (1954, p. 297).

the mainland American colonies and the pick of these colonies was Barbados.²⁶ This subheading considers developments in direct taxation, first in the mainland American colonies and then in the West Indies.

American Colonies

Southern Colonies As noted at pages 83–4, the earliest and typical form of direct taxation in Virginia was the poll tax. An exception to this occurred in 1645 when the poll tax was supplemented with a tax on land (per hundred acres), cows, horses, sheep and goats ‘in the collony’.²⁷ This expressly source-based tax on ‘visible estate’ (essentially a land tax) was repealed in 1648, leaving the poll tax, which persisted through the Glorious Revolution.²⁸

A tax on personal estates is the earliest recorded form of direct tax in Maryland; see above at page 84. However, by 1642 Maryland had followed Virginia’s lead with the imposition of a poll tax payable in tobacco to the proprietor.²⁹ Whether the public charges incurred by the General Assembly were also now raised by way of a poll tax is not clear but this certainly became the case by 1650.³⁰ The Maryland population grew more rapidly during the 1640s and 1650s, at least partly sparked by the English Civil War.³¹

The general public charges of Maryland for 1650 and 1651 were clearly by the poll.³² But when funds were raised for the military the

²⁶ Beckles (1998, p. 222). ²⁷ Virginia (1809–1823, Vol. I, p. 305).

²⁸ Virginia (1809–1823, Vol. I, p. 356). See also Ripley (1893, pp. 25–32).

²⁹ An Act For Granting of one Subsedye (March 1641/2) (Maryland); Maryland Historical Society (1883–1972, Vol. I, p. 123).

³⁰ The general assembly typically appointed a committee with a power to approve the accounts of the burgesses and the assembly. The committee then apportioned the charges, at first directly among the hundreds and counties. In 1642, the assessment was simply on ‘all the freemen’, in 1647 the instruction was to ‘proportionate the assessment equally’ and in 1648, with respect to the county of Saint Maries ‘The ffreemen unanimously agreed, & concluded that it should be leuyed upon all the Tytheable persons Inhabitants of St Maries County equally per head . . .’. In 1649 the public charges were apportioned to the counties with ‘The Committee finding it just to be leuyed per pole as wee conceive’ whereas in 1650 the reference is to an ‘equal assessment’. See Maryland Historical Society (1883–1972, Vol. I, pp. 123, 230, 232, 237 and 282).

³¹ Simmons (1976, p. 46).

³² An Order concerning the Assessment of this yeares Leavy & c. (April 1650) (Maryland) and An Order for the raising of the Leavies (March 1650/51) (Maryland); Maryland Historical Society (1883–1972, Vol. I, pp. 298, 313).

imposition was ‘an equal Assessment upon the Persons and Estates of the Inhabitants . . .’.³³ Even the general public charges were to change to this style during turbulent times in 1654. With the success of the English Parliament in the English Civil War and the execution of Charles I, Lord Baltimore’s proprietary reign was ended and an exclusively Protestant Assembly met in 1654.³⁴ In this year it was enacted:

that all publique Charges of the Province shall after this present yeare be Levied not only upon persons taxable but also upon such visible Estates in the Province as followes . . .³⁵

It is difficult to speculate as to the influences on this law, but there is some consistency with the Virginian land tax of 1645³⁶ and also with the form of the Commonwealth assessments in England (see above at 110–14). Again, the source basis of the tax is clear. In any case, this change was short-lived. Cromwell’s advisers reinstated the proprietary government in 1657,³⁷ the Puritan influence subsided, the 1654 law was repealed and the poll tax reinstated.³⁸

By 1660 Maryland’s local government system had begun to resemble that in Virginia and they had similar direct tax systems, i.e. poll taxes.³⁹ Indeed, so engrained had the poll tax become by the time of the Restoration that in 1661 there was an ‘Assessment per pole according to the usuall Custome of this Province . . .’.⁴⁰

New England Colonies In the period from the English Civil War to the Restoration Massachusetts continued and extended its domination

³³ An Act Concerning the Leavying of Warre within the Province (April 1650) (Maryland); Maryland Historical Society (1883–1972, Vol. I, p. 302).

³⁴ Simmons (1976, p. 48). A group of Puritans had immigrated into Maryland from Virginia.

³⁵ Publique Levies (October 1654) (Maryland); Maryland Historical Society (1883–1972, Vol. I, p. 342). The law proceeded to impose the charge on the poll, land per acre and cattle at various rates per head. The charge was still to be apportioned among the counties.

³⁶ Virginian Puritans were invited to settle in Maryland as early as 1649.

³⁷ Simmons (1976, p. 48).

³⁸ Concerning Public Charge (1657) (Maryland); Maryland Historical Society (1883–1972, Vol. I, p. 360).

³⁹ Simmons (1976, pp. 46–7).

⁴⁰ An acte Impowring the Governour and Council to Rayse forces and mayntayne a warre without the Prouince and to ayde the Sasquehannough Indians (April/May 1661) (Maryland); Maryland Historical Society (1883–1972, Vol. I, p. 406).

of direct tax policy in the New England colonies. By a law of 1643, Plymouth colony followed the earlier lead of Massachusetts⁴¹ and instructed town assessors to ‘rate all the Inhabitants of their Town according to their estates or faculties that is according to goods lands improved faculties and personal abilities, whether the rate be for any of the towns in particular or for general charges’.⁴² So this assessment was consistent with that in Massachusetts. The reference to ‘faculty’ is interesting as the early direct tax laws of the New England colonies are often referred to as ‘faculty taxes’⁴³ and this seems to be the first use of the term in the laws of the New England colonies.⁴⁴ The 1643 law proceeded to incorporate a number of administrative rules including collection by the constable.

Further developments occurred in Massachusetts itself beginning in 1644. In this year the General Court split into two houses consisting of the non-elected assistants and the elected deputies.⁴⁵ By 1646 there were complaints that taxes were imposed unequally in Massachusetts. As a result a new law was passed in 1646 in an effort to provide more details regarding assessment and administration. This important law would prove influential in future developments throughout New England (and further a field). The charge was in the following terms:

[E]very male within this jurisdiccon . . . shall pay yearly . . . the sum of 20*d*, & so in some proportionable way for all estates, viz.: that all and every person that have estates shall pay one penny for every 20*s*. estate, both for lands and goods (& that every laborer, artificer, & handicrafts man that usually take in summer time above 18*d* by the day wages, or work by great, which, by due valuation, amounts to more than 18*d* by the day, shall pay per annum 3*s* 4*d* . . . over & besides the 20*d* before mentioned;) & for all others not particularly herein expressed, as smiths of all sorts, butchers, bakers, cooks, victuallers, & co., according to their returnes & incomings, to be rated proportionable to the produce of the estates of other men.⁴⁶

⁴¹ See above at pp. 87–90 regarding the Massachusetts laws of the 1630s.

⁴² Massachusetts (1855–61, Vol. XI, p. 42). See also Seligman (1914, p. 368).

⁴³ For example, Seligman (1914, pp. 383–4).

⁴⁴ The *Oxford English Dictionary Online*; Simpson *et al.* (2004) (online), accessed 10 October 2004, includes in the definition of ‘faculty’ (with citations relevant to this period) a reference to ‘Pecuniary ability, means, resources; possessions, property’.

⁴⁵ In this structure, the House of Deputies remained largely subordinate to the Governor and Upper House until the 1660s. Simmons (1976, pp. 33–4).

⁴⁶ Massachusetts (1853–54, Vol. II, p. 173 and Vol. III, p. 88).

For the purpose of valuing estates, the law went on to provide specific values for cattle and then provided that:

houses, lands of all sorts, merchantable goods . . . together with all other visible estate, real & personal . . . to be valued . . . according to their worth . . . apportionable to the aforesaid prizes of cattle . . .⁴⁷

There are a number of aspects of this law that are worthy of further discussion. First, as Douglas notes, this is the first law to provide for yearly taxes.⁴⁸ The rate for lands and goods was around 0.42 per cent of assessed value. Apparently, this had been the usual rate before 1646.⁴⁹ Further, this is the first Massachusetts law that expresses a change from the law of 1634, i.e. a change from the requirement that taxes not be levied ‘according to the number of his persons’. The progressive poll tax implemented is at least analogous to the supplementary poll tax granted by the English Parliament to Charles I in 1641 just before the outbreak of the English Civil War; see above at pages 92–3. It will be recalled that the English tax also rated various residents according to their presumed income (in terms of spending ability) with a residual flat poll tax. It may be that the English levy had some connection to the change in policy in Massachusetts.

Further, the fact that the poll tax was implemented together with a tax on all estates is interesting. Again there is a similarity with the grants made to Charles I in 1641 where the subsidies were supplemented with the graduated poll tax. However, the poll tax in Massachusetts was administered jointly with the tax on property.⁵⁰ Further, in Massachusetts there seems to have been an attempt to integrate the taxation of labour and the taxation of property. The intention with respect to income from labour seems to have been to tax persons according to the capitalized value of their wages.⁵¹

The 1646 Massachusetts law is also particularly interesting in its reference to ‘returnes & incomings’ from labour. This is the first reference in laws considered by this study to ‘income’ or a derivative thereof. It seems unlikely that use of the term ‘incomings’ was, of itself, intended to revolutionise the Massachusetts direct tax system.

⁴⁷ Massachusetts (1853–54, Vol. II, p. 174 and Vol. III, p. 87).

⁴⁸ Douglas (1892, p. 17). ⁴⁹ Douglas (1892, p. 28).

⁵⁰ The English subsidies did incorporate a poll tax that was payable with the taxes on the value of movables and the annual value of land but this was typically only payable by resident aliens.

⁵¹ See also Douglas (1892, p. 31).

'Incoming' was a word in use at this time. A contemporary definition of the word includes: 'Money that comes in, revenue'⁵² The English had used the word 'revenue' on and off in their direct tax laws since the Saladin Tithe of 1188 and frequently used the phrase 'yearly value' since 1404; see above at pages 34–5 and 46–7. So it is interesting that Massachusetts uses 'incomings' instead of these other precedents.⁵³ In any case, the reference to 'incomings' in the Massachusetts law was short lived.

The 1646 law was largely followed in the next year but the reference to 'returnes & incomings' was replaced with a reference to 'returnes & gaines'.⁵⁴ Further, the 1647 law clarified the jurisdiction of the tax. The commissioner and selectmen of each town were to make a list of all 'males in ye same towne . . . and a true estimacon of all personall and reall estates in ye same toune . . .'.⁵⁵ The intent seems to have been to tax locals and all property within the town. From 1651 the Massachusetts procedure started to resemble that under the fifteenth and tenth and the Tudor subsidy in England in that a multiple or a fraction of a 'rate' was imposed, a rate assuming 1d for every 20s assessed value.⁵⁶

In Connecticut the direct tax system followed the Massachusetts law. In the 'Rates' chapter of the 1650 Connecticut code of laws, a charge was imposed only on 'every inhabitant who doth not voluntarily contribute proportionably to his ability to all common charges . . .'.⁵⁷ This seems consistent with the early form of the Poor Rate in England where persons were to be assessed only when they had not contributed voluntarily; see above at pages 74–6. The rates chapter of the Connecticut code continued to particularise the tax base and tax rates. There is no doubt that this part of the Connecticut law was based on Massachusetts law.⁵⁸ In most places it copied word for word the Massachusetts law of 1647, including that workers were to be 'rated for their returnes and gaines proportionably unto other men for the produce of their estates'.⁵⁹

⁵² *Oxford English Dictionary Online*; Simpson *et al.* (2004) (online), accessed 10 October 2004, with a citation dated 1596. See also a similar definition for 'income' with citations dating from 1601.

⁵³ It may be that the use of 'incomings' evidences the beginning of a change in language use; see p. 130 and pp. 185–8.

⁵⁴ Massachusetts (1853–54, Vol. II, p. 213 and Vol. III, p. 117).

⁵⁵ Massachusetts (1853–54, Vol. II, p. 213 and Vol. III, p. 116).

⁵⁶ Massachusetts (1853–54, Vol. III, p. 221). See also Douglas (1892, p. 28).

⁵⁷ Connecticut (1850–90, Vol. I, p. 548).

⁵⁸ For a similar conclusion, see Jones (1896, p. 9).

⁵⁹ Connecticut (1850–90, Vol. I, p. 549). See also Seligman (1914, p. 370).

The intention seems to have been to impose a presumptive income tax.⁶⁰ Here too a 'rate' became synonymous with a fixed tax.⁶¹

The colony of New Haven was also quick to follow the Massachusetts lead with the appointment of a committee to consider the feasibility of adopting the Massachusetts system of taxing profits from labour in addition to the existing tax base, visible property. In 1649 New Haven imposed a tax that largely adopted the Massachusetts law including a tax on 'labourers & handycrafe trades & seamen ... and ... other men who trade in way of merchandising ...'. The tax base was not clear, such men to be 'justly rated as near as the committee can judge ...'.⁶² New Haven followed this up with its own code of laws in 1656. The chapter on 'Charges publick' largely followed the laws of Massachusetts and Connecticut, once again in places word for word, but not as often as the Connecticut law followed that of Massachusetts.⁶³ In particular, the provision charging workers on their returns and gains followed that in the Connecticut law word for word.⁶⁴ The jurisdiction, however, appears to have been limited to inhabitants of the towns with an anti-abuse rule taxing the land of those that may have left.

By contrast, while Plymouth colony also created a book of general laws in 1658, the chapter on taxes was virtually a reprint of its law of 1643.⁶⁵

Dissatisfied religious groups also moved to and settled a number of towns in Rhode Island during the later 1630s early 1640s. Some of these groups were united under a charter from the English Commonwealth

⁶⁰ Seligman (1914, p. 389) quotes from the Connecticut Revenue Commission report of 1887, which described the system in these terms:

Connecticut from her earliest history had followed the plan of taxing incomes rather than property. Those pursuing any trade or profession were assessed on an estimate of their annual gains. Real estate was rated not according to its value, but in proportion to the annual income which, on the average, it was deemed likely to produce. Land ... was put in the list at a fixed rate for each kind ... not because these sums were deemed to be the value of the land, but because they were thought to represent the average income they would produce.

⁶¹ Jones (1896, p. 41).

⁶² Connecticut (1857–58, Vol. I, pp. 448, 494). See also Seligman (1914, pp. 369–70).

⁶³ Connecticut (1857–58, Vol. II, pp. 581–3).

⁶⁴ For an analysis of the similarities between the Massachusetts, Connecticut and New Haven laws of this time, see Jones (1896, pp. 10, 11).

⁶⁵ Massachusetts (1855–61, Vol. XI, p. 89). There were minor changes in 1661 and 1665, which are not presently relevant; see pp. 142 and 211.

in 1643.⁶⁶ As in Connecticut Colony, in Rhode Island there was no connection between the right to participate in government and membership of the church. The population in Rhode Island grew more slowly than in the other New England colonies and was no more than 2,000 by the time of the Restoration.⁶⁷ The form of any early tax system is not clear, but judging from later developments, it seems likely any direct tax would have been imposed according to estate; see below at page 142.

It is appropriate to also make a short note about New Hampshire and Maine. Settlers moved in significant numbers to parts of what is now New Hampshire as early as 1632.⁶⁸ From 1635 the Massachusetts government extended into New Hampshire to fill a vacuum left when its territorial owner abandoned it.⁶⁹ There was a more formal agreement in 1641 under which a number of New Hampshire towns agreed to 'be subject to pay in church and commonweale as the said inhabitants of the Massachussets bay do and no others . . .'.⁷⁰ Thus the Massachusetts system of taxation was established in the New Hampshire towns almost from the very beginning . . .⁷¹ The towns were also allowed deputies in the Massachusetts General Court. In 1639 Ferdinando Gorges was granted a royal charter for the Province of Maine. With Gorges' death and confusion resulting from the English Civil War, Massachusetts took over the small settlements in Maine in 1652.⁷²

There were few developments further to the north. The English captured French Arcadian forts (in Nova Scotia) in 1654 but the Treaty of the Pyrenees of 1655 required the Arcadian forts to be returned to the French and this did not occur until 1667.⁷³

West Indies

As mentioned at page 85, there is a dearth of early legal and government records of the English Caribbee Island colonies, and the best records that exist are those for Barbados. In early Barbados (as in early Virginia) the typical direct tax was the poll tax. In the 1640s the poll tax began to be supplemented with sporadic taxes on land. There are references to taxes payable in cotton and tobacco being imposed in 1643 on land per acre

⁶⁶ Simmons (1976, p. 37). ⁶⁷ Simmons (1976, pp. 24, 111).

⁶⁸ Robinson (1902, p. 1). ⁶⁹ Simmons (1976, p. 110).

⁷⁰ Massachusetts (1853–54, Vol. I, p. 325). See also Robinson (1902, pp. 2–3).

⁷¹ Robinson (1902, p. 3). ⁷² Simmons (1976, p. 39).

⁷³ Simmons (1976, pp. 49, 154) and Williamson (1929, pp. 227–9).

and per head on those that did not hold land by way of freehold.⁷⁴ It seems that the militia and local ministers of religion were similarly funded with a 'proportional land tax'.⁷⁵ It also seems that the Earl of Carlisle was paid a 4 per cent duty on all exports from the island, at this time largely tobacco and cotton but with a fast-growing sugar industry.⁷⁶ While this study is not concerned with indirect taxes, this levy appears to be the source of a levy imposed by Charles II after the Restoration that would cause constitutional and revenue disputes with the West Indies for close to two hundred years.

Insecurity created by the English Civil War caused a number of royalists to migrate to Barbados, which became somewhat of a royalist stronghold. Despite some confusion as to ownership arising from the Earl of Carlisle's association with Charles I, his rights to the Caribbees (including Barbados) were confirmed by Parliament in 1645.⁷⁷ Nevertheless, in a defensive move against confiscation, in 1647 Carlisle leased the Caribbee Islands to Lord Willoughby for twenty-one years, who in 1650 took up his commission as royal governor in Barbados.⁷⁸ It seems that at this time (while the Island was still royalist) Willoughby was granted a 'four per cent. duty on all exports', as had been granted to the Earl of Carlisle before him.⁷⁹ The English Parliament

⁷⁴ The earliest Barbadian direct tax law referred to in Hall (1764, p. 237) (law No. 7) is An Act for one pound of Cotton or Tobacco, per Acre, to the Governor for this present year (1643) (Barbados). This was backed up by An Act for payment of twenty pounds of Cotton or Tobacco, per head, by those that are not Free-holders (1643) (Barbados) and An Act for the half pound of Cotton, per Acre (1643) (Barbados); Hall (1764, p. 460) (law Nos 8 and 14, respectively). These are backed up with similar charges in 1644; see Hall (1764, p. 460) (law Nos 20 and 25). Unfortunately, Hall does not reproduce these laws and it seems that the records he consulted have been lost (and laws this early for Barbados or the other Caribbee Island colonies do not exist in the English Public Records Office).

⁷⁵ Harlow (1926, p. 26).

⁷⁶ Dunn (1973, p. 81). See the law of 1650 referred to in note 79 below, which seems to presume the imposition of such a levy.

⁷⁷ Harlow (1926, p. 30).

⁷⁸ Willoughby had earlier fought for Parliament but later became a royalist and had his commission confirmed by Charles II while the latter was in exile.

⁷⁹ Harlow (1926, p. 68). This is probably a reference to An Act importing the Customs imposed and granted by the Council and Gentlemen of the Assembly, to the Right Honourable Francis Lord Willoughby of Parnham, Lord Lieutenant General of the Province of Carliola, and Governor of Barbados; and also his Lordship's confirmation of the Rights of the Inhabitants of this Island, to their several Estates, with the Tenure and Rent thereon created (25 October 1650) (Barbados); Hall (1764, p. 462) (Law No. 80). This law is not reproduced in Hall, see note 74.

decided to force the Barbadians to swear allegiance to it and sent a naval force for this purpose. Willoughby persuaded the House of Assembly to resist and in 1651 there seems to have been a levy imposed 'proportionately on the planters' to raise funds for a militia to resist Parliament.⁸⁰

Battle ensued and early in 1652 the English Navy took control of Barbados and the English Caribbee Islands in the name of Parliament.⁸¹ Under the terms of capitulation for the island, often referred to as 'The Charter of Barbados', taxes were not to be imposed without the consent of the island's General Assembly.⁸² Daniel Searle was appointed Governor of Barbados.⁸³ Some laws from the period of Commonwealth rule in Barbados do survive.⁸⁴ These demonstrate that Barbados was largely funded at this time through periodically imposed indirect taxes on imported liquor and exported produce (the latter apparently along the lines of the ones granted to the Earl of Carlisle and Lord Willoughby).⁸⁵ Local levies for mending the highways and financing ministers of religion were levied by reference to land.⁸⁶ The landowners were also obliged to provide men and horses towards the militia calculated per acre of landholding.⁸⁷ As with the English scutage on the knight's fee centuries before (see above at p. 33), this obligation could be commuted by a fixed payment of sugar per man and horse to be provided.

⁸⁰ Harlow (1926, p. 67).

⁸¹ Within three months both Antigua and Virginia, the only other serious pockets of resistance (although some also existed in Bermuda and Maryland) to the Commonwealth, also submitted to the English Naval force; Williamson (1929, pp. 219–20).

⁸² Burns (1954, p. 241). ⁸³ Harlow (1926, pp. 79, 82). ⁸⁴ Barbados (1654).

⁸⁵ For example, see Items 33, 57, 83, 85 in Barbados (1654, pp. 34, 72, 137, 141, respectively).

⁸⁶ An Act for mending the High-ways, with an addition to the same (17 September 1652) (Barbados) and An Act for the appointing, and regulating a convenient Sallary for the maintenance of the several Ministers within this Island (21 December 1652) (Barbados); Barbados (1654, pp. 103, 129 [Items 68 and 77], respectively). See also Hall (1764, p. 465 [Law Nos 124 and 135]). The latter law noted that tobacco had fallen in value and so in the future Ministers' salaries should be paid at the rate of one pound in sugar per acre of land within the relevant parish.

⁸⁷ For example, see An Act for the Settling the Trained bands within this Island (1652) (Barbados) and An Act for Settling the Regiment of Horse within this Island (21 December 1653) (Barbados); Barbados (1654, pp. 116, 121 [Items 73 and 74], respectively). See also Hall (1764, p. 465 [Law No. 133]).

Little is known about direct tax levies in the remainder of the English Caribbean Islands at this time (which included St Kitts, Nevis and Antigua), which initially remained neutral during the English Civil War and then compliant with the Commonwealth after the suppression of Barbados.⁸⁸ In these colonies the governorships remained in local hands during the Commonwealth.⁸⁹

In 1655 during the Anglo-Spanish War, Cromwell the Protector sent an English naval force to the Caribbean to seize Hispaniola from the Spanish. The forces took the softer target of Jamaica late in 1655 and a new English colony was formed.⁹⁰ Jamaica remained under English military rule until after the Restoration.

2.2 Developments in Landholding and Accounting

This heading takes stock of two areas that were particularly influential to the development of the income tax, the form of landholding and methods of accounting. The heading starts by considering developments in the form of landholding in England. A major development in this respect was the abolition of most forms of military tenure (especially the knight's fee, see p. 16) during the period of the Commonwealth, a matter that was confirmed on the restoration of the monarchy in 1660.⁹¹ That was the end of feudal incidents as a form of royal revenue.⁹² After this time public revenue has been raised by methods such as taxes rather than through feudal incidents. Another major development during the period covered by this chapter was the rise of trusts as a legal mechanism for managing property interests. As noted at pages 63–4, trusts began to develop in the period after the passing of the Statute of Uses in 1536 but the period covered by this chapter was particularly influential, especially due to the efforts of Lord Nottingham, who was a Chancery Judge and Chancellor from 1673–82.⁹³

⁸⁸ See Burns (1954, pp. 236–43). ⁸⁹ Williamson (1929, p. 233).

⁹⁰ This conquest was recognised by the Spanish in the Treaty of Madrid of 1670. See Simmons (1976, pp. 50, 153) and Williamson (1929, p. 246).

⁹¹ An Act taking away the Court of Wards and Liveries and Tenures in Capite and by Knights Service and Purveyance, and for settling a Revenue upon his Majesty in Lieu thereof (12 Char. II. c. 24) (1660) (UK); United Kingdom (1810–1828, Vol. V, p. 259).

⁹² See Simpson (1986, pp. 23, 199) and Baker (2002, p. 257).

⁹³ Simpson (1986, p. 200) suggests that with the abolition of most feudal incidents the courts became more willing to enforce uses not directly subject to execution by the Statute of Uses because the purpose of the statute, i.e. enforcement of the incidents, had been removed.

The second matter covered is an update on methods of accounting to the period covered by this heading. While the double entry system of bookkeeping was used in England as early as the sixteenth century, it began to be used more regularly during the period covered by this heading, although charge and discharge was still dominant. Further, through the likes of annual profit calculation by the East India Company, examples begin to appear of accounts distinguishing between capital and revenue entries. Nevertheless, there is little if any uniformity in accounting practice at this time, particularly in areas that would later prove important and controversial in the calculation of the income tax base.

The Rise of Trusts and the Court of Chancery

As noted at page 63, technically the trust may be considered a by-product of the Statute of Uses of 1536. A trust is a use that was not executed by the statute. Baker notes that:

from the seventeenth century until the repeal of the Statute of Uses in 1926 the most usual way of creating trusts was by a conveyance 'to A and his heirs unto and to the use of B (or A) and his heirs in trust nevertheless for C'. This vested the legal estate in the first cestuy que use as trustee for C, the interposition of the first use being necessary to prevent the execution of the second (now called for the sake of distinction a trust) ...⁹⁴

The *concept* of the trust, however, may be viewed as dating from much earlier. Helmholz notes trust like devices being enforced in the ecclesiastical courts 'at the same time, and even before, the Chancery's jurisdiction over uses became established ...'. He suggests (as noted with respect to uses above at pp. 39–40) that trusts were an 'expression of the ideals of the Canon law ... and they made frequent use of rules drawn from Roman law'.⁹⁵

The reasons for the rise in popularity of trusts in the seventeenth century are, in some respects, similar to the reasons for the rise of uses centuries earlier (as to which see pp. 40–1). In other respects, the reasons for the rise of trusts are quite different. In common with the use

⁹⁴ Baker (2002, p. 291). By contrast, Simpson (1986, p. 200) suggests that it is only uses 'created on terms of years which can be said to have anything like a continuous history from the time of the Statute of Uses ...'.

⁹⁵ Helmholz (1998, p. 171).

(before the Statute of Uses), the trust enabled devolution of property to be controlled (to some extent) after death and this seems to be the primary reason for the rise of trusts. Family settlements using trusts sought to create the same types of interests in family members as uses had before 1536.⁹⁶ In particular, as with the interposition of a feoffee to uses, the interposition of a trustee under a trust was a method of securing contingent remainders.⁹⁷ Also like uses, trusts might be used to secure obligations or to avoid creditors. However, trusts were not necessary to devolve land by will (this being available under the Statute of Wills of 1540) and, it seems, were not used to avoid feudal incidents, two of the prime reasons for the development of the use.

Chancery was the court that recognised the use on the use (the trust) and Chancery cases were not regularly reported until 1660.⁹⁸ As a result, the hundred or so years between the Statute of Uses and the Restoration has been identified as ‘one of the “dark places” of English legal history’.⁹⁹ Nevertheless, the investigations of a number of academics shed some light on this period. Trusts in the form of a use upon a use appear in Chancery records as early as 1584 and it seems that by 1623 deliberately created trusts of this form were ‘commonplace’.¹⁰⁰ Land continued to be the principal form of wealth in the sixteenth and seventeenth centuries and so the typical corpus of a trust. Nevertheless, there are important examples of trusts created over personal property, also dating from the sixteenth century.¹⁰¹

To a large extent the law applicable to trusts developed out of the existing common law and, in particular, the law applicable to uses. This is clear from the writings of Lord Nottingham in the 1670s; who

⁹⁶ For example, trusts were used to look after land during the minority of a beneficiary, to make provision for a married woman or to secure capital against the actions of a spendthrift beneficiary.

⁹⁷ Baker (2002, p. 293) notes that ‘[t]he kind of family settlement which was perfected between 1640 and 1700, and remained in use for three hundred years, was essentially the common-law arrangement which gave only a life estate to the owner of the land for the time being, and successive remainders in tail to each of his children in order of seniority. This was protected against destruction by the insertion of trustees to preserve the contingent remainders, and trustees were also appointed to raise various sums of money for the maintenance of members of the family.’ See also Simpson (1986, pp. 233–40).

⁹⁸ Baker (2002, p. 110). ⁹⁹ Jones (1998, p. 173). See also Baker (2002, p. 291).

¹⁰⁰ Jones (1998, p. 182) and Baker (2002, p. 291).

¹⁰¹ Jones (1998, p. 179). See also Helmholz (1998, pp. 161–2) suggesting that in the ‘vast majority of cases ... the corpus held in trust consisted of a sum of money ...’.

is widely credited with creating a 'coherent body of trust law'.¹⁰² The connection between the common law rules and the equitable rules applicable to trusts is clear in Lord Nottingham's *Prolegomena of Chancery and Equity* under the heading 'Where Rules of Equity are Made in Imitation of the Rules and Reason of the Common Law'.¹⁰³ So the primary action available for beneficiaries against defaulting trustees was an action for account before Chancery. Lord Nottingham draws a direct connection between liability to account at common law under the Statute of Marlborough (see above at p. 26) and the action available in Chancery.¹⁰⁴

An action for waste was also available in Chancery against trustees (as to the common law action, see above at pp. 23–4) and an allegation of waste might found an injunction or an action requiring a trustee to account.¹⁰⁵ At least in the case of wilful default, a trustee could even be liable to account for income or profits that would have been received without the default.¹⁰⁶ The popularity of the equitable action for account, due to this sort of flexibility, led to the demise of the common law action.¹⁰⁷ In other respects too the restrictions of the common law were laid aside. As noted at page 40, a corporation could not be a feoffee to uses, but the court of Chancery would recognise a corporation as a trustee.¹⁰⁸

Early Steps in Capital–Income Accounting

As noted at page 27, the charge and discharge system was the method of accounting for stewardship since medieval times. The double entry system appeared in the Italian city states as early as the fourteenth century but it seems that it did not secure a tentative foothold in England until the sixteenth century and it 'is doubtful whether a knowledge of Italian double entry was very wide spread' before the

¹⁰² Baker (2002, p. 309). ¹⁰³ Finch (1673–82, ch. IV).

¹⁰⁴ Finch (1673–82, p. 196). Another fruitful source of early law on the action for account in equity is in the *Equity Cases Abridged* under the headings 'Account' and 'Account and Discount'; *English Reports* (Vols. XXI and XXII, at pp. 831, 4, respectively).

¹⁰⁵ Finch (1673–82, p. 276). See also Helmholz (1998, pp. 165–6) and the cases referred to therein. Another fruitful source of early law on the action for waste in equity is in the *Equity Cases Abridged* under the heading 'Waste'; *English Reports* (Vols. XXI and XXII, at pp. 1131 and 4, respectively).

¹⁰⁶ Macnair (1998, pp. 224–5).

¹⁰⁷ Yale (1965, p. 24) and see also Baker (2002, p. 367).

¹⁰⁸ 'The artificial trust was not the same as a personal confidence reposed in a human conscience, and so a corporation could be a trustee' Baker (2002, p. 310).

seventeenth century.¹⁰⁹ The charge and discharge system was bound up with the accounting of stewards and so was focused on recording acquisitions and disposals and exposing dishonesty and negligence.¹¹⁰ It 'usually gave rise to the preparation of a cash statement ...'.

In contrast, identified attributes of double-entry bookkeeping are that the records are more comprehensive and orderly; duality of records provides a convenient check on the accuracy and completeness of the ledger; and, most important ... the records contain, in convenient form, the material needed to prepare the profit and loss account and balance sheet ...¹¹¹

While charge and discharge accounting was used almost universally in local government, the city corporations and agricultural activities, this was not the case with respect to non-agricultural activities. In surveying accounts from the sixteenth to the early nineteenth centuries, Yamey uncovered no examples of merchants' factors maintaining records in the charge and discharge form. But this did not mean that double entry was used, rather:

[m]erchants, farmers and others frequently kept their accounting records in forms apparently uninfluenced by the charge-and-discharge model. Where the double-entry system was not employed, the business man or his accountant was free to improvise a system to suit his particular requirements or his bookkeeping capacity.¹¹²

Apparently, during the period covered by this study the use of double-entry accounting was rare and 'not commonly used even by substantial merchants ... The widespread adoption of double entry in England was a feature of the nineteenth century, probably the latter part of it.'¹¹³

As land was still the dominant form of wealth and property in the seventeenth century and most land was held in stewardship of some sort, it is not surprising that the charge and discharge system of accounting was deeply rooted in the law applicable to trusts. As early as the mid-1500s there are reported cases in Chancery expecting trustees

¹⁰⁹ Littleton (1966, p. 212) dating the earliest textbook on double entry in English from the 1540s. See also Baxter (1980, p. 69).

¹¹⁰ Yamey (1977, pp. 11–12). ¹¹¹ Edwards (2000a, pp. 343–4).

¹¹² Yamey (1977, pp. 13–14). Yamey (1977, pp. 14–17) gives examples of the types of improvised accounts used. Most of these did not contain a profit and loss account and even where they did the account was balanced infrequently.

¹¹³ Yamey (1977, p. 17).

to maintain written accounts on a charge and discharge basis.¹¹⁴ In the 1670s Lord Nottingham noted the burden of proof in this regard:

If an account has been kept several years without any excepting to it, the discharge shall be allowed as well as the charge. Otherwise the general rule is that the discharge must be proved, unless it be for sums under 40 shillings expended by the defendant, in which case by the course of the Court the defendant's oath must be taken ...¹¹⁵

The connection between the legal obligation to account and the form of accounts was noted at pages 27–9. As the legal obligation to account remained virtually unchanged since medieval times, it is not surprising that the form of accounting for stewardship changed little in the period covered by this study. Indeed, the charge and discharge system for trust accounting has lasted to modern times.¹¹⁶

As noted at pages 23 and 29, as soon as rights to land are divided into time periods there is a need to distinguish between capital and revenue and this was evident in the early action for waste. As the typical settlement by way of trust involved such a division, trustees would need to apportion the charge and discharge between the rights of various beneficiaries. A trustee who did not perform this task accurately would, no doubt, be liable to account at the hands of the beneficiary that suffered. However, despite the fact that the apportionment must have happened,¹¹⁷ it is not a simple matter to identify a clear body of rules governing the apportionment between income and capital in the early law applicable to trusts and, perhaps, there was no such clear body of rules.

¹¹⁴ *Belyngham v. Everard* (6 July 1541); C 78/2/73. Thanks to Neil Jones for drawing my attention to this and other early Chancery cases on trusts. His transcript from the records of the case includes the following telling passage of the expectations of Chancery: 'And also the said Johanne having the charge and use of the said farms and stock of cattle hath not made nor kept any certain nor yearly book mentioning the increase and profits thereof by reason whereof the matter in variance for the same is so tangled and encumbered by her default and negligence that she cannot make any just certain and true account of the profits and increase of the said farms and stock nor can be certainly charged and discharged thereof in account after the course of audit.'

¹¹⁵ Finch (1673–82, p. 272). ¹¹⁶ Baxter (1980, p. 69).

¹¹⁷ In the context of trust accounts prepared in his youth, Baxter (1980, p. 69) describes the process that would have been required. He describes each side of the charge and discharge trust account being broken into various subcategories, including subcategories for income and capital beneficiaries, and the apportionment process of various payments received or made. This subcategorisation seems inevitable if the trustee is to be in a position to account individually to the various beneficiaries (something which the trustee would be liable to do in equity).

In the early equity textbooks of the eighteenth century, what there is regarding distinguishing revenue and capital amounts is usually under the heading of ‘preservation of contingent remainders’.¹¹⁸ Some of the aspects of ‘preservation of contingent remainders’ in the law applicable to trusts appear to bear analogy to ‘maintenance of capital’ in the law applicable to companies, which is discussed further below. Where a court felt there was a risk that a trustee would erode the capital, i.e. commit waste, a court might order the trustee to provide security or transfer the trust property to new trustees.¹¹⁹ Other problems in identifying early rules for apportioning between income and capital result from terminology and the form of most trust settlements. The early trust cases seem to refer to ‘profits’ or ‘revenue’ of a particular year rather than ‘income’.¹²⁰ Not surprisingly, these were also the terms commonly used in the tax laws covered by Chapter 1 of this study.¹²¹ Common use of the word ‘income’ in England seems to date from later; the late seventeenth century at the earliest and increasingly so in the mid-eighteenth century.¹²²

The second problem is that the *corpus* (capital or subject matter) of most trust settlements was not cash.¹²³ A trustee could not sell property settled on trust unless an express or implied power existed in the trust instrument. Simpson notes that the types of trusts used in family settlements had the effect of ‘perpetuating and consolidating the wealth

¹¹⁸ See generally Macnair (1998) and the textbooks referred to therein.

¹¹⁹ For an early example of this see *Mitchell v. Leighe* (25 April 1599); C 33/96 f 594v. In this case the court ordered ‘And to the end that the said extent and lands may be preserved and kept for the good purposes aforesaid and not be wasted or impaired by the plaintiff. It is thought meet and so ordered by his lordship that both parties shall agree upon some indifferent friends to whom the said lease and extent may be assigned of trust for good of the said wife and children.’ Thanks to Neil Jones for his transcript of this case.

¹²⁰ See generally Finch (1673–82). For earlier examples see *Belyngham v. Everard* (6 July 1541), *Joyner v. Beauforest* (2 June 1562), *Godderd v. Swayne* (29 April 1591), *Mitchell v. Leighe* (25 April 1599) and *South v. Foyle* (15 June 1658); C 78/2/73, C 78/22/11, C 33/81 f 520v, C 33/96 f 594v and C 78/747 No. 14, respectively. Thanks to Neil Jones for identifying these cases.

¹²¹ The word ‘profits’ was commonly used in subsidies from 1450; see above at p. 49.

¹²² See below at pp. 185–9 for the first reference to ‘income’ in an English tax law considered by this study. For an earlier use of the word ‘incomings’ in a Massachusetts tax law of 1646, see above at pp. 117–19.

¹²³ Money settlements were common but the amounts involved seem to be comparatively small. The largest uncovered by Helmholz in his study of ecclesiastical court records is £136, a tidy but not particularly significant sum. See Helmholz (1998, p. 161).

and power of the wealthy families . . .'. He continues by noting that these settlements in effect subjected:

a large portion of the land of the country to the management of a series of life tenants. At common law a life tenant had severely limited powers. He was liable for waste; thus he was unable to cut timber, or open new mines, or plough up ancient meadow land; at the same time he was under no liability to prevent permissive waste, so that he could let the land fall into poor condition, with impunity. He could only alienate the land for his own life, so that he was quite unable to tap the full capital value of one part of the settled land even if he intended to apply the capital to develop the remainder.¹²⁴

It was not until the Settled Land Act 1882 that land settled on trust could be sold out of the settlement by the life tenant.¹²⁵ So a typical form of capital gain (gain on the disposal of a settled asset) would not have commonly arisen and even where it did it would be clear from the terms of the trust settlement that sale proceeds represented the capital asset sold and, therefore, the *corpus* of the trust.¹²⁶

Nevertheless, some fragments of the rules that would make up the apportionment process between capital and income can be found before the Restoration. The common law concept of waste (as to which, see above at pp. 23–6) seems to be the prime example of the capital–revenue distinction at work during this period. For example, it seems to have governed acceptable depreciation of capital assets such as buildings. An action for waste would not only have been available against a trustee, it would also have been available against a beneficiary in possession of the trust property (such as where a life tenant removed timber). Lord Nottingham refers to a case involving the retiring of a loan with the ‘profits’ of a manor. It seems the profits were to be determined after ‘deducting £500 a year for maintenance’, i.e. after deducting (at least a notional) revenue amount.¹²⁷

Another situation where the courts provided an apportionment is where a person died with lands subject to mortgage. The ‘usual’ rule was to charge one third of the redemption funds to the life tenant and two-thirds to the remainderman.¹²⁸ More generally, many of the rules that

¹²⁴ Simpson (1986, p. 239). ¹²⁵ Simpson (1986, p. 285). See also Baker (2002, p. 293).

¹²⁶ See Baxter (1980, p. 70). ¹²⁷ Finch (1673–82, p. 343).

¹²⁸ See *Flud v. Flud* (1696) 22 ER 190. In *James v. Hailes* (1692) 22 ER 518 the proportion was two-fifths of principal and interest to the life tenant and three-fifths to the remainderman. See also *Long v. Short* (1617) 22 ER 190.

in equity would ultimately develop into what we now consider the capital—revenue distinction fall under the heading ‘Apportionment’.¹²⁹ This heading in the second volume of *Equity Cases Abridged*¹³⁰ makes reference to Coke’s commentary on Littleton (which derives from the early seventeenth century). The relevant passage of Coke deals with common law rules outlining the circumstances in which rent or a rent charge may be apportioned.¹³¹ It is difficult to explain the cases cited by Coke in terms of an apportionment of revenue and capital but they do demonstrate the willingness of the common law courts to make a division. This seems to be another area in which equity would adapt common law rules to its own use.

The rise of chartered trading companies would have an important influence on the form of accounts and, ultimately, the income tax base. This study has already noted the use of the concept of ‘corporation’ (an artificial legal person) in canon law (e.g. the monasteries) and local government (e.g. the chartered boroughs); see above at pages 21 and 38. In the sixteenth century the Crown began to grant royal charters of incorporation to companies of merchants, particularly those engaged in overseas trade. Edwards notes that:

An important stimulus for the creation of the *chartered* company was the need to provide a convenient vehicle for conducting overseas trade in circumstances where monopoly powers, conferred by the Crown, were an important condition for success.¹³²

Most of these companies had terminable stock. The merchants would contribute stock to a particular venture (in the case of overseas trading companies, a particular voyage) and when the venture was ended the assets would be divided. Some undivided amounts might be carried over from venture to venture but these were insignificant amounts. For example, Littleton notes 113 distinct voyages of this nature by the East India Company from 1600 (when the company was formed) until 1617.¹³³

While terminable stock was the norm in early chartered companies, there are early examples of companies with continuous stock or capital and, over time, with increasing frequency. Littleton notes examples from

¹²⁹ See below at pp. 398–9.

¹³⁰ These cases typically relate to the second half of the seventeenth and first half of the eighteenth centuries and are reproduced in Vol. XXII of the English Reports.

¹³¹ Coke (1628, cap. 12, §§ 222, 223). ¹³² Edwards (2000a, p. 345).

¹³³ Littleton (1966, p. 210). See below at p. 314 regarding the East India Company.

the mid-1500s and further notes that as early as 1613 the East India Company subscribed capital for four years.¹³⁴ He continues that in 1661, not long after the East India Company secured a new charter in 1657, the governor of the company stated:

that future distributions would consist of the profits earned (dividends) and not 'divisions,' as in the past. In other words, it was then possible – even necessary – to distinguish carefully between 'capital' and 'income'.¹³⁵

Once the stock becomes perpetual, the funds contributed to companies begin to look similar to a settlement of money. The company is to use the settled funds to pursue its trading and distribute the profit to the shareholders. Like life tenants, the shareholders, in principle, have a right to the profits measured by time, i.e. the time during which they hold the shares. This gives rise to a need to identify profits in excess of capital and to do this a profit and loss account is required that is balanced annually or at least periodically when distributions are made.¹³⁶ The earliest surviving balance sheet of the East India Company is from 1641. The raising of funds from the public also gives rise to a separation of ownership and management with a consequent pressure for the publication of financial information, i.e. an accounting.¹³⁷ But by the seventeenth century any maintenance of capital doctrine would have been embryonic, especially compared to the preservation of contingent remainders requirements of trust law, which would have been comparatively well developed. The later was a legal duty enforceable in the courts whereas the former was yet to reach the status of a legal requirement.

Even as the capital–revenue distinction might be viewed as becoming important for companies, it was beginning to be reflected in accounting practice (of individuals and companies) in any case. There are clear examples of distinctions between capital and revenue in accounting practice before the Restoration.¹³⁸ But the rule was rather one of

¹³⁴ Littleton (1966, p. 210). ¹³⁵ Littleton (1966, p. 211).

¹³⁶ While double entry accounting would facilitate the calculation of profit, not all companies adopted double entry and, even where they did, many companies did not balance their accounts regularly. See Yamey (1977, p. 21) and also above at note 112.

¹³⁷ See Edwards (2000a, p. 345).

¹³⁸ Yamey (2000, p. 137) refers to the books of Thomas Cullen (1616–1664), which reveal annual capital and income accounting with double-entry records.

diversity of practice than uniformity. For example, in reviewing accounts from 1500 to 1800 Yamey suggests that:

The balance of a typical profit-and-loss account [between 1500 and 1800] measured the change, from virtually all causes, in the recorded value of the capital in the business between the opening and closing dates. With few exceptions, the balances of all nominal accounts, the recorded profits or losses on all trading accounts (goods, voyages, etc.), the entries for the owner's additions to or subtractions from the resources of the firm, and gains or losses on asset revaluations, were entered in (or cleared through) the profit-and-loss account. Or, to express it differently, during the accounting period, or at its termination, all account balances other than those of assets, liabilities or capital were cleared through the profit-and-loss account, the balance of which, in turn, was transferred to the capital account.¹³⁹

Even an owner's personal expenses were 'almost invariably' cleared through the profit and loss account rather than entered in the capital account. However, certain capital transactions such as the receipt of legacies or payment of marriage portions were more likely to be entered directly in the capital account.

Asset valuation is another matter that is crucial in distinguishing capital and revenue. By reference to accounting textbooks of the seventeenth and eighteenth centuries, Yamey identifies three primary ways of dealing with asset valuations:

First, the asset is carried forward at original cost, the difference between 'revenue' payments and receipts (e.g., house repairs and rents received), which generally were entered in the asset account, being transferred to the profit-and-loss account at balancing date. Second, the asset account, containing entries from original outlay and other expenditures and receipts (including receipts from sales of part of the asset) is closed at balancing date, and the difference between total debits and total credits is carried forward as the account balance. There is no debit or credit to the profit-and-loss account. Thirdly, the asset is revalued, upwards or downwards, at balancing date; the revised value is carried forward in the account, and the balancing difference (including the gain or loss on revaluation) is carried to profit-and-loss account.¹⁴⁰

¹³⁹ Yamey (1977, p. 22).

¹⁴⁰ Yamey (1977, p. 23). Edwards and Boyns (1992, pp. 163–4) survey the accounts of an ironmaking partnership that kept records in the first half of the eighteenth century that distinguished between capital and revenue in order to enable profit to be computed.

But none of these three methods dominated accounting records from 1500 to 1800.

Sometimes different bases were used for different assets in the same ledger, and for the same asset at different balancing dates. As compared with modern practice, there was no inhibition against inconsistency, or against the inclusion of unrealised profits or losses on the revaluation of assets in the calculation of periodic profit, and no serious concern with the maintenance or any distinction between 'capital' and 'revenue' increments or decrements.¹⁴¹

The reference to realisation is particularly interesting and seems to cut across what may be considered one of the foundations of the charge and discharge method and the legal system for account, i.e. that only real transactions were recognised. At this time, the writing down of the cost of fixed assets for depreciation was virtually unknown. Yamey concludes:

From what has gone before, it is apparent that the business men and accountants in seventeenth- and eighteenth-century England did not keep their profit-and-loss accounts according to any strict concept of periodic profit. Realised as well as unrealised elements of profit or loss, business as well as non-business items, and capital as well as revenue items could be included in the profit-and-loss account . . .¹⁴²

So it seems the introduction of chartered companies of traders did not have an immediate impact on accounting practice but rather matters continued to progress slowly. The sixteenth and seventeenth centuries were periods of diversity of practice where we see some of the capital—revenue issues that would ultimately haunt the income tax being addressed in a non-uniform manner. There is clearly no uniform concept of what is 'profit' or 'income' at this stage let alone any consistency in how to calculate it in practice.

In particular, a lease premium and certain building expenses were written off over a number of years. In other respects the treatment was inconsistent, e.g. the carrying of losses 'to the closing value of stock, and carried forward, instead of being written off to capital'.

¹⁴¹ Yamey (1977, p. 23). With respect to accounting in the coal industry, see also Hatcher (1993, ch. 8). In particular, Hatcher (1993, p. 305) notes that 'few if any colliery accounts drawn up before 1700 were designed to produce reckonings of profits acceptable by present-day standards, and there was no true profit and loss or capital accounting, and scarcely any signs of genuine double entry bookkeeping . . .'.

¹⁴² Yamey (1977, p. 24).

2.3 The 1660s Including the Dutch and French Wars

The difficult reign of Charles II began with the Restoration in 1660. His accession saw renewed agitation between Crown and Parliament that would last throughout his reign and set the foundations for the Glorious Revolution. The major part of the tension stemmed from Charles's Catholic sympathies, which naturally allied him to the Catholic French and against the Protestant Dutch. The alliance of the Protestant Parliament was, however, in the opposite direction. The first decade of Charles II's reign was particularly turbulent and is interesting because it demonstrates the intensity of colonial rivalries and how European battles now inevitably spread to the colonies. This is also a period in which the Crown took an active role in colonial expansion, with the granting or renewing of royal charters in Carolina, Connecticut, Rhode Island and New York.

The Dutch had begun a trade in West African slaves to the New World colonies and in 1663 the English decided to challenge this trade through two measures. In 1663 an existing chartered company with trading rights to West Africa was re-chartered as the Royal African Company with the Duke of York, later James II, as its governor.¹⁴³ This company undertook to provide a supply of slaves to the West Indian colonies. Second, the English captured West African bases of the Dutch slave trade. Next, in 1664, the English captured New Netherlands on the east coast of North America and renamed it New York, with the Duke of York as proprietor. The result of these hostile activities was the Second Anglo-Dutch War of 1665–7. In 1666 the French joined the war on the Dutch side. To this were added the English calamities of the Great Plague (1665–6) and the Great Fire of London (1666).

All of these events impacted on the development of direct taxation in both England and its colonies. This heading first considers the development of direct taxation in England during the 1660s. It then turns to similar developments in the colonies. This was a particularly difficult time for a number of the West Indian colonies, which as a result of the disputes were occupied by the French for a number of years.

Direct Tax Developments in England

This subheading first considers direct tax developments of the central government of England during the 1660s. It then accounts for

¹⁴³ Hair and Law (1998, p. 255).

developments in regional levies from the settling of the Poor Rate in 1601 (see above at pp. 75–7) until the 1660s.

Subsidies, Assessments and the Hearth Tax

The English Civil War and the Commonwealth had left England with a large debt. Further, with the Restoration the forms of revenue available to Charles II compared to former monarchs were limited. There had been extensive alienation of Crown lands and feudal tenures had been abolished.¹⁴⁴ However, the form of taxation imposed to raise an agreed revenue for the king largely followed its predecessors.¹⁴⁵ The fixed-yield assessments of the Commonwealth continued and formed the basis of the direct tax system (regarding these assessments see pp. 110–14).¹⁴⁶ The grants were made periodically during 1660.¹⁴⁷ These were supplemented with a graduated poll tax.¹⁴⁸ This law was modelled on the earlier poll taxes and, particularly, that of 1641, being imposed at a flat rate generally but with additional graduated rates according to the rank of the person. People without the ranks mentioned were taxed 40s if they had £100 per annum and proportionately less to a threshold of £5 and residually there was a flat poll tax. The tax was essentially charged on an inhabiting basis.

¹⁴⁴ 'In law, the king's prerogative to levy taxes without the formal consent of his subjects, which derived from feudal custom, no longer existed, and such taxes were in theory never levied again' Jurkowski *et al.* (1998, p. lxi).

¹⁴⁵ Kennedy (1964, p. 24) notes that '[e]xtraordinary supply ... was occasional, prior to the Civil War, and was provided by occasional direct taxes. But during the Interregnum, the direct tax became annual in face of increased annual expenditure, indirect taxes in the form of Excise duties on commodities were imposed for war-revenue ... Between 1660 and 1689, a return to the old distinction was attempted, and occasional extraordinary revenue voted for special occasions; but temporary Customs and Excise duties were imposed along with direct taxes to provide this revenue ...'.

¹⁴⁶ Jurkowski *et al.* (1998, pp. lvi–lvii).

¹⁴⁷ The first of these was An Act for putting in execution an Ordinance mentioned in this Act (12 Char. II. c. 2) (1660) (UK); United Kingdom (1810–1828, Vol. V, p. 179). This act simply put into force an ordinance of the Lords and Commons dated 8 June 1660 providing for a monthly assessment of £70,000 on England. The ordinance is reproduced in *Thomason Tracts 1640–1661* (1981, No. E. 1075(6) Reel 160) and was in the usual form for a monthly assessment. The other acts for 1660 cited earlier acts and so either directly or indirectly referred to this ordinance. See Soos (1997, p. 96) referring to the ordinance and acts for 1660, which is clearer than Jurkowski *et al.* (1998, pp. 257–9).

¹⁴⁸ An Act for the speedy provision of money for disbanding and paying off the forces of this Kingdom both by Land and Sea (12 Char. II. c. 9) (1660) (UK); United Kingdom (1810–1828, Vol. V, pp. 207–26). See also Jurkowski *et al.* (1998, pp. lix, 255–7).

A further monthly assessment was granted in 1661 over an eighteen-month period.¹⁴⁹ The assessment continued to be by pound rate on the basis of real and personal estate within each subdivision of the primary divisions of the county with the usual proviso that the commissioners might proceed in the 'most just and usual way'. The 1661 law expressed an intention to return to the use of pre-Commonwealth subsidies and stated that there would be no future monthly assessment.¹⁵⁰

In 1662 Parliament decided to supplement Charles II's limited revenue with a tax that became known as the hearth tax.¹⁵¹ This was the first of what eventually became known as the 'Assessed Taxes' (see below at p. 324). It was initially imposed at the rate of 2s per hearth levied on the occupants of houses worth an annual value of 20s or containing at least £10 worth of movable goods. The hearth tax was unpopular but continued to be levied during the reigns of Charles II and James II. It was often farmed out, i.e. collected by private individuals. The tax was repealed in 1689.¹⁵²

In accordance with the terms of the 1663 monthly assessment, in 1663 Parliament granted Charles II four subsidies rather than further monthly assessments.¹⁵³ The grant was in the traditional form and so charged the value of movables 'as well within this Realm as without', the value of debts and the yearly value of land 'within Ancient Demesne and other places privileged as elsewhere'. The absentee inhabitant provision charging on the basis of source was reinstated as was the provision requiring assessment in the place of residence. Further, the provision requiring assessment of movables or land but not both was reinstated.¹⁵⁴ In essence, this was a return to the form of subsidy last seen in 1641.

¹⁴⁹ An Act for granting unto the Kings Majesty twelve hundred and threescore thousand pounds to be assessed and levied by an assessment of threescore and ten thousand pounds by the month for eighteen months (13 Char. II., Session 2, c. 3) (1661) (UK); United Kingdom (1810–1828, Vol. V, pp. 325–48). See also Jurkowski *et al.* (1998, p. 260).

¹⁵⁰ 12 Char. II. c. 3; United Kingdom (1810–1828, Vol. V, pp. 326, 348).

¹⁵¹ An Act for establishing an additional Revenue upon His Majesty His Heirs & Successors for the better support of His and their Crown and Dignity (14 Char. II. c. 10) (1662) (UK); United Kingdom (1810–1828, Vol. V, pp. 390–3).

¹⁵² An Act for the taking away the Revenue arising by Hearth-Money (1 Will.&Mar. c. 10) (1688) (UK); United Kingdom (1810–1828, Vol. VI, pp. 61–2). See also Jurkowski *et al.* (1998, pp. lxii–lxiii, 261–5).

¹⁵³ An Act for granting Four entire Subsidies to His Majesty by the Temporality (15 Char. II. c. 9) (1663) (UK); United Kingdom (1810–1828, Vol. V, pp. 453–81). See also Jurkowski *et al.* (1998, pp. 265–6).

¹⁵⁴ 15 Char. II. c. 9; United Kingdom (1810–1828, Vol. V, pp. 453, 454, 473–4).

The yield of the subsidies was viewed as poor and in 1665 there was a return to the monthly assessment system to fund the war against the Dutch.¹⁵⁵ The pound rate system was again used with its apparent limitation to the basis of source ('Estates both real and personal within the Limits Circuits and Bounds of their respective Parishes and Places'). Debts were still not expressly included. In the usual way the pound rate could be overridden.¹⁵⁶ The grant was supplemented in 1665 and 1666 with other assessments that were to be levied according to the rules of the main grant.¹⁵⁷

These assessments were supplemented with a tax on movables and certain income with a residual poll tax granted in 1667 to continue the war with the Netherlands and France.¹⁵⁸ This tax was imposed under a number of heads, the first head imposed on persons and corporations etc. 'within this Kingdom' a 1 per cent tax on the value of debts receivable (net of debts owing) 'within the Realm or without'. Certain debts owed by the king were excluded. The second head was a 5 per cent (or 15 per cent if not subject to monthly assessment) tax on wages of public officers and servants. The third head was a 15 per cent tax on pensions, stipends and annuities paid by His Majesty. The next head was a 10 per cent tax on receipts of legal and medical practitioners, subject to a standard deduction of one third of receipts for expenses. The next head was a 5 per cent tax on servants wages. The next head was a 12d. poll tax. In the usual way, aliens were to pay double. The law proceeded to specify certain flat amounts for persons holding particular positions. Persons with offices were to be assessed 'where the said Office is executed'. Otherwise persons were assessed in the place of their residence.

Developments in Regional Levies

The ancient levies in the form of the County Rate and the Constables' Rate were discussed at pages 52–3. The development of the Poor Rate and, particularly, the law of 1601 was discussed above at pages 73–7. At that

¹⁵⁵ An Act for granting a Royal Aid unto the King's Majesty of Twenty four hundred threescore and seventeen thousand and five hundred Pounds to be raised levied and paid in the space of Three Years (16&17 Char. II. c. 1) (1665) (UK); United Kingdom (1810–1828, Vol. V, pp. 525–52). See also Jurkowski *et al.* (1998, pp. 266–7).

¹⁵⁶ 16&17 Char. II. c. 1; United Kingdom (1810–1828, Vol. V, pp. 547, 550).

¹⁵⁷ See Soos (1997, p. 96) and the references cited therein.

¹⁵⁸ An Act for raising Moneys by a Poll, and otherwise towards the Maintenance of the present War (18&19 Char. II. c. 1) (1667) (UK); United Kingdom (1810–1828, Vol. V, pp. 584–97). See also Jurkowski *et al.* (1998, pp. lix, 267–8).

point it was also noted that during Tudor times the English Parliament began to increasingly impose specific rates for specific regional purposes. The Poor Rate was slow to rise in importance and Slack reports that by 1660 perhaps only one third of parishes were accustomed to raising it.¹⁵⁹ But after a slow start, the Poor Rate would come to dominate local taxation. As the Poor Law Commissioners noted in 1843:

all rates subsequently created have been moulded upon the Poor's Rate; and even the more ancient rates have in practice lost their distinctions, and are imposed on the same basis as the Poor's Rate.¹⁶⁰

Of the ancient rates to be affected by the Poor Rate the first was the Constables' Rate. As noted at page 52, the early basis of assessment of this rate is not clear.

The persons on whom this tax was imposed, whether it was imposed in respect of property, and in what proportion, were matters which until the 13 & 14 Car. II. c. 12, entirely depended on custom; the general Town Rate never having been regulated in these respects by statute as the levies in Hundreds and in Counties occasionally were.¹⁶¹

The 1843 Report of the Poor Law Commissioners continues:

Gradually townships became very much identified with parishes. In the reign of Henry VIII, the parish begins to appear as the district for taxation, and after the institution of the Poor's Rate as a parochial tax, the Constables's Rate rapidly lost its ancient character, not only as a Township tax, but also in regard of its mode of imposition on individuals; and 13 & 14 Car. II., probably effected no great practical change, in identifying its mode of imposition on persons and in respect of property, with the Poor's Rate.¹⁶²

The statute of 1662 referred to, provided further regulation of the poor and imposed certain duties on constables and tithingmen to remove 'Rogues Vagabonds and Sturdy Beggars to Houses of Correction or the

¹⁵⁹ Slack (1995, p. 18).

¹⁶⁰ United Kingdom (1843, p. 13). See also Seligman (1895, p. 51); 'In England the whole system of local taxation is based on the poor rate ...'.

¹⁶¹ United Kingdom (1843, p. 6). The 1843 Report of the Poor Law Commissioners suggests that the earliest statutes dealing with the Constables' Rate 'frequently refer to the tax as already existing ... but there is apparently no definition extant of the manner of its imposition'. The statutes referred to date from the reign of Henry VIII. See generally United Kingdom (1843, Appendix A, p. 32).

¹⁶² United Kingdom (1843, p. 6).

Work-houses' mentioned in the law. To meet their expenses, the constables and tithingmen were, with the churchwardens and overseers of the poor, empowered to impose rates on inhabitants according to the poor law.¹⁶³

European Disputes in the Colonies

In many ways, during the early development of the colonies, European disputes caused greater hardship to the colonists than to those living in Europe. The colonists often faced attack and sacking, if not occupation, and at the least disruption in essential trade supplies, in some cases bringing them to the brink of starvation. The 1660s was a particularly turbulent time as the British seized New Amsterdam while the Dutch captured English settlements on the north coast of South America and the French captured most of the English colonies in the Caribbee Islands. This heading first considers direct tax developments in the English American colonies during this time and then developments in the English West Indian colonies.

American Colonies

The 1660s were less disruptive in the American colonies than they were to the West Indian colonies but there were some developments in America, particularly in the context of expansion. The poll tax continued in a settled manner in Virginia and Maryland. However, in 1669 this settled system became somewhat confused in Maryland with the public charge being 'Leavied by Equall Assessment upon the persons & Estates of the Inhabitants of this Province . . .'.¹⁶⁴ As noted at pages 115–16, this was the formula used in the 1650 charge for raising funds for the military. Whether in practice this system involved more than just a poll tax is difficult to say but the express terms of the law would seem to have required 50 per cent of the tax to be collected by way of a poll tax and 50 per cent by way of a property tax.¹⁶⁵ A mixture of poll tax and tax on estates would be broadly consistent with those imposed in many of the New England colonies at the time and even have similarities with the

¹⁶³ An Act for the better Reliefe of the Poore of this Kingdom (14 Char. II. c. 12) (1662) (UK) s. 18; United Kingdom (1810–1828, Vol. V, p. 401).

¹⁶⁴ An Act for the payment of the Publick Charge of the Province (April/May 1669) (Maryland); Maryland Historical Society (1883–1972, Vol. II, p. 235).

¹⁶⁵ As discussed above at pp. 115–16, Maryland had some experience with property taxes.

mixture of poll taxes and monthly assessments in use in England at the time.

Carolina was chartered in March 1663.¹⁶⁶ It took the form of a proprietary charter, similar in form to that of Maryland. Virginians had settled the northern coast of Carolina before the granting of the charter whereas Barbadians largely settled the southern coast, starting with a small settlement in 1670.¹⁶⁷ In North Carolina a governor was initially appointed for the county of Albermarle and a representative assembly met there from 1665.¹⁶⁸ It seems that no general direct taxation was levied in this part of the colony prior to the Glorious Revolution. Ashe notes that:

The expenses of government had from the first been cast on the Lords Proprietors, at least to a great degree. The salaries of officers were paid from the quit rents by the receiver-general and by fees.¹⁶⁹

As for the southern settlement of Carolina, a separate governor was appointed for this settlement in 1669, just prior to and in anticipation of its establishment.¹⁷⁰

There were no particular developments in the direct tax systems of the New England colonies during the 1660s but there were some other developments worthy of note. With the restoration of Charles II in England, Connecticut was granted a new charter, which included New Haven as part of Connecticut.¹⁷¹ Rhode Island was granted a royal corporate charter in 1663 by which time its population was still less than 2,000.¹⁷² It is reasonably clear that Rhode Island imposed taxes during the 1660s according to estate.¹⁷³

In 1663 Charles II made a grant to his brother, the Duke of York (later James II), of an enormous territory that includes what is now

¹⁶⁶ Simmons (1976, p. 56). ¹⁶⁷ Simmons (1976, pp. 59–60).

¹⁶⁸ Ashe (1925, Vol. I, pp. 53, 90).

¹⁶⁹ Ashe (1925, Vol. I, p. 392). As to fees, there was a law as early as 1669 imposing a charge on court actions the proceeds from which were intended to defray the general cost of the assembly. See *An Act Concerning the Charge of the Governor and Council* (1669) (North Carolina); *North Carolina (1886–1905, Vol. I, p. 185)*. A substantial part of the laws of North Carolina before 1715 have been lost. The codification of 1715 contains some of these laws but further attempts to uncover earlier laws have proved fruitless; *North Carolina (1886–1905, Vol. XXIII, 'Prefactory Notes')*.

¹⁷⁰ Governor William Sayle's commission referred to the part of the province of Carolina 'that lies southward and westward of Cape Carteret . . .' Ashe (1925, Vol. I, p. 17).

¹⁷¹ Simmons (1976, p. 53). ¹⁷² Simmons (1976, pp. 24, 111).

¹⁷³ For example, see *Rhode Island (1856–65, Vol. II, p. 288)* with respect to a law of 1669.

New York State. Part of the grant overlapped several other chartered boundaries. This territory also encompassed, at one extreme, the Dutch settlement of the New Netherlands, which by 1630 had evolved from fur-trading factories into a settlement.¹⁷⁴ It also encompassed, at the other extreme, the former Swedish colony on the Delaware, settled in the late 1630s but taken over by the Dutch in 1655. In 1664 a deputy governor with a number of officials and a contingent of soldiers was sent to the area. Their first task was to deal with the New Netherlands (including the Delaware colony), which quickly capitulated. The second task was to settle disputes regarding boundaries with the New England Colonies.¹⁷⁵

It seems that at first the laws of the conquered Dutch colonies were continued, including the tax laws.¹⁷⁶ The grant to the duke entitled him to impose laws and taxation without the consent of an assembly. The duke caused a set of laws to be drafted and sent to the colony, although it seems that until the 1670s these laws were only applied to the English portion of the province of New York, known as Yorkshire (including Long Island, Staten Island and Westchester).¹⁷⁷ The 'Duke of York's Laws' (as they are known) included various fundamental matters such as the election of town officials and religious matters. They also provided for the raising of taxes. Under the 'Assessments' head of the law it was provided that:

All assessments shall be made by the Constable and the Eight Overseers of the Parish proportionable to the Estate of the Inhabitants in the Town or parrish where such Assessments is to be made . . . provided that no man shall be assessed for any Estate Reall or personall which lyeth not within the same Town or Parrish where he is Assessed.¹⁷⁸

¹⁷⁴ Simmons (1976, p. 152). ¹⁷⁵ Simmons (1976, pp. 60–1).

¹⁷⁶ See, for example, Daugherty (1938, pp. 12–13). At the time of conquest it seems there was no direct taxation in Delaware, which largely relied on indirect taxes, although there were earlier examples of land (quit) rents and taxes; see Daugherty (1938, pp. 7–12). Similarly, see Schwab (1890, p. 18) noting that in 1654 the Dutch started imposing a land tax and a tax on certain animals in New York.

¹⁷⁷ New York (1894, Vol. I, p. xii). As Delaware was not part of Yorkshire, it seems that these laws and, in particular, the tax laws did not apply to Delaware. This is consistent with Daugherty (1938, p. 13) who makes no mention of any direct tax in Delaware in the 1660s.

¹⁷⁸ Duke of York's Laws (1665–75) (New York); New York (1894, Vol. I, p. 14).

Under the heading 'Publicke Charges' the Duke of York's Laws provided:

That every Inhabitant within this Government shall Contribute to all charges, both in Church and Coloney; whereof he doth or may receive benefit, and every Inhabitant that doth not voluntarily Contribute proportionably to his Ability, with the rest of the same Towne to all Common Charges both Civil and Ecclesiasticall, shall be compelled thereunto by Assessment and Distress . . . Lands and Estates of all Men wherever they Dwell shall be Rated for all Town Charges, both Civill and Ecclesiasticall (as aforesaid) where the Lands and Estates, shall Lye, and their Person where they Dwell . . .¹⁷⁹

The reference to voluntarily contributing according to ability seems to have been lifted from the 1650 Connecticut tax law (see above at p. 119) and is reminiscent of the early development of the English Poor Rate (see above at pp. 74–6). The New York tax law also seems to impose tax on a source or situs basis and this is consistent with the English monthly assessments, which had been revived in the mid-1660s. Clearly the New York tax also contemplated taxation of persons, i.e. a poll tax. This is confirmed later in the law. It provided that each year after 1 June 1665 the high sheriff was to require the constable of each town to get the overseers to make a list of all males over 16 years 'and a true Estimation of all personall and Reall Estates . . . according to Just valuation . . . and all other known Estate whatsoever, as also visible Estate either at Sea, or on Shoar . . .'. The law proceeded to value such males at £18 and similarly value cattle and certain other animals per head.¹⁸⁰ The whole approach is consistent with that in New England although there was no provision for the taxation of workers according to their profits or gains, i.e. the poll tax was a flat amount. These rules were to apply to both colonial and local assessments.¹⁸¹ As in the other colonies, the payment of taxes was to be in specie, typically corn.¹⁸²

In mid-1664, the Duke of York granted two of his followers land out of his New York territory (but not government because that was beyond the duke's power) that became New Jersey. The government of this new colony was based on 'Concessions and Agreements' that had been drawn

¹⁷⁹ Duke of York's Laws (1665–75) (New York); New York (1894, Vol. I, p. 59).

¹⁸⁰ Schwab (1890, p. 38) notes that under the Duke of York's Laws '[p]roperty was assessed and taxed, appearing in the rolls under the heads of land, houses and cattle'.

¹⁸¹ Duke of York's Laws (1665–75) (New York); New York (1894, Vol. I, pp. 60–1).

¹⁸² Duke of York's Laws (1665–75) (New York); New York (1894, Vol. I, p. 92).

up for the Carolina Colony but not implemented. Among other things, the colonists were promised self-government through an elected assembly. Land was granted but subject to a small quitrent.¹⁸³ The first New Jersey Assembly met in 1668 and enacted a law apportioning 'rates' amongst the towns of New Jersey but the individual tax base was not specified.¹⁸⁴

West Indies

With the Restoration in 1660, the competing proprietary claims to the Caribbee Islands once again became an issue. Governor Searle of Barbados (who had been appointed during the Commonwealth, see p. 123) quickly left (or died) and, after some dispute, the President of the Barbados Council (Walrond) took over in the absence of a governor. His presidency lasted from 1660 to 1663 and during this period there were some developments in direct taxation in Barbados. One important development was the imposition of a tax in 1660 that reached merchants, storekeepers and retailers and it seems that this set a precedent for the future (see below at pp. 162–3 and 213).¹⁸⁵ Tax continued to be imposed on land per acre.¹⁸⁶ Tax was also imposed on land for maintaining roads and the system used seems to have largely followed that in England (as to which see the discussion above at pp. 72–3). Each vestry was to appoint surveyors who were to estimate the money needed and then the vestries were to 'assess the Parishioners so many able Labourers, Servants, Slaves, or if need be, Goods, or both Labourers and Goods, as their several proportions of Land will admit ...'. The reference to slaves is interesting and demonstrates the influx of slave labour that was occurring at this time.¹⁸⁷

In the early 1660s, the Crown set about settling the disputes over proprietary claims to the Caribbee Islands. In settling these disputes, the various settlements became crown colonies but a permanent revenue

¹⁸³ Simmons (1976, pp. 63–4). ¹⁸⁴ New Jersey (1758, pp. 81, 90).

¹⁸⁵ An Act of Imposition or Levy, upon all Merchants, Store-housekeepers, and Retailers within this Island (12 February 1660/1) (Barbados); Hall (1764, p. 468 [Law No. 193]). It seems that a public copy of this law has not survived, see note 74.

¹⁸⁶ An additional Act for the more speedy levying, and collecting the five pounds of Sugar per Acre (12 February 1660/1) (Barbados); Hall (1764, p. 468 [Law No. 194]). It seems that a public copy of this law has not survived, see note 74.

¹⁸⁷ An Act for the better Amending, Repairing, and keeping clean thee common High-ways and known Broad-paths within this Island, leading to Church and Market; and for laying out new Ways, and turning old Ways where it shall be needful (9 January 1661/2) (Barbados); Hall (1764, p. 45 [Law No. 32]).

(in the form of a 4.5 per cent duty on exports to be passed by the settlement Assemblies, including Barbados) was to be secured from them to be paid for certain periods to various of the claimant parties to the disputes and then residually to the Crown.¹⁸⁸ This revenue was to be 'in lieu of the land rents and proprietary dues formerly payable to the Earl of Carlisle'.¹⁸⁹ In the result, the Carlisle proprietorship was re-established and this also revived Lord Willoughby's rights under the 1647 lease (as to which see above at p. 122) until 1668.

So in 1663 Charles II again appointed Lord Willoughby Governor of Barbados but it seems that his government extended to the other Caribbee Islands as well.¹⁹⁰ In this year Willoughby secured passage of the permanent custom of 4.5 per cent by the Barbados Assembly.¹⁹¹ It will be recalled that similar levies had been raised in Barbados since at least the time of the English Civil War (see above at p. 122). Despite the terms of this grant, which appeared to make the proprietor/Crown responsible for the cost of government (i.e. to be paid out of this tax), both Willoughby and later the crown appropriated the tax to themselves leaving the planters 'obliged to pay extra taxes to carry on the government'.¹⁹² Burns suggests that the remaining Assemblies of the Caribbee Island colonies passed similar laws under the governorship of Lord Willoughby during 1664.¹⁹³ This was certainly the case for Nevis.¹⁹⁴

As mentioned at page 124, Jamaica remained under military government until after the Restoration. In 1661 the Restoration government established a civil constitution, which authorised the governor to set up a council.¹⁹⁵ This was the end of military government and it was not long before this council began passing laws, including tax laws. Minutes of the council from 1661 include, amongst various forms of indirect taxes, a duty on the importation of strong liquors.¹⁹⁶ A new governor was appointed in 1662 with instructions to summon an assembly, which met for the first time in 1664. These instructions also included a promise of customs exemptions and land grants to attract settlers.¹⁹⁷

¹⁸⁸ Williamson (1929, pp. 241–2). ¹⁸⁹ Burns (1954, p. 302).

¹⁹⁰ Burns (1954, pp. 299, 302).

¹⁹¹ An Act for settling an Impost on the Commodities of the growth of this Island (12 September 1663) (Barbados); Hall (1764, p. 55 [Law No. 36]).

¹⁹² Harlow (1926, p. 147). ¹⁹³ Burns (1954, p. 302).

¹⁹⁴ An Act for settling an Impost on the Commodities of the growth of this Island (26 April 1664) (Nevis); CO 154/1, p. 13 and CO 185/1, p. 150.

¹⁹⁵ Burns (1954, p. 315).

¹⁹⁶ 'Minute of the Council from June the 18th to the 15th of July 1661'; CO 139/1, p. 12.

¹⁹⁷ Williamson (1929, p. 244).

Later in 1664 Thomas Modyford (leader of an anti-Willoughby faction in Barbados) was appointed governor of Jamaica. In his move from Barbados he took with him 800 settlers to boost the Jamaican colony.¹⁹⁸

Unlike the other West Indian colonies, Jamaica was not subject to the 4.5 per cent imposition on the export of locally produced products.¹⁹⁹ However, the duty on the importation of strong liquors was confirmed (or reimposed) in 1664.²⁰⁰ Further, in this year a poll tax was imposed 'upon any person belonging to or Inhabiting this Island being above the age of 12 years . . .'.²⁰¹ The law proceeded to impose tax on land at three pence per acre. Apparently this was a continual tax imposed from year to year. Modyford fell out with the Jamaican assembly and dissolved it. The assembly was not recalled until the 1670s, after the appointment of a new governor, and hence no further tax laws were passed until that time.²⁰²

War with the Dutch followed the capture of New York (New Netherlands) by the Duke of York (later James II) and, as mentioned, this war spread to the West Indies. In 1665, during this war the Dutch attacked the English at Barbados. Under attack Barbados imposed a tax of four pounds of sugar per acre of land.²⁰³ However, it was only after the French entered the war in January 1666 that the English lost colonies. The French captured St Kitts²⁰⁴ and Antigua in 1666 and Montserrat in 1667 and other islands were sacked.²⁰⁵ The main English military base in the region was at Barbados, which was not taken but continued to raise taxes to fortify the island against attack and to mount

¹⁹⁸ Williamson (1929, p. 244). ¹⁹⁹ Harlow (1926, p. 116).

²⁰⁰ Act for the raising of a Publique Revenue out of all strong Liquors imported or to be imported into the Island (undated, assumed 1664) (Jamaica); CO 139/1, p. 58.

²⁰¹ An Act for the Speedy Raising of a Publique Treasure (undated, assumed 1664) (Jamaica); CO 139/1, p. 56. Much of the transcript of this law is difficult to decipher.

²⁰² Burns (1954, pp. 316–17).

²⁰³ An Act for the speedy raising and collecting of five hundred thousand pounds of Sugar, towards defraying the charges of forifing this Island, against the present danger (10 February 1665/6) (Barbados); Hall (1764, p. 472 [Law No. 218]). It seems that a public copy of this law has not survived, see note 74. See also Harlow (1926, p. 164).

²⁰⁴ St Kitts had been colonised by both the French and the English. The English held an undivided half in the middle of the Island while the French held two quarters at the ends of the island.

²⁰⁵ Burns (1954, pp. 306, 308).

a campaign to relieve the captured islands.²⁰⁶ As with previous levies, it seems likely that these taxes were raised per acre of land or per head (i.e. a poll tax).

The English recaptured Antigua and Montserrat in 1667.²⁰⁷ The treaty of Breda was signed in July 1667 under which St Kitts was also to be returned by the French.²⁰⁸ However, this handover did not occur until 1671.²⁰⁹ After the signing of the treaty Barbados continued to raise funds for fortifications in the form of land and poll taxes.²¹⁰ Antigua also resumed the imposition of taxes after its recapture including the (re)imposition of the permanent custom of 4.5 per cent.²¹¹ In 1668 Antigua also passed an apparently continuous law that imposed direct taxes in a similar manner to the Jamaican imposition of 1664. The law required that 'all persons whatsoever who are or shall be possessed of any Lands within this Island, Exceeding the quantity of fifty Acres Shall pay ... annually ... one pound of Tobacco or Sugar per Acre ...'.²¹² Persons possessing no land were required to pay fifty pounds of sugar or tobacco per head. The law proceeded to impose some excises.

Jamaica was not captured during the wars of the late 1660s and as mentioned above, Governor Modyford called no assembly during this period. During this period Modyford enlisted the assistance of buccaneers such as Henry Morgan to maintain the security of Jamaica and attack the enemy. The Spanish disputed English possession of Jamaica until 1670 when the Treaty of Madrid confirmed English possession in return for suppression of the buccaneers. In the following

²⁰⁶ An Act for the raising a present levy of Sugar, to defray the charges indent to the making of Breast-works, at the several Landing-places about this Island, to answer the present occasion (14 April 1666) (Barbados) and An Act for the raising a sum of Goods for the needful public use of this Island; and other his Majesty's affairs in the relieving of the Leeward-Islands (9 May 1667) (Barbados); Hall (1764, pp. 472, 473 [Law Nos. 221 and 228], respectively). It seems these laws have not survived, see note 74.

²⁰⁷ Burns (1954, p. 311).

²⁰⁸ Simmons (1976, p. 154) and Williamson (1929, pp. 242–3).

²⁰⁹ Dunn (1973, p. 124) and see also Burns (1954, pp. 340–1).

²¹⁰ For example, An Act requiring the execution of the former Acts for four pounds of Sugar per Acre, fifteen pounds of Sugar per head, and six pounds of sugar per Acre; and for five pounds of Sugar per Head, and two pounds of Sugar per Acre (29 August 1668) (Barbados); Hall (1765, p. 475 [Law No. 268]). It seems that a public copy of this law has not survived, see note 74.

²¹¹ An Act for the settlement of the Custom or Duty of four & an half per Cent (19 May 1668) (Antigua); CO 154/1, p. 28 and CO 8/1, p. 4.

²¹² An Act for the Rayseing of a publicque Treasury (15 September 1668) (Antigua); CO 154/1, p. 32 and CO 8/1, p. 6 (modernised by the author).

year Governor Modyford, who had ‘patronised’ the buccaneers, was recalled.²¹³

2.4 The Popist Threat

The 1670s gave rise to events that would once again lead to increasing tension between the English Crown and the English Parliament. These included a secret treaty with France by which Charles II would receive funding in return for support against the Dutch, which was underlined by the Third Anglo-Dutch War of 1672–4. There was also the Test Act of 1673 by which all persons filling any civil or military office were required to make a declaration against transubstantiation and to receive Holy Communion according to the rites of the Church of England within three months of taking office.²¹⁴ This was followed in 1678 by a similar requirement imposed on peers and members of the House of Commons.²¹⁵ Charles violated these laws by appointing Catholics to office, arguing that, as king, he had the power to dispense with any penalties under the laws, a power that was ultimately upheld by the court of Kings Bench.²¹⁶

The English direct tax system continued to develop during the 1670s but came to an abrupt halt at the end of that decade. From 1681 Charles II ruled without Parliament until his death in 1685. His Catholic brother, James II, fared no better, receiving no grants of direct taxation by way of subsidy or poll tax during his reign. James II had little toleration of autonomy in the colonies and he set in place a major reconstruction of the New England colonies designed to reinforce this position. Matters came to a head in mid-1688 when James II’s wife apparently gave birth to a male heir to the throne (James ‘The Pretender’). Some disputed the legitimacy of the birth and many others were concerned at the prospect of a Catholic heir to the throne. In the dispute that followed, William of Orange, Stadhouder of Holland, was

²¹³ Williamson (1929, pp. 245–6).

²¹⁴ An Act for preventing Dangers which may happen from Popish Recusants (25 Char. II. c. 2) (1673) (UK); United Kingdom (1810–1828, Vol. V, p. 782). ‘Transubstantiation’ is a substantial tenant of the Catholic faith involving the belief that bread and wine is transformed into the body and blood of Christ by way of consecration during the Mass.

²¹⁵ An Act for the more effectually preserving the Kings Person and Government by disabling Papists from sitting in either House of Parlyament (30 Char. II., Session 2, c. 1) (1678) (UK); United Kingdom (1810–1828, Vol. V, p. 894).

²¹⁶ *Godden v. Hales* (1686) 89 ER 1050.

invited by a number of prominent protestants to take the English throne. The result was the Glorious Revolution.

This heading is broken into three subheadings. The first considers developments in the way of direct taxation in England during the later years of the reign of Charles II. The second considers similar developments in the New England and middle American colonies as well as the tax system that emerged as a result of the suppression of New England by James II after he came to the throne. The heading is rounded out with a consideration of developments in the direct tax systems of southern American colonies and those of the West Indian colonies during the 1670s and 1680s.

Last Subsidies and Assessments

The English poll tax of 1667 was particularly influential when, in 1671, there was again an attempt to return to the subsidy.²¹⁷ This law broke from the form of the traditional subsidy and ‘foreshadowed the land tax’.²¹⁸ It imposed a special charge on bankers with respect to their debts both within and outside the realm and also a charge on debts owed by the king. This head seems to have been inspired by the 1667 poll tax. The law proceeded to charge personal estates at the rate of 0.3 per cent of their value. ‘Personal estate’ was defined in a less sophisticated manner than under the traditional subsidy but did expressly exclude stock and produce of land in the hands of farmers and debts. The charge was on persons ‘within this Kingdom’ but it was not expressed whether it extended to movables outside the Kingdom.

Separately there was a 10 per cent charge on the wages of public officers and servants but with a fixed deduction of a third for expenses. Again, this head seems to have been inspired by the 1667 poll tax. Land interests were also charged separately at the rate of 5 per cent of the ‘clear yearly value’. This charge was imposed on land ‘situate, lying and being within the Kingdom . . .’, but then extended to cover the ‘ancient Demesne and other Liberties and privileged places as without . . .’. The law expressed that land was to be valued according to ‘Rack Rent and according to the full true real and clear yearly Value thereof without any

²¹⁷ An Act for granting a Subsidy to his Majesty for Supply of his Extraordinary Occasions (22&23 Char. II. c. 3) (1671) (UK); United Kingdom (1810–1828, Vol. V, pp. 693–703). See also Jurkowski *et al.* (1998, pp. 269–70).

²¹⁸ Soos (1997, p. 97).

respect had to the present Rent . . .'. Provision was made for landholders to deduct a proportion of the tax from any rent charges.²¹⁹

The jurisdictional limits of this law seem to have been clarified by the following provision:

[E]very person rated or assessed for his Office or employment shall be rated and pay for his said Office or employment in the County City or Place where such Office or employment is executed. And every person who is or shall be rated for or in respect of any Personal Estate . . . shall be rated, and the Sum or Sums on him . . . levied at such places where he . . . shall be resident . . . And every person who shall be rated or assessed for or in respect of any [land] . . . shall be rated and assessed in the place where such [land] . . . do lye and not elsewhere.²²⁰

This important provision appears to compromise an essential difference between the subsidy and the monthly assessment, i.e. that the former was essentially imposed on the basis of residence or inhabiting but the latter was imposed on the basis of source or situs. It also incorporated the rule for offices from the 1667 poll tax.

Despite these innovations, it seems that values under the 1671 law were still largely under-assessed and the yield was disappointing.²²¹ This may explain a return to monthly assessments in 1673.²²² The form of the law was consistent with that of 1665 and a source basis. A similar levy was raised in 1677²²³ the provisions of which formed the basis of further assessments in 1678 and 1679.²²⁴

²¹⁹ For other aspects of deduction at source under this law, see Soos (1997, pp. 98–104).
²²⁰ 22&23 Char. II. c. 3; United Kingdom (1810–1828, Vol. V, p. 699; modernised by the author).

²²¹ Jurkowski *et al.* (1998, pp. lx–lxi, 270). See also Kennedy (1964, p. 43).

²²² An Act for raising the sum of twelve hundred thirty eight thousand seven hundred and fifty pounds for supply of his Majesty's extraordinary occasions (25 Char. II. c. 1) (1673) (UK); United Kingdom (1810–1828, Vol. V, pp. 752–82). See also Jurkowski *et al.* (1998, p. 271).

²²³ An Act for raising the Sum of Five hundred eighty four thousand nine hundred seventy eight pounds two shillings and two pence half-penny for the speedy building Thirty Ships of War (29 Char. II. c. 1) (1677) (UK); United Kingdom (1810–1828, Vol. V, pp. 802–36). See also Jurkowski *et al.* (1998, p. 271).

²²⁴ An Act for granting a Supply to His Majesty of Six hundred nineteen thousand three hundred eighty eight pounds eleven shillings and nine pence for disbanding the Army and other uses therein mentioned (30 Char. II. c. 1) (1678) (UK) and An Act for granting a Supply to His Majesty of Two hundred and six thousand four hundred sixty two pounds seventeen shillings and three pence for paying off and disbanding the Forces raised since the Nine and twentieth of September One thousand six hundred seventy seven (31 Char. II. c. 1) (1679) (UK); United Kingdom (1810–1828, Vol. V, pp. 867–73 and 897–938, respectively). See also Jurkowski *et al.* (1998, pp. 274–5).

There was another poll tax in 1678, which largely followed the provisions of the poll tax of 1667.²²⁵ It did not, however, grant the flat reduction in receipts of physicians and lawyers but did include a charge of 20s for every £100 worth of shares in the East India Company or the Guynea Company. The tax was to be 'paid by the Governors and Treasurers of the said East India and Guynea Companies and to be deducted at their next Dividend'.²²⁶ This important provision set up the mechanism for the deduction at source imputation system incorporated in the income tax 125 years later.²²⁷

As mentioned above, the subsidy of 1679 was the last subsidy or poll tax granted to Charles II. James II reigned from 1685 until the Glorious Revolution beginning in 1688 but no subsidies, assessments, poll or income taxes were granted during his reign.²²⁸

New England and The Middle Colonies

This subheading considers developments in the direct tax systems of the New England and middle American colonies in two periods. The first encompasses the period to the appointment of Sir Edmund Andros as Governor of the Dominion of New England in 1686. The second encompasses the tax system during the Dominion of New England.

Before the Suppression of New England

Until the mid-1680s there were few developments in the direct tax systems in New England. In particular, the Massachusetts and Connecticut tax systems continued in their previous form. It was not until 1673 that Rhode Island followed these colonies with what Seligman calls a 'faculty' tax.²²⁹ Taxpayers were to be assessed for the purposes of general or town charges according to 'equity in estate and strength'.²³⁰ However, when this law proceeded to provide further details on valuation it only did so with respect to the valuation of estate. As noted at page 142, prior to this it seems Rhode Island was imposing rates according to estate. Subsequently the levy was also only on estates so it may be wondered whether 'strength' was intended to produce

²²⁵ An Act for raising Money by a Poll and otherwise to enable His Majesty to enter into an actual War against the French King and for prohibiting several French Commodities (29&30 Char. II. c. 1) (1678) (UK); United Kingdom (1810–1828, Vol. V, pp. 852–62). See also Jurkowski *et al.* (1998, pp. lx, 272–3).

²²⁶ 29&30 Char. II. c. 1; United Kingdom (1810–1828, Vol. V, p. 854).

²²⁷ See also Soos (1997, pp. 105–6). ²²⁸ Jurkowski *et al.* (1998, p. lxxiii).

²²⁹ Seligman (1914, p. 371). ²³⁰ Rhode Island (1856–65, Vol. II, p. 510).

a faculty tax. In 1677 Massachusetts formally acquired the proprietary rights over Maine from the Gorges family with the resultant extension of the Massachusetts tax system there.²³¹

The descendants of the territorial owner of New Hampshire (as to which see p. 121) revived their claim to it in 1679. Massachusetts disputed this ownership and the issue was settled when the English crown established a royal government by commission in 1680.²³² New Hampshire's first assembly met in the same year and enacted a body of 'General Lawes' largely based on that of Massachusetts.²³³ This was also true of the tax law although it was in a somewhat simpler form than that of Massachusetts.²³⁴ Under the 'Making Rates' head of the laws it was provided:

That there may be a just and equall way of raising means for defraying ye publique charge, boath in church and civill affairs . . . there persons and estates shall be assessed or rated as followeth . . .²³⁵

As in other New England colonies, males over sixteen years were valued at a set amount, certain types of land were valued by the acre and certain animals per head. Residually the law provided 'and all other estates whatsoever . . . shall be rated by some equall proportion . . .' but proceeded to list particular boats, buildings and finally 'all handicrafts men [with examples] shall be rated by estymation . . .'. It is interesting that in this respect New Hampshire did not refer to returns or gains as in Massachusetts or Connecticut. But as in those colonies, in New Hampshire this law was of the nature of a general assessment law and the assembly resolved as necessary to raise a rate of a particular amount based on this law.²³⁶ There was a constitutional crisis during the mid-1680s during which the assembly refused to pass tax laws proposed by Governor Cranfield and council and the governor ordered the constables to collect the rate ordered by the council, which the people

²³¹ Simmons (1976, p. 110). Maine was to remain a part of Massachusetts until 1820, when it separated and became a separate state of the independent United States.

²³² Simmons (1976, p. 110).

²³³ Robinson (1902, p. 24) and Simmons (1976, p. 251).

²³⁴ Robinson (1902, pp. 25–6).

²³⁵ General Lawes Item 10; New Hampshire (1867–1915, Vol. I, p. 397).

²³⁶ For example, see New Hampshire (1867–1915, Vol. I, pp. 424–8). There is a clear example of this at page 448 with respect to a rate of four pence per pound resolved on 14 November 1682.

largely refused to pay. In 1685 the Lords of Trade in London (as to which see below at p. 158) removed Cranfield.²³⁷

The Dutch retook New York and Delaware during the Third Anglo-Dutch War (1672–4) but the Treaty of Westminster of 1674 returned them to the English.²³⁸ The year 1674 is important as the year that Sir Edmund Andros, a man who would shape the future of the New England colonies, became governor of New York. He remained in that position until 1680. In 1674 the Duke of York's Laws (see above at p. 143) were again imposed, but this time they were applied to the whole of New York (save in Delaware where they were not applied until 1676).²³⁹ This resulted, in New York, in the renewal of the duke's assessment law. Consistent with the Duke of York's Laws, in 1676 the local court officials in New Castle (Delaware) received permission from Andros to levy a tax for local purposes 'uppon every Mans Estate'.²⁴⁰ The court responded with a request that it be allowed to impose a tax 'to be laid by the Pole as those of Virginia and Maryland doe ...'.²⁴¹ The request was granted and the tax laid on 'Tydable persons' as in the southern colonies.

By 1680 New York was the only colony without an assembly and a financial crisis was brewing because settlers refused to pay taxes and some were leaving for New Jersey. In the midst of this and the difficulties in England between the Crown and the Parliament, the duke replaced Andros as governor and granted a representative assembly, which first met in 1683.²⁴² The assembly had a busy first session and quickly passed a law continuing the indirect taxes.²⁴³ Another law repealed the 'Charges Publique' head of the Duke of York's Laws.²⁴⁴ At the same time a third law provided for an annual rate in the towns and counties but did not specify the basis of assessment.²⁴⁵ Yet a fourth law

²³⁷ Robinson (1902, pp. 7–8). ²³⁸ Williamson (1929, p. 253).

²³⁹ New York (1894, Vol. I, p. xii) and see also Daugherty (1938, p. 14).

²⁴⁰ Colonial Society of Pennsylvania (1904, p. 38).

²⁴¹ Colonial Society of Pennsylvania (1904, p. 65).

²⁴² Simmons (1976, p. 138). See also New York (1894, Vol. I, pp. xiv–xv).

²⁴³ A Continued Bill for defraying the requisite Charges of the Government (30 October 1683) (New York); New York (1894, Vol. I, p. 116). There was some dispute as to whether this act was effective but it seems to have been enforced to some extent; see New York (1856–1861, Vol. III, p. 676).

²⁴⁴ An act for Repealing the former Lawes ab't Country Rates and allowances to the Justices of the Peace (1 November 1683) (New York); New York (1894, Vol. I, p. 124).

²⁴⁵ An Act for the Defraying of the publique & necessary Charge of each respective City, towne and County throughout the Province & for maintaining the poore, and preventing vagabonds (1 November 1683) (New York); New York (1894, Vol. I, p. 131).

raised a direct tax for the new governor.²⁴⁶ Consistent with prior direct taxation this law invited the governor to ‘ffreely accept and receive from us one penny for every pounds vallue of all ye Reall Pe’rsonall and visible Estate of all and Every ye ffree hold’rs & inhabitants in this his R’ll H’sses Province ...’. In the usual way, commissioners were appointed for each county to administer the tax. There are no further recorded examples of a central direct tax before the advent of the Dominion of New England.

The Dutch had also retaken New Jersey in 1673. Before its return, Lord Berkeley, one of the two proprietors of New Jersey, sold his interest in New Jersey to two Quakers and from there the interest passed to a group of Quaker trustees.²⁴⁷ In 1676 Sir George Carteret, the other original proprietor, agreed with the trustees to divide New Jersey, giving rise to the separation of East New Jersey and West New Jersey. The Quaker trustees proceeded to set up a joint-stock company for their part, West New Jersey, and shares were sold to 120 purchasers, nearly all Quakers.²⁴⁸ After the treaty of 1674 the Crown had granted new letters patent to New Jersey (as it had to New York) but these letters ignored the Quaker rights. It was not until the early 1680s that the Duke of York recognised these rights.²⁴⁹

As to tax laws, an East New Jersey law of 1675 enacted that ‘all Persons within this Province shall be rated according to their Proportion of Land ...’.²⁵⁰ A similar charge was imposed in the following year but there was also a poll tax to cover the governor’s salary.²⁵¹ Similar charges proceeded until 1682 at which time Sir George Carteret’s heirs sold their rights to East New Jersey. Again the purchasers were a group of Quakers, this time under the leadership of William Penn. Again a joint stock company was set up as controller of the colony. In this year a new rate was imposed. It was apportioned between the towns with an instruction to ‘equally assess the same upon improved Lands and Stocks ...’. Once again the poll tax was used to fund the deputy governor’s salary.²⁵²

As disputes over government of West New Jersey settled somewhat, it also turned to passing tax laws. In 1684 West New Jersey imposed

²⁴⁶ A Bill ffor a ffree and Voluntary P’sent To The Govern’r (2 November 1683) (New York); New York (1894, Vol. I, p. 137).

²⁴⁷ Williamson (1929, p. 253). ²⁴⁸ Simmons (1976, p. 64).

²⁴⁹ Williamson (1929, p. 254). ²⁵⁰ New Jersey (1758, p. 98).

²⁵¹ New Jersey (1758, pp. 118, 120). ²⁵² New Jersey (1758, pp. 274, 269, respectively).

a tax per 100 acres of land together with an assessment in the following terms:

all other . . . Persons within this Province, who are free Men, and are Artificers, or Workmen, or follow any Trade or Merchandizing, and also all Innholders, Ordinary keepers, and other Persons in Places of Profit . . . shall be liable to be assessed for the same, according to the Discretion of the Assessor . . .²⁵³

In 1680, William Penn, son of a British Admiral, petitioned Charles II for an American grant, which was made by way of proprietary charter in 1681 over Pennsylvania.²⁵⁴ In 1682 he secured access for Pennsylvania to the Atlantic by the purchase of what is now largely Delaware from the Duke of York and proceeded to the colony in that year.²⁵⁵ The first Pennsylvania assembly also met in 1682 and one of its first acts was to unite Penn's colonies.²⁵⁶ However, no tax laws were passed until the following year.²⁵⁷ The 1683 assembly imposed a number of indirect taxes.²⁵⁸ It also passed a law providing for public charges in each county to be assessed by the county courts. The assessment was to be made 'so that it be equall and according to proportion; And that one half of the said tax to be paid, shall be raised upon land, the other half by the poll . . .'.²⁵⁹ In the usual way, polls were males over sixteen years. A law of the following year provided for similar levies.²⁶⁰ Daugherty suggests there were no direct taxes at the provincial level at this time.²⁶¹ In the usual way there was a quit rent system, although it seems to have been imposed at low levels and in a rather lax way in Pennsylvania.²⁶² Penn returned to England in 1684 to defend his claim to the colony against Lord Baltimore.

²⁵³ New Jersey (1758, p. 494). See also Seligman (1914, p. 371).

²⁵⁴ Simmons (1976, p. 70). The grant was in settlement of a debt owed to Penn's father, see Williamson (1929, p. 254).

²⁵⁵ Simmons (1976, p. 73).

²⁵⁶ Act of Union (1682) (Pennsylvania); Pennsylvania (1879, p. 104). This law united Pennsylvania with the three Delaware counties.

²⁵⁷ Daugherty (1938, p. 23).

²⁵⁸ Chapters 97 to 99 (March 1683/84) in Pennsylvania (1879, p. 138).

²⁵⁹ Chapter 127 (March 1683/84) in Pennsylvania (1879, p. 146).

²⁶⁰ Law About County Levies (1684) (Pennsylvania); Pennsylvania (1879, p. 233). There were now six counties; three in what is now Pennsylvania and the three Delaware counties.

²⁶¹ Daugherty (1938, p. 24). ²⁶² Daugherty (1938, p. 22).

The Dominion of New England

The events leading to the creation of the Dominion of New England require some brief explanation. English parliamentary intervention in oceanic trade and colonisation began during the English Civil War. In 1643 Parliament appointed a commission to 'take charge of the colonies and their trade'.²⁶³ In 1649 this function was taken over by the Council of State. In 1650 a separate Council of Trade was established. Shortly after, when the rebellion in Barbados against the Commonwealth was known (see p. 123), the English Parliament passed the first Navigation Act.²⁶⁴ This law prohibited trade between foreigners and Barbados, Bermuda, Virginia and Antigua and more generally incorporated a prohibition on foreign ships trading in the English colonies without licence. It also gave the Council of State power to nullify proprietary or chartered company rights. This Act remained in force until the Restoration.

A second Act of 1651 forbid any goods from outside Europe (and some European goods) entering England, Ireland and the English colonies except in English ships.²⁶⁵ These Acts were followed after the Restoration with the Navigation Act of 1660, which for present purposes was of similar effect.²⁶⁶ However, it did require that certain natural resources from the colonies needed in British industries could be brought only to England. Over time the list of resources was extended. In December 1660 the Privy Council set up a Council for the Plantations, in many ways a successor to the Council of Trade. By law of 1663 it was further provided that commodities of growth, production and manufacture of Europe destined for the colonies must first go through an English or Welsh port.²⁶⁷ Orders were sent to the colonial governors, who were responsible for enforcing these Acts of Trade.

As a result of perceived evasion of these laws by transshipment in the colonies before export to a non-English destination, a 1673 law imposed a duty on the export of enumerated commodities from colonial ports

²⁶³ Williamson (1929, p. 214).

²⁶⁴ An Act for prohibiting Trade with the Barbadoes, Virginia, Bermuda and Antego (3 October 1650) (UK); United Kingdom (1911, Vol. II, p. 425).

²⁶⁵ An Act for increase of Shipping, and Encouragement of the Navigation of this Nation (9 October 1651) (UK); United Kingdom (1911, Vol. II, p. 559).

²⁶⁶ An Act for the Encouraging and increasing of Shipping and Navigation (12 Char. II. c. 18) (1660) (UK); United Kingdom (1810–1828, Vol. V, p. 246).

²⁶⁷ An Act for the Encouragement of Trade (15 Char. II. c. 7) (1663) (UK); United Kingdom (1810–1828, Vol. V, p. 449).

without a bond being provided to take the commodities directly to England.²⁶⁸ Much of the inter-colonial trade was centred around New England shippers and merchants, who had been central in the perceived abuses that gave rise to the 1673 law. The 1673 law also resulted in the extension of English customs officials to the colonies. Even with the passage of this law the New England shippers took an aggressive interpretation.²⁶⁹ The English Government had set up a separate Council of Plantations in 1670 but this was abolished in 1674. The Council's successor was the Lords Commissioners of Trade and Plantations, a standing committee of the Privy Council set up in 1675.

The mid to late 1670s saw a substantial increase in the English effort to enforce the Acts of Trade, indeed the Lords of Trade issued a proclamation in the king's name to this effect. Customs officials were appointed by England for Virginia, Maryland, the Carolinas and the West Indies, and English naval forces became increasingly involved in enforcing the customs and the Acts.²⁷⁰ The Lords of Trade also instituted an enquiry into the conduct of the governors in enforcing the Acts.²⁷¹ As a result, Edward Randolph was sent from England to investigate, particularly, the 'contempt shown by New England for the laws of trade ... He reported that wholesale breaches of the law were going on.' Conflict was ensured when in 1678 he was appointed collector of customs for Massachusetts. Local resistance to Randolph largely frustrated his efforts at enforcement of the Acts. The only solution to New England resistance seemed to be the removal of self-government. Further, increasing French rivalry to the north and west suggested that security would be enhanced if the northern colonies were consolidated under a single leader.²⁷²

Eight years of complaining by Randolph finally took its toll and the English government acted. In 1684, Massachusetts was charged with violating its charter, which was forfeit. In 1685, James II came to the throne and in the following year the charter of Connecticut was withdrawn. The charter of Rhode Island followed in 1687. These colonies and the rest of New England (New Plymouth, New Hampshire and Maine, as part of Massachusetts) were incorporated into a single Dominion of New England and lost their representative assemblies.

²⁶⁸ An Act for the encouragement of the Greenland and Eastland Trades, and for the better securing the Plantation Trade (25 Char. II. c. 7) (1673) (UK); United Kingdom (1810–1828, Vol. V, p. 792).

²⁶⁹ Andrews (1929, pp. 277–8). ²⁷⁰ Simmons (1976, p. 55).

²⁷¹ Andrews (1929, pp. 283–4). ²⁷² Williamson (1929, p. 259).

The former governor of New York, Sir Edmund Andros, became governor of the Dominion.²⁷³ The Dominion incorporated royal government without a representative assembly.

Andros was based in Boston and one of the new governor's early laws was a law regulating taxation. It was dated 3 March 1686 and was virtually copied from the 1646/7 Massachusetts laws (see above at pp. 117–19).²⁷⁴ The law imposed a tax at 1s and 8d per head poll tax and 1d per £1 value of real and personal estate. In particular, it used the familiar requirement that various skilled workers be rated for their returns and gains proportionately to produce of the estates of other men. As in Massachusetts, it was to be imposed annually. The law initially only applied to Massachusetts (as only it had lost its charter) but the law was progressively applied to the other colonies as they were subsumed within the new Dominion.²⁷⁵

At first New York and New Jersey remained outside of the Dominion of New England, however, a similar pattern followed, at least in New York. In 1686, James II issued a new commission to the New York governor under which all legislative power was to vest in the governor in council, i.e. the legislative power of the New York assembly was removed.²⁷⁶ In 1687 and 1688, the governor in council passed a number of laws, including direct tax laws, although it seems that copies of these laws have not survived. The titles of these laws makes it reasonably clear that the property tax (including the poll tax) was continued.²⁷⁷

²⁷³ Williamson (1929, p. 260).

²⁷⁴ An Act for the continuing and establishing of several Rates, Duties & Imports (3 March 1686/87) (New England); Connecticut (1850–90, Vol. III, p. 405). See also *Andros* (1868–74, Vol. II, p. 210) Jones (1896, p. 11) and Robinson (1902, pp. 27–8).

²⁷⁵ For example, the law was extended to Connecticut by An Act for declaring the several laws made by the Governor and Council to be in force within the late Colony of Connecticut now annexed to this Government, and for settling the Times and Places of holding Courts there (29 December 1687) (New England); Connecticut (1850–90, Vol. III, p. 402).

²⁷⁶ New York (1894, Vol. I, p. xvii).

²⁷⁷ New York (1894, Vol. I, pp. xvii–xviii) refers to the following laws; Bill for raising of ½ pence pr pound of every mans estate for the defraying ye expenses for the good of the province in England (14 June 1687) (New York), The Bill for Raiseing a penny in ye pound out of ye Estates of ye ffreeholdrs & Inhabitants of ye Kings, Queens, Dukes and Dutcheses Countys of Richmond, Orange, Westchester & Suffolk (20 August 1687) (New York), Bill to Raise one halfe penny per pound off all persons Estates in the Cittys and Countys of New York and in ye County of Ulster (2 September 1687) (New York) and An act for raising the sume of two thousand five hundred and fifty-five pounds six shillings by or before the first day of November next (17 May 1688) (New York).

In New Jersey it also seems that the tax system was continued as usual. For example, in 1688 East New Jersey imposed a tax consistent with that of 1682. It involved a tax per 100 acres of land together with a head tax on cattle, horses and swine together with a residual poll tax.²⁷⁸

Late in 1688 Governor Andros received a commission for New York and New Jersey, which were thereby consumed within the Dominion of New England.²⁷⁹ This expansion was short lived. Definite news of the fall of James II at the hands of William III reached New England in spring of 1689. In April of that year popular leaders in Massachusetts seized and imprisoned Andros. At this point the New England colonies continued on their separate ways in much the same manner as they had before the imposition of consolidated rule. Only in New York did the Glorious Revolution cause any dispute of substance and that was short lived.²⁸⁰

Pennsylvania (including Delaware) was not incorporated into the Dominion of New England. There were no developments in direct taxation in Pennsylvania during this time.

Other Colonies

In the southern American and West Indian colonies the 1670s and 1680s were comparatively quiet when compared to the events in England and New England.²⁸¹ This subheading considers direct tax developments in each of these sets of colonies in turn.

Southern Colonies

There were few developments in direct taxation in the southern American colonies during the 1670s and 1680s. In Virginia the poll tax persisted through the Glorious Revolution.²⁸² But it seems that most revenue was raised through local taxation. Simmons notes that during the later seventeenth century the Virginian parish tax 'was probably greater than either the county or public tax . . .'.²⁸³ In Maryland there

²⁷⁸ New Jersey (1758, p. 306). ²⁷⁹ Andrews (1929, p. 260).

²⁸⁰ Andrews (1929, pp. 260–1). ²⁸¹ Andrews (1929, p. 261).

²⁸² See Ripley (1893, pp. 25–32).

²⁸³ Simmons (1976, p. 86). Generally regarding local taxation during this period, see Ripley (1893, pp. 82–91).

was also little change. The form of wording used in the 1669 law (see above at p. 141) continued in the public charges until 1688.

From 1670 the population of the Carolinas grew steadily to nearly 10,000 by 1690.²⁸⁴ Until that date, the separate settlements in the north and the south had separate governors and separate assemblies. Indeed, there were separate governors for each of the Carolina counties but in 1689 the Lords Proprietors appointed a Governor for all of North Carolina.²⁸⁵ As noted above at page 142, it seems there was no direct taxation in North Carolina before the Glorious Revolution.

The situation was different in South Carolina. There were two main influences at work here: the settlers from Barbados and also a group from New England. It seems that few of the tax laws of South Carolina for the 1680s have survived²⁸⁶ but the fragments of those that have give a reasonably clear picture. One law that has survived is that of 1686 and this gives an indication of what the early laws are likely to have involved.²⁸⁷ The settlers of South Carolina were in a constant battle with the Spanish to the south, particularly in Florida. As the title of the 1686 law suggests, the government granted a power to impress men, arms, etc. in this battle. In addition, a fixed tax of £500 to:

bee equally assessed, imposed and leavyed upon the severall inhabitants, merchants and others, (not servants for tyme or terme of yeares,) . . . shall be made . . . according to their severall estates, stores and abilities, and according to the profits indifferently computed of every publicque officer, arising from, or by his respective office or any other employment whatsoever . . .

While not in the classic New England style, the influence of the New England settlers seems clear, particularly in its taxation of abilities and profits. There is certainly little similarity between this style of taxation and that used in Barbados at this time (see below at pp. 162–3). The 1686 law was followed within six months by a further tax law to raise funds for building galleys, which was ‘assessed and leavyed in the

²⁸⁴ Simmons (1976, p. 124). ²⁸⁵ Ashe (1925, Vol. I, p. 141).

²⁸⁶ South Carolina (1836–41, Vol. I, p. 19).

²⁸⁷ An Act to leavy and impresse Men, Arms, & c. for the defence of the Government, and for the assessing 500 Pounds, & c. (15 October 1686) (South Carolina); South Carolina (1836–41, Vol. II, p. 15).

same manner ...' as the 1686 law.²⁸⁸ It seems likely that similarly titled laws (which have been lost) dating from 1682 were to similar effect.²⁸⁹

West Indies

As noted above at page 145, Barbados taxes made specific reference to slaves as early as 1661. By 1674 this had turned into a tax specifically on Negroes per head, in addition to a land tax per acre.²⁹⁰ These forms of taxes were imposed in a sporadic fashion, the only permanent form of revenue being the tax on the importation of strong liquor (the 4½ per cent excise on local products being claimed by the Crown).²⁹¹ It seems there were similar land and slave taxes in 1676 and 1677.²⁹²

In 1682 there was a seemingly massive imposition again on land and Negroes (and a copy of this law survives). This law provided that:

every owner or possessor of any Negro or Negroes, Slave or Slaves within this Island ... shall pay ... fifteen pound sterling ... and that every possessor of any Land within this Island [shall pay] six pound sterling, for every acre of Land they are possessed off ...²⁹³

Interestingly, the law then proceeded to appoint a specified amount to be levied to specified towns, i.e. a quota system. The basis on which

²⁸⁸ An Act for raising £300, for building Galleyes and for providing store of provisions for the same, for the defence of the country (28 February 1686/7) (South Carolina); South Carolina (1836–41, Vol. II, p. 23).

²⁸⁹ For example, An Act for raising a Tax of Four Hundred Pound, or the Value thereof, for Defraying the publick Charges of this Province (8 June 1682) (South Carolina); An Act for raising a Tax of £500 sterling, for the defraying the publick charges of this Province (25 September 1683) (South Carolina) and An Act for the raising of £500 sterling, besides the Assessors' particular assessments, for the defraying the public charges of this Province (11 April 1685) (South Carolina); referred to in South Carolina (1836–41, Vol. II, p. v).

²⁹⁰ An Act for levying three pound of Sugar an Acre upon Land, and ten pounds of Sugar per head, upon Negroes (14 January 1674/5) (Barbados); Hall (1764, p. 479 [Law No. 340]). It seems that a public copy of this law has not survived, see note 74.

²⁹¹ Harlow (1926, pp. 200–7).

²⁹² An Act to burden those who have Rent-charges, and profits issuing out of Lands and Negroes in this Island, to bear a proportion of Taxes (29 November 1676) (Barbados) and An Act for raising a levy of two pounds of Sugar per Acre, and five pounds of Sugar per Negro; to defray the charge of rebuilding and repairing our several Fortifications and Breast-works; and for payment of the public Debts of the Island (20 March 1676/77) (Barbados); Hall (1764, p. 480 [Law Nos. 363 and 371]). It seems that a public copy of these laws have not survived, see note 74.

²⁹³ An Act for a Levy upon Land and Negroes; to discharge the necessitous Debts; and for providing for the security of this Island (29 April 1682) (Barbados); CO 30/5, p. 79.

towns were to levy their quota was not specified but it may be that this was to be done according to parish rolls, as with the Jamaican law of the same year (see below). By 1685 this was converted into a tax on Negro slaves alone (using the wording from 1682 but at £9 per slave).²⁹⁴ This law included neither the land tax nor the quota system.

The governorship of Barbados and the rest of the English Caribbee Islands had been united after the Restoration. As negotiations dragged on regarding the return of St Kitts by the French under the terms of the Treaty of Breda of 1667, the former English landholders of St Kitts petitioned the Crown for a governor separate from that of Barbados. In 1671 this request was granted and a separate governor was appointed for the 'Leeward Islands' including St Kitts, Nevis and Antigua.²⁹⁵ Possession of St Kitts was returned and it once again began to pass tax laws. In 1672, St Kitts passed a law imposing:

one hundred pounds of sugar per pole upon all the working Negroes in general throughout the English Quarters, And Likewise a Levy of Eighteen pounds per head on the French men and women inhabiting in the said Quarters ...²⁹⁶

Two years later the form of imposition was modified to a poll tax on all white persons with a separate poll tax on slaves at more than twice the rate.²⁹⁷ Interestingly, English that were not resident in St Kitts and French in the French part of the island that had land in the English part were to be assessed 'according to proportion'. The intention of this provision became somewhat clearer in the imposition of 1676 where non-residents were charged per acre of land rented within the Island.²⁹⁸ This form of taxation continued until 1681 when the tax became a tax on slaves per poll together with a tax on rent from land within the

²⁹⁴ An Act for a levy upon Negroes (3 September 1685) (Barbados); CO 30/5, p. 154.

²⁹⁵ Burns (1954, pp. 339–40).

²⁹⁶ An Act for raising of Levys to pay the Countrys Debts (15 January 1672/3) (St Kitts), CO 154/1, p. 104. Modernised by the author. Regarding the English quarters of the island of St Kitts, see note 204.

²⁹⁷ An Act For the Levying of Twenty Five pounds of Sugar per poll upon all white persons and Fifty Five pounds Sugar per poll upon all the Slaves within his Majesty's part of the said Island (13 June 1674) (St Kitts); CO 154/2, p. 4.

²⁹⁸ An Act For the Levying of Twenty Five pounds of Sugar upon all white persons and Fifty pounds of Sugar upon all the Slaves within his Majesty's part of this Island (31 May 1676) (St Kitts); CO 154/2, p. 7.

colony calculated per acre.²⁹⁹ As in Barbados, St Kitts also imposed an indirect tax on imported liquors and was subject to the 4½ per cent excise.

Antigua continued to raise the land tax with residual poll tax under the 1668 law, see above at page 148. This was supplemented with a one off similar levy in 1679³⁰⁰ and then again in 1680.³⁰¹

There is a gap in publicly available laws for Nevis until the second half of the 1680s. In 1688 it imposed a tax of 190,000 pounds of sugar, divided by quota between the towns. The levy was imposed ‘upon the merchants and Tradesmen According to their Trade and Reputations, as also upon Other freeholders and Inhabitants hereof . . .’. This head of charge was to amount to one fifth of the total to be levied. There seems to be some similarity between this levy and those imposed in Barbados (see above) and Jamaica (see below) in 1682 and in Barbados in 1660 (see above at p. 145), although this connection is unconfirmed. This is the first West Indian law considered by this study that specifically taxed traders, taxation which became common after this time. The rest of the levy was to be raised on the ‘3800 Dutyable negroes and other Slaves Returned in the officers lists at 40lbs sugar per poll to be paid by the owners and Renters thereof . . .’³⁰²

After the separation from the Leeward Islands in 1671, the new commission for the governor of Barbados expressly covered Barbados, St Lucia, St Vincent and Dominica. However, English claims to the later islands were loose and disputed. Soon after 1672 it was reported ‘that the French Governor of Martinique had ejected from Dominica some Englishmen who had been sent to that island . . . while the Caribs of St. Lucia and St. Vincent were virtually independent’.³⁰³

Through the 1670s it seems that the Jamaican government survived without direct taxation, although quit rents were imposed as was a tax on the importation of strong liquors. Little changed during the 1680s although there was an imposition in 1682 to fund an agent in London.

²⁹⁹ An Act for a Levy of Twenty five pounds of Sugar upon Every working Slave and Twenty five pounds upon all Acres of Land Rented; as also Levyes on the French men’s Land that is in the English quarter as formerly in the year 1674 (15 February 1680/1) (St Kitts); CO 154/2, p. 14.

³⁰⁰ An Act for the Rayseing a new Levy (5 March 1679/80) (Antigua); CO 154/2, p. 138.

³⁰¹ An Act for the Continuing the Tax upon Lands re: according to a former Act (8 April 1680) (Antigua); CO 154/2, p. 144.

³⁰² An Act for Raising a Leavy (24 March 1687/8) (Nevis); CO 155/1, p. 95.

³⁰³ Burns (1954, p. 351).

This tax was apportioned between the parishes of the island and vestrymen were 'required to assess and Tax the severall rates and assessments upon the severall parishes as aforesaid and by an equall and Just tax upon all and every the parishoners ...'.³⁰⁴ At first glance it might seem that this was intended to be a poll tax. However, the later law of 1695 also used the words 'equal and just tax' and then proceeded to provide various specific heads under which it was to be charged with specific reference to assessment in vestry rolls (see below at pp. 215–16). It seems likely that the 1682 law was levied on a similar basis. Indeed, the reference to parish rolls and the use of the quota system is consistent with the move in England in 1662 to assess local taxes according to the Poor Rate (see above at p. 140). After substantial dispute between the Jamaican assembly and the English authorities, a twenty-one-year revenue law was passed in 1683, but this law only imposed indirect taxes.³⁰⁵

Until the mid-1600s the only European residents of the Bahamas were pirates and freebooters. The islands had been settled from Bermuda around 1650. By 1672 it was suggested that there were about 500 inhabitants. In 1670 Charles II made a proprietary grant (the last) to establish a colony to six of the proprietors of the Carolina Colonies (ignoring two earlier grants made in 1629 and 1649). A governor was appointed by the proprietors in 1671 with instructions to summon an elected assembly.³⁰⁶ As Jamaica cracked down on pirates and buccaneering the Bahamas became somewhat of a haven for them. This incensed the Spaniards (the prime targets of the pirates). The small colony at New Providence (now Nassau) was wiped out by a Spanish raid in 1684 'and for the next few years the colony lay derelict'.³⁰⁷

2.5 Summary

This chapter has considered the development of the direct tax system in England and its New World colonies from the beginning of the English Civil War until the beginning of the Glorious Revolution. This was a period when events in Europe not only shaped the direct tax system in England but European disputes inevitably spilt over to the colonies and affected their development including the development of their tax

³⁰⁴ An Act for raising money for soliciting the Affairs of this his Majesties Island in England (21 September 1682) (Jamaica); CO 139/7, p. 47.

³⁰⁵ An Act for raising a Publick Revenue for the Support of the Government of this his Majesty's Island (5 September 1683) (Jamaica); CO 139/7, p. 30.

³⁰⁶ Burns (1954, pp. 358–9). ³⁰⁷ Burns (1954, p. 362, and also at p. 397).

systems. This is true not only of the English Civil War but also the Restoration, the wars with Spain, the Netherlands and France, the poor relations between Crown and Parliament and ultimately the factors leading to the Glorious Revolution. All of these events had an important impact in the colonies.

The chapter began with the English Civil War, Commonwealth and Protectorate period. It noted how in the early years of the English Civil War Parliament raised funds through loans and contributions, which by 1643 had turned into compulsory levies on those not contributing. These compulsory levies were essentially assessed on real and personal estate. Due to Parliament's need for a consistent stream of funds, this form of one-off contribution was soon supplemented with weekly and monthly assessments. The 1643 law that gave rise to these assessments largely followed the form of the last major grant given to Charles I in 1642. As with the fifteenth and tenth and (though not expressly) the Tudor subsidy, a quota system was used but now specifying an amount to be raised weekly or monthly. This was essentially a source-based tax. An abbreviated form of assessment was used in 1645 to fund Parliament's New Model Army and largely remained in force until the Restoration. Again this was essentially a source-based tax on real and personal estate.

In the usual manner these charges required land to be valued according to its 'yearly' value but movables were to be valued according to their capital value. The practice noted at page 69 of using a reduced rate for the capital value of movables when compared to the yearly value of land continued into the English Civil War period. Beginning in 1649 a practice arose of treating £20 of movables for tax purposes as equivalent to £1 yearly value of land, i.e. a 5 per cent presumed return on capital. This facilitated the imposition of tax by reference to a single 'pound-rate' and these modifications were included in the imposition of 1650. This law also permitted particular cities, counties and towns to ignore the pound rate and use what seems to have been the local form of assessing local levies. This form of assessment of real and personal estate by a pound rate but with a quota system and substantial autonomy for local regions to alter the incidence of assessment was standard practice until the Restoration.

The chapter proceeded to note that developments in the colonies were more sporadic. In Virginia the poll tax continued, albeit with a brief flirtation with land taxation during the later 1640s. Maryland was somewhat more affected by the developments in England. Initially in the

1640s it followed Virginia's lead with a poll tax. However, when Lord Baltimore's proprietary reign was ended in 1654 the tax base was extended to include not only a poll tax but also a tax on 'visible estates', a base more consistent with that used in England at this time. The poll tax was reintroduced with the reinstatement of proprietary rule in 1657.

Massachusetts again took the lead in the development of the direct tax systems in New England. In 1646 Massachusetts passed a yearly assessment law under which tax was to be imposed by the poll and on 'estates' as well as according to 'returns', 'incomings' and eventually 'gains', i.e. faculty. The law proceeded to provide some objective valuation rules, particularly cattle per head. It was noted that the faculty element of this tax was unlikely to be much more than a progressive or classified poll tax, i.e. it is likely that the assessment of faculty was objective rather than a subjective attempt to calculate profits. The Massachusetts tax system was followed in Connecticut, New Haven and, in substance, in Plymouth colony. The same was true of New Hampshire, which was administered from Massachusetts at this time. It seems Rhode Island was imposing tax according to estate.

The leader in West Indian development of direct taxation, as in other things, seems to have been Barbados. The records of the West Indian colonies for the period to the Restoration are seriously deficient. However, it was noted that early taxes in Barbados seem to have been imposed on land per acre and by the poll. Barbados was a royalist stronghold during the Civil War until English parliamentary forces suppressed it in 1652. During the 1650s Barbados was funded with indirect taxes and some local levies imposed by reference to land. Little is known of direct taxation in the other English Caribbee Islands during this period. The Protectorate seized Jamaica in 1655 during a war with Spain but it remained under military rule until after the Restoration.

The chapter proceeded to consider developments in English land-holding and accounting until the Restoration. It noted the rise of trusts as an exception to the execution of uses under the Statute of Uses of 1536. The primary use of trusts was for controlling the devolution of property between family members but they were also used to protect property in the uncertain times of the sixteenth and seventeenth centuries. Chancery was the primary court that enforced trusts and in this respect the law applicable to trusts was essentially developed from the law applicable to uses. In particular, the actions for waste and account (discussed above at pp. 23–4 and 26–7) were adapted for application to trusts.

Double-entry accounting secured a small and tentative foothold in England during the seventeenth century but charge and discharge remained the dominant system. Businessmen, however, often used neither method but rather adapted bookkeeping to suit their personal circumstances and abilities. But with respect to holding land, still the predominant form of wealth in the seventeenth century, charge and discharge was the system inevitably used. Further, this system was deeply rooted in the law of trusts and there is case law suggesting a positive obligation on trustees to maintain accounts in this form. Nevertheless, by the time of the Glorious Revolution there was no clear body of law applicable to trusts for apportioning amounts between income ('revenue' or 'profits' at this time) and capital, despite the fact that this process must have occurred in practice. One of the reasons for this may have been that the capital of trusts was usually property that was readily identified and which the trustee could not sell.

The late sixteenth and early seventeenth centuries also saw the rise of the chartered incorporation of companies of merchants, particularly those engaged in overseas trade. These corporations would ultimately have an important impact on the development of accounting practices, particularly when their stocks started to become permanent. Permanent stock soon brought with it the idea of only distributing dividends out of profits, i.e. maintenance of capital, declared by the East India Company as early as 1661. The similarity of the concepts of preservation of contingent remainders in trust law and maintenance of capital of chartered corporations was noted but the former was a legal duty on trustees whereas the latter was centuries from rising to the level of a uniform legal duty. As a result of these developments there are examples of separate accounting for capital and revenue in the period before the Restoration but the rule was rather one of diversity of practice than uniformity. English accounting provided no uniform concept of 'profits' or 'income' at this time.

The third heading of the chapter proceeded to consider the decade after the Restoration of the English crown. The 1660s were a period of high politics in Europe, particularly with respect to trade and colonies, and for the English included wars with the Netherlands and France. Charles II was more reliant on Parliament for revenue than previous monarchs had been. The methods of taxation used during this period were a mixture of previously used methods with some developments. At the beginning of the decade the fix-yield assessments of the Commonwealth continued but were supplemented with a graduated

poll tax similar to that granted before the English Civil War. Outside of specified ranks, the poll tax was essentially graduated according to presumed annual worth. In 1662 Charles II was granted a limited continuing revenue in the form of the hearth tax. In 1663 there was a return to the pre-Civil War form of subsidy but the yield was poor and in 1665 the war with the Dutch saw a return to the monthly assessments. In 1667 these assessments were supplemented with a further tax to pursue war with the Dutch and French. This important levy was imposed on debts, wages, various amounts paid by the crown, receipts of legal and medical practitioners and there was a residual poll tax.

The 1660s were less disruptive in the American colonies and there were but few developments in direct taxation. There was, however, an expansion of colonies. Carolina was chartered in 1663, it had been settled from the north by Virginians and in the south by Barbadians. Rhode Island received a royal charter in the same year. Also in 1663 Charles II made a grant of the vast colony of New York to his brother the Duke of York (later James II). A force sent out in 1664 suppressed the other European colonies there and, in particular, that of New Netherlands. In the same year the Duke of York made a grant out of New York of an area that became New Jersey.

Things were more calamitous in the West Indies. The Crown finally settled claims to the Caribbee colonies by turning them into Crown colonies but subject to certain payments to the claimants out of a permanent revenue to be settled by a 4.5 per cent duty on produce exported from the colonies. Barbadians not only moved to Carolina, they also moved to Jamaica to boost the colony there. So it is not surprising that the early direct tax system of Jamaica involved the taxation of polls and land as in Barbados, though greater reliance was placed on the taxation of imported liquors. During the war with the Dutch and the French the French captured St Kitts, Antigua and Montserrat. The latter two were recaptured in 1667 but St Kitts was not returned until 1671. In 1668 Antigua followed the Barbadian and Jamaican lead and imposed a direct tax on land per acre and per poll.

The fourth heading of the chapter considered the two decades leading to the Glorious Revolution. These were decades of move and counter-move by the Crown and the English Parliament in which some of the colonies would again be embroiled. The 1670s opened with secret treaties by the crown and plots against the perceived threats from 'popists', supporters of the pope, typically Catholics. The form of tax used in 1671 was somewhat of a cross between the traditional form of

subsidy and the supplementary tax of 1667. It charged bankers and others with respect to their debts, personal estates, wages of public officers and land according to 'clear yearly value'. The jurisdictional rules were a mix of residence and source-based taxation.

The yield of the 1671 tax was poor and there was a return to monthly assessments in 1673, which were used consistently until the end of the decade. These assessments were again supplemented with a poll tax in 1678 along the lines of the 1667 levy. Importantly, this 1678 levy incorporated a tax on the stock of the East India and Guinea Companies, which was to be deducted from dividends. There followed disputes between Charles II and Parliament over Charles's violations of the Test Acts. The result was the dissolution of Parliament. No further taxes were granted during the reign of Charles II or his brother James II.

By contrast, in the New England colonies there was little development of direct taxation during the 1670s but this gave way to dramatic developments in the 1680s. The New England property and 'faculty' taxes continued throughout the 1670s. New Hampshire was granted a separate royal government in 1680 and it proceeded to impose taxes along the Massachusetts model. In order to settle local discontent, the Duke of York finally granted New York an assembly in 1683, which proceeded to provide for taxes on real and personal estates. New Jersey was split during the 1670s. The East portion proceeded to impose tax on land and there was also a poll tax although in 1682 this was extended to include some movables as well. In West New Jersey tax was also imposed on land per acre but this was backed up with a faculty tax. Pennsylvania was chartered in 1682 and early taxation seems to have involved a poll and land tax.

The heading then included a discussion of the events giving rise to the creation of the Dominion of New England. This had its origins in the Navigation Acts, which were originally passed by the English Parliament in 1650 and 1651 as a part response to the rebellion in Barbados. The Acts imposed restrictions on trade in the colonies, which was resented there, particularly by the New Englanders who were the hub of colonial trade. The Lords of Trade sent an official to investigate and the official reported wholesale breaches of the Acts by New England. In 1684, years after the report, Massachusetts had its charter revoked and Connecticut followed in the next year when James II came to the throne. James proceeded to create the Dominion of New England out of these colonies and progressively Rhode Island, Plymouth, New Hampshire, New York and New Jersey were added. Despite the lack of a representative

assembly, the governor purported to impose taxation throughout the Dominion along the lines of the Massachusetts form of levy. The governor fell as soon news reached New England that James had lost the throne in England.

Matters were less dramatic in the other colonies. There were virtually no developments in the southern American colonies except in South Carolina where the tax system broadly followed the New England model of taxation, with particular reference to 'ability'. Barbados continued to levy tax on land but its poll tax turned into a slave tax by the 1670s. By 1685 this was converted into the taxation of Negro slaves alone. In the 1670s St Kitts, by contrast, imposed a general poll tax supplemented with a land tax for non-residents. By the 1680s this became a poll tax on slaves together with a tax on land per acre. Antigua continued to tax land by the acre with a residual poll tax but by 1688 this became the familiar tax on land per acre and slaves per poll. By this time Nevis was also imposing slave taxes but in addition a tax on merchants and tradesmen according to 'trade and reputation'. Jamaica also provides an example of a poll tax dating from the 1680s.

Table 2 takes a snapshot of the direct tax systems in England and the colonies circa 1650. There is no comprehensive following of the English system emerging from this table but some general observations may be made. It seems there was greater propensity in the colonies to value items objectively, e.g. land by the acre, cattle by the head and even humans by the poll. This seems consistent with the less developed state of the colonies but, in the case of land, there seems to be some resonance with valuation methods used in English local taxation at the time, see page 77. Further, the colonies seem to have had greater propensity for valuing property according to capital rather than annual value. While the English tax system specifically required the annual or yearly value for land the colonial systems did not state this expressly. As the landholding system in the colonies was not as complex as in England this may have facilitated sale of property and hence capital valuation. However, it may also be that in practice land was valued according to yearly value and then capitalised.

Poll taxes appear to be isolated in the colonies but it must be remembered that poll taxes were used in England just before the English Civil War and just after the Restoration. The taxation of 'gains', 'returns' and even 'incomings' in the colonies with respect to labour or 'faculty' seems to be a colonial development. 'Faculty' or 'ability' was a concept known in English taxation, particularly local taxation, and the English

Table 2. *Direct taxation in England and the colonies circa 1650*

Circa 1650	Tax base	Rate application	Jurisdiction
Subject of taxation	Fixed value per item	Income/profits/gains Capital value (including value estimated by return) Fixed rate tax Fixed amount tax (divided by quota)	Source tax Residence tax
<i>Property</i>			
General		Massachusetts; Connecticut; New Haven; New Plymouth	Massachusetts Connecticut; New Haven
Land	English Local Rates; Virginia 1645–1648; Maryland 1654–1657; Barbados	English Common-wealth Monthly Assessment Common-wealth Monthly Assessment; English Local Rates Virginia; Maryland	English Common-wealth Monthly Assessment; English Local Rates Virginia; Maryland

Movables	Virginia 1645—1648 (livestock); Maryland 1654—1657 (cattle as a proportion of a poll)	English Common- wealth Monthly Assessment; English Local Rates (typically only stock in trade)	Virginia; Maryland	English Common- wealth Monthly Assessment; English Local Rates (inhabitants only); Virginia; Maryland
Intangibles		English Common- wealth Monthly Assessment (debts presumed)		English Common- wealth Monthly Assessment
<i>Personal</i>				
General	Virginia; Maryland, Massachuse- tts; Connecticut; New Haven; Barbados		Massachusetts; Connecticut; New Haven; Virginia; Maryland	Massachusetts; Connecticut; New Haven; Virginia; Maryland

(continued)

Table 2. (*cont.*)

Subject of taxation	Circa 1650		Rate application		Jurisdiction		
	Tax base	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Office/employment			English Common-wealth Monthly Assessment	English Common-wealth Monthly Assessment	English Common-wealth Monthly Assessment	English Common-wealth Monthly Assessment	
Profession							
Business/trade			Massachusetts (arts and trades); New Plymouth (faculties and abilities); Connecticut (arts and trades); New Haven (arts and trades)	Massachusetts; New Plymouth; Connecticut; New Haven	Massachusetts; New Plymouth; Connecticut; New Haven	Massachusetts; Connecticut; New Haven	New Plymouth

poll taxes typically involved some form of graduation. However, it is difficult to draw a clear connection between the colonial developments, centred in Massachusetts, and any particular English central levy. The English consistently taxed returns on public offices and, in poll taxes after the Restoration, taxed wages and receipts of some professionals but these examples are narrower than the faculty tax used in the colonies.

As to determination of the tax rate, there is no clear evidence of colonies at this stage (1650) following the quota style system that was used in the English monthly assessments. It is presumed that a single rate was applied to the tax base throughout each colony. England also used rate systems, particularly in the poll taxes and subsidies used before the English Civil War and after the Restoration. The bunching effect under the jurisdiction to tax is not surprising. The taxes on property are essentially source-based taxes whereas the poll taxes are essentially inhabiting or residence-based taxes. In this sense the Commonwealth monthly assessments were somewhat peculiar as the subsidies before the English Civil War and after the Restoration typically involved a mixed source and residence basis. It is presumed that the colonial faculty taxes were largely targeted at trades and businesses and so were levied on the basis of source.

A number of important points spring from the time period covered by this chapter. The first is that the turbulent events in England gave rise to substantial developments in the form of taxation. The settled ways of the fifteenth and tenth and the Tudor subsidy gave way to developments of the direct tax system at a pace that had not been seen since the late fourteenth and early fifteenth centuries. One surprising aspect of these developments is that they seem to have generated little in the way of the four primary issues identified in the Introduction for investigation by this study, especially the capital—revenue distinction, the schedular system and simultaneous source- and residence-based taxation.

The capital—revenue distinction as discussed in Chapter 1 was simply adapted to the law of trusts and the trust became the dominant form of landholding in England. There were embryonic developments in accounting for revenue and capital separately but these were far from significant. The schedular system is consistently evident, particularly in the poll style taxes after the Glorious Revolution. There was a confusing alternation between taxing predominantly on the basis of source under the monthly assessments, on a predominantly inhabiting or residence basis under the various types of poll tax and on a combined basis under the subsidies. The one exception, where there seems to have been

a notable development, was in the taxation of corporations and their shareholders. The poll tax of 1678 recognised expressly for the first time the taxability of shareholders with respect to their shares in corporations, despite the fact that the corporations themselves were subject to the tax.

The period covered by this chapter was particularly important in the colonies. It was a time of vast expansion in the colonies and settlement of their direct tax systems. This settlement seems to have been largely around the systems adopted by two dominant colonies. Throughout this period to the Glorious Revolution the Massachusetts colony dominated New England influencing the government, laws and culture of the other colonies. As Simmons notes:

In sum, the 'New England mind' was in most respects the mind of southeastern Massachusetts. The Bay colony's ascendancy lay in its size and wealth which allowed it to support Harvard, the only institution of higher learning in New England until 1701, when Yale College was founded, and the only printing presses until 1709, when one was set up in New London, Connecticut.³⁰⁸

Jones explains the principle of the New England direct tax system thus:

[The] duty of every inhabitant to contribute towards the support of the colony was based upon the theory of benefit received by reason of the existence of the government. The amount of the contribution was determined by the ability of the inhabitant to pay, and his ability, by the amount of land and property he possessed, while every able-bodied freeman was required to pay a specified sum as a poll tax.³⁰⁹

The other dominant colony was Barbados. Just as the colonists from Massachusetts prospered and spread out to form the basis of and influence other New England colonies, Barbados was a successful and wealthy colony that soon became heavily populated. Its colonists influenced not only the other Caribbee colonies but ventured out to settle in Jamaica and South Carolina. Its direct tax system, involving a mixture of taxation of land and a poll tax, becoming a tax on slaves, was emulated in most nearby colonies and may well have been influential as far north as early New Jersey.

These dominant colonies were in many ways reflections of the competing factions that caused turmoil in England during this period.

³⁰⁸ Simmons (1976, p. 113). ³⁰⁹ Jones (1896, p. 15).

The Massachusetts colony was born of Puritan origins with communalism and uniformity of worship at its heart, the sorts of forces that had no small say in the uprising that resulted in the English Civil War and its aftermath. The Barbadians represented the planting elite, in many ways reflecting the English elite and establishment. They remained staunchly loyal to the king. One matter that these dominant colonies have in common is that each was the focus of suppressive behaviour at the hands of a ruling English force. The Barbadians were suppressed by the Commonwealth only to revel in the restoration of the monarchy. The Massachusetts colony was suppressed at the hands of James II only to revel in his downfall with the Glorious Revolution. In many ways, the dominance of these colonies would wane with the passing of the seventeenth century.

1688 to 1763: Regional Relations, Colonial Competition and Impending Independence

This chapter covers a period of seventy-five years, nearly thirty years longer than the period covered by the previous chapter. There are other important respects in which this chapter differs from the last. Unlike the previous chapter, which involved more than four decades of turmoil, the present chapter involves a couple of decades of turmoil, a period of relative calm followed by two further decades of turmoil. Further, whereas the last chapter was underlined by internal disputes within England, due to religious differences and the power struggle between the Crown and the Parliament, the period covered by this chapter is, after the settling of the monarchy under William III, relatively calm within England.¹ This shows in the direct tax system in England, which goes through a period of development during the first decade and then settles in a manner that would last for nearly a century.

In the colonies there is also development throughout the first two decades covered by this chapter. As in England, this is particularly so in the 1690s. This decade was somewhat of a watershed in the development of the colonies. Not only did the types of tax laws used develop substantially but the form in which the laws were passed, their publication and reporting back to England also matured. Before the Glorious Revolution the form of laws differed between colonies and also between the colonies and England to a substantial extent. Publication of laws was random at best and even reporting of laws to England in manuscript form was inconsistent. This tended to change in the 1690s. The form of laws tended towards the English format and so the laws often become more formal, technical and longer. There is greater uniformity between the colonies in this respect and publication, particularly of session laws, becomes more consistent, particularly in the American colonies.

An important influence in this trend towards uniformity was the Lords of Trade, discussed above at page 158. Their increasing power and

¹ Although there were two notable Jacobite uprisings in 1717 and 1747.

influence in the regulation of trade and the Navigation Acts was instrumental in the creation of the Dominion of New England before the Glorious Revolution. In 1696 the Lords of Trade were replaced with the Board of Trade, which was founded by royal warrant. It was the English agency specifically charged with colonial affairs and remained the central English agency for colonial affairs until after American independence. The Board was an advisory body to the Privy Council and its 'main work was to receive all correspondence from governors and all important official papers from the colonies; these included particularly laws and proclamations, the journals of governors, councils, and assemblies, and petitions'.² Included in this remit was the passing of colonial laws to the Crown's legal officers to check that the laws did not conflict with the laws of England.

Developments in the sophistication and uniformity of the laws of the American colonies at the turn of the eighteenth century was reflected in the massive expansion and development of these colonies at this time. As a result of the expansion there was a flood of disputes with the Native Americans, the French and the Spanish. Through the early decades of the eighteenth century the developing economies of the American colonies had an increasing need for credit and currency. Some colonies began paying for public expenses, particularly wars, by issuing paper credit or notes. This led not only to great outcries, particularly by creditors paid with this form of legal tender, but also to serious devaluation and the Board of Trade pressed hard to rein back the problem.

The eighteenth century was a period of substantial development in the manufacturing sectors in Europe and particularly Britain. There was an increasing demand for raw products, many of which were derived from the colonies. The result was ever increasing trade with the colonies and increasing expansion of European interests in the colonies. Inevitably, French and English interests in North America conflicted. This rivalry led to the first major European war fought on colonial soil, the Seven Years War of 1756–63. This war would see French authority essentially expelled from North America and English domination of the area. The domination was short-lived as the expulsion of the French threat turned the attention of the colonists to their relationship with England itself. Discontent arising from the cost of the war with the French for England and the interference of the English in colonial affairs set the scene for the American War of Independence.

² Simmons (1976, p. 164).

This chapter is divided into three primary headings. It begins with the turbulent period following the Glorious Revolution and continues until the settling of European disputes with the Treaty of Utrecht of 1713. As mentioned, this is a period of substantial development of the direct tax systems both in England and the colonies. The heading asks the question whether this period is the ‘crucible of the income tax?’. The second heading considers the period of relative calm between 1713 and the start of the Seven Years War. Direct tax developments in this period are comparatively modest, with the focus on the methods of taxation used by American colonies to secure the issue of paper money. The third heading covers the period of the Seven Years War. The English form of direct taxation changed little during this period and the focus is rather on developments in the colonies. The chapter finishes with a summary.

3.1 Crucible of the Income Tax? The Conquest of William III through the Treaty of Utrecht

William III’s successful march into England late in 1688 and the establishment of William III and Mary II on the English throne immediately brought England into conflict with France. William was a champion of the Protestant cause. Born of the Stadhouder of Holland,³ he was locked in battle with Louis XIV of France, his archenemy, over possession of lands claimed by the Netherlands. In 1677, William married the daughter of the English Duke of York (later James II) and was in this way allied to the English Crown. As Stadhouder of Holland, William was already locked in the War of the League of Augsburg against the French at the time he ascended to the English throne. With the English joining the League’s side, in 1689 this became the War of the Grand Alliance. The French supported a counter-revolution in Ireland in an attempt to reinstate James II on the English throne and to tie up William’s troops stopping him leading them to mainland Europe. The war ended inconclusively in 1697 with the signing of the Treaty of Ryswick.

³ The Stadhouder of Holland was formerly the governor for the king of Holland and was the ‘highest dignitary’ of the Dutch Republic in the 1580s at the start of the Eighty Years’ War (1568–1648) for independence from Spain. The position of Stadhouder passed through relatives to William II who, by arrangement, was married into the British Stuart family. His wife, Mary Stuart, gave birth to William III shortly after the death of William II. William III was not accepted as a Stadhouder until the Third Anglo-Dutch War (1672–74). See ‘t Hart (1993, pp. 20–1).

The War of the Grand Alliance spilled over into the colonies. A number of battles occurred on the northern front where the New England colonies and New York bordered French Quebec. However, the West Indies bore the brunt of the conflict and again colonies were lost; then regained.

European war broke out again when the Spanish king (Charles II) died in 1700 without a direct heir. Claims to the throne included one by the grandson of Louis XIV of France, who was crowned Philip V of Spain. Matters came to a head when Louis XIV recognised Philip V's place in the French succession and, upon the death of James II of England (dethroned by the Glorious Revolution) in 1701, recognised James' son (James the Pretender) as king of England, Scotland and Ireland. The rest of Europe did not wish to see the Spanish and French crowns merged. Austria also claimed the Spanish crown and invaded Spanish territories in Italy. Matters came to a head when France intervened on the Spanish side. England and other countries entered the war on the side of Austria in 1702, the War of Spanish Succession.

William III died in 1702 and the throne passed to his wife's sister Anne (another daughter of James II of England). In 1707 the Act of Union integrated Scotland into the English Parliament (as Wales had been nearly 200 years earlier, see p. 66) and Crown and Parliament became that of Britain.⁴ The War of Spanish Succession dragged on in Europe and in the colonies until the disputes between Britain, the Netherlands and France ended with the Treaty of Utrecht of 1713. Importantly, by this treaty France recognised the independence of the Netherlands and agreed to cease support of the Stuarts (James the Pretender) to the English crown.

This heading considers the development of direct taxation during these two and a half decades of war, first in Britain and then in the American and West Indian colonies.

Tumultuous Aids Leading to a Settled Land Tax

War of the Grand Alliance

Direct taxation during the reign of William III and Mary II began with a bang with no less than four direct tax levies being granted during the first year of their reign. These grants were a mixed bag, at first

⁴ An Act for rendering the Union of the Two Kingdoms more intire and complete (6 Anne c. 40) (1707) (UK); United Kingdom (1810–1828, Vol. VIII, p. 736).

continuing the types of taxes granted during the reign of Charles II. In 1688 monthly assessments were used.⁵ By cross-reference, this law required assessment according to the provisions of the 1677 law on monthly assessments.⁶ This was followed by the repeal of the unpopular hearth tax (see above at p. 138), which was associated with the Stuart monarchy.⁷ Later in the same year William III and Mary II were granted a tax on certain incomes and a poll tax based on the 1678 tax.⁸ The tax on shares (including the deduction at source mechanism) was extended to the Hudson's Bay Company.⁹

This taxation was further supplemented in 1688 with a subsidy, now called an aid, in the same year.¹⁰ While this law largely followed the precedent of 1671,¹¹ there were some important differences. The special heads of charge for bankers and money lent by the Crown were omitted. The first head was with respect to personal estate (movables), which was now charged:

Twelve pence in the Pound according to the true yearly Profit thereof . . .
(that is to say) For every Hundred pounds worth of such . . . Personal
Estate the sum of Six shillings . . .

And so, in the tradition of the monthly assessments of the Commonwealth, the capital value of goods was divided by a fixed fraction to give a yearly value (this time at 6 per cent). Also of interest is the reference to 'profit', again demonstrating the propensity of England to use that term or 'revenue' rather than 'income' (see discussion above at pp. 117–19). Further, like the later monthly assessments there was no express reference to debts being subject to charge.

⁵ An Act for the granting a present Aid to Their Majesties (1 Will.&Mar. c. 3) (1688) (UK); United Kingdom (1810–1828, Vol. VI, pp. 24–53).

⁶ 1 Will.&Mar. c. 3; United Kingdom (1810–1828, Vol. VI, p. 52).

⁷ An Act for the taking away the Revenue arising by Hearth-Money (1 Will.&Mar. c. 10) (1688) (UK); United Kingdom (1810–1828, Vol. VI, p. 61).

⁸ An Act for Raising Money by a Poll and otherwise towards the Reducing of Ireland (1 Will.&Mar. c. 13) (1688) (UK); United Kingdom (1810–1828, Vol. VI, pp. 63–70).

⁹ This company was chartered in 1670 with a monopoly of trade within the watershed surrounding the coast of Hudson's Bay in Canada. The company had enjoyed a profitable fur trade until French Canadians captured its trading posts during the War of the Grand Alliance. They were returned and recognised by France under the Treaty of Utrecht. Williamson (1929, p. 264).

¹⁰ An Act for a Grant to Their Majesties of an Aid of Twelve pence in the Pound for One Year for the necessary Defence of Their Realm (1 Will.&Mar. c. 20) (1688) (UK); United Kingdom (1810–1828, Vol. VI, pp. 77–85).

¹¹ Kennedy (1964, p. 44).

The second head of charge was wages from offices and employments but this time it was not expressly limited to public offices.¹² The third head was the yearly value of various interests in land. Interestingly, persons and bodies politic or corporate that held land paid tax on the full yearly value of the land. However, where they were indebted they were entitled to deduct tax at the same rate from payments of interest. This is clearly a precursor to charges on income and deduction at source under the income tax of more than a century later.¹³ As in the 1671 levy, persons were to be assessed for offices and employments where exercised, for personal estate where they resided and for land interests where they lay. As Soos notes, the deduction at source mechanism used with respect to shares under the poll tax was incorporated with respect to companies of merchants, water companies¹⁴ and the King's Printing House.¹⁵ Dowell suggests that 'the assessment was made, to considerable extent, on the old lines of the last year's assessment', i.e. the monthly assessment.¹⁶

This was followed with a further aid in the same year.¹⁷ This aid followed the form of the earlier aid of 1688 but, for present purposes, it is worth noting two matters. First, consistent with the subsidies before 1671, the first head of charge now made express reference to money, debts and personal estate 'within this Realm or without'. Further, the second head of charge was limited to 'public office or employment'.

The new monarchs would have been broadly familiar with the style of taxation imposed in England. As with the monthly assessments, the Netherlands (United Provinces of) allocated central expenses to the provinces using a quota system.¹⁸ This was also the system used in William III's home province of Holland with respect to the land and

¹² Soos (1997, p. 109) suggests that this may have been an oversight because the limitation was incorporated in future aids and land taxes.

¹³ 1 Will.&Mar. c. 20; United Kingdom (1810–1828, Vol. VI, at p. 78).

¹⁴ These companies undertook the task of supplying water by conduit to cities such as London.

¹⁵ Soos (1997, pp. 112–14).

¹⁶ Dowell (1965, Vol. II, p. 47).

¹⁷ An Act for a Grant to Their Majesties of an Aid of Two shillings in the Pound for One Year (1 Will.&Mar. Sess. 2. c. 1) (1688) (UK); United Kingdom (1810–1828, Vol. VI, pp. 104–42). See Soos (1997, p. 114) regarding a supplement to this aid, which cross-referenced to its assessing provisions.

¹⁸ See 't Hart (1993, p. 80).

house tax (*verponding*).¹⁹ As with the quota allocations in England, these were settled in Holland at substantial intervals, a main allocation occurring in 1585 and 1632, the latter lasting to the end of the seventeenth century. William would also have been familiar with poll taxes, a hearth tax and taxes on obligations and offices.²⁰ The Netherlands also relied heavily on indirect taxes, particularly excises.²¹ The year 1689 saw the imposition of a further poll tax in England, which largely followed that of 1688.²² However, servants wages were not expressly taxed and the taxation of shares (by way of deduction at source) was extended to the water companies and the King's Printing House and imposed, in this case, by reference to yearly value of the shares. This was followed in 1690 by a return to monthly assessments charged using the usual quota system (but not by reference to the 1677 law) by way of a pound rate on the basis of source with power to override the pound rate and use 'the most just and usual Rates'.²³

A further monthly assessment followed in 1691 and was of a similar type.²⁴ This was the last monthly assessment and, as by now usual, did not expressly include debts. But further, Dowell suggests that by this

¹⁹ 'The ordinary direct tax for Holland was a property tax: the *verponding*, which affected land and house owners. The land taxes were levied after deduction of the polder and dike duties at a rate of 20 per cent of the rental value. Houses paid 12.5 per cent, less than land because the costs of maintenance of the buildings were not deducted beforehand. The *verponding*, originally established to provide the taxes (*beden*) for the sovereign overlord, was collected (and not farmed out) by local tax officers for the separate tax districts. Registers were extended to other kinds of property, such as bonds and obligations. The sum was decided upon centrally, the burden divided over a proportional allocation in quotas to tax districts, which became an annual fixed charge in the seventeenth century' 't Hart (1993, p. 122).

²⁰ 'In addition to the *verponding*, extraordinary property taxes might be imposed, such as a second or third *verponding*, a capitation tax, a hearth tax, or in the way of extraordinary property assessments . . . The extraordinary property taxes were levied upon land, houses, obligation, manors, tithes and offices' 't Hart (1993, p. 122).

²¹ 't Hart (1993, pp. 130–1).

²² An Act for Raising Money by a Poll and otherwise towards the Reducing of Ireland and Prosecuting the War against France (2 Will.&Mar. c. 2) (1689) (UK); United Kingdom (1810–1828, Vol. VI, pp. 156–64).

²³ An Act for Granting an Aid to Their Majesties of the Sum of Sixteen hundred fifty one thousand seven hundred and two pounds eighteen shillings (2 Will.&Mar. Sess. 2. c. 1) (1690) (UK); United Kingdom (1810–1828, Vol. VI, pp. 180–218).

²⁴ An Act for Granting an Aid to Their Majesties of the Sum of Sixteen hundred fifty one thousand seven hundred and two pounds eighteen shillings towards the Carrying on a Vigorous War against France (3 Will.&Mar. c. 5) (1691) (UK); United Kingdom (1810–1828, Vol. VI, pp. 259–301).

time '[m]oveable property had slipped out of assessment ...'.²⁵ As a result the monthly assessment was viewed as falling too heavily on the landed class. The 1691 assessment was supplemented with a poll tax.²⁶ In this case incomes as such were not taxed but the tax was classified in certain ways with respect to estate or rank. In particular, while the law itself did not use the word 'income', this word was used at one point in the side-notes as an equivalent for the phrase 'cleare yearly value' used in the text of the law. This law also sees a clear move to taxing at higher rates according to outward signs of wealth, e.g. according to the keeping of coaches. As with the hearth tax from 1662 to 1688, the tax on coaches was a forerunner to a separate tax imposed by a law of 1694. In the usual way, persons were to be assessed where they resided.

Another aid was imposed in 1692 at the rate of 4s.²⁷ This law largely followed the second aid of 1688. However, the 1692 law expressly exempted from the tax on movables shares in certain companies that were taxed by a later act of the same year. Further, movables of a person resident in one county situated in another county could now be assessed in that other county.²⁸ The separate tax was imposed on the shares of the East India, Royal Africa and Hudson Bay Companies.²⁹ The tax was imposed upon the companies according to the amount or value of stock but the companies were to deduct the tax 'according to the several shares and proportions of the Members ... upon their next Dividends'. This separate charge was not subsequently repeated.³⁰

As the war with France dragged on so did heavy taxation. A similar assessment for an aid was made in 1693.³¹ In 1693 there was a poll tax

²⁵ Dowell (1965, Vol. II, p. 47 and Vol. III, p. 81).

²⁶ An Act for raising money by a Poll payable quarterly for One year for the carrying on a vigorous War against France (3 Will.&Mar. c. 6) (1691) (UK); United Kingdom (1810–1828, Vol. VI, pp. 302–10).

²⁷ An Act for granting to Their Majesties an Aid of Four Shillings in the Pound for One year for carrying on a vigorous War against France (4 Will.&Mar. c. 1) (1692) (UK); United Kingdom (1810–1828, Vol. VI, pp. 323–72).

²⁸ 4 Will.&Mar. c. 1; United Kingdom (1810–1828, Vol. VI, p. 362).

²⁹ An Act for continuing certain Act therein mentioned and for charging several Joint Stocks (4 Will.&Mar. c. 15) (1692) (UK); United Kingdom (1810–1828, Vol. VI, pp. 401–4).

³⁰ Dowell (1965, Vol. II, p. 51).

³¹ An Act for granting to Their Majesties an Aid of Four Shillings in the Pound for One year for carrying on a vigorous War against France (5 Will.&Mar. c. 1) (1693) (UK); United Kingdom (1810–1828, Vol. VI, pp. 426–42).

based on that of 1691.³² In this case the tax on coaches was removed from the law and a different licencing system for hackney coachmen imposed under a separate law of the same year.³³ There was another aid similar to that of 1693 in 1694³⁴ and 1695.³⁵ The later aid was supplemented with a fixed tax on houses, with higher rates for houses having more than a stated number of windows.³⁶ The commissioners for the 'aid' or 'land tax' were appointed for this purpose. Like the hearth tax (1662–88) and the tax on coaches, the house tax demonstrated an increasing tendency towards taxation of outward signs of wealth, which would lead to the Assessed Taxes.

It is perhaps appropriate to pause briefly at this point to consider the style of tax being used by the French enemy at this time. Since the mid-fifteenth century the French direct tax system had mainly relied on the *taille*. It seems that this was essentially a property tax, largely falling on land, which was allocated by quota and assessed locally. This tax was only imposed on commoners; the clergy and the nobility were exempt from the *taille*. There are similarities between this tax and the English tallage, fifteenth and tenth and even aspects of the Tudor subsidy.³⁷

³² An Act for raising money by a Poll payable quarterly for One year for carrying on a vigorous War against France (5&6 Will.&Mar. c. 14) (1693) (UK); United Kingdom (1810–1828, Vol. VI, pp. 472–9).

³³ An Act for the licensing and regulating Hackney-Coaches and Stage-Coaches (5&6 Will.&Mar. c. 22) (1693) (UK); United Kingdom (1810–1828, Vol. VI, pp. 502–5). See also Dowell (1965, Vol. II, p. 52).

³⁴ An Act for granting to his Majesty an Aid of Four shillings in the Pound for One Year and for applying the yearly sum of Three hundred thousand Pounds for Five years out of the Duties of Tunnage and Poundage and other sums of money payable upon Merchandise exported and imported for carrying on the War against France with vigour (6&7 Will.&Mar. c. 3) (1694) (UK); United Kingdom (1810–1828, Vol. VI, pp. 510–63).

³⁵ An Act for granting to His Majesty an Aid of Four Shillings in the Pound for carrying on the War against France (7&8 Will. III. c. 5) (1695–96) (UK); United Kingdom (1810–1828, Vol. VII, pp. 8–61).

³⁶ An Act for granting to His Majesty several Rates or Duties upon Houses for making good the Deficiency of the clipped Money (7&8 Will. III. c. 18) (1695–96) (UK); United Kingdom (1810–1828, Vol. VII, pp. 86–94). See also Dowell (1965, Vol. II, p. 52).

³⁷ Kwass (2000, pp. 24–6). 'In the sixteenth century, finance ministers fixed the annual global sum of the *taille* according to economic reports from *tresoriers de France* (officers in the *bureaux des finance*), and divided the sum among the generalities. In each generality the *tresoriers* distributed the *taille* among several *election* districts, and in each district the *elus* (officers of the *election* court) distributed the tax among the parishes. After each parish was assigned a lump sum of money, parishioners subject to the *taille* gathered in a village assembly and elected assessors and collectors to draw a roll

The French famine of 1693–4 crippled the collection of the *taille* and William III's archenemy, Louis XIV, established a new form of taxation, the *capitation*, in 1695 to fund the War of the Grand Alliance. The initial imposition of this tax only lasted for the remainder of the war. The importance of this levy was that it was 'designed to strike all royal subjects no matter where they stood in the social hierarchy of the kingdom'.³⁸ Clerics, however, generally remained exempt. The *capitation* may be viewed as a more sophisticated version of the poll tax used in England in 1691 and 1694.³⁹

There were two English levies in 1696 and the first of these was particularly important. It was similar to the earlier poll taxes (although, unlike similar earlier taxes, the word 'poll' was not used in its title) with certain supplementary taxes on yearly value and estate.⁴⁰ Indeed, as the title suggests, this was essentially a 'land tax' and is the first act that uses that title. The poll tax was charge on all persons 'within this Kingdom'. The second head charged servants (last charged under the 1688 poll tax) at graduated rates (5.4–21.6 per cent) for their wages if those wages exceeded £4 per annum. There was no separate head for public officers but pensions, etc. out of the public revenue was the third head (last charged under the 1689 poll tax).

The fourth head was new and interesting. It charged judges and certain other state officers 21.6 per cent of their 'Salary Fee Wages Perquisites Allowances Poundage Gratuities Rewards Emoluments Income or Profits howsoever or wheresoever the same or any of them be or shall be payable . . .'. This seems to be the earliest use of the word

distributing the tax among heads of household and to collect the revenue . . . Thus the *taille* was a collective tax' (Kwass 2000, p. 48). Seligman (1914, p. 49) suggests that the *taille* was 'a charge that was universal throughout early medieval Europe and which, in England, had been known as tallage'.

³⁸ Kwass (2000, p. 33). See also Seligman (1914, p. 50).

³⁹ 'To assess individuals, royal administrators were to use a tariff attached to the declaration [law] which classified over 500 types of royal subjects. The tariff situated these types according to title, birth, office, profession, and wealth into a graduated scale of twenty-two brackets, with tax assessments ranging from 2,000 livres to 1 livre. What struck contemporaries about the tariff was that its hierarchy was ordered on the basis of wealth and not just birth' Kwass (2000, p. 68). Kwass (2000, p. 125) goes on to explain that the 'rules governing the assessment of the *capitation* . . . [were] vague – the head tax was levied on the basis of an ill-defined combination of wealth and social position . . .'. See also the description in Smith (1776, book V, ch. II, p. 428).

⁴⁰ An Act for granting an Aid to His Majesty as well by a Land Tax as by several Subsidies and other Duties payable for One Year (8&9 Will. III. c. 6) (1696–97) (UK); United Kingdom (1810–1828, Vol. VII, pp. 166–89).

‘income’ and, perhaps, ‘emolument’ in the charging provisions of this type of law.⁴¹ The fifth head is also exceptional. As with earlier poll taxes it charged physicians and lawyers but proceeded to similarly charge:

all Brokers to Merchants and all Factors and other Persons acting by Commissions from Merchants and others and all and every Person or Persons practising the Art of Physick or Chirurgerie and all Apothecaries and all and every Person and Persons exercising any other Professions whatsoever . . .⁴²

Again exceptionally, this charge was imposed upon the ‘Yearly Income or Profits’ of the professionals at the rate of 21.6 per cent. The use of ‘income’ alongside the word ‘profits’ in the fourth and fifth heads of charge reinforces the similarity of these concepts in the history of English direct taxation. It is interesting to consider what the English Parliament was seeking to tax under these heads. For judges and state officials it is likely that there was some accuracy and subjectivity in reaching actual income. For merchants and professionals it is likely that the majority of taxpayers would have been subject to a notional or objective assessment of income or profits. Nevertheless, it is clear that some merchants and professionals at this time would have been keeping sufficient records to determine their income or profits more accurately, see pages 133–5. However, due to the lack in uniformity of accounting practice at this time the results are likely to have been, according to present standards, uneven.

It is also interesting to speculate as to what the use of the word ‘yearly’ added in this context. Did it mean income or profits ‘of the year’ or income or profits of an annually recurring nature. It seems clear that the term was borrowed from the typical charge upon land, which as we have seen stretches back to 1404, see pages 46–7. In that context the term was used in the sense of the expected return from land, rather than its actual return and in this context the inclusion of capital gains makes little sense. It seems likely that a similar approach was intended with respect to the fifth head. The assessment was to be according to the expected return of the merchant or professional rather than the actual

⁴¹ ‘Emoluments’ was used much earlier in the clerical subsidies, e.g. An Act concerning the payment of First Fruits of all dignities benefices and promotions spiritual; & also concerning on annual pension of the tenth part of all the possessions of the Church, spiritual and temporal, granted to the King’s Highness & his heirs (26 Hen. VIII. c. 3) (1534) (UK); United Kingdom (1810–1828, Vol. III, pp. 493–9 at 495).

⁴² 8&9 Will. III. c. 6; United Kingdom (1810–1828, Vol. VII, pp. 167–8).

return and again in this context discussion of capital gains makes little sense. That said, as mentioned at pp. 46–7, accounting practice at this time would not have clearly separated capital from revenue in the calculation of profits. To the extent that actual accounts were relied on it seems unlikely that capital items would have been extracted from profits (in the way that the income tax would later require).

The sixth head of charge in the first levy of 1696 was the familiar head charging ready money and debts receivable (less debts owed). This time the charge was at the rate of 1.25 per cent of the capital amount of the money or debt (which assuming, as earlier laws did, that income is capitalised at 6 per cent, produces a yearly value rate of nearly 21 per cent). The seventh head was also exceptional and sought to reach trades. It charged:

every person and Persons Bodies Politick and Corporate Guilds and Fraternities within this Kingdom ... using or exercising any Trade Mystery Occupation or Business of Merchandising Shopkeeping or other buying or selling by Wholesale or by Retail who ... shall have or possess ... any Goods Wares Merchandises Commodities Manufactures or Vendible Stock whatsoever within this Realme ...⁴³

The charge was at the rate of 2.5 per cent of the ‘full true and real Value’ of the stock. The double rate compared to ready money and debts clearly suggests that this attempt was more than an effort to tax capital and was also trying to reach the labour element involved in trade.

The eighth head was also exceptional, involving an effort to tax those holding livestock. The head charged any person in possession or occupation of any land upon which:

there shall be any Horses Mares Geldings Colts Bulls Oxen Cows Calves Sheep Lambs Swine or other Cattle great or small ...⁴⁴

This time the rate was 0.6 per cent of the capital value of the livestock.⁴⁵ The ninth and last head taxed land at the rate of 15 per cent of yearly value (according to market or ‘rack’ rent) and followed the form usually used in the aid or subsidy.

Persons rated for wages, ready money and debts were to be taxed in their place of residence. Payments by the crown were taxable where payable. Other pensions, etc. were to be taxed at the place of the

⁴³ 8&9 Will. III. c. 6; United Kingdom (1810–1828, Vol. VII, p. 168).

⁴⁴ United Kingdom (1810–1828, Vol. VII, p. 168).

⁴⁵ By comparison, at this time the colonies typically valued livestock by the head.

recipient's residence. Offices, employments and professions were to be taxed where exercised. Traders and farmers were to be taxed where their stock was situated and landowners where the land lay.⁴⁶ Traders were required to deliver particulars of their stock to the assessors.⁴⁷ The charge on the stock of waterworks and the King's Printing House was extended to certain insurance and street lighting companies.⁴⁸

This important 'land tax' imposed under the law of 1696 was supplemented in the same year with a second levy, which charged a further 5 per cent on the yearly value of land according to the earlier subsidy.⁴⁹ A further supplement was an annual licence imposed on hawkers and pedlars according to the number of beasts of burden used, again demonstrating developments at this time towards taxes on outward signs of wealth.⁵⁰ Over the past few years, the yield of the subsidies had continued to fall. Despite these substantial changes and efforts to reach all wealth in 1696, Dowell notes that the yield of the 1696 levies was £73,000 short of that of the year before and in the previous five years its yield had declined by 13.5 per cent.⁵¹ To stop the fall there was a return to fixed value assessments, i.e. a quota system, in 1697, when William III sought to raise funds to disband forces following the Treaty of Ryswick of 1697.⁵²

The 1697 Act specified an amount to be levied and then, like the earlier monthly assessments, apportioned that amount between the counties and towns mentioned in the Act. The law then proceeded to return to the three heads of charge (debts and movables, public offices and land) used in the previous 1695 aid. In the now usual way, debts

⁴⁶ 8&9 Will. III. c. 6; United Kingdom (1810–1828, Vol. VII, pp. 174–5).

⁴⁷ 8&9 Will. III. c. 6; United Kingdom (1810–1828, Vol. VII, pp. 176–7).

⁴⁸ 8&9 Will. III. c. 6; United Kingdom (1810–1828, Vol. VII, p. 180).

⁴⁹ An Act for granting to His Majesty a further Subsidy of Tonnage and Poundage upon Merchandises imported for the Term of Two Years & Three Quarters & an additional Land Tax for One Year for carrying on the War against France (8&9 Will. III. c. 24) (1696–97) (UK); United Kingdom (1810–1828, Vol. VII, pp. 259–66 at 263).

⁵⁰ An Act for licensing Hawkers and Pedlars for a further provision for the Payment of the Interest of the Transport Debt for the reducing of Ireland (8&9 Will. III. c. 25) (1696–97) (UK); United Kingdom (1810–1828, Vol. VII, pp. 266–9).

⁵¹ Dowell (1965, Vol. III, p. 82) and Ward (1953, p. 20).

⁵² An Act for granting to His Majesty the Sum of One Million four hundred eighty four thousand and fifteen Pounds one Shilling eleven Pence three Farthings for disbanding Forces paying Seamen and other Uses therein mentioned (9 Will. III. c. 10) (1697–98) (UK); United Kingdom (1810–1828, Vol. VII, pp. 307–64). See also Dowell (1965, Vol. III, pp. 83–5). There had been unsuccessful attempts in recent years to re-impose a quota system, see Ward (1953, p. 20).

and movables paid according to their presumed yearly value, it then being presumed that every £100 of value represented a yearly value of £6. The tax was to be imposed on this value and wages from public offices and employments at 15 per cent. Only any residual amount to be collected was to be levied on the yearly value of land at such rate as necessary to meet the quota. It charged land:

with as much Equality and Indifferency as is possible by a Pound Rate . . . so that by the said Rates . . . the full and entire Sums hereby appointed to be raised as aforesaid shall be completely and effectually taxed assessed levied and collected and shall be paid . . .⁵³

Otherwise than for this major change, the machinery of the act resembled earlier aids. Commissioners for various counties and towns were named in the Act and required to subdivide for various divisions within the county or town. The assessment was to be made by local assessors appointed by the divisional commissioners and the tax was to be collected by local collectors similarly appointed. Persons were to be assessed for offices and employments where they were exercised, movables where they were resident and land where it lay.

This aid was supplemented with a poll tax, being the last separately enacted poll tax during this period.⁵⁴ This law largely followed the poll tax of 1694 and so imposed fixed amounts payable by persons of various status or having property within certain bands (now including a head for horses as well as carriages).

A similar assessment to the 1697 Act was raised in 1698 but this time the charge also extended to pensions and yearly payments from the crown.⁵⁵ Further, the act was more particular about the apportionment within a county or city. In allocating the county or city charge among each hundred or division of the county or city, the commissioners were to have regard to the proportion born under the assessment of 1692.⁵⁶

⁵³ 9 Will. III. c. 10; United Kingdom (1810–1828, Vol. VII, p. 311).

⁵⁴ An Act for granting to His Majesty an Aid by a Quarterly Poll for One Year (9 Will. III. c. 38) (1697–98) (UK); United Kingdom (1810–1828, Vol. VII, pp. 411–20). See also Soos (1997, p. 108).

⁵⁵ An Act for granting to His Majesty the Sum of One Million four hundred eighty four thousand and fifteen one Shilling eleven Pence three Farthings for disbanding the Army providing for the Navy and for other necessary Occasions (10 Will. III. c. 9) (1698) (UK); United Kingdom (1810–1828, Vol. VII, pp. 469–501).

⁵⁶ 10 Will. III. c. 9; United Kingdom (1810–1828, Vol. VII, p. 484). See also Dowell (1965, Vol. II, pp. 49–50).

This was to prove the standard basis of apportionment under future assessments. The grant of the next year was the first time that this form of aid or subsidy was entitled a 'land tax'. It and that of the next year, the last of the reign of William III, followed the 1698 form.⁵⁷ By this time the 'distinction between ordinary and extraordinary taxation had been largely broken down'.⁵⁸

War of Spanish Succession

There was no break in direct taxation in England between the end of the War of the Grand Alliance and the beginning of the War of Spanish Succession. William III died just before England entered the latter war. In 1701 his archenemy, Louis XIV, reimposed the *capitation* to fund the French war effort. William was replaced with his wife's sister, Queen Anne, also a daughter of James II, and it was not long before she was granted a subsidy or aid.

The first aid of the reign of Anne in 1702 is interesting in that it sought to broaden the base of the fixed quota land tax along the lines of the first aid of 1696.⁵⁹ It was made up of a 'grant' and a separate fixed quota aid. The grant charged tax under a number of heads, essentially borrowed from the first aid of 1696. The first head charged trades, etc. by reference to the value of their stock in basically the same terms and at the same rate as in 1696. The second head charged personal estate in debts receivable at interest, like in 1696 but without the extension to 'ready money'. The third head charged certain pensions and other yearly payments out of the public revenue. The fourth head charged judges and other high officers as the first aid of 1696 and still by reference, among other things, to 'Emoluments Income or Profits whatsoever'.

The fifth head charged professionals as in 1696. However, this time they were not charged with respect to their yearly income or profits

⁵⁷ An Act for granting an Aid to His Majesty by Sale of the forfeited and other Estates and Interests in Ireland and by a Land Tax in England for the several Purposes therein mentioned (11 Will. III. c. 2) (1698/99) (UK) and An Act for granting an Aid to His Majesty for defraying the Expence of His Navy Guards and Garrisons for One Year and for other necessary Occasions (12&13 Will. III. c. 10) (1700/01) (UK); United Kingdom (1810–1828, Vol. VII, pp. 545–81 and 648–716, respectively). As noted above, the term had also been used in the title of the poll and other taxes of 1696.

⁵⁸ Ward (1953, p. 16). See also above Chapter 2 at note 145.

⁵⁹ An Act for granting an Aid to Her Majesty by diverse Subsidies and a Land Tax (1 Anne c. 6) (1702) (UK); United Kingdom (1810–1828, Vol. VIII, pp. 9–40).

but what 'he or she or they shall or may by Estimation receive perceive or take for or by reason of such his her or their Practices or Professions ...'.⁶⁰ The change in wording seems to suggest some difficulty with the previous wording. At page 188 above the question was raised as to whether this head of the first aid of 1696 was intended to capture presumed or actual profits. The change in wording makes it clear that, at least as far as the 1702 aid is concerned, either the definite article ('shall') or an estimate could be used as the basis of assessment. This may reflect the difficulty or impracticality of assessing many professionals and businessmen according to their actual profits or income. It is doubtful whether there was any change in the base that the head sought to charge. The change is more likely a reflection of the point made above at page 103 that, while the policy suggested an income tax, administrative practicalities in many cases denied a tax of sufficient precision. As in 1696, the 1702 aid included a residual poll tax.

The big exceptions to the first aid of 1696 were the absence of the charge on livestock owners and that residually on the wages of servants. Land was also not repeated but it was charged under the fixed quota aid of this law. This was levied only on land and public offices and employments. The latter were charged at a fixed rate and the rest of the quota was to residually fall on land according to a pound rate. As the amount to be collected from public offices and employments was likely to be rather small compared to the quota, the aid part of this law would essentially fall on just the yearly value of land. Interestingly, despite not covering personal estate, the aid was still to be apportioned within counties and cities according to the distribution in 1692.⁶¹ The rules for the place of assessment were the same as those in the first grant of 1696. There were also more detailed rules as to the place of assessment of various companies and organisations, now including the post office, the East India Companies and the Bank of England.⁶²

There were two further levies in 1702, which were granted to prosecute the War of Spanish Succession. These levies represent a split of the grant and aid of the first 1702 levy. First, a fixed quota 'land tax' was levied, which only covered wages from public offices and

⁶⁰ 1 Anne c. 6; United Kingdom (1810–1828, Vol. VIII, p. 10).

⁶¹ 1 Anne c. 6; United Kingdom (1810–1828, Vol. VIII, p. 16).

⁶² 1 Anne c. 6; United Kingdom (1810–1828, Vol. VIII, pp. 20–2). The Bank of England was chartered in mid-1694 during the War of the Grand Alliance. Its purpose was to loan money to the English government and to manage the government's debts. At this time there were two East India Companies, see p. 315 below.

employments and, residually, the annual value of land.⁶³ Second, a 'subsidy' was levied covering trades, debts, pensions and annual payments out of the public revenue, judges and high officials and professionals.⁶⁴ The terms of these levies were essentially the same as the first of 1702.

In 1703 there was a return to the system used at the end of the reign of William III. That is, there was a fixed quota system charging 20 per cent of the yearly value of personal estate and debts (capitalised at 6 per cent), wages from public offices or employments and pensions and yearly payments from the public revenue. The residual amount of a quota was to be raised 'with as much Equality and Indifferency as is possible by a Pound Rate' on the yearly value of land. The proportion of the quota allocated to a division within a county or city was still based on the assessment of 1692.⁶⁵ Despite this return to what had been previously entitled an 'aid', this law was simply entitled a 'land tax'. It seems that to the extent that personal estate had not fallen out of the assessments during the end of the reign of William III, the split created by the levies in the first year of Anne's reign and the title of this law were likely to.⁶⁶

In this form the land tax essentially settled and was re-enacted each year until 1798.⁶⁷ It was levied at a rate of 1, 2, 3 or 4s specified to raise approximately half a million, a million, a million and a half or two million pounds, respectively. And these rates were specified to refer to income from personalty (including debts) and offices and employments. The residual amount to be raised by each area (according to their quota) was to be raised from the annual value of land. Accordingly, land would be charged at a different rate to personalty, etc. and would be charged

⁶³ An Act for granting to Her Majesty a Land Tax for carrying on the War against France and Spain (1 Anne, Session 2, c. 1) (1702) (UK); United Kingdom (1810–1828, Vol. VIII, pp. 85–150).

⁶⁴ An Act for granting to Her Majesty several Subsidies for carrying on the War against France and Spain (1 Anne, Session 2, c. 17) (1702) (UK); United Kingdom (1810–1828, Vol. VIII, pp. 186–202).

⁶⁵ An Act for granting an Aid to Her Majesty by a Land Tax to be raised in the Year One thousand seven hundred and four (2&3 Anne c. 1) (1703) (UK); United Kingdom (1810–1828, Vol. VIII, pp. 226–45).

⁶⁶ Ward (1953, p. 39) suggests that in the mid-1690s '[n]either official nor unofficial circles believed that stock in trade and personal incomes were taxed as the Act demanded'.

⁶⁷ Soos (1997, p. 138).

a different rate from area to area. Dowell notes that the experience of the fifteenth and tenth and subsidy repeated itself. In the course of time, as taxpayers died or moved on, personalty fell out of assessment and the charge increasingly fell on land. The more general property or income tax intended was gradually reduced to a land tax and one that was apportioned amongst the counties and towns according to a historical value of their land.⁶⁸

Turning the land tax into an annual tax of a fixed amount when combined with increasing flexibility in financing and managing government debt revolutionised the way in which the British government was financed. The government could finance wars by increasing borrowing against the security of a consistent source of revenue and use that source to repay the borrowing in times of peace.⁶⁹ The public also benefited by being able to make financial decisions in the face of a more predictable tax regime. The land tax was imposed at 2s for the remainder of the War of Spanish Succession.⁷⁰ The only major development in the land tax during this period occurred in 1707 when the land tax was extended to Scotland following the Act of Union.⁷¹ As had happened in Wales more than a century and a half early (see above at p. 66), as soon as Scotland was granted representation in the English (now Great Britain) Parliament direct taxation was extended to that area.⁷²

The importance of the British land tax in government finances was noted overseas. In the face of another poor harvest in 1709–10 and some major defeats in the War of Spanish Succession, Louis XIV of France again modified his tax system by the addition of the *dixieme*. The declaration establishing the tax made direct reference to the

⁶⁸ Dowell (1965, Vol. II, pp. 49–51 and 97–8).

⁶⁹ Dowell (1965, Vol. II, pp. 450–6).

⁷⁰ Dowell (1965, Vol. III, p. 85).

⁷¹ An Act for granting an Aid to Her Majesty to be raised by a Land Tax in Great Britain for the Service of the Year One thousand seven hundred and eight (6 Anne c. 35) (1707) (UK); United Kingdom (1810–1828, Vol. VIII, pp. 637–726). As to the Act of Union, see above at note 4. Dowell (1965, Vol. II, p. 71) notes that for a 4s land tax, Scotland contributed £48,000 to England's £2,000,000, and proportionately more or less as the rate was increased or decreased.

⁷² Until this time the usual procedure was to specifically exempt inhabitants of Scotland together with those of Ireland, Jersey and Guernsey. For example, see An Act for granting an Aid to Her Majesty by a Land Tax to be raised in the Year One thousand seven hundred and six (4&5 Anne c. 1) (1705) (UK)s. 48; United Kingdom (1810–1828, Vol. VIII, p. 382 at p. 444).

land taxes of France's enemies and this included the British land tax.⁷³ Despite this apparent connection, the French tax differed from the land tax in important particulars. The tax base was much broader, in principle seeking to tax net revenue from all forms of wealth.⁷⁴ It was also based on a personal declaration of wealth by taxpayers; a single declaration often formed the basis of assessment for many years.⁷⁵ Like the British land tax, the French *capitation* (reintroduced at the start of the War of Spanish Succession) continued even after the end of this war. The *dixieme*, in contrast, was repealed after the end of the war in 1717.

Turmoil and Settlement in the Colonies as well

Both the War of the Grand Alliance and the War of Spanish Succession spilled over into the colonies where they were known as King William's War and Queen Anne's War, respectively. These wars involved not only the colonials and stationed troops but often extended to encompass alliances with natives, particularly American Indians. As with earlier wars, these wars would result in the loss, gain and reshuffling of colonies, particularly as a result of the Treaty of Utrecht of 1713. This subheading considers direct tax developments between the Glorious Revolution and the end of Queen Anne's War first in the American colonies and then in the West Indian colonies.

American Colonies

New England The success of the Glorious Revolution in England confirmed the uprising in Boston of 1689 (see p. 160) by dismantling the Dominion of New England. In 1691, Massachusetts received a new charter with a crown appointed governor. In 1686, the connection

⁷³ 'As the declaration establishing the *dixieme* stated, France's enemies 'levy by way of taxes on land greater sums each year than the Dixieme for which we are determined to ask.' The enemy in mind of course was England, which had imposed a land tax on rental income since 1692 at a rate, in principle, of 20 percent. There is also reason to believe, according to Richard Bonney, that Desmaretz modeled the *dixieme* on taxes in Artios, Flanders, and Holland' Kwass (2000, p. 35).

⁷⁴ For example, see Seligman (1914, pp. 51–2).

⁷⁵ 'The declaration of 1710 decreed that all "*proprietaires*" must submit declarations of wealth to administrators, who would levy a tax of 10 percent on net revenue (or 5 percent later, when the *dixieme* became the *vingtieme*). Using the declarations, administrators were supposed to levy the tax on every form of property and income; land, seigneurial dues, houses, offices, professional earnings, business profits, interest on investments, pensions, professional fees, and taxes levied by guilds and cities' Kwass (2000, p. 70).

between voting and religious qualifications had been broken and under the 1691 charter the religious qualifications were replaced with property qualifications, similar to those in other colonies.⁷⁶ New Plymouth, teetering on bankruptcy, was incorporated into Massachusetts under the 1691 charter as Maine was (acquired proprietarily by Massachusetts in 1677) and Nova Scotia and other tracks to the north.⁷⁷ In support of the war in which the new English monarch was engaged, a force from New England captured Port Royal in Nova Scotia midway through 1690.⁷⁸ This caused the New England colonies to incur substantial debts and resulted in the first issue of bills of credit by Massachusetts in 1690 (see further at p. 224). New Hampshire too was initially incorporated into Massachusetts but quickly re-established as a separate royal province in 1691. Connecticut's separate corporate charter was confirmed, as was that of Rhode Island.⁷⁹ In both cases this meant that, unlike the other colonies, they had an elected governor rather than an appointed one.

The new government of the Province of Massachusetts saw a substantial change in the style of legislation passed by Massachusetts. It quickly conformed to a more formal and detailed style consistent with the legislation of England. In 1692 the assembly enacted a number of laws including a law continuing the laws of the former company and New Plymouth to the extent not repugnant with the laws of England and a law to enforce the payment of outstanding taxes. A further law was entitled *An Act for Granting to Their Majesties an Assessment upon Polls & Estates*.⁸⁰ This law constituted a substantial change from previous practice. In addition to the assessment on polls at the value of 10s, real and personal estate was to be valued at 'a quarter part of one years Value or Income thereof'. There was no mention of 'faculty' or 'ability'. However, use of the word 'income' predates the use of that word in the English tax of 1696, although, as noted above at page 185, the word was used in a side-note of the English poll tax of 1691. As noted above at pages 117–19, Massachusetts had used the word 'incomings' briefly in the law of 1646.

⁷⁶ Simmons (1976, pp. 106–8).

⁷⁷ Douglas (1892, p. 53).

⁷⁸ Simmons (1976, p. 159).

⁷⁹ Simmons (1976, pp. 108–11).

⁸⁰ *An Act for Granting to Their Majesties an Assessment upon Polls & Estates* (8 June 1692) (Massachusetts); *American Antiquarian Society* (1956–, No. 617).

This time the use of the word 'income' was here to stay. A law of later in the same parliament elaborated on the assessment of estates.⁸¹ It provided for:

all Houses . . . and Lands . . . to be estimated at seven years Income . . .
All Shipping, Goods, Wares, Merchandizes and Trading Stock and
Estate by the Rule of common Estimation at the best discretion of
the Assessors. Every Handicrafts man for his Income at discretion
aforesaid . . .⁸²

The style of taxation was similar to that in England at this time, which involved the taxation of estates under the monthly assessments or aides but with a separate poll tax (see pp. 184–6). It was also consistent with the style of taxation that had existed in Massachusetts before the creation of the Dominion of New England. But the form of the law was substantially different under the royal governor than it had been under the company.⁸³

In the 1694 law the valuation of some real estate was changed to 'Fourteen years Rent or Income. . .' and other types of real estate were valued at twenty years rent or income.⁸⁴ In this law there were specified types of personal estate within charge but no residual category. However, the treatment of handicrafts men was the same as in 1692. This law formed the basis of assessment for the next three taxes, which returned to the system of incorporating specific quotas for various towns, a practice that continued from this point.⁸⁵ In 1695 the basis of assessment was again re-enacted but with little change from the 1692 model other than a return to valuation of real estate by reference to seven years rent (with no reference to income).⁸⁶ This law formed the basis of assessment of the next tax.⁸⁷

⁸¹ An Act for Regulating the former Assessment, and for Granting and Additional Supply of Money (8 June 1692, Second Session) (Massachusetts); American Antiquarian Society (1956–, No. 618).

⁸² Note a similar reference to discretion of assessors with respect to tradespersons in the West New Jersey law of 1684, see p. 156.

⁸³ Douglas (1892, p. 59).

⁸⁴ An Act for Granting unto Their Majesties a Tax of Twelve Pence a Poll, and One Penny on the Pound for Estates (30 May 1694) (Massachusetts); American Antiquarian Society (1956–, No. 695).

⁸⁵ American Antiquarian Society (1956–, Nos. 696, 697 and 718).

⁸⁶ An Act, For granting a Tax upon Polls & Estates (29 May 1695) (Massachusetts); American Antiquarian Society (1956–, No. 719).

⁸⁷ American Antiquarian Society (1956–, No. 747).

A change in assessment occurred in 1696.⁸⁸ The tax law for this year dropped the specification of how valuation should be conducted. Rather, the law allocated quotas to towns and required the assessors to make an assessment upon male polls:

and upon all Estates both real and personal lying within the Limits and Bounds of such Town . . . in just and equal proportion as near as may be, according to their best judgement and discretion . . .⁸⁹

The assessors were to make two lists, one for polls and the other for estates and each list was to bear half of the quota for the town. The next two taxes were essentially in the same form.⁹⁰ However, while the second tax of 1697 was in similar form, after the words ‘best judgement and discretion’ it added ‘and having due regard to persons faculties and personal abilities . . .’⁹¹ Assessors were now required to make a list with three columns, one for polls, a second for real estate and a third for ‘personal Estate and Faculty’. This seems to be the first reference to ‘faculty’ in a Massachusetts tax law and the reference to ‘ability’ recalls the early law of 1634.

Yet more change came with the next assessment in 1698.⁹² As usual the quota system was specified and a specific poll tax of 2s per head with a tax on real and personal estate to be ‘abated or multiplied’ so as to make up the amount of the town’s quota not met through the poll tax. There is some similarity here with the English aid of 1697 under which a specific rate was imposed on certain offices and movables with the residual amount to be raised falling on land (see p. 191). In assessing real and personal estate the Massachusetts law required:

Houses and Lands to be Estimated at the yearly Rent or Income, whereat they usually are or may reasonably be Let . . . All . . . Servants, to be Estimated as other personal Estate, according to the sound judgement and discretion of the Assessors, not excluding Faculties . . .

⁸⁸ An Act, For granting unto His Majesty a Tax upon Polls and Estate (27 May 1696) (Massachusetts); American Antiquarian Society (1956—, No. 748).

⁸⁹ A ‘just and equal’ test was also used in the 1650 Commonwealth law for maintaining the English army but it seems unlikely there was any direct connection; see p. 113. The more recent formulation in the English monthly assessments of 1690 was ‘just and usual’; see p. 184.

⁹⁰ American Antiquarian Society (1956—, Nos. 750 and 788).

⁹¹ An Act, For granting unto His Majesty a Tax upon Polls and Estates (26 May 1697, third session) (Massachusetts); American Antiquarian Society (1956—, No. 789).

⁹² An Act, For granting unto His Majesty a Tax upon Polls and Estates (25 May 1698) (Massachusetts); American Antiquarian Society (1956—, No. 825).

This law appears to have been particularly lenient on real estate, which was not estimated according to its capital value but only its yearly rent. Once again the assessors were to make a list with three columns as under the 1697 law. The next tax law was essentially the same.⁹³

In 1699 Massachusetts moved the basic tax administration provisions into a separate general (as opposed to temporary) law.⁹⁴ So Massachusetts had developed from a system under which the tax base and administrative provisions were in a general law but the charging provisions were in temporary laws under the company government, to a system where tax base, administrative and charging provisions were in the annual tax laws under the new provincial government to, in 1699, a situation in which the tax base and charging provisions were in the annual tax laws with just the administrative provisions in a general law.

There were yet further changes to the tax base details in the tax of 1700.⁹⁵ The charging provision now referred to 'all Estates as well real as personal . . . and Incomes by any Trade or Faculty which any persons do or shall exercise . . .'. Assessors were once again to estimate real estate according to 'Six Years Income of the yearly Rent . . .'. There was a reintroduction of objective valuation rules for particular types of personalty, e.g. animals at a set rate per head. However, there were no further instructions regarding the assessment of income from trade or faculty. The three-column list continued. The next three taxes followed suit, another for 1700, one for 1701 and one for 1702.⁹⁶ A further law of 1702 provided more particularity regarding the 1702 tax.⁹⁷ It separated faculty into its own column in the list, i.e. separate from personal estate. A tax of 1703 was levied on the basis of the 1702 tax.⁹⁸

The Massachusetts General Assembly made further grants during 1704, 1705 and 1706 to fund soldiers for the war with France but these grants were not backed up with taxes until 1706. The important

⁹³ American Antiquarian Society (1956—, No. 826).

⁹⁴ An Act directing how Rates or Taxes to be Granted by the General Assembly shall be assessed and collected (31 May 1699) (Massachusetts); American Antiquarian Society (1956—, No. 917).

⁹⁵ An Act for granting unto His Majesty, A Tax upon Polls and Estates (13 March 1700/01) (Massachusetts); American Antiquarian Society (1956—, No. 919).

⁹⁶ American Antiquarian Society (1956—, Nos. 920, 986 and 1060).

⁹⁷ An Act for better inquiry into the Rateable Estate of the respective Towns (10 March 1702/03) (Massachusetts); American Antiquarian Society (1956—, No. 1114).

⁹⁸ American Antiquarian Society (1956—, No. 1116).

assessment of 1706 apportioned the charge between towns in the usual manner.⁹⁹ The charge on estate and personalty was now extended as follows:

And all Estate both Real and Personal . . . and Income by any Trade or Faculty, which any Person . . . do or shall Exercise, in gaining by Money, or other Estate not particularly otherwise assessed, or Commissions of profit in their Improvement, according to their Understanding and Cunning, at One Penny on the Pound . . .

This rate was to be abated or multiplied in the usual manner to make up any deficiency of the poll tax. Real estate was still valued at six years income and the assessment list was still to be made up in four columns. The form of the 1706 assessment was used in tax laws until 1738.¹⁰⁰ While the land tax in England had settled only three years earlier, the differences between the English tax and the Massachusetts tax were substantial and, in particular, the Massachusetts tax was, at least in form, substantially broader.

During the brief period of union with Massachusetts following the downfall of Andros, the Massachusetts General Court required New Hampshire inhabitants to pay ‘an equal proportion with the rest of the Country of all charges arising by this present war . . .’. The resultant taxes were levied in New Hampshire ‘agreeable to former custom . . .’.¹⁰¹ New Hampshire was re-established as a separate royal province in 1691. In 1692 a law was passed which was essentially a re-enactment of the 1687 law under Andros and, therefore, based on the Massachusetts law of 1647 as later amended.¹⁰² In particular, skilled labourers were to be ‘rated for their returns and gains proportionably unto other men for the produce of their estates’. The following year there was a further rate but this time it was of a specified amount (£200) ‘on all persons and Estates, Reall and Personall, throughout this

⁹⁹ An Act for Apportioning and Assessing of four several Taxes on Polls and Estate, Pursuant to the Funds and Grants made to Her Majesty, by the General Assembly, in the years 1704, 1705 and 1706 (29 May 1706) (Massachusetts); American Antiquarian Society (1956–, No. 1253).

¹⁰⁰ Further for this time period, for example, see American Antiquarian Society (1956–, No. 1306 [tax of 1707]).

¹⁰¹ New Hampshire (1867–1915, Vol. II, p. 41) reproducing a Massachusetts resolution of 1690. See also Robinson (1902, p. 10).

¹⁰² An Act for ye Supporte of ye Government, Repairing fortifications, strengthening the frontiers, & c. (October 1692) (New Hampshire); New Hampshire (1867–1915, Vol. III, p. 164). See also Robinson (1902, pp. 28–9).

Province . . .'.¹⁰³ There was an express apportionment amongst the towns but the tax was to be raised according to the valuation and methods settled by the 1692 tax. In 1694 also there was a specific amount apportioned to the towns, which was to be levied according to the 'last Province Rate'.¹⁰⁴ From this point there is a dearth of tax legislation available for the period covered by this heading, although many charges were imposed, apparently on the traditional basis followed in the 1692 law.¹⁰⁵

Connecticut continued after the Glorious Revolution under a new corporate charter and there was no major change in the form of its laws. The Connecticut system of taxation that existed before it was absorbed within the Dominion of New England was resumed after the downfall of the Dominion and continued virtually unchanged through to the end of the eighteenth century.¹⁰⁶ There was a general law for valuing 'rateable estate' and then resolves of the general court as to the rate payable from time to time 'on all the rateable estate in the Colony'; i.e. a source-based rate system rather than a quota system.¹⁰⁷ In the 1702 edition of the general laws polls were still to be rated at a specific amount. All estate was still subject to charge with, in some cases, specific values assigned, such as for animals. Residually there was still a requirement that 'all such persons, who by their Arts and Trades are advantaged, shall be Rated in the List . . . proportionable to their Gains and Returns . . .'.¹⁰⁸

¹⁰³ An Act for raising of money for supporte of the Government, in repairing Fortifications & for re-imbursing of the Treasury (August 1693) (New Hampshire); New Hampshire (1867–1915, Vol. III, pp. 12, 188).

¹⁰⁴ An Act for raising money for supporte of ye Government, in Repairing Fortifications and making provision for souldiers (1694) (New Hampshire); New Hampshire (1867–1915, Vol. III, p. 195).

¹⁰⁵ For example, An Act for ye raising of six hundred and fifty pound to defray ye Publick charge of ye Province (8 June 1697) (New Hampshire), An Act for raising 550lbs for defraying the public charges of this Province (13 July 1701) (New Hampshire) and A Bill for a Tax or assessment of 500lbs (19 January 1702/3) (New Hampshire); New Hampshire (1867–1915, Vol. III, pp. 203, 153, 244, respectively). See also Fry (1908, pp. 333–50), which provides a good summary of the taxes imposed up to 1714, though not the basis on which they were levied. New Hampshire was particularly exposed to attacks from Indians and the French to the north and the military expense caused substantial financial hardship. During Queen Anne's War, these financial problems became so acute that from 1709 New Hampshire began issuing bills of credit to pay for the expenses (see p. 231).

¹⁰⁶ Seligman (1914, p. 375).

¹⁰⁷ For example, see the General Court resolution of October 1695 in Connecticut (1850–90, Vol. IV, p. 152).

¹⁰⁸ Acts and Laws of His Majesties Colony of Connecticut in New England (1702) (Connecticut), p. 99; American Antiquarian Society (1956–, No. 1043).

In 1695 Rhode Island (the other colony retaining a corporate charter) adopted a more specific method of assessment. The law provided:

First. We therefore propose this way for the rateing all lands and meadows and merchants, tradesmen and housings in this Colony: that every town shall yearly choose two or three able and honest men, to take the view of each of their inhabitants of their lands and meadows; and so to judge of the yearly profit at their wisdom and discretion; and so also of merchants and tradesmen, and to make this part of the rate according to the yearly profit; or as they, where they shall have had a more narrow inspection into lands and meadows, shall see cause to set by the acre.¹⁰⁹

While in form this appears to be yet another example of an early income tax, it does not seem open to doubt that the assessment was to be made according to outward signs rather than actual income. The law proceeded to put a specific value per head on various forms of livestock.¹¹⁰ This form of assessment was confirmed in 1698 and again in 1704.¹¹¹

King William's and Queen Anne's Wars had substantial impact further north. In mid-1690, a New England led force captured the French base of Port Royal in Acadia (Nova Scotia). A further attack on Quebec proved disastrous and there were a number of French attacks on the New England coast during the remainder of King William's War.¹¹² In 1710, Port Royal was, yet again (see above at p. 121), captured from the French by the English and renamed Annapolis Royal.¹¹³ 'From the capture of Port Royal in 1710 the mainland of Nova Scotia was subject to the English.'¹¹⁴ The population of Acadia had never been great and it has been suggested that during the seventeenth century it did not exceed 1,500. It has also been suggested that the French Government took little interest in immigration to or the government of Acadia.¹¹⁵ The English retained Annapolis Royal and Acadia under the Treaty of Utrecht of 1713 and possessions in Hudson's Bay and Newfoundland were also confirmed.¹¹⁶ The treaty confirmed Quebec and Cape Breton Island (to the north of Nova Scotia) to the French, both of which would be the source of future disputes with the English.¹¹⁷

¹⁰⁹ Rhode Island (1856–65, Vol. III, pp. 300–1).

¹¹⁰ Rhode Island (1856–65, Vol. III, p. 303).

¹¹¹ Rhode Island (1856–65, Vol. III, pp. 344, 502).

¹¹² Simmons (1976, p. 159). ¹¹³ Bourinot (1900, p. 8) and Simmons (1976, p. 161).

¹¹⁴ Murray (1907, p. 230). ¹¹⁵ Bourinot (1900, p. 8).

¹¹⁶ The trading posts of the Hudson Bay Company were seized by the French during Queen Anne's War but were returned after 1713; Williamson (1929, p. 264).

¹¹⁷ Simmons (1976, p. 161).

Middle Colonies On the accession of William III to the British throne and the break-up of the Dominion of New England, the colonial government in New York was overthrown and a new assembly was called based only on local authority.¹¹⁸ In this void of official authority the assembly proceeded to impose direct tax, apparently in the usual way.¹¹⁹ A new royal governor was appointed in 1690 and a new assembly met in April 1691. The new assembly quickly raised funds to meet military expenses incurred with respect to the defence of New York's northern borders against the French. The Assembly first passed a law providing for an annual rate, which followed the law of 1683 (as to which, see p. 154) and so did not provide an explicit basis of assessment.¹²⁰ This was immediately followed with a tax of a specific amount, which, like earlier laws, was apportioned between the counties and was to be raised in accordance with the earlier law of 1691.¹²¹ This form was followed in the following years to pay for the military expenses centred on Albany.¹²²

As in the years before the Glorious Revolution, New York imposed a tax in a different form in 1692 for the purposes of funding the new governor.¹²³ This law followed the early levy of 1683 (as to which, see p. 155) and provided 'there be Assessed, Levied and Collected for every Pounds value of all the Real and Personal Estates of all and every the

¹¹⁸ New York (1894, Vol. I, p. xviii).

¹¹⁹ For example, An act for Raising Three pence in the Pound of all Reall and Personall visible Estate of all and singular the Inhabitance of this Province, one halfe thereof to be paid at or before the 21 January Then next Ensuing and the other halfe at or before the 25th of March next Ensuing & that Assessors and Collectors for executing of sd Act be chosen by the freeholder of each Towne within this Province (15 September 1690) (New York); mentioned in New York (1894, Vol. I, p. 219). It seems no copies of this law have been located.

¹²⁰ An Act for the defraying of the Publique and necessary charge throughout this Province and maintaining the poor and preventing Vagabonds (13 May 1691) (New York); New York (1894, Vol. I, p. 237).

¹²¹ An Act for the Raising and Levying of two Thousand pounds for paying and defraying the Incidentall charges, according to establishment of one hundred fusiliers with their officers for one whole Yeare (13 May 1691) (New York); New York (1894, Vol. I, p. 239). The assessors were to take oath to 'well truly and equally and according to their best understanding to assess and rate the Inhabitants . . . '.

¹²² For example, An Act for raising and paying One hundred and fifty men to be forthwith raised for the Defence and reinforcement of Albany for six months (29 September 1691) (New York); New York (1894, Vol. I, p. 258).

¹²³ An Act for granting their Majesties the Rate of one Penny per Pound upon all the Real and Personal Estates within the Province of New-York (12 November 1692) (New York); American Antiquarian Society (1956—, No. 665).

Free-holders and Inhabitants . . .’ a tax of one penny. The levy was to be paid over two years but the tax base was not further specified. The structure and wording of the tax to fund the governor in 1699 was slightly different.¹²⁴ This tax was in a fixed amount to be imposed on ‘all & every the Estates reall and personall belonging to any of ye ffreeholders Inhabitants and Residents within this province . . .’. In the usual way, the fixed amount was apportioned between the counties. In 1706 this form of charge was used in raising funds for military purposes.¹²⁵ By 1709 the phraseology had become ‘Levyed upon the Estates, real and personal, of all and every the Inhabitants, Residents . . .’ still followed by an apportionment of the amount to be raised between the counties.¹²⁶ During the next four years, with the continuing hostilities with the French to the north, substantial taxes were imposed on this property basis in order to support the issue of bills of credit (see p. 235). Given the general description of the tax base, it is not surprising that ‘all the counties of New York did not apply the laws in the same way’.¹²⁷

New Jersey was returned to its proprietors after its brief membership of the Dominion of New England. It too resumed its former style of taxation. An East New Jersey law of 1692 imposed tax on lands, stock and polls in the same way as the law of 1688.¹²⁸ This form of taxation continued throughout the rest of the century.¹²⁹ West New Jersey also resumed its former tax system after the Glorious Revolution but the developments during the 1690s tended to drift this system closer to the East New Jersey style of taxation. A law of 1693 imposed a tax on land and various types of stock together with a residual tax on persons with

¹²⁴ A Bill Granting unto his Ma'ty the Sume of two thousand pound fifteen hundred pounds whereof to be allowed to his Excel Richard Earl of Bellomont and five hundred Pounds to Capt. John Nanfan Leiv't Gov'r (16 May 1699) (New York); New York (1894, Vol. I, p. 396).

¹²⁵ An Act for raising a Fund for the Defence of the Fronteers & other Uses (21 October 1706) (New York); New York (1894, Vol. I, p. 598).

¹²⁶ An Act for Levying Six Thousand Pounds (1709) (New York); American Antiquarian Society (1956–, No. 1413). The local government of New York had developed by the end of the seventeenth century from a mix of systems to be similar to the township system in New England. New York was also divided into counties. Townships and counties were also the typical form of local government in New Jersey and Pennsylvania. Simmons (1976, pp. 130–4).

¹²⁷ Becker (1980, p. 43).

¹²⁸ An Act for raising of Money for their Majesty's Service (1692) (East New Jersey); New Jersey (1758, p. 321).

¹²⁹ New Jersey (1758, pp. 334 [1693], 353 [1694] and 376 [1698]).

non-visible estate to be valued by the assessors and a residual poll tax.¹³⁰ A similar tax was imposed in 1696¹³¹ and the system changed little until the end of the century.¹³²

In the period before the Glorious Revolution there was factional infighting between various groups in East and West New Jersey, including proprietary, anti-proprietary, Puritan and Presbyterian groups. In 1702 the Jerseys were reunited as a royal province with a royal government but the proprietors retained their rights to the land.¹³³ The first tax law of the united province was that of 1704.¹³⁴ It did not precisely follow the form of the tax laws of either of the former provinces but was broadly consistent with them. Land was to be charged per one hundred acres, cattle, horses, slaves and sheep per head, there was a residual poll tax and a tax on various forms of boat. As with the previous tax of West New Jersey, great discretion was given to the assessors.

The New Jersey tax system developed further in 1709 with a rather elaborate list of instructions to assessors.¹³⁵ The tax of this year was divided by quota between the counties and the assessors were instructed to assess labourers at 5s, householders at 'the discretion of the Assessors ...' and tradesmen 'according to their Abilities, at the discretion of the Assessors ...'. Various items were to be assessed at fixed rates, such as boats, land, slaves, cattle, horses, hogs and sheep. Other items were to be assessed at the discretion of the assessor including mills, merchants, shopkeepers, Indian traders, pubs and a residual amount on land and chattels. A law of later the same year imposed tax in the New York style on 'the Estates, Real and Personal, of all and every the Inhabitants and Free-holders of and in the Province ...'.¹³⁶ However, it proceeded in essentially the same fashion as the prior

¹³⁰ An Act for a Subsidy for Support of the Government (1693) (West New Jersey); New Jersey (1758, p. 521).

¹³¹ An Act for raising a Tax (1696) (West New Jersey); New Jersey (1758, p. 549).

¹³² New Jersey (1758, pp. 561 [1697] and 574 [1700]).

¹³³ Simmons (1976, pp. 141–2).

¹³⁴ An Act for Raising a Revenue for the Support of Her Majesties Government within this Province of New-Jersey, for two Years (December 1704) (New Jersey); American Antiquarian Society (1956–, No. 1184).

¹³⁵ An Act for Support of this Her Majesties Government of Nova Caesarea or New-Jersey, for One Year (March 1709/10) (New Jersey); American Antiquarian Society (1956–, No. 1412).

¹³⁶ An Act for raising Three Thousand Pounds for her Majesty's Service in this present Juncture (30 June 1709) (New Jersey); American Antiquarian Society (1956–, No. 1412).

tax law of that year with the notable exception that there was no reference to 'abilities'.

As mentioned above, William Penn returned to England in the 1680s and, for various reasons, did not return to Pennsylvania before the Glorious Revolution. With the downfall of James II as a result of the Glorious Revolution and Penn's friendship with James II, he was imprisoned and his colony placed under the control of the New York governor in 1692. While it was returned in 1694, an important tax law was passed during the intervening year.¹³⁷ Under this law tax was to be imposed at 1d per pound on:

all and every person and persons within this government having any personal estates either in their possession or in the possession of others in trust for them, other and besides the possessed goods and implements they use, and such sums of money as they really owe, or ought to pay ...

A similar rate was imposed on 'all Lands and other Real as also personal estates ... for every pound clear value ...'. There was a residual poll tax for those whose net worth was less than £100. This style of tax is clearly closest to that of New York but the wording of the law was substantially different.

County levies were authorised at the same time and on the same basis as the provincial levy.¹³⁸ Penn had his colony returned in 1694 but he was never able to order it in the manner that he had prior to the Glorious Revolution. A tax similar to that granted in 1693 was granted in 1696, again followed by authorisation of county levies on the same basis.¹³⁹ The provincial levy of 1699 again followed the wording of the

¹³⁷ An Act for granting to King William and Queen Mary the Rate of One Penny per Pound upon the clear Value of all the Real and Personal Estates, and Six Shillings per Head upon such as are not otherwise rated by this Act. To be employed by the Governor of this Province of Pennsylvania and Territories thereof, for the Time being, towards the Support of this Government (1693) (Pennsylvania); *American Antiquarian Society* (1956–, No. 678) and *Pennsylvania* (1879, p. 221). Regarding disputes between the New York Governor and the Pennsylvania Assembly leading to and after the passage of this law, see Daugherty (1938, pp. 26–33).

¹³⁸ The Law about County Levies (June 1693) (Pennsylvania); *Pennsylvania* (1879, p. 233). This law required that each year the justices of the various counties calculate the public charges and make a rate to be 'raised in the same manner ...' as the provincial levy.

¹³⁹ An act for Raising the Rate of one penny per pound & six Shillings per head, upon such as are not otherwise rated thereby, To be Employed by the government for the time being as is herein after limited and appointed (October 1696) (Pennsylvania) and The Law for Raising County Levies (October 1696) (Pennsylvania); *Pennsylvania* (1879, pp. 253 and 256, respectively). See also, Daugherty (1938, pp. 33–6).

1693 law save that there was no provision to reduce personal estate by the amount of debts owed.¹⁴⁰

Penn returned to his colony at the turn of the century to deal with disquiet. He revised the government structure and conferred many parliamentary privileges on the assembly including a new charter of government. In return, two tax laws were passed in 1700.¹⁴¹ Under the first law 'all Persons within this Government, having any Real or Personall Estate & c. Besides their Household goods, and Implements, shall pay after the Rate of one Penny per Pound . . .'. As usual, there was a residual poll tax. The second law was to similar effect but specifically sought to raise £2,000 allocated by quota amongst the six counties (including the three Delaware counties).¹⁴² A law was also passed in 1700 specifying the manner in which county rates were to be levied, which, as in 1693 and 1696, effectively followed the laws for provincial taxes for that year.¹⁴³ The tax laws continued in similar form in Pennsylvania (but not the Delaware counties, see below) through the first decade of the eighteenth century.

As part of the new charter of government agreed in 1701, the three Delaware counties were permitted to withdraw from the provincial legislature within three years and set up their own separate legislature. This the three counties did in 1704 and the Delaware Assembly met separately for the first time during that year.¹⁴⁴ The assembly continued to recognise Penn as governor and did not obtain formal separation from Pennsylvania until independence. Because of questions raised as to the authority to govern this part of Pennsylvania, the laws of the Delaware Assembly were not remitted to England on a regular basis. It seems that a property tax along the usual lines used during the union with the Pennsylvania Assembly was imposed in 1705 but Daugherty

¹⁴⁰ The Law for Raising the rate of one penny per pound and six shillings per head & c. for the support of the government and the payment of the Debt & Defraying the necessarie charges thereof (May 1699) (Pennsylvania); Pennsylvania (1879, p. 280).

¹⁴¹ An Act For the Raising of one Penny per Pound, and Six Shilling per head, for support of Government (October 1700) (Pennsylvania) and An Act For Granting and Raising to the Proprietary and Governour the sum of Two Thousand Pounds (October 1700) (Pennsylvania); American Antiquarian Society (1956—, No. 1018).

¹⁴² This figure of £2,000 was part of an ongoing dispute with the Crown and the governor of New York regarding the funding of King William's War in northern New York (centred around Albany). See Daugherty (1938, pp. 38–40).

¹⁴³ An Act for Raising County Levys (1700) (Pennsylvania); American Antiquarian Society (1956—, No. 1712).

¹⁴⁴ Daugherty (1938, p. 41) and see also Simmons (1976, pp. 143–4).

reports a general lack of direct taxation by the Delaware Assembly through 1713. The counties retained their right to levy taxes on property and polls.¹⁴⁵

Southern Colonies There was little development in the Virginian direct tax system between the Glorious Revolution and the end of Queen Anne's War. The form of government and direct taxation in the form of the poll tax were largely settled during the seventeenth century. The tax continued to be paid in tobacco. However, the poll tax system may not have been as inequitable as it seems on the surface. There had been a massive increase in the number of Negro slaves beginning from around 1640. The owner was responsible for the poll tax of these slaves and other labourers. Virginia was largely made up of plantations rather than townships. In the result, the poll tax in many ways may have approximated a general property or land tax.

In contrast to Virginia, the Glorious Revolution brought fundamental changes in the government of Maryland. The reinstatement of proprietary rule instituted in 1657 only lasted until an uprising of 1689, which coincided with uncertainty resulting from the invasion of England by William of Orange in 1688. By 1691 the English Government had converted the Maryland proprietary government into a royal government with the proprietors retaining rights as the owners of its lands.¹⁴⁶ The general assembly met under the royal government in 1692 and immediately repealed all laws enacted under the proprietary government and proceeded to enact its own body of laws.¹⁴⁷ In particular, the Church of England was established including the parish system and a power to tax by the vestry.¹⁴⁸ In 1692, counties were empowered to impose their own taxes 'by an Equall Assessment of the Goods and Chattells of the freeman and Inhabitants of the said severall Countys . . .'.¹⁴⁹

¹⁴⁵ Daugherty (1938, pp. 41–3).

¹⁴⁶ Simmons (1976, p. 84).

¹⁴⁷ An Act of Repeale of all Laws heretofore made in this Province and confirming all Laws made this General Assembly (May/June 1692) (Maryland); Maryland Historical Society (1883–1972, Vol. XIII, p. 560). The new body of laws appears at (1883–1972, Vol. XIII, pp. 425–561).

¹⁴⁸ Simmons (1976, p. 85).

¹⁴⁹ An Act empowering Commissioners of the County Courts to leavy and raise Moneys to defray the necessary charges of their Countyes (May/June 1692) (Maryland); Maryland Historical Society (1883–1972, Vol. XIII, p. 470).

The Maryland public charge for 1694 was, as under proprietary rule and similar to the county tax law, levied by 'Equall Assessments upon the persons and Estates of the Inhabitants of this Province . . .'.¹⁵⁰ The law proceeded to state that the tax was to be 'levied and assessed by an equal assessment upon the bodies or estates of the inhabitants taxables of this Province . . .'. Under a law of 1692, constables were required to make a list of 'taxables' but in the context of this law only persons are mentioned as taxables.¹⁵¹ Therefore, it seems clear that an inhabitant's 'taxables' would have included slaves (and household members) but whether any other form of estate was covered is not stated in the law.

This system continued until it was clarified as a poll tax by the public charge of 1710 which stated 'a Levy or Equall assessment of seventeen pounds of tobacco per poll be by Virtue of the act Levyed and assessed upon the bodies and Estates of the taxable Inhabitants . . .'.¹⁵² The Calvert family was restored to its full proprietary rights in 1715, which the family retained until independence.¹⁵³ By the 1720s the parish vestries of both Maryland and Virginia had authority to levy taxes and the duty of caring for the poor.¹⁵⁴

Until 1691 there had been separate governors for North and South Carolina. But in 1691 a single governor was appointed for all of Carolina with deputies for the North and South.¹⁵⁵ When North Carolina began to impose direct taxation after the Glorious Revolution, it followed the lead of nearby Virginia in using the poll tax as the primary source of revenue.¹⁵⁶ Ashe notes that 'the subjects of taxation were few, and for general purposes the exclusive tax was on the poll'.¹⁵⁷ It appears the procedure was for the assembly to order a lump sum to be levied, which was then apportioned per poll once a return of polls had been made.¹⁵⁸

¹⁵⁰ An Act for payment and Assessing the Publick Charges of this Province (1694) (Maryland); Maryland Historical Society (1883–1972, Vol. XXXVIII, p. 33).

¹⁵¹ An Act for the Constables taking a List of Taxables (May/June 1692) (Maryland); Maryland Historical Society (1883–1972, Vol. XIII, p. 538).

¹⁵² An Act for the payment and assessment of the publick Charge of this province (October/November 1710) (Maryland); Maryland Historical Society (1883–1972, Vol. XXVII, p. 573).

¹⁵³ Simmons (1976, p. 84).

¹⁵⁴ Simmons (1976, p. 208).

¹⁵⁵ Ashe (1925, Vol. I, p. 141).

¹⁵⁶ North Carolina (1886–1905), Vol. II, pp. iv–v.

¹⁵⁷ Ashe (1925), Vol. 1, p. 392.

¹⁵⁸ For example, in 1694 a record of the higher-court refers to an order of the assembly authorising the laying of a tax upon 'tithables . . . per pole'; Parker (1968, p. 91).

The South Carolina tax law of 1701 is available and because its charging provisions are largely in the same form as the law of 1686 (as to which, see p. 161) it seems likely that charges during the 1690s were on a similar basis.¹⁵⁹ Under the 1701 law a tax of a fixed amount was to:

be equally assessed, imposed and leavyed upon the several inhabitants, merchants and others (not servants for term of years) which now are resident in ... this Province ... or that have estates or merchandizes within the same, according to their severall estates, stocks and abilities, or the profits that any of them do make off or from any public office or employment in this part of this Province ...

As with previous European wars, Queen Anne's War hit South Carolina particularly hard in its disputes with Spanish Florida. Struggling to find a way to pay for an expedition against Florida, South Carolina resorted to the issue of bills of credit in 1703. The issuing of bills of credit is discussed further, particularly with respect to other colonies, below at pages 224–8. It is discussed here with respect to North and South Carolina because it had a direct impact on direct taxation in these colonies before 1713. The sinking of the 1703 South Carolina bills was secured with a tax of £4,000 over two years.¹⁶⁰ The charging words were slightly different from the 1701 law.¹⁶¹ Brock suggests that these taxes were appropriated to other uses.¹⁶² The result was a tax of a similar amount in 1705. An explanatory law was published at the same time, which provided greater elaboration of the

¹⁵⁹ An Act for raising money for the Publick use and defence of this Province (28 August 1701) (South Carolina); South Carolina (1836–41, Vol. II, p. 182). During the 1690s South Carolina also made use of a poll tax, at least to a limited extent. See An Act for the raising a fund of money for the maintaining of a Watch on Sullivan's Island (22 December 1690) (South Carolina); South Carolina (1836–41, Vol. II, p. 40). The tax was imposed on 'subjects, freeman and white servants...' above sixteen years and dwelling in the Berkeley County.

¹⁶⁰ An Act for raising the sum of £4000 on the Real and Personal Estates, and of and from the Profits and Revenues of the Inhabitants of this Province, and establishing of Bills of Credit for satisfying the Debts due by the Publick on account of the Late Expedition against St. Augustine (8 May 1703) (South Carolina); South Carolina (1836–41, Vol. II, p. 206).

¹⁶¹ The tax was to be 'equally and indifferently imposed and levied upon the estates, stockes and abilities of all and singular the inhabitants, merchants and other persons residing and living within...' South Carolina.

¹⁶² Brock (1975, pp. 116–17).

tax base.¹⁶³ In particular, the law charged ‘estates, goods, merchandizes, stocks, abilities, offices and places of profits, cropps in possession, of what kind & nature soever . . .’ and required listing of certain items including certain animals, white servants, quantities of land, buildings and improvements. There were further issues of bills of credit in the next few years to meet the costs of the war but it seems these were secured on indirect taxes.¹⁶⁴

In 1711, the Tuscarora Indians attacked North Carolina and a separate governor was appointed for it.¹⁶⁵ South Carolina assisted the defence and raised further bills of credit to meet the expense.¹⁶⁶ By 1712, South Carolina felt that it was incapable of supporting its debts through normal taxation. So in that year it made a massive issue (£52,000) of bills of credit, with £32,000 on loan, see pages 238–9.¹⁶⁷ This was the first such issue in the New World colonies. Barbados had made an earlier attempt that was disallowed by the English Crown but South Carolina, at this time being a proprietary colony, was not subject to similar regulation.¹⁶⁸

Up to 1712 North Carolina had only used the poll tax as a form of direct taxation.¹⁶⁹ This was emphasised when the Church of England was established by legislation in 1711.¹⁷⁰ Taxes imposed by the parish vestry were also on the basis of the poll.¹⁷¹ As the war with the Tuscarora

¹⁶³ An Explanatory Act to an Act entitled an Act for the Raising the Sum of £4000 on the Real and Personal Estates, and of and from the Profits and Revenues of the Inhabitants of this Province, to Pay and Cancell the Bills of Credit now outstanding . . . (17 February 1704/5) (South Carolina); South Carolina (1836–41, Vol. II, p. 263). The text of the tax law appears to be lost.

¹⁶⁴ For example, see South Carolina (1836–41, Vol. II, pp. 302 [1707], 324 [1708] and 352 [1710] and Brock (1975, p. 118).

¹⁶⁵ Ashe (1925, Vol. I, p. 178).

¹⁶⁶ South Carolina (1836–41, Vol. II, p. 366).

¹⁶⁷ An Act for raising the Sum of Fifty-two Thousand Pounds, by stamping and establishing new Bills of Credit and putting the same out to interest, in order to call in and sink the former Bills of Credit, and thereby give a further encouragement to Trade and Commerce (7 June 1712) (South Carolina); mentioned in South Carolina (1836–41, Vol. II, p. 389). It seems that the text of this law has been lost.

¹⁶⁸ Brock (1975, pp. 18, 118–19).

¹⁶⁹ North Carolina (1886–1905, Vol. I, pp. iv–v).

¹⁷⁰ An Act for Establishing the Church and Appointing Select Vestrys (1711) (North Carolina); North Carolina (1886–1905, Vol. II, p. 207).

¹⁷¹ The Church of England had been established by 1701 and also given legislative backing in South Carolina in 1706. By 1712, the parish officers in South Carolina supervised the poor law but otherwise local government failed to develop in South Carolina to an extent similar to the other colonies. The county system developed in North Carolina in much the same way as it developed in Virginia and included the collection of taxes by the sheriff including those for the colony, county and vestry. See Simmons (1976, pp. 129–30).

Indians dragged on, the debts of North Carolina also mounted. As in South Carolina, North Carolina met the war expenses through the issue of bills of credit, £4,000 in 1712 followed by a further £8,000 issue in 1713. To sink these debts North Carolina tried a new style of tax, which involved a fixed source-based charge per hundred acres of land 'holden in this Government'.¹⁷² The tax was to be levied annually until the public debts were paid. This was apparently an isolated tax and otherwise the tax system remained much as it had before this levy.

The West Indies

King William's War The disputes with the French following the accession of William and Mary to the English throne spread to the West Indies. When the war began in 1689 the French quarters of St Kitts quickly seized the English quarters (in which there had been rebellion by the Irish colonists) and Nevis (to which many of the colonists of St Kitts retreated) was under threat.¹⁷³ Barbados acted as 'a base and recruiting ground for operations against the French in the Leeward Islands ...'.¹⁷⁴ In the second half of 1689 Barbados imposed three slave taxes on a similar basis as that of 1685, the first two at £9 per slave and the third at £18.¹⁷⁵ Early in 1690 a detachment of troops was sent from Barbados to the assistance of forces in the Leeward Islands. By mid-1690 the forces had captured all of St Kitts.

Little is known about direct taxes in Barbados and the Leeward Islands during the turbulent times of the first half of the 1690s. It seems no copies of the laws are publicly available. However, in 1691 there was a levy in Barbados that from its title appears to have imposed a slave tax together with a tax on houses, trades and personal estates.¹⁷⁶ It seems likely that this tax was similar to that imposed in Nevis in 1688 (see above at p. 164) and both may have had some connection to taxes

¹⁷² An Act for raising the sum of two thousand Pounds annually 'till the Publick Debts are answered and paid, and for the better encouraging the Currency of the Public Bills of Credit (1715) (North Carolina); North Carolina (1886–1905, Vol. III, p. 189 and Vol. XXIII, p. 90).

¹⁷³ Burns (1954, pp. 374–5). ¹⁷⁴ Burns (1954, p. 394).

¹⁷⁵ An Act for a levy upon Negroes (17 September 1689) (Barbados), An Act for a levy upon Negroes (23 October 1689) (Barbados) and An Act for a levy upon Negroes (20 November 1689) (Barbados); CO 30/5, pp. 225, 228 and 230, respectively.

¹⁷⁶ An Act for a levy upon Mills, Negroes and Inhabitants of the several Towns within this Island, for their Houses, Trade and personal Estates (13 May 1691) (Barbados); Hall (1764, p. 486 [Law No. 489]). It seems that a public copy of this law has not survived, see note 74 in Chapter 2.

imposed in Barbados and Jamaica in 1682 and Barbados in 1660 (see above at pp. 162–5 and 145, respectively). It also seems likely that this 1691 law was a forerunner to the imposition in Jamaica of 1695 and that in Barbados of 1701, both discussed below. In this case, it is likely that the tax on houses was by reference to their rent value and the tax on trades and personal estate by reference to the value in the vestry roll. Barbados imposed further levies in 1694 and 1696. Little is known about the form of these levies but their titles suggest that they may have been simple slave taxes along the lines of the 1689 levies.¹⁷⁷ It is clear that by 1700 Barbados had returned to its simple tax on slaves per poll.¹⁷⁸

Sketches may also be drawn as to the Antigua direct tax system during this time. It seems the 1668 tax of one pound of sugar per acre (with a residual poll tax) continued.¹⁷⁹ In 1688 the governor of the Leeward Islands moved his residence to Antigua and early in 1689 the locals supported him with a substantial tax. The levy was simultaneously imposed on land per acre and slaves per head, as with the St Kitts levy of 1681 (see above at p. 163). There was also a levy on town lots and ‘taphouses’ (liquor houses).¹⁸⁰ This style of tax was quite different from that emerging in Barbados, Jamaica and Nevis and was at least repeated in 1697, which suggests that there may have been similar levies in the intervening period.¹⁸¹ A similar tax was imposed in 1698.¹⁸² As with Barbados and the other West Indian colonies, revenue was also raised through indirect taxation of the importation of liquors.¹⁸³

¹⁷⁷ An Act for raising a Levy, to discharge the Debts of this Island (17 April 1694) (Barbados) and An Act for raising a Levy to set out Ships and encourage Privateers (14 May 1696) (Barbados); Hall (1764, pp. 488–9) [Law Nos. 527 and 548, respectively]. It seems that a public copy of these laws has not survived, see note 74 in Chapter 2.

¹⁷⁸ An Act for raising a levy to discharge the Public Debts of this Island (27 February 1699/1700) (Barbados); CO 30/6, p. 89.

¹⁷⁹ See above at p. 148 and Dunn (1973, p. 130). Further, its appearance in CO 8/1, at p. 6 and CO 154/2, at p. 106 without a notation of repeal suggests that the law continued until at least 1705.

¹⁸⁰ An Act for Raising a further Revenue for discharging the necessary charges and for support of the Government of this Island of Antigua for this present year 1688 And for the time of his Excellency Nathaniel Johnsons Personal Residence and Adbode in this Island (1 February 1688/89) (Antigua); CO 8/2, p. 28.

¹⁸¹ An Act for raising a Tax of 1240000 lbs of Sugar or Value for paying publick Debts & Charges & the Support of the Government (22 April 1697) (Antigua); CO 8/3, p. 5.

¹⁸² An Act for raising a Tax of 1100000 lbs of Sugar for paying public Debts & Charges & the Support of the Government (22 December 1698) (Antigua); CO 8/3, p. 83.

¹⁸³ An Act for raising an Impost on all Liquors Imported into this Island (1697) (Antigua); CO 8/1, p. 41.

No such sketches can be drawn for direct taxation in St Kitts and Nevis. However, some loose suggestions may be made. Considering the form of taxation imposed in Nevis in 1688 (as to which see above at p. 164) and that imposed in 1701 (see below) it seems likely that during King William's War Nevis continued to impose tax on freeholders, householders and traders of the towns, on the one hand, and on slaves per poll, on the other. As for St Kitts, it seems that English settlers had been dispossessed of their lands when the French took control and the English evacuated in 1689. But after the English retook St Kitts in 1690 there was initially no attempt at resettlement. The governor of the Leeward Islands began to invite settlers back to St Kitts in 1696 and land grants were made including in the former French quarters. This caused some disquiet when the Treaty of Ryswick of 1697 required the return of the French quarters to the French. The disgruntled settlers destroyed much French property as they evacuated these quarters and the consequent dispute with the French dragged on until the start of Queen Anne's War in 1702.¹⁸⁴

Jamaica suffered a number of changes of governor during the early years of King William's War and also raids to its north coast from French privateers. It seems that during this period its government largely relied on funds from the indirect tax imposed for twenty-one years in 1683 (see p. 165).¹⁸⁵ Like the other English West Indian colonies, the public availability of laws passed in Jamaica during the early 1690s is lacking. In the case of Jamaica it is likely that this was due to a large earthquake in 1692 by which much of Port Royal was swallowed by the sea and many inhabitants were killed in the act or its consequences. This left Jamaica in a weakened state and, particularly after the English fleet left the vicinity, prone to French attack.¹⁸⁶

Jamaica imposed taxes in 1693 towards the defence of the island but the style of tax used is not clear.¹⁸⁷ The French invaded Jamaica from French Hispaniola in 1694 but largely just looted the island and did not attack the area around Port Royal where the English forces

¹⁸⁴ Burns (1954, pp. 388–9).

¹⁸⁵ There is a gap in the laws in CO 139/8 between 1684 and 1693.

¹⁸⁶ Burns (1954, pp. 381–2).

¹⁸⁷ CO 139/8, pp. ii and iii note the following laws which are not reproduced in the manuscript: An Act for raising Money for and towards the Defence of this Island (1693) (Jamaica) and An Act for raising Money, as a further Aid to Their Majesties, for and towards the Defence of this Their Island of Jamaica (1693) (Jamaica).

were concentrated.¹⁸⁸ In 1695 a tax was imposed to discharge debts incurred in the French invasion.¹⁸⁹ This law required £11,000 to be raised 'by an Equal and Just Tax . . .' on inhabitants. In this sense the tax was consistent with that imposed in 1682 (see p. 165). However, the law proceeded to impose the tax on slaves per poll as well as horses and other animals per head. There was then imposed for the parish of Port Royal a tax of four and a half pennies in the pound of rent paid:

And also on the severall Inhabitants for their Several Trades Occupations and Callings one fourth part according as they were rated assess and taxed by the Justices and Vestry in the Parish Roll of Port Royal . . . for the year One Thousand Six hundred Ninety Five.

Using parish assessments as a basis for central assessments is consistent with earlier practice in the tax of 1682 (see p. 165). It also seems likely that there was a connection (at least in terms of style) between this tax and the taxes imposed in Nevis in 1688 and Barbados in 1691, both of which specifically referred to the taxation of trades. It also seems clear that there was a connection with the tax subsequently imposed in Barbados in 1701, see below. The Jamaican imposition of 1695 also included a discriminatory tax on Jews. A similar tax was imposed in 1696.¹⁹⁰

Excluding the Jamaican taxation of the Jews, it seems that the difficult times of the early to mid-1690s had brought with them a degree of uniformity in the direct tax systems of Barbados, Antigua, Nevis and Jamaica. Slaves, animals and land were the usual subjects of taxation but there was also an increasing determination, as in England, New England and the middle American colonies at this time, to tax trades.

Queen Anne's War As tensions rose following the death of the Spanish king (Charles II) in 1700, Barbados began to prepare for what seemed the inevitable conflict with the French. In 1701 it imposed a tax for repairing its fortifications.¹⁹¹ This tax followed the style of

¹⁸⁸ Burns (1954, pp. 382–3).

¹⁸⁹ An Act for raising Money to discharge the Debts contracted in the late Invasion of the French (1695) (Jamaica); CO 139/9, p. 1.

¹⁹⁰ An Act for completing the Payment of the Debts contracted during the late Invasion, and erecting and finishing the Fortifications at Port-Morat (1696) (Jamaica); CO 139/9, p. 34.

¹⁹¹ An Act for raising a Levy to defray the charge of repairing the Fortifications (29 March 1701) (Barbados); CO 30/6, p. 81.

that imposed in Jamaica in 1695 and likely followed the style of tax imposed in Barbados in 1691. As with the Jamaican levy, the 1701 Barbados levy imposed tax on slaves per poll and also included a discriminatory tax on the Jews. Tax was also allocated by a quota system to various towns and was to be imposed on:

all the Owners, Traders and Inhabitants of the Towns . . . for their houses, Trades and personall Estates besides their Levy of Negroes as aforesaid, which Sums shall be appointed and set by the respective Vestrys within Twenty days after Publication hereof . . .

The law also included charges on some specified persons and others of particular occupations, including lawyers, patentees, customs house officers, managers and chief overseers of plantations. There seems some similarity here with the various poll taxes imposed in England (and other European countries) during the 1690s. By the end of the year a French fleet was in the area with instructions to capture the colony.¹⁹²

The important levy of 1701 caste the dye for Barbados direct taxation during Queen Anne's War. There were two similar levies in 1702, one in each of 1703 and 1704 and three in 1705.¹⁹³ The levies in 1705 were supplemented with a continuous indirect tax of 5s per head on the importation of Negroes.¹⁹⁴ In 1709 the taxation of mills was included in the now usual form of direct tax.¹⁹⁵ In this form, with its five separate heads (Negroes, land and estates etc., mills, various professions and persons and the Jews), the Barbados direct tax was continuously imposed about every second year until the end of Queen Anne's War.¹⁹⁶ It is interesting that the form of direct taxation should settle in Barbados at around the same time as it settled in England (and Massachusetts), although the tax in Barbados was quite different from the English land tax.

¹⁹² Burns (1954, p. 412).

¹⁹³ For example, see CO 30/6, pp. 145 (1702), 184 (1702), 209 (1703), 233 (1704) and 248 (1705).

¹⁹⁴ An Act for laying a duty on Negroes and other Slaves imported to this Island (28 November 1705) (Barbados); Hall (1764, p. 163 [Law No. 106]).

¹⁹⁵ An Act to raise a Levy on the several Inhabitants of this Island (6 January 1708/09) (Barbados); CO 30/6, p. 368.

¹⁹⁶ For example, see An Act to raise a Levy on the several Inhabitants of this Island (9 June 1713) (Barbados); CO 30/6, p. 422.

As for the Leeward Islands, in 1701 Nevis imposed a levy that was consistent with that of 1688 (see p. 164).¹⁹⁷ Two hundred thousand pounds of sugar was to be raised under two heads. The first head consisted of freeholders, householders and traders of the towns and was to account for one-sixth of the levy. This amount was to be apportioned to individuals by a committee to be appointed. The rest was to be raised by way of a slave tax per poll and for this purpose another law required certain persons to provide a yearly list of their slaves.¹⁹⁸ Again, considering that this style of tax continued, it seems likely that there were similar levies between 1688 and 1701.

In 1702, as soon as he heard that England had declared war, the governor of the Leeward Islands captured the French half of St Kitts and many French prisoners were sent to Hispaniola and Martinique.¹⁹⁹ As in Barbados, the war proceeded to spark a spat of direct taxation in the Leeward Islands from 1702 to the French sacking of St Kitts and Nevis in 1706. Antigua raised a direct tax in mid-1702, which was, as by this stage usual, imposed on land, slaves, cattle, town lots and the sale of liquor.²⁰⁰ By an important addition the 1702 levy proceeded to 'tax all Traders inhabiting this Island according to the profitableness of their business or trade so neare as they [the assessors] can Judge . . .'. This taxation of traders followed the existing practice in Barbados, Nevis and Jamaica but the form and, in particular, the reference to 'profitableness' was different or at least more specific. Antigua imposed a similar tax in 1703.²⁰¹

In 1704, with a change in governor for the Leeward Islands, the direct tax system in St Kitts was revived. A tax was imposed on slaves per poll and also a tax to be 'laid on all Merchants Traders within this Island . . .'.²⁰² The traders were to assess themselves 'Proportionably to their trade' failing which they would be assessed. The taxation of slaves

¹⁹⁷ An Act for raising a Levy on the Freeholders, householders and Traders of the Towns in this Island and on all Slaves belonging to the Plantations and other Inhabitants of the same (1701) (Nevis); CO 154/5, p. 61 and CO 185/3, p. 24.

¹⁹⁸ An Act to Oblige all Persons to give in a List of their Negroes and other Slaves upon Oath (10 March 1701/02) (Nevis); CO 185/1, p. 21.

¹⁹⁹ Burns (1954, p. 414).

²⁰⁰ An Act for raising a Tax of nine thousand five hundred pounds money for paying publick Debts and Charges (28 June 1702) (Antigua); CO 8/3, p. 125.

²⁰¹ An Act for raising a Tax of Twelve Thousand Pounds Mony for paying publick Debts and Charges (15 March 1703/04) (Antigua); CO 8/3, p. 148.

²⁰² An Act for raising a Levy to Defray the Publick Charges of this Island (5 June 1704) (St Kitts); CO 240/1, p. 21.

per poll was universal throughout the English West Indian colonies at this time but the taxation of traders in St Kitts seems closer to the Antiguan form of taxing traders than to that used by Barbados, Nevis and Jamaica. Interestingly, unlike the Antiguan levies, the St Kitts levy of 1704 did not tax land by the acre. This 1704 levy was supplemented by a tax on slaves later in the same year.²⁰³

In 1705 Nevis imposed a tax in the usual form, consistent with the impositions of 1688 and 1701.²⁰⁴ In this case the amount per slave was fixed but a committee was still to apportion the amount to be raised from the freeholders, householders and traders of each town.

Early in 1706, St Kitts was invaded by a French fleet, which proceeded to sack the island but, on hearing rumour of an English fleet, soon left the island. Within a month there was a second attack, this time on Nevis, which soon capitulated. The devastation caused to St Kitts and Nevis was severe and it was to this war-ravaged state that the new governor of the Leeward Island, Daniel Parke, a Virginian, arrived in mid-1706.²⁰⁵ Just before his arrival Antigua passed another direct tax in the same form as that imposed in 1704.²⁰⁶ After his arrival St Kitts passed a slave tax per poll, which was for the duration of Parke's governorship.²⁰⁷ Parke was an unpopular governor and this study has uncovered no further grants of direct taxation during his governorship. His unpopularity came to a head towards the end of 1710 when a dispute with the Antiguan Assembly escalated after Parke had dissolved it. The result was an armed conflict in which Parke was killed.²⁰⁸

Upon the death of Parke, direct taxation resumed in the Leeward Islands. In 1711, Antigua imposed a tax in its usual form although

²⁰³ An Act For Assessing a Levy of five Shillings per Poll on all Slaves to make good the Deficiency of a Former Levy by an Act Entituled An Act for raising a Levy of Twenty Shillings per Poll on all Slaves to Defray the Publick Charges of this Island (23 September 1704) (St Kitts); CO 240/1, p. 23.

²⁰⁴ An Act for raising a Levy on the freeholders, householders, Traders and Artificers that be Inhabitants of the Towns of this Island and on all Slaves belonging to the Planters and Inhabitants of the Country part of the same (9 March 1705/06) (Nevis); CO 185/3, p. 58.

²⁰⁵ Burns (1954, pp. 415–17).

²⁰⁶ An Act for raising a Tax of Twenty one thousand pounds mony for paying publick Debts and Charges (1 June 1706) (Antigua); CO 8/3, p. 173.

²⁰⁷ An Act for raising the Quantity of one hundred thousand pounds of good Mustovado Sugar and for Discharging the Rent of a House for the accommodation of his Excellency Daniel Park Esquire During the Continuance of his Government (4 September 1706) (St Kitts); CO 240/1, p. 25.

²⁰⁸ Burns (1954, p. 422).

traders became liable to assessment according to 'the profits arising from their business or Trade ...'.²⁰⁹ A similar levy was imposed in 1713.²¹⁰ In 1711 St Kitts imposed a tax on slaves per poll but there was also a return to the taxation of traders.²¹¹ The latter part of the tax was imposed on 'all Merchants Tavern Keepers Traders etc. within this Island ...'. The amount to be raised by this part was split by quota over the towns. The assessment was to be 'proportionable to their trade' in the same way as the 1704 tax. Nevis too imposed a tax in 1713, which was in a form consistent with its earlier levies and particularly that of 1705.²¹² The French half of St Kitts, captured in 1702, was retained by the British under the Treaty of Utrecht of 1713 and the British proceeded to make grants of the former French land.²¹³

In 1702, Jamaica imposed direct taxation, in part as a measure for strengthening defences.²¹⁴ This law largely followed those of 1695 and 1696 and so imposed tax on slaves, certain animals, certain rents as well as on trades, occupations and callings. The tax was now extended to impose an extra tax on bachelors and a tax on carriages. The latter may well have been influenced by the English coach tax introduced in the 1690s. The 1702 Jamaican law also specified certain public officers who were to pay set amounts. This followed the similar approach in the Barbados law of 1701 and both were likely influenced by English poll taxes of the 1690s and the tax on officers as settled in the land tax.

In 1703, a different system was used to raise funds to accommodate English troops stationed in Jamaica.²¹⁵ The law allocated responsibility for accommodation based on the number of slaves and animals held. Persons who did not provide accommodation for the number of officers

²⁰⁹ An Act for raising a Tax of Eighteen thousand pounds money for defraying publick Debts and Charges (4 June 1711) (Antigua); CO 8/3, p. 187.

²¹⁰ An Act for raising a Tax of Sixteen Thousand Pounds money for defraying Publick Debts and Charges (21 May 1713) (Antigua); CO 8/3, p. 209.

²¹¹ An Act for Raising a Levy to Defray the Publick Charges of this Island (29 November 1711) (St Kitts); CO 240/4, p. 13.

²¹² An Act for Raising a Levy as well by way of a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of this Island as also on the freeholders, Householders and Traders of the Severall Towns of the Same (11 May 1713) (Nevis); CO 185/1, p. 42.

²¹³ Burns (1954, pp. 437–8).

²¹⁴ An Act for raising several Sums of Money to discharge the publick Debts, and providing Funds for the Safeguard of the Island (22 August 1702) (Jamaica), CO 139/9, p. 64.

²¹⁵ An Act for raising Money for providing an Addition to the Subsistence of Her Majesty's Officers and Soldiers, and for other Uses (16 June 1703) (Jamaica); CO 139/9, p. 78.

allocated to them were required to pay a fine per officer if they were deficient. This law was repeated and added to during the remaining years of Queen Anne's War.²¹⁶ Later in 1703 Jamaica replaced the 1683 revenue law (see p. 165, which had expired, with a similar set of indirect taxes that were also to last for twenty-one years.²¹⁷ This was in return for confirmation of Jamaican laws.

The Lords Proprietors of the Bahamas gave the governor instructions to set up an assembly in 1696, which seems to have operated. But as at 1701 the population was estimated at 250 whites and a similar number of other races.²¹⁸ In 1703, the Bahamas was virtually wiped out when it was raided by a joint Franco-Spanish force.²¹⁹ By the time of the Treaty of Utrecht of 1713 the Bahamas was occupied by 'two hundred families scattered among the islands, employed in farming or in piracy, "without any face or form of Government, every man doing onely what's in his own eyes"'.²²⁰ This was a period where the Bahamas lacked any real government and the Lords Proprietors were accused of neglecting the needs of the colony.

3.2 Post Utrecht; Paper Money and the Calm before the Storm

The decades following the Treaty of Utrecht of 1713 were relatively calm both in Great Britain and the colonies, at least by comparison to the century of turmoil before it and the more than seventy years of turmoil that began in the 1740s. There were few developments during the 1720s and 1730s in the direct tax systems of Great Britain or its colonies. The year 1739 saw the beginning of a comparatively minor skirmish between Great Britain and Spain over the right of the Spanish to board British ships in Spanish waters (granted by treaty). On one such boarding it was alleged that a Spanish coast guard had cut off the ear of Captain Robert Jenkins and so the skirmish became known as the War of Jenkins' Ear.

The War of Jenkins' Ear later merged into the War of Austrian Succession (1740–8) during which Great Britain and the Netherlands

²¹⁶ Generally see CO 139/8.

²¹⁷ An Act For Raising a Revenue to her Majestie her Heirs and Successors for the Support of the Government of this Island And for Maintaining and repairing Her Majesty's Forts and Fortifications (2 November 1703) (Jamaica); CO 139/9, p. 92.

²¹⁸ Burns (1954, p. 400).

²¹⁹ Burns (1954, p. 425).

²²⁰ Burns (1954, p. 426).

sided with Austria against the old foes of France and Spain together with Prussia and Bavaria. In Europe the main dispute was between Austria and Prussia over the rich province of Silesia. In the usual way, the war spilled over into colonies where it was known as King George's War. Here the war was marked by naval battles in the area of the West Indies, where once again privateering was rife, an assault by New England on the French in Canada and various skirmishes with the Spanish in Florida. The Treaty of Aix-la-Chapelle of 1748, which concluded the war, did not provide a lasting settlement and, in particular, did not resolve disputes between France and Great Britain with respect to their colonies. There was a short peace until 1755.

This heading first considers developments in direct taxation in Great Britain between 1713 and 1755. It then proceeds to consider developments in direct taxation in British colonies during this period.

Steady as She Goes in Great Britain

The form of the land tax in Great Britain did not change between 1713 and 1755 although the rate at which it was imposed did. The typical peace time rate for the land tax was 2s and this was the rate imposed after the Treaty of Utrecht of 1713. The rate bounced around over the next two decades due to various incidents, from 4s in 1716 to 3s for 1717 to 1721, 4s for 1727, 3s for 1728 and 1729 and 1s for 1731 and 1732. Otherwise it remained at 2s until 1740 and the War of Jenkins' Ear, when it was raised to 4s and continued at this rate during the War of Austrian Succession until 1749. The rate was reduced to 3s for 1750 to 1752 and further to the 2s peace time rate until 1755.²²¹ During the period from 1714 to 1755 the British national debt continued to grow, almost doubling during this period. This growth was in large part financed by a reduction in interest rates payable on the national debt, important reductions occurring in 1717 (from 6 to 5 per cent), 1727 (from 5 to 4 per cent) and 1750 (3.5 per cent to 1757 and then 3 per cent).²²²

During the War of Austrian Succession the infant Assessed Taxes were also extended. In 1747, the house tax (first imposed in 1696, see p. 186) was amended to be a fixed duty for all houses and a

²²¹ See Dowell (1965, Vol. III, pp. 85–6).

²²² See Dowell (1965, Vol. II, pp. 453–62).

window tax.²²³ This was supplemented in the same year with a tax on persons keeping pleasure carriages.²²⁴ These taxes were occasioned by expenses incurred in defeating another attempt by the Stuarts to regain the throne, this time by Bonnie Prince Charlie (the Young Pretender) on behalf of his father James the Pretender (son of James II).²²⁵

It is also useful to consider developments in regional levies since the 1660s. As noted above at page 140, by 1660 perhaps only one third of parishes in England were imposing the Poor Rate. But in 1662 a law was passed, which effected an assimilation of the basis of the Constables Rate to that of the Poor Rate. Whether because of this or other reasons, by the end of the seventeenth century the Poor Rate had become 'universal' in England.²²⁶ Money raised by the Poor Rate constituted virtually pure redistribution of wealth to the poor. The funds could be used to provide work but the usual way of providing support for the poor was in the form of a cash dole.²²⁷ Slack suggests that the funds redistributed under the Poor Rate 'were equal to about 11 per cent of the central government's revenues from direct and excise taxes in 1700 and 12 per cent in 1750 ...'.²²⁸ These surprising figures would continue to rise as the eighteenth century progressed.

As the importance of the Poor Rate grew, the sophistication of its tax base increased. As noted at page 77, initially the Poor Rate assessed land according to the number of acres in the occupier's possession. But by the end of the seventeenth century the actual rent of the property was most generally adopted, i.e. the annual value. However, the courts would not accept this as an irrefutable rule. In a case during 1698 the court stated that 'rent is no standing rule; for circumstances may differ, and there ought to be regard to *ad statum et facultates* ...'.²²⁹ The reference to 'faculty' echoes the standard form of direct taxation in New England at this time and some other colonies. While deductions

²²³ An Act for repealing the several Rates and Duties upon Houses, Windows and Lights; and for granting to His Majesty other rates and Duties upon Houses, Windows or Lights; and for raising the Sum of four millions four hundred thousand Pounds by Annuities, to be charged on the said Rates or Duties (20 Geo. II. c. 3) (1747) (UK). See also Dowell (1965, Vol. II, p. 117).

²²⁴ An Act for granting to His Majesty several Rates and Duties upon Coaches, and other Carriages therein mentioned; and for raising the Sum of one million by way of Lottery, to be charged upon the said Rates and Duties (20 Geo. II. c. 10) (1747) (UK). See also Dowell (1965, Vol. II, pp. 117–18).

²²⁵ Dowell (1965, Vol. II, pp. 115–18). ²²⁶ Slack (1995, p. 18).

²²⁷ Slack (1995, p. 19). ²²⁸ Slack (1995, p. 26).

²²⁹ Pratt (1827, Vol. I, p. 109 [case entry No. 119]).

were not usually allowed per se under the Poor Rate, the property was usually valued at a percentage only of its annual value in order to make some allowance in this regard.²³⁰ Despite increasing sophistication in principles of valuation, as with central direct taxes, the value assessed for the purposes of the Poor Rate was always considerable less than the actual value.²³¹

Just as the Poor Rate had expanded in 1662 to essentially form the basis of the Constables' Rate, in 1739 it was adopted as the basis of the general County Rate. The 1739 law provided for one general County Rate, which was to be paid by each parish or township and assessed in the same manner as the Poor Rate.²³² The result was a quota system for County Rates based on the rateable value of each parish's property under the Poor Rate.²³³ This quota system suffered from the usual defect (as with the fifteenth and tenth, discussed above at page 44, and the Dutch *verponding*, discussed above at p. 184) in that in many cases the apportionment of the County Rate among the parishes was based on valuations more than 100 years old.²³⁴ The amount to be raised for the County Rate was added to other amounts to be raised from particular parishes through the Poor Rate and the total to be raised was then apportioned according to assessable property of the parishioners. So, in the usual way (see above at p. 77), a pound rate applied, which might differ from parish to parish and amounts were collected at the church doors after Sunday service.

Supporting Credit in the Colonies

A growing problem in the colonies, particularly after the Glorious Revolution, was the general lack of currency. The balance of trade between Great Britain and the colonies was permanently in favour of Great Britain and this had a draining effect on the colonies. In 1690 Massachusetts began a practice of issuing paper bills of credit.²³⁵

²³⁰ United Kingdom (1843, p. 27). ²³¹ United Kingdom (1843, p. 30).

²³² An Act for the more easy assessing, collecting and levying of County Rates (12 Geo. II. c. 29) (1739) (UK). In particular see ss 1 and 2.

²³³ United Kingdom (1843, p. 30). ²³⁴ United Kingdom (1843, p. 32).

²³⁵ Massachusetts had sought to address the lack of currency decades earlier with the minting of coins in Boston from 1652. This minting was done without approval of England and was one of the principle charges against Massachusetts resulting in the forfeit of its charter by James II in 1684. The Boston mint was closed in 1688 during the years of the Dominion of New England under governor Andros, see pp. 158–9. The influx of goods for King William's War exacerbated the currency shortage. See McKay (1944, pp. 9–10).

The next year it was provided that the bills could be used to pay taxes and, as a result, their value remained strong.²³⁶ Encouraged by this strength of credit, Massachusetts proceeded to issue further bills for the charges of government and before 1702 these were typically supported by yearly taxes. After 1702 'the dates assigned for the retirement of bills were set ahead, and currency was issued in anticipation of taxes expected over a period of years'.²³⁷

The practice of issuing bills of credit spread steadily to the other American colonies.²³⁸ The first was South Carolina in 1703 to satisfy debts incurred in the unsuccessful expedition against St Augustine in Spanish Florida.²³⁹ Connecticut, New Hampshire, New Jersey and New York followed in 1709 with Rhode Island and North Carolina in 1710 and 1712, respectively.²⁴⁰ Pennsylvania and Delaware (still part of Pennsylvania) followed in 1723,²⁴¹ so by the 1720s the practice was widespread. Maryland and, particularly, Virginia were late into the picture in 1733 and 1755, respectively.²⁴²

There were two primary forms of bills of credit issued in the American colonies. The earlier form, beginning with Massachusetts in 1690, involved issuing bills on the credit of the colony. As to this type, Brock notes:

it became customary to strike off the bills of credit, declare them a legal tender in both public and private transactions, and pay them out to the public creditors. At the time of issuance, provision was usually made for calling in the bills. For example, a tax would be levied for the five years next ensuing, from the proceeds of which one-fifth of the bills were to be retired annually. The tax would be paid into the treasury partly in bills and partly in coin, if there were coin in circulation. The coin so drawn in would then be exchanged for an equivalent of the outstanding bills, and the whole sum of bills thus drawn in would be cancelled and burned under the superintendence of a committee of the assembly appointed for the purpose. This was the way the scheme worked at its best. In actual practice, however, the legislature sometimes failed at the time of issue to

²³⁶ The story of the first issue is interesting. As mentioned above at p. 197, during King William's War there was an attempted assault on the French at Quebec from New England. The assault was not successful and the soldiers returned to find that no provision had been made for their pay. The Massachusetts government made quick provision by issuing the soldiers letters of credit. See Brock (1975, pp. 21–2).

²³⁷ McKay (1944, pp. 16, 19). ²³⁸ Headlam (1929a, pp. 397–8).

²³⁹ Brock (1975, p. 116). ²⁴⁰ Brock (1975, pp. 44, 47, 84, 66, 37 and 108, respectively).

²⁴¹ Brock (1975, pp. 75 and 95, respectively). ²⁴² Brock (1975, pp. 102, 469).

provide taxes for the retirement of the bills, or it happened that the taxes so provided proved inadequate. Moreover, even when adequate taxes were levied, the sums arising therefrom were not infrequently diverted to other uses, and the bills, when received in the treasury, were reemitted. In certain colonies, and particularly in the early days of paper currency, these re-emissions were often accompanied by fresh issues. It was in this way that large sums became outstanding at one time. The result was that the currency depreciated in value.²⁴³

The second method was somewhat more radical. Bills were again issued and declared to be legal tender. They were given as 'loans' to various individuals, typically on security of land worth double the value of the loan. Interest was payable on this loan and the principal was paid down in instalments, typically running over eight to ten years. The result was credit for individuals (when private banks did not exist), contributions to the revenue and a medium of exchange. But again, a side effect of excessive issue was inflation.²⁴⁴

So as issues of paper money increased, their value decreased. Those impoverished by war and other debtors looked to the resulting inflation as a cure to the repayment of their debts. Creditors, in contrast, were vehemently opposed to such issues and the matter was much debated in contemporary publications. The British Board of Trade generally resisted this form of raising funds for government finances, at least general government expenses. Where issues on the credit of the colony were made, it required the establishment of an appropriate sinking fund, often through the imposition of a direct tax incorporated in the law setting up the issue of the bills of credit. The Board also tried to resist subsequent appropriations from such funds.²⁴⁵ By the end of the 1720s, inflation in Massachusetts had wiped off three-quarters of the value of bills against the British currency and the situation was similar in South Carolina. By the end of the period covered by this heading the exchange rate of Rhode Island was thirty-two to one.²⁴⁶

In the 1740s, many of the colonies formalised this inflation when they made 'new tenor' issues. Under new tenor issues the old bills were accepted at only a fraction of their face value in terms of the new tenor bills.²⁴⁷ In 1751 the British Parliament legislated to limit the issue of

²⁴³ Brock (1975, pp. 18–19). ²⁴⁴ Brock (1975, pp. 19–20).

²⁴⁵ See Brock (1975, ch. 5). Great Britain's own sinking fund, established to reduce the national debt, was often diverted to other purposes; Dowell (1965, Vol. II, p. 88).

²⁴⁶ Headlam (1929a, p. 398). ²⁴⁷ For example, see McKay (1944, p. 21).

paper money in New England.²⁴⁸ The legislative bodies of the New England colonies were not to assent to any law to make new bills of credit or to extend the term of existing bills of credit and if they did the issue would be null and void. There were exceptions for current year expenses (to be retired by taxes within two years) and extraordinary emergencies such as wars (to be retired by taxes within five years). Loan style bills were prohibited and bills of credit could not be legal tender for private transactions.²⁴⁹

It seems the situation was different in the West Indian colonies. Barbados issued letters of credit in 1705 and then in 1706 loan style notes (being the first issue of this type in the New World). As in the American colonies, this had the effect of draining the colony of gold, silver and other currencies and late in 1706 the English Crown disallowed the 1706 Barbados law providing for the issue of the notes. It seems that governors were given specific instructions not to approve any such issue in the future.²⁵⁰ It seems there was a later issue of some form of bills of credit in Barbados during 1723. There was no attempt to issue paper money in the Leeward Islands or Jamaica.²⁵¹ The latter, as the 'bullion-centre of the British possessions in the New World', had large supplies of coin due to it being the 'head-quarters of the naval and military forces and the home of the buccaneers . . .'.²⁵²

The decades to 1755 after the Treaty of Utrecht of 1713 were comparatively quiet in the British West Indian colonies. That treaty had confirmed British ownership of Barbados, the Leeward Islands colony (including Antigua, Nevis, St Kitts, Montserrat, Barbuda, Anguilla and the Virgin Islands), Jamaica and the Bahamas.²⁵³ None of these colonies were invaded during this period, even during the War of Jenkin's Ear and King George's War between 1739 and 1748. However, there were disputes with the Spanish, particularly in the vicinity of Jamaica, the Bahamas and Yucatan (Mexico, where various British logwood cutting interests were based), and the Treaty of Utrecht had not resolved British disputes with the French over St Lucia, St Vincent, Dominica, Grenada

²⁴⁸ An Act to regulate and restrain Paper Bills of Credit in His Majesty's Colonies or Plantations of Rhode Island and Providence Plantations, Connecticut, the Massachusetts Bay, and New Hampshire in America; and to prevent the same being legal Tenders in Payment of Money (24 Geo. II c. 53) (1751) (UK).

²⁴⁹ Generally, see Brock (1975, pp. 237–9).

²⁵⁰ See Chalmers (1893, pp. 51–3) and Brock (1975, pp. 169–72).

²⁵¹ Chalmers (1893, p. 60). ²⁵² Chalmers (1893, p. 97).

²⁵³ Headlam (1929a, p. 377).

and Tobago. The Treaty of Aix-la-Chapelle of 1748 agreed to the neutral status of these islands and the parties were to remove their nationals and leave the islands to the Caribs. Nevertheless Frenchmen settled in St Lucia, St Vincent and Grenada and this would later prove a point of dispute.²⁵⁴

The issuing of bills of credit had only little effect on the form of direct taxes that were often used to support them. The impact of bills was rather to increase the sporadic nature of direct taxes and when they were imposed to increase the duration of particular laws. This heading considers developments in direct taxation in the American colonies in the period from 1713 to the eve of the Seven Years War in 1755. It proceeds to consider similar developments in the West Indian colonies.

American Colonies

New England As mentioned above, in 1702 Massachusetts began to issue letters of credit with retirement dates a number of years ahead and so against taxes to be levied in the future. McKay notes that '[b]y 1714 the income of the province from taxation was pledged for six years (i.e. until 1720).'²⁵⁵ The amount of credit on issue as at 1720 was forty-three times more than had been on issue at the beginning of the eighteenth century and much of this was attributable to increased expenditure during Queen Anne's War. As bills were retired with taxes after the conflict, currency became scarce and the government response was fresh issues on loan.²⁵⁶

The increase in credit outstanding had little impact on the form of direct taxation in Massachusetts, which continued on essentially an annual basis in much the same fashion as had settled before the Treaty of Utrecht of 1713 (see p. 201). The 1706 form of assessment was used in direct tax laws, including those used to retire bills, until 1738.²⁵⁷ In 1738, the assessment was altered to a charge upon:

all Estates both Real and Personal . . . and also the Income or Profits, which any Person . . . do or shall receive from any Trade, Faculty, Business or Employment whatsoever, and all Profits that shall or may arise by

²⁵⁴ Burns (1954, pp. 484–5). ²⁵⁵ McKay (1944, p. 19).

²⁵⁶ Brock (1975, pp. 24–7) and McKay (1944, p. 20).

²⁵⁷ For example, see An Act for Apportioning and Assessing a Tax of Six Thousand Pounds . . . (May 1727) (Massachusetts) and An Act for apportioning and assessing a Tax of Forty four Thousand nine hundred and thirty Pounds . . . (25 May 1737) (Massachusetts); American Antiquarian Society (1956–, Nos. 39866 and 40123, respectively). See also Brock (1975, p. 28).

Money or other Estate not particularly otherwise assessed, or Commissions of Profit in their Improvement, according to their Understanding and Cunning . . .²⁵⁸

An interesting addition to the charge is the express inclusion of employment, but otherwise there seems little change in the tax base. The rate was still abated or multiplied in order to pick up the residual town quota not met by the accompanying poll tax. Real estate was still to be estimated at six years' income and various animals at specified amounts per head.

In the early 1740s, there was an effort in Massachusetts to reduce the amount out on credit. After some small success in this regard, the trend was dramatically reversed by substantial issues of bills of credit occasioned by the outbreak of King George's War. Massachusetts raised funds through new issues in unprecedented amounts to finance expeditions against the French to the north (see below) and the amount of credit outstanding increased sevenfold between 1744 and the signing of the treaty of Aix-la-Chapelle in 1748. Under this treaty the British returned the French fortress of Louisbourg on Cape Breton Island, which had been captured at great expense by the New Englanders during 1745 (see below). The British reimbursed these expenses in 1749 with Spanish dollars and coined copper. This currency was used to retire outstanding bills of credit.²⁵⁹ Despite these financial upheavals of the 1740s, the form of direct tax in Massachusetts remained the same from 1738 until after 1755.

The story was similar in Connecticut, although it used bills of credit the 'most judiciously' of the New England colonies. Connecticut first issued letters of credit in 1709 upon taxed funds to meet the annual expenditure of government. The amount outstanding was, until the 1740s, never great and reached its peak in 1713. The colony twice issued loan style bills, first in 1733 and again in 1740.²⁶⁰ But as in Massachusetts, these events had virtually no impact on the form of direct taxation. There was a small change in a law of 1725, which required attorneys to be rated for their faculty at specified rates.²⁶¹ Nevertheless, the basic source-based rate system continued including

²⁵⁸ An Act for apportioning and assessing a Tax of Thirteen thousand pounds . . . (31 May 1738) (Massachusetts); American Antiquarian Society (1956—, No. 4268).

²⁵⁹ McKay (1944, pp. 26–30). ²⁶⁰ Brock (1975, pp. 43–5).

²⁶¹ An Act for Assessing Allowed Attorneys at the Law, in the Annual List, for their Faculty (1725) (Connecticut); American Antiquarian Society (1956—, No. 2621).

the requirement that artisans and traders be rated 'proportionable to their gains and returns'.²⁶²

Connecticut also issued substantial amounts in letters of credit on tax funds during the 1740s but, as in Massachusetts, provision was made for these to be redeemed at the end of the decade with British funds provided as compensation for the costs of King George's War.²⁶³ To supplement these funds, taxes on polls and estates were to be levied for 1751, 1752 and 1753.²⁶⁴ In the usual way, polls and estates were periodically rated in a list. At the same time, in 1750, there was an elaboration with respect to the assessment of trades in this list as follows:

And all Traders, Tradesmen, and Artificers shall be Rated in the List proportionable to their Gains and Returns: In like Manner all Ware-Houses, Shops, Work-Houses, and Mills, where the Owners have particular Improvement, or Advantage thereof, according to the best Judgment, and Discretion of the Listers.²⁶⁵

It seems the addition of the later sentence was to clarify the position of businesses that combined labour with substantial amounts of capital.

Whereas Connecticut was particularly conservative with the issue of bills of credit, Rhode Island was comparatively loose. Beginning in 1715 Rhode Island, for its size,²⁶⁶ issued large quantities of loan style bills, which found their way into circulation in other New England colonies.²⁶⁷ But as in other New England colonies, the issue of bills, even when backed with taxes, had little impact on the form of direct tax

²⁶² For example, with respect to a resolution of 1725 see Connecticut (1850–90, Vol. VI, p. 576).

²⁶³ Brock (1975, p. 45) and McKay (1944, pp. 42–5). ²⁶⁴ Brock (1975, pp. 309–10).

²⁶⁵ An Act for the Direction of Listers in their Office, and Duty in Acts and Laws of His Majesty's Colony of Connecticut in New-England in America (1750) (Connecticut), at p. 138; American Antiquarian Society (1956–, No. 6479).

²⁶⁶ At this time Rhode Island's population was probably not more than 10,000, see Simmons (1976, p. 100).

²⁶⁷ McKay (1944, pp. 31–5). Brock (1975, p. 38) suggests that by 1744 the amount of bills outstanding per capita in Rhode Island was six times that in Massachusetts. It is suggested (Brock 1975, pp. 39–41) that the vast majority of these bills found their way into neighbouring colonies, particularly Massachusetts, with the result that the neighbouring colonies were financing the credit of Rhode Island and, through the payment of interest on the bills, its government. One of the reasons for Rhode Island's excesses is that it retained its corporate charter (as did Connecticut) whereas Massachusetts and New Hampshire had been granted royal charters in 1691 (see pp. 196–7) and were subject to instructions by the British crown. In 1752 Connecticut banned the use of Rhode Island bills; see McKay (1944, p. 45).

in the colony and the imposition of direct tax continued in much the same fashion as it had before the end of Queen Anne's War, see page 203. It is not until 1744, at the start of King George's War, that there is a recorded change in the form of direct assessment. By a law of that year various forms of personal estate were rateable together with 'other Estate that lies concealed'.²⁶⁸ Real estate was also assessable and to be 'valued at the Rate of Ten Years . . .'. Polls were also assessable:

AND be it Enacted by the Authority aforesaid, That the Assessors in all and Every Rate, levied as aforesaid, shall consider all Persons who make Profit by their Faculties, and shall rate them accordingly.

This is clearly a substantial move from the profit assessment of 1695 towards an assessment of the value of property and is broadly consistent with the form of assessment in Massachusetts at this time. Seligman notes that this is the last direct mention of 'faculty' in the Rhode Island law.²⁶⁹ The next law on rateable estates, in 1747 at the height of King George's War, followed the 1744 law but simply mentions:

the Value of all Personal Rateable Estate, shall be known by the Means and Methods appointed by the Laws of this Colony now in Force, and the Rateable Value of all Real Estates by the Appraisalment of the Assessors of each Town.²⁷⁰

There was no mention of 'faculty'.

Like Connecticut, New Hampshire began issuing letters of credit in 1709 during a financial crisis caused by expenses incurred in Queen Anne's War.²⁷¹ The amount of the issues grew during the second decade of the eighteenth century and it seems each issue was supported with annual taxes along the usual lines.²⁷² In many cases the bills that were

²⁶⁸ An Act ascertaining what Estate is Rateable, and for proportioning the same in Value (18 September 1744) (Rhode Island) in *Acts and Laws of His Majesty's Colony of Rhode-Island* (1744) (Rhode Island), p. 295; *American Antiquarian Society* (1956–, No. 5683).

²⁶⁹ Seligman (1914, p. 375).

²⁷⁰ An Act directing how the Value of the Rateable Estates in this Colony shall be known, and each Town's Proportion thereof (June 1747) (Rhode Island); *American Antiquarian Society* (1956–, No. 6919).

²⁷¹ *New Hampshire* (1867–1915, Vol. III, pp. 410–11) notes that on 5 December 1709 the Assembly voted £4,000 in bills of credit and refers to an 'Act of the Assembly made by this present session for the raising of five thousand pounds in five years next coming, for the support & payment of the said bills . . .'.

²⁷² For example, with respect to issues in 1711 and 1714 see *New Hampshire* (1867–1915, Vol. III, pp. 503, 564). See also Fry (1908, pp. 346–9).

brought in as a result of taxes were reissued rather than destroyed as planned. As in other colonies, this was done in the name of a need for currency. The need for currency was also used to justify the first issue of £15,000 bills on loan in 1717.²⁷³ It seems that these issues had little impact on the form of the direct tax system, which appears to have been levied annually consistent with the approach in the 1692 law (see p. 201).

In 1720, the governor of New Hampshire was instructed by the British Board of Trade not to assent to any further issues of bills of credit, unless absolutely necessary, without royal approval. Necessity was found during the 1720s as a result of further wars with the Indians so further issues of bills of credit were made, which were secured with direct taxes. There is little available legislative instruction on the form of the taxes at this time. They were typically levied on 'The Poles & Estates within this Province' but it may be presumed that, as in the other New England colonies, the tax base changed little.²⁷⁴ In 1730, the governor received instructions further restricting the ability to issue bills of credit and requiring the calling in of all outstanding bills in accordance with the terms of issue. The result was that the annual direct tax was levied each year but solely devoted to sinking outstanding bills, meaning that the general expenses of government in the early to mid-1730s went unpaid.²⁷⁵

The failure to secure further emissions on the part of the house of representatives and the failure to secure annual supply on the part of the governor and council caused great tension between the two. Matters finally eased, in 1737, with the passage of a law to pay the public debts through the issue of bills of credit to be sunk with taxes.²⁷⁶ In the usual way, the law was non specific about the tax base, simply providing that the taxes were to be on 'the Poles & Estates Real & Personal of the Inhabitants of this Province . . .'. This respite in the disputes between the house and the governor was short lived and there proceeded a further

²⁷³ See New Hampshire (1867–1915, Vol. III, p. 688) and Fry (1908, pp. 349–51).

²⁷⁴ For example, An act To Levy a Tax of one thousand pounds on The Poles & Estates within this Province (1 June 1723) (New Hampshire), referred to in New Hampshire (1867–1915, Vol. III, p. 105; similarly see, pp. 139, 186). See also Fry (1908, p. 353) and Robinson (1902, pp. 32–3).

²⁷⁵ See Fry (1908, pp. 359–60).

²⁷⁶ An Act for the supply of the Treasury with the sum of six thousand five hundred pounds in Bills of Credit, for the discharge of the Publick debts of this Province and for other purposes in this Act hereafter mentioned (March 1736/7) (New Hampshire); New Hampshire (1867–1915, Vol. IV, p. 722).

period during which the house refused to make annual supply leading through the start of King George's War.

Matters were resolved in 1742 with the appointment of a new governor and a limited issue of bills of credit for various expenses to be sunk with taxes between 1744 and 1749 and an issue of £25,000 off bills on loan to provide the province with a currency. In the usual way, the taxes were to be raised on polls and estates.²⁷⁷ At the same time a bill was passed providing for the taking of a new inventory for apportioning the tax among the towns.²⁷⁸ This was consistent with that in other New England colonies at the time but made no express reference to 'faculty'.²⁷⁹ Further bills of credit were issued when the war with France began and particularly as a result of the expedition against Louisbourg (see below). These bills were secured with direct taxes running into the 1760s.²⁸⁰ Finally, after yet another period of dispute with the governor, provision was made in 1753 for the payment of public debts by re-emitting certain bills with a tax on polls and estates to be levied over the next five years to sink them.²⁸¹ At the same time there was again a new law providing for the taking of an inventory in 1753 but there is a question whether the law was properly passed.²⁸² Again, this law made no obvious reference to faculty.²⁸³

²⁷⁷ An act for granting unto his most excellent Majesty the sum of Four thousand seven hundred and Twenty pounds in Bills of Credit on this Province equal to so much Proclamation money for supplying the Treasury for discharging the Public Debts and for other purposes in this Act hereafter mentioned, and for appropriating and drawing in of the Said Bills into the Treasury again (April 1742) (New Hampshire) and An act for Emitting the sum of Twenty five thousand Pounds in Bills of Credit on this Province equal to so much Proclamation Money upon Loan, and for granting to his Majesty the Interest that shall arise thereby for the purposes in the said act mentioned (April 1742) (New Hampshire); New Hampshire (1867–1915, Vol. V, pp. 157–64, 654). See also Fry (1908, pp. 375–6).

²⁷⁸ An Act for the more equal proportioning the towns (23 June 1742) (New Hampshire); New Hampshire (1867–1915, Vol. V, p. 165). See also Robinson (1902, p. 34).

²⁷⁹ Robinson (1902, p. 35) points out that there would 'undoubtedly [be] considerable divergence between law and actual practice, since the latter was to some extent under the control of local custom'. He also cites an example of a town where two men were listed for 'faculty'.

²⁸⁰ Fry (1908, pp. 390–8).

²⁸¹ New Hampshire (1867–1915, Vol. VI, pp. 189–90) (proceedings of 13 March 1753 but no title to law available). See also Fry (1908, pp. 401–2) and Brock (1975, p. 295).

²⁸² Robinson (1902, p. 36).

²⁸³ New Hampshire (1867–1915, Vol. VI, p. 175). As usual the tax base involved polls, improved land, horses, cattle and yearly rents of mills.

No sooner had the French ceded Acadia (Nova Scotia) to the British under the Treaty of Utrecht of 1713 than, in 1717, the French began to construct a fortress just to the north at Louisbourg on Cape Breton Island, which France had retained. With the passing of Nova Scotia to Britain, the French Arcadians came under British rule, at least in principle. The British maintained a garrison at Annapolis (Port Royal under the French) but the British settlers were limited to the immediate vicinity and were few in number. Government was vested solely in a governor stationed at Annapolis and a commission was forthcoming in 1719 requiring appointment of a council. The French were largely self-governed by deputies which they chose but there was an appeal to the governor-in-council. Given this limited scope of government there are no records of direct tax during these early days of the colony. However, it does seem that the French Acadians were subject to a quit-rent on their lands. This was originally an obligation to the French crown that the governor claimed in favour of the British crown.²⁸⁴ It also seems that there were some direct obligations in the form of contributions of labour to common causes.²⁸⁵

Protests and resistance on the part of the French and conflict with the New Englanders made government of Nova Scotia by the British difficult. Particular dispute arose over the French fortress built at Louisbourg. In 1745, during King George's War a joint attack by New Englanders and British warships captured the fortress.²⁸⁶ However, as mentioned above, Louisbourg was returned to the French under the treaty of Aix-la-Chapelle in 1748. By this time the French Arcadian population had swelled to something like 10,000.²⁸⁷ The French proceeded to further strengthen their North American holdings rapidly after 1748 and the British became of the opinion (partly as a result of representations made by the Massachusetts governor) that the only way to hold the French in check was to establish a larger fort and a colony at Nova Scotia. Lord Cornwallis was sent to do this in 1749. Inducements were offered to immigrants from England, Germany, Scotland and New England to settle near the new fort in the new crown colony established at Halifax, the new seat of English administration in Nova Scotia.

²⁸⁴ Nova Scotia (1908, pp. 190–1, 260–1). It seems that at least some of the British settlers were similarly obliged; Nova Scotia (1908, pp. 227–8).

²⁸⁵ For example, Nova Scotia (1908, p. 308) recounts an order from the governor in council of 29 October 1734 to the inhabitants of both sides of the river of Annapolis Royal requiring the repairing and making of highways.

²⁸⁶ Simmons (1976, p. 274). ²⁸⁷ Bourinot (1900, p. 9).

However, the number of settlers in the early years was no more than two to three thousand.²⁸⁸

Between 1749 and 1758 the government of Nova Scotia was carried on by the Governor in Council without an assembly. Bourinot notes that:

during this period a number of ordinances were passed some of which imposed duties on trade for the purpose of raising revenue. The legality of their acts was questioned by Chief Justice Belcher . . . and he was sustained by the opinion of the English law officers . . . The result of this decision was the establishment of a representative assembly, which met for the first time at Halifax on the 2nd October in 1758.²⁸⁹

Middle Colonies New York began to issue bills of credit in 1709 during Queen Anne's War. Taxes imposed in the following four years were used to retire the issue (see p. 205). In 1711, further bills were issued and this time they were to be retired with taxes levied over the years 1714–18.²⁹⁰ The basis of the taxes was the same as under the 1709 law. Over the remainder of the decade further issues were made but these were secured on indirect taxes. There were further issues during the 1720s, including some secured on direct taxes²⁹¹ but there was no change in the form of direct taxation.²⁹² The same is true of the large issue of 1746 during King George's War, which was to be retired with

²⁸⁸ Bourinot (1900, p. 17).

²⁸⁹ Bourinot (1900, pp. 22–3). For example, An Act for granting a Bounty upon Fish and Oyl and for laying a Duty upon Spirituous Liquers as a Fund for the Payment thereof, and for effectually Securing the payment of the said Duty (29 April 1751) (Nova Scotia) and An Act laying a Duty of three pence per Gallon on Spirituous Liquors imported from the Neighbouring Colonies and to encourage the Distilling thereof in this Province and for granting a Bounty of Ten Shillings per Ton upon all Vessells or Boats built within the said Province (31 July 1751) (Nova Scotia); CO 219/3, pp. 41 and 53, respectively. Chief Justice Belcher was the first chief justice of Nova Scotia and drafted the early enactments of the Assembly. He was a Harvard graduate and the son of a Massachusetts governor, demonstrating the connection between New England and early Nova Scotia. See Bourinot (1900, pp. 25–6).

²⁹⁰ An Act for levying the Sum of Ten Thousand Pounds (1711) (New York); American Antiquarian Society (1956–, No. 1636).

²⁹¹ Brock (1975, pp. 67–9).

²⁹² An Act for Discharging a Debt to the late Agents for this Colony at the Court of Great Britain, For Finishing and Compleating the Buildings in his Majesty's Fort George; for borrowing certain Sums for those purposes, out of the Funds therein mentioned, and for laying a Tax to make good such parts thereof as stand appropriated to particular uses (June 1726) (New York); American Antiquarian Society (1956–, No. 2786).

direct taxes that were, as usual, to be levied on real and personal estates of inhabitants.²⁹³

The experience of New Jersey was similar, which also began issuing letters of credit during Queen Anne's War. There was little impact on the form of direct tax imposed in New Jersey, which largely continued as before (see pp. 206–7). Retirement of initial issues during the 1720s caused contraction of currency and depressed trade. The British crown approved new issues on loan in the early 1730s and the interest on these loans met the expenses of government until the end of the 1740s and so no direct taxes were levied.²⁹⁴ By a law of 1753, outstanding bills of credit were to be sunk with a tax over a ten-year period.²⁹⁵ The tax was in the usual New Jersey form (see pp. 206–7), although the instructions to the assessors became more elaborate. The items and activities subject to tax were listed with instructions as to assessment of each, often in the discretion of the assessor within limits. As with the second charge of 1709, there was no express mention of 'faculty' or 'ability' but there was a residual poll tax on 'single man without a horse'.

Uniquely of the northern colonies, Pennsylvania did not issue letters of credit during Queen Anne's War. Further, it did not do so immediately after the war but rather continued to impose direct taxes. The important tax of 1714 was to be 'levied and raised on all estates, Real and Personal . . . within this Province . . .'.²⁹⁶ As with the law of 1700 (see p. 208), there was a residual poll tax. The instructions to assessors had become more developed and persons, lands, servants, Negroes, cattle, horses and sheep were to be listed. The tax law of 1717 was to similar effect.²⁹⁷

An economic depression set in during the early 1720s and Pennsylvania was drained of currency. In response it issued loan style bills of credit in 1723 in an effort to provide some relief through credit

²⁹³ An Act for raising a Supply of Forty Thousand Pounds by a Tax on Estates real and personal, for carrying on an Expedition against the French in Canada . . . (June 1746) (New York); American Antiquarian Society (1956–, No. 5824).

²⁹⁴ Brock (1975, pp. 84–95).

²⁹⁵ An Act for levying a Fund at different Periods by Provincial Taxes, for sinking the Sum of Fifteen Thousand three Hundred and two Pounds and four pence, now outstanding in Bills of Credit made current for His Majesty's Service in the late War (1753) (New Jersey) in Acts of the General Assembly of the Province of New-Jersey (1761), Vol. II, p. 1; American Antiquarian Society (1956–, No. 8947).

²⁹⁶ An Act for Raising a Supply of One Penny in the Pound, and Four Shillings a Head, and for Reviving other Acts therein mentioned (October 1714) (Pennsylvania); American Antiquarian Society (1956–, No. 1775).

²⁹⁷ An Act for raising a Supply of One Penny per Pound and Four Shillings a Head (August 1717) (Pennsylvania); American Antiquarian Society (1956–, No. 1994).

and a currency. Some of these bills were lent to counties that were to sink the bills with an annual tax levied 'in the same Manner as County-Levies ...', presumably under the law of 1700.²⁹⁸ The 1700 law on county levies was replaced shortly thereafter, in 1724.²⁹⁹ The 1724 law provided more specific instructions to constables who were to make lists of persons, land, servants, Negroes, cattle, horses and sheep. It seems clear that the property tax was not comprehensive. There was still a residual poll tax. In 1729 Pennsylvania made a further issue of loan style notes and again in 1739, with a smaller issue during King George's War in 1746. The costs of the provincial government were such that they could be met with interest on the loan bills and indirect taxes, and so there were no further direct taxes until 1755.³⁰⁰

After Queen Anne's War the Delaware Assembly continued its policy of refraining from levying central taxes, though county levies may have been raised. In 1723, Delaware (as part of Pennsylvania) issued its first bills of credit on loan and further issues followed in 1726, 1729 and 1734. It is likely that these bills were issued on similar terms to those in Pennsylvania and the bills (at least those lent to the counties) were to be sunk with county taxes on polls and property.³⁰¹ In 1740, during King George's War, the Delaware Government decided (as did the New Jersey and Maryland governments), to support an expedition against the Spanish in the West Indies.³⁰² The tax raised in support of this expedition was simply apportioned to the three counties to be raised 'in the same Manner as the County Levies shall be laid and raised ...'.³⁰³

²⁹⁸ An Act for emitting and making current Fifteen Thousand Pounds in Bills of Credit (October 1722) (Pennsylvania) and An Act for the Emitting and Making current Thirty Thousand Pounds in Bills of Credit (October 1723) (Pennsylvania) in *The Charters of the Province of Pensilvania and City of Philadelphia* (1742); American Antiquarian Society (1956—, No. 5033).

²⁹⁹ An Act for raising of County Rates and Levies (October 1724) (Pennsylvania) in *The Charters of the Province of Pensilvania and City of Philadelphia* (1742); American Antiquarian Society (1956—, No. 5033).

³⁰⁰ See Brock (1975, pp. 74–84). ³⁰¹ Daugherty (1938, p. 49).

³⁰² Brock (1975, pp. 91, 96–7).

³⁰³ An Act for raising the Sum of One Thousand Pounds, for defraying the Charges of Victualling and Transporting the Troops raised within this Government for the intended Expedition against some Part of the Spanish West Indies (1741) (Delaware) in *Laws of the Government of New-Castle, Kent and Sussex, Upon Delaware* (1752, p. 154); American Antiquarian Society (1956—, No. 4707). See also An Act for ascertaining the proportion of the government charges hereafter to be paid by the several counties of New-Castle, Kent and Sussex, on Delaware (1742) (Delaware) mentioned in *Laws of the State of Delaware* (1797, p. 239); American Antiquarian Society (1956—, No. 32030).

The tax base for county levies was not well defined but appears to still have involved 'Persons and Estates'.³⁰⁴ A poll tax and estate tax is consistent with other middle colonies.³⁰⁵

Southern Colonies As noted above, Virginia did not issue letters of credit until 1755. In the early years of virtually all the colonies the commodities of the colonies had passed as currency, often at rates set by law. Further, often taxes and other public debts were expressly payable in commodities. Virginia and, to a lesser extent, Maryland provide important examples of this practice with respect to their stable commodity of tobacco. A problem with this practice was that it produced a tendency towards payment in poor quality commodities. After an earlier attempt failed, in 1730 Virginia addressed this issue by requiring that tobacco that was to be used for payment was required to be deposited in a public warehouse and a note provided in exchange for it. These tobacco notes were given limited effect as legal tender.³⁰⁶ Despite these developments in the modes of exchange, Virginia's simple poll tax persisted as the only form of direct tax until 1755.

Like Virginia, Maryland had used tobacco as currency in the absence of in specie currency.³⁰⁷ However, Maryland felt the deficiency more and issued bills of credit in 1733. Retirement of the bills was secured with a tax on the export of tobacco.³⁰⁸ The amount on issue varied until mid-century but the basic system remained the same. Despite the sinking of bills with the tax on tobacco, poll tax levies of the type imposed during Queen Anne's War (see pp. 209–10) continued intermittently through and into the 1740s.³⁰⁹ As in Virginia, this direct tax system did not change until the war with the French.

As mentioned above at page 211, South Carolina began issuing letters of credit as early as 1703 and secured them through taxation. In 1712 South Carolina was the first colony to issue loan style bills of credit. In the late 1710s the financial crisis in South Carolina, which followed conflicts with the Spanish and Indians during Queen Anne's War,

³⁰⁴ An Act for raising County-Rates and Levies (1743) (Delaware) in *Laws of the Government of New-Castle, Kent and Sussex, Upon Delaware* (1752, p. 247); *American Antiquarian Society* (1956–, No. 6835).

³⁰⁵ See also Seligman (1914, p. 378). ³⁰⁶ Brock (1975, pp. 9–15).

³⁰⁷ Brock (1975, pp. 15–16). ³⁰⁸ Brock (1975, pp. 99–101).

³⁰⁹ For example, *An Act for the Assessment and Payment of the Publick Charge of this Province* (September–October 1742) (Maryland); *Maryland Historical Society* (1883–1972, Vol. XLII, p. 444).

deepened. South Carolina financed war with the Yamasee Indians through the issue of further bills of credit in 1715 and 1716.³¹⁰ Tax was to be raised under the 1715 law in terms similar to those used in the 1703 law (see p. 211). This was repealed in 1716 with a larger grant, which changed the basis of taxation.³¹¹ Under this law, persons residing in the counties were to be charged with respect to their 'land and negroes', whereas those residing in Charlestown were charged 'upon the several estates, real and personal, stocks and abilities . . .'. This law also began the practice of specifying a particular part of the charge to be raised from Charlestown.³¹²

While this change in structure would last, the 1716 law did not. It was repealed by a law of 1719, which imposed tax in similar terms but increasing detail.³¹³ By this time South Carolina was in a financial crisis as a result of the continuous warring against the Spanish and the Indians. In 1720 the Crown took over the colony's government as a temporary protection measure, citing that the proprietors had sent no aid to the colony, but the proprietors at this stage retained their rights to the colony.³¹⁴ The result was an annual tax law that followed the form started in 1716. Brock suggests that the taxes levied from 1725 until 1730 were used only to sink bills of credit and that no provision was made for the annual expenses of government.³¹⁵ There is a clear analogy with New Hampshire at this time; the other frontier colony.

³¹⁰ An Act for raising the sum of Thirty Thousand Pounds of and from the Estates real and personal of the Inhabitants of this Province, in order to sink the like sum of Thirty Thousand Pounds in Bills of Credit, stamp for the more speedy carrying on and defraying the charges of the War against our Indian Enemies and their Confederates, as also for raising the Sum of Thirty Thousand Pounds towards discharging the Debts contracted by the publick since the commencement of the War (27 August 1715) (South Carolina); South Carolina (1836–41, Vol. II, p. 627). See also Brock (1975, pp. 119–20).

³¹¹ An Act to continue the Currency of Thirty Thousand Pounds in Bills of Credit . . . as also to continue the currency of Five Thousand Pounds in Bills of Credit . . . and also to raise and levy the Sum of Ninety-five Thousand Pounds . . . of and from the Lands and Negroes of the Inhabitants of this Province . . . (30 June 1716) (South Carolina); South Carolina (1836–41, Vol. II, p. 662).

³¹² *Ibid.* ss 11 and 13.

³¹³ An Act for raising the sum of Seventy Thousand Pounds, on Lands and Negroes, for defraying the Public Debts, sinking the Public Orders, and for the calling in, cancelling and sinking the sum of Thirty Thousand Pounds, which is now standing out in Bills of Credit, over and beside the Bank Bills (20 February 1718/19) (South Carolina); South Carolina (1836–41, Vol. III, p. 69).

³¹⁴ Simmons (1976, p. 136). ³¹⁵ Brock (1975, p. 128).

In 1729, the proprietors sold their rights in the colony to the crown and this sale included both Carolina colonies, North and South.³¹⁶ By 1731, there was £106,500 outstanding in bills but these were not retired during colonial times, although they were reprinted in 1731 and 1748. Once South Carolina became a crown colony, the royal governors ensured that there were no further issues of bills, even during King George's War.³¹⁷ However, tax certificates were issued to public creditors beginning in 1731, which could be used to pay taxes over a period of years, and these certificates gained some circulation. Annual direct taxation continued in the 1716 form and the law of 1734 is a useful example in this respect.³¹⁸ This law apportioned about one seventh of the amount to be raised to Charlestown. The residual amount was to be raised from the counties and involved the extension of the tax on Negroes into a general poll tax and a tax on land per 100 acres. Charlestown was still to tax its inhabitants on their 'real and personal estates, stocks and abilities'.³¹⁹

South Carolina made a further issue of tax certificates in 1736, which was drawn in through the imposition of the normal direct tax over the next five years.³²⁰ The form of the annual South Carolina tax law changed somewhat in 1739.³²¹ The apportionment to Charlestown was in the usual form. But the poll tax reverted to a tax on slaves and Negroes. The tax per 100 acres outside Charlestown remained but there was now a tax on country 'store-keepers' according to the value of their stock and cash. The tax on inhabitants of Charlestown was in the usual form.³²²

With the outbreak of King George's War, South Carolina made two issues of tax certificates in 1740 and one in 1742 to aid Georgia in its struggle with Spanish Florida. A final issue of tax certificates was made

³¹⁶ Simmons (1976, p. 137). ³¹⁷ Brock (1975, p. 123).

³¹⁸ An Act for raising the sum of forty-one thousand five hundred and eleven pounds nine shillings and ten pence half-penny, for defraying the charges of the Government for one year . . . (9 April 1734) (South Carolina); South Carolina (1836–41, Vol. III, p. 383).

³¹⁹ *Ibid.*, s. 16.

³²⁰ South Carolina (1836–41, Vol. III, pp. 461–4 [5 March 1735/6]) and see Brock (1975, pp. 124–5).

³²¹ An Act for granting to His Majesty the sum of thirty five thousand eight hundred and thirty-three pounds six shillings and eleven pence three farthings, for defraying the charges of the Government for one year . . . (18 December 1739) (South Carolina); South Carolina (1836–41, Vol. III, p. 527).

³²² *Ibid.*, ss 1, 2, 14 and 18, respectively.

in 1745 to secure fortifications at Charlestown.³²³ The tax law of 1747 was a step in transition to a slightly different form of tax law in South Carolina.³²⁴ There was still a special quota for Charlestown but it was assessed for lands, Negroes and money at interest in the same way as the rest of the colony. However, any residue to make up the Charlestown quota was to be raised on a different base. The assessors were to:

estimate the several Lots of Land and Buildings within the Limits of Charles-Town Plat, according to the full Value, and likewise every Person's Stock in Trade (that is to say) Wares, Merchandise, Bonds, other Specialties or Notes not bearing Interest, and Book-Debts of Persons in Trade, Shop-Keepers and others, according to the best of their Knowledge, and shall assess and levy the Residue of the said Sum on the Proprietors of the said Lots of Land and Buildings, and the Persons having Stock as aforesaid in Trade, equally and proportionably, according to the Estimate by them made of the Value of the same.³²⁵

The removal of the reference to 'ability' with respect to the Charlestown quota is interesting although this would be replaced in the 1750s with a reference to 'faculty' (see p. 257).

As with its southern neighbours, North Carolina currency was largely based on exchange of its commodities. The Tuscarora War caused North Carolina to issue its first bills of credit in 1712. As noted at page 213, this was supported with a tax imposed in 1715 per 100 acres of land and this was a substantial change from the usual form of direct tax, which was a simple poll tax.³²⁶ There was another issue of bills of credit in 1722 in exchange for the earlier bills. No general taxes were imposed from 1723 until after the proprietors surrendered their rights to the Crown in 1729.³²⁷ In that year North Carolina made its first issue of bills of credit on loan. After this the crown and provincial officers continued to be paid from the quit rents, fees and interest on the notes. However, it seems that the loan bills were 'laxly administered' and public debts were

³²³ South Carolina (1836–41, Vol. III, pp. 546 [5 April 1740], 577 [19 September 1740], 595 [11 July 1742] and 653 [25 May 1745]) and see Brock (1975, pp. 125–6).

³²⁴ An Act for raising and granting to His Majesty, the Sum of Fifty two Thousand Eight Hundred and Twenty-seven Pounds ... (13 June 1747) (South Carolina); American Antiquarian Society (1956–, No. 40442).

³²⁵ *Ibid.*, s. 19.

³²⁶ In form the tax was imposed annually until the bills were sunk. Brock (1975, p. 109) seems to suggest that the bills were still outstanding as at 1722 and that the tax was still being imposed.

³²⁷ Parker (1928, p. 108).

largely in arrears by 1734.³²⁸ In that year a poll tax was levied to provide funds to sink bills of credit that had been issued.³²⁹ There were no further issues until 1748, when threats from the Spanish in Florida during King George's War prompted work on fortifications.³³⁰ The issue was to be retired with an annual poll tax.³³¹

Georgia, the last of the founding colonies of the United States was founded as a proprietary colony in 1732.³³² In some ways it formed a military buffer zone between the established colonies and Spanish colonies, particularly Florida. It proved a useful base from which to attack Spanish forts in Florida and there were a number of incidents from the mid-1730s until the mid-1740s. For the first eighteen years from its establishment the colony remained under the control of trustees and a common council without a representative assembly. As Reese notes:

Constant need of money made the Trustees permanently dependent on Parliament, without whose support their colony could not have been maintained . . . Georgia was voted . . . varying annual sums . . . until the end of the charter period, by which time a total of £136,000 had been granted. In the same period less than £16,000 was collected by the Trustees from other sources.³³³

No assembly meant no direct taxation. There was a system of quit-rents but that was rarely enforced. Under pressure for reform the proprietors

³²⁸ Brock (1975, pp. 108–11).

³²⁹ An Act, for granting to His Majesty, the Sum of Fourteen Thousand One Hundred and Fifty Pounds Three Shillings and Two Pence, for the Service of the Public of this Province, and for laying a Tax on the Inhabitants of the same for the Payment thereof; and for Stamping the Sum of Ten Thousand Pound, Bills of Credit, for the more immediate Discharge of Part thereof (1734) (North Carolina) mentioned in Acts of Assembly, of the Province of North-Carolina: Now in Force and Use (1751), p. 83; American Antiquarian Society (1956–, No. 6742). See also Ashe (1925, Vol. I, p. 392).

³³⁰ Brock (1975, pp. 112–13).

³³¹ An Act for granting unto his Majesty the Sum of Twenty One Thousand Three Hundred and Fifty Pounds, Proclamation Money, and for stamping and emitting the said Sum of Twenty One Thousand Three Hundred and Fifty Pounds, Public Bills of Credit of this Province, at the Rate of Proclamation Money; to be applied towards building Fortifications in this Province, Payment of the Public Debts, exchanging the present Bills of Credit, and for making proper Provision for defraying the Contingent Charges of the Government; and for repealing the several Laws hereinafter mentioned (1748) (North Carolina); North Carolina (1886–1905, Vol. XXIII, p. 292). The tax was imposed 'on every Taxable Person within the Province' and was payable in gold, silver or bills of credit. Prior to this, taxes had been payable in various commodities and this had in no small way caused the insufficiency of taxes in North Carolina and its inability to retire its bills of credit. See Brock (1975, pp. 112–13).

³³² Simmons (1976, p. 56). ³³³ Reese (1963, p. 30).

granted an assembly that first met in 1750, though it had no legislative power at this time.³³⁴ At this time the population was about 2,000. This system ended with surrender of the proprietary rights to the Crown in 1752.³³⁵ A royal government was not erected until 1754 and the assembly authorised thereby did not meet until 1755, by which time the population had tripled from 1750.

West Indies

The two decades following the Treaty of Utrecht of 1713 were relatively uneventful in Barbados. After a period of scandal, Barbados welcomed a new governor in 1723 and in anticipation of his arrival made a grant of £6,000 pounds a year supported with a tax during the residence of the new governor.³³⁶ The tax was imposed under the familiar five heads that had developed during Queen Anne's War (see above at p. 217).³³⁷ A similar charge was imposed in the next year to support the issuing of bills of credit.³³⁸ There was little further in the way of direct taxes until hostilities began again in 1739.³³⁹ These were prosperous times for Barbados when the value of exports to Britain from Barbados alone was comparable to that from all the American colonies and so it did not suffer from the imbalance of trade in the way that those colonies did.³⁴⁰

Barbados levied direct taxes during King George's War along the same lines as it had earlier. This involved making an initial grant to new Governors for the duration of their residence.³⁴¹ The form of the tax

³³⁴ Reese (1963, pp. 20, 44–5). ³³⁵ Simmons (1976, p. 241).

³³⁶ Burns (1954, p. 453).

³³⁷ An Act for supporting the honour and dignity of the Government (26 February 1722/23) (Barbados); CO 30/8, p. 137.

³³⁸ An Act to raise a Levy on the Inhabitants of this Island, and to establish a method to supply the want of Cash, for the payment of the Public debts (31 December 1723) (Barbados); CO 30/8, p. 207. As this law is listed in Hall (1764, p. 509 [Law No. 818]) it is presumed the law was put into force, despite the comment in Chalmers (1893, p. 52).

³³⁹ But see An Act for the better support of his Excellency, and the dignity of the Government of this Island (29 May 1733) (Barbados), An Act for supplying the deficiency of the Excise; and for raising money for other public uses (16 April 1734) (Barbados) and An Act for raising a Levy on the Inhabitants of this Island, to supply the deficiency of the Excise, in paying the public debt; and the annual expenses of the Government of this Island (9 December 1737) (Barbados); mentioned in Hall (1764, pp. 513, 516 [Law Nos. 866, 872 and 892, respectively]).

³⁴⁰ Burns (1954, p. 454).

³⁴¹ For example, An Act for raising a sum of money yearly, to defray the expences of the Government (28 September 1742) (Barbados); CO 30/10, p. 35.

involved the poll tax on Negroes, the tax on windmills, pot-kilns and cattlemills, the tax on houses, personal estates and trades in the towns according to a quota and vestry assessments, the discriminatory tax on the Jews and the tax on specified officers.³⁴² If the initial grant proved inadequate for any year there would be an 'additional' charge along the same lines.³⁴³ This style of tax continued to 1755.³⁴⁴

Like Barbados, the Leeward Islands enjoyed a favourable balance of trade with Britain and the decades following the end of Queen Anne's War were prosperous.³⁴⁵ The expulsion of the French from St Kitts facilitated trade and settled these small colonies including their direct tax systems.

Nevis continued with the form of tax used during Queen Anne's War, which was to raise a specified amount, part on slaves and part on 'freeholders, householders and traders' to be apportioned between individuals by a committee to be appointed.³⁴⁶ In 1725, the latter aspect was dropped and the only charge was imposed by reference to slaves owned and for this purpose owners were required to prepare a list.³⁴⁷ The same style tax was imposed intermittently until 1755.³⁴⁸

By comparison the direct tax system of St Kitts took some time to settle down after the unification of the British and French quarters. In 1715 there was a tax on slaves per poll.³⁴⁹ This was followed, in 1716, with a tax following that of 1711, involving a poll tax on slaves together

³⁴² By this stage the tax on lawyers and certain other professions had been removed from the fifth head but it may be that they were being taxed under the town quota system.

³⁴³ For example, An additional Act to an Act, entitled 'An Act for raising a sum of money yearly, to defray the expences of the Government' (26 May 1747) (Barbados); Hall (1764, p. 521 [Law No. 948]).

³⁴⁴ For example, An Act for raising a Levy, to defray the expenses of the Government (19 February 1754) (Barbados); CO 30/10, p. 126.

³⁴⁵ Burns (1954, p. 459).

³⁴⁶ Such levies were made in 1714, 1719, 1721 and 1723. See CO 185, pp. 46, 79, 83 and 117.

³⁴⁷ An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of this Island of Nevis (29 May 1725) (Nevis), CO 185/1, p. 121.

³⁴⁸ For example, see An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of this Island of Nevis (16 May 1733) (Nevis), An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of the Island of Nevis (10 July 1744) (Nevis) and An Act for providing an honourable Support for His Excellency George Thomas Esquire during His Government and for laying a Duty upon Negroes for the payment thereof (3 November 1753) (Nevis); CO 185/1, p. 163, 185/4, p. 63 and 185/5, p. 7, respectively.

³⁴⁹ An Act for Raising a Levy to Defray the Publick Debts of this Island (19 February 1714/15) (St Kitts); CO 240/4, p. 44.

with a tax on trades.³⁵⁰ In the early 1720s the form of the tax on trades began to develop. Under the 1720 charge ‘Merchants and Traders Inhabiting or Residing within’ the island were required to attend ‘to give an Account of their Trade . . .’. But there was nothing further regarding the tax base.³⁵¹ A levy of 1722 transformed the trade tax into, effectively, a tax on land and improvements:

every Acre of Manurable Land . . . is hereby Charged . . . with Four Shillings Currant Money . . . and All and every the Houses, Warehouses, Shopps, and Tenements, in the Several and Respective Towns . . . Shall be . . . Charged . . . with the Sum of One Shilling . . . in the Pound, of the True Yearly Value thereof . . .³⁵²

It seems likely that the reference to ‘yearly value’ was influenced by the British land tax. Under both the 1720 and the 1722 levy slaves were also taxed per poll.

Two years later St Kitts reverted from the land tax back to the taxation of trades together with slaves.³⁵³ Now the assessors were to ‘Assess the Merchants Shopkeepers and other Tradors inhabiting within the said Island as near as may be according to their Respective trades and dealings . . .’. Taxpayers were required to give in to the assessors the ‘Amount of their Invoyses or other Account of the value of their Trades and dealings in order to be assessed proportionably as near as may be as aforesaid . . .’. This is an interesting example of the increasing effort to tax trades. It is also of interest that there is at least an expectation that traders would maintain some form of books or accounting, although ‘profits’ were not mentioned. This style of tax was abandoned after this levy and there was a return to developing the land tax imposed in 1722.

³⁵⁰ An Act for Raising a Levy to discharge the Publick Debts of this Island (27 November 1716) (St Kitts); CO 240/4, p. 74.

³⁵¹ An Act for Raising a Tax by the Poll on all Slaves in this Island And also for Raising five hundred pounds on the Inland Trade of the same (7 May 1720) (St Kitts); CO 240/1, p. 104.

³⁵² An Act for Raising a Tax upon Land in the Island of Saint Christopher and also upon Houses, Warehouses, Shopps, and Tenements, in the Several Towns of the said Island; as Likewise for Raising all Arrears, due to the Publick and for Settling a Fund thereby, for the Carrying on and Compleating, the Fortifications of Brimstone Hill, and Charles Fort; and other the Fortifications and Batteries of the said Island, and for paying the Publick Debts, and Defraying other the Publick Expences of the said Island (28 June 1722) (St Kitts); CO 240/5, p. 10.

³⁵³ An Act for Raising a Tax on Negros and other Slaves and on the Inland trade of the said Island (19 May 1724) (St Kitts); CO 240/6, p. 30.

As mentioned above at page 220, after the Treaty of Utrecht of 1713 the British began to dispose of the land formerly encompassed in the French quarters of St Kitts. By 1728 all of this land had been sold.³⁵⁴ In 1729 there was a return to a land tax imposed together with a slave tax.³⁵⁵ Unlike the 1722 land tax, this tax was not imposed on rural land:

Houses, Shops and Tenements in the several Towns . . . shall be . . . hereby Charged with . . . One and half percent of the Yearly Rent or Reall Value thereof per Annum . . .

It may be that the slave tax was viewed as effectively taxing land outside the towns. In this form direct tax settled in St Kitts until after 1755, involving a tax on slaves per poll and a tax on the yearly value of 'houses, warehouses, shops and tenements' in the towns of St Kitts.³⁵⁶ In 1729, the 4.5 per cent duty on exported products that applied elsewhere in the Leeward Islands and Barbados (see p. 146) was extended to the former French quarters of St Kitts.³⁵⁷

In 1716, Antigua imposed a direct tax that was largely consistent with its levies during Queen Anne's War (see pp. 219–20).³⁵⁸ This levy was

³⁵⁴ Burns (1954, p. 437).

³⁵⁵ An Act for raising a Tax on Negroes & other Slaves within this Island, & on the Value of House Rents in the several Towns within the same, for Building a Wall to compleat Charles Fort, and for repairing the same Fort & other Fortifications, Forts & Batteries of this Island (3 February 1728/29) (St Kitts); CO 240/5, p. 23.

³⁵⁶ For example, see An Act for Granting to His Majesty a Duty of Eight Shillings per Poll on all Negroes and other Slaves within this Island and also of Five Pounds per Centum on the Rents of all houses Warehouses Shops And Tenements in the Several Towns within the said Island to be applied towards the Discharge of The Public Debts and for Ascertaining and Settling the Salaries of the Several Officers Therein Mentioned (16 August 1732) (St Kitts), An Act for Granting an Aid to His Majesty by a Duty or Tax of Eight Shillings per Poll on all Negroes and other Slaves and the further Duty of Five Pounds in the Hundred on all Houses ware Houses Shops and Tenements in the Several Towns within this Island to be applied in and towards Payment of the Public Debts now due And for Defraying the Accruing Expence of this Current year One Thousand Seven Hundred and Thirty Nine to the Several Officers and others Employed by the Public of the said Island (31 August 1739) (St Kitts) and An Act for Granting an Aid to His Majesty by a Duty of Five Shillings per Poll on all Negroes and other Slaves and the further Duty of Three pounds in the hundred on value of all houses Warehouses Shops and Tenements in the Several Towns within this Island of St. Christopher for and Towards payment of the Publick Debts and Applicable to Such other Uses & purposes as in this Act are herein after more particularly Expressed and Declared (30 October 1747) (St Kitts); CO 240/5, p. 47, 240/7, p. 5 and 240/7, p. 42, respectively.

³⁵⁷ Burns (1954, pp. 437, 460).

³⁵⁸ An Act for raising a Tax of Twelve Thousand pounds Money for defraying publick Debts and Charges (25 February 1715/16) (Antigua); CO 8/4, p.12.

important because it settled the form of direct taxation in Antigua, at this stage still the capital of the Leeward Islands with the bulk of its population and trade.³⁵⁹ In the usual way, the 1716 levy imposed a tax per poll on slaves and incorporated liquor licencing. It proceeded to appoint commissioners who were:

equitably to value what Rents each respective house within any of the Towns of this Island are worth annually and accordingly to assess after the Rate of Five pounds per Centum and no more . . . Also to tax all Traders inhabiting this Island or hereafter coming to the same within one year after the Commencement of this Act according to the profits arising from their Trade so near as they can judge by the best Information they can gain . . .

A taxpayer 'aggrieved' by the assessment of the commissioners could make an oath of their profits. The move to annual rent or value is consistent with the British land tax, see page 194. Non-residents with slaves were to pay more. There was also a residual poll tax for persons not paying under the other taxes. The tax for the next year was the same but it charged traders 'residing' within the island and the residual poll tax was dropped.³⁶⁰

There were further taxes imposed on the same basis³⁶¹ but by 1727 the taxation of profits of traders had fallen out of charge and there was now licencing of billiard tables.³⁶² Levies continued in this form until after 1755.³⁶³ Antigua faced another problem at this time, a reducing white population. Between 1724 and 1740 the white population contracted from 5,200 to 3,412 whereas the Negro population increased from 19,800 to 31,428.³⁶⁴ As in other West Indian colonies and, in particular, Jamaica (see below), there were concerns in Antigua regarding slave revolts and one such occurred in 1737.³⁶⁵ In 1741,

³⁵⁹ Burns (1954, pp. 459, 461).

³⁶⁰ An Act for Raising a Tax of Thirteen Thousand Pounds money to Defray Publick Debts and Charges (8 February 1716/17) (Antigua); CO 8/4, p. 54.

³⁶¹ An Act for raising a Tax for Paying Publick Debts and Charges and particularly applying the said Tax and what shall be raised by the perpetual Liquor Act (11 April 1721) (Antigua); CO 8/4, p. 124.

³⁶² An Act for Raising a Tax for paying Publick Debts and Charges and particularly applying the said Tax (17 February 1726/27) (Antigua); CO 8/5, p. 57.

³⁶³ For example, see An Act for Raising a Tax for Paying Publick Debts and Charges and Particularly applying the said Tax (1 May 1740) (Antigua) and An Act for Raising a Tax for Paying Publick Debts and Charges and particularly Applying the said Tax (26 April 1750) (Antigua); CO 8/8, p. 3 and 8/10, p. 97, respectively.

³⁶⁴ Burns (1954, pp. 461, 499). ³⁶⁵ Burns (1954, p. 469).

Antigua passed a perpetual law designed to increase the white population.³⁶⁶ This law was clearly inspired by a similar Jamaican law and required employment of one white person per thirty slaves and those that failed to employ their quota of white servants had to pay a fine of £20 for every white servant found wanting. This law continued until the end of the century but the amount of the fine was increased from time to time. At various points it paid a substantial proportion of Antigua's public expenses.

The disproportion of whites to Negroes was an issue in Jamaica long before the Antiguan legislature decided to act. A number of Negro slaves had escaped from the Spanish before the English conquered Jamaica. These Negroes, known as 'Maroons', were joined by runaway slaves and largely lived in the inaccessible hinterland of Jamaica. There were continual disputes between the British authorities and the Maroons and this became worse as the British plantations extended towards the hinterland. The British felt that increasing the white population would be one way to keep the Maroons at bay.³⁶⁷ By 1716, Jamaica had established a quota system by which persons were required to employ a number of white persons in proportion to the number of their slaves, the number of certain animals and the number of vessels they maintained.³⁶⁸ There are similarities between this law and the law of 1703 requiring the billeting of military officers (see pp. 220–1). As with the 1703 law and the later Antiguan law, any deficiency under the 1716 law was subject to a fine but, unlike the Antiguan law, the 1716 law was not perpetual and was passed from time to time. For example, the law of 1721 required one white servant per thirty slaves and one white servant per 150 horses and cattle.³⁶⁹ The penalty was 5s per week for each deficiency and the same applied to certain vessels and taverns, which each required one white servant.

³⁶⁶ An Act for Encreasing the Number of White Inhabitants of this Island (11 February 1740/41) (Antigua); CO 8/8, p. 32.

³⁶⁷ By 1730 the Negro to white population was greater than 10 to 1; see Burns (1954, p. 446).

³⁶⁸ An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient Number of white People, and to maintain such as shall come over within a certain Time, or pay certain Sums of Money in case they shall be deficient; and applying the same to several Uses (10 November 1716) (Jamaica); CO 139/10, p. 4.

³⁶⁹ An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient Number of white People, and to maintain such as shall come over within a certain Time, or pay certain Sums of Money in case they shall be deficient; and applying the same to several Uses (25 November 1721) (Jamaica); CO 139/10, p. 47.

While the Deficiency Act would become the main direct tax law and enacted on a virtually yearly basis, it was supplemented from time to time with other direct taxes. In 1716 there was also a direct tax on slaves per head and cattle per head.³⁷⁰ This was repeated in 1723 but in this case there was a return to the taxation of trades as under the 1702 law.³⁷¹ There was also the tax on certain public officers but the special tax on Jews had been moved to an indirect tax law. The twenty-one-year indirect tax law of 1703 (see p. 221) expired in 1724 and for some time the Jamaican assembly refused to renew it. However, the arrival of a new governor in 1728 proved persuasive and a perpetual revenue of £8,000 was granted from 1729.³⁷²

By 1730, the specific taxation of the Jews had found its way back into the direct tax law, which had essentially returned to its 1702 form.³⁷³ Early in the next year, however, a direct tax was passed that was consistent with the change in taxation that had occurred in St Kitts in 1729. The 1731 Jamaican law imposed tax on slaves and cattle per poll, it imposed tax on trades in the towns according to the parish books and proceeded to provide that ‘Twelve pence in the pound be laid and levied on the Rent of all Houses, Wharfs and Store houses, rented out in this Island . . .’³⁷⁴ The law further proceeded to include the taxation of specified officers but the discriminatory taxation of the Jews was no longer present.

During the early 1730s there were armed conflicts with the Maroons and, after local militia had suffered a number of defeats, some regular British troops were sent in support. In 1733 and 1734, a number of

³⁷⁰ An Act for granting a Supply to His Majesty, to enable the Treasury to discharge its Debts, and to answer the other Exigences of the Government (10 November 1716) (Jamaica), CO 139/10, p. 7.

³⁷¹ An Act for granting a Supply to His Majesty for several Uses (12 November 1723) (Jamaica); CO 139/11, p. 11. The charging words for trades were that ‘the severall Trading Inhabitants of the three towns of St. Tago Dela Viga Port Royall and Kingston be obliged to pay in . . . Such Severall Sums of Money as they Respectively Stand Assessed at for their Trades or Stock in the Parish Books . . .’.

³⁷² An Act for granting a Revenue to His Majesty, His Heirs and Successors, for the Support of the Government of this Island; and for reviving and perpetuating the Acts and Laws thereof (10 April 1728) (Jamaica); CO 139/12, p. 1. See also Burns (1954, pp. 448–9).

³⁷³ An Act for raising of Money, and applying the same to the Use of Parties to be sent out to dislodge and reduce the rebellious Slaves in the Windward and other Parts of this Island (9 July 1730) (Jamaica); CO 139/12, p. 87.

³⁷⁴ An Act for raising a Tax by the Poll, and on Trades, Offices and Rents and Applying the same to several Uses (19 February 1730/31) (Jamaica); CO 139/13, p. 10.

direct tax laws were passed to provide for, among other things, the subsistence of these troops. At first these laws covered the usual items; a tax per poll on slaves and cattle, a tax on traders according to the parish vestry roll, a tax on rents from houses, wharves and storehouses rented out and a tax on specific officers.³⁷⁵ However, a 1734 law included both the slave tax and a higher tax for slave tradesmen and an imposition for free coloured tradesmen.³⁷⁶ This seems to illustrate the local concern that slaves and free Negroes were being trained as tradesmen because they were cheaper than white servants, with a resultant imbalance in the population leading to the greater threat of rebellion.³⁷⁷ This was the last substantial development in Jamaican direct tax before 1755. The deficiency law continued during this period.³⁷⁸

The Bahamas continued to be infested with pirates in the post-1713 era. As a consequence, the Spanish regularly raided the islands to the point that some suggest that by 1716 only twelve scattered families remained.³⁷⁹ In 1717, a royal proclamation offered an amnesty to pirates that surrendered themselves to the British authorities. Around this time Captain Woodes Rogers, a commander of privateers, devised a plan to lease the islands from the proprietors, establish an organised government and drive out the pirates and a company was formed for this purpose. The scheme was approved by the British Crown, who agreed to provide some naval assistance, and Rogers was appointed governor.

³⁷⁵ See An Act for Raising Several Sums of Money and Applying the Same to Several uses for Subsisting the Officers and Soldiers of the Two Independent Companys, Preventing the Exportation of Several Commodities into the French and Spanish Island and Subjecting the Party Men to the Rules and Articles of Warr in force in this Island in the time of the last Martial Law (1 August 1733) (Jamaica), An Act for Raising several Sums of Money, and applying the same to several Uses; and for subsisting the Officers and Soldiers of the Six Independent Companies expected (9 March 1733/4) (Jamaica) and An Act for raising of Money and Applying the Same to the use of Parties to be Sent out to reduce the Rebellious Negroes (9 March 1733/4) (Jamaica); CO 139/13, p. 147 and 139/14, pp. 8 and 15, respectively.

³⁷⁶ An Act for Raising several sums of Money and Applying the same to several Uses; And for Subsisting the Officers and Soldiers of the Six Independent Companys Expected (31 August 1734) (Jamaica); CO 139/14, p. 35.

³⁷⁷ As early as '1706 it was reported that white tradesmen were not coming to the West Indies as slave-owners trained their slaves as artisans and there was no opening for free enterprise' Burns (1954, p. 434).

³⁷⁸ For example, An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of Whitemen capable of bearing Arms or White women or pay certain Sums of money in case they shall be deficient and applying the same to several uses and for preventing several abuses . . . (4 June 1742) (Jamaica); CO 139/16, p. 13.

³⁷⁹ Headlam (1929a, p. 383).

At the same time the proprietors surrendered their right of government to the Crown but retained their proprietary rights. Rogers arrived in the Bahamas in 1718 and established a royal government.³⁸⁰

The governor's commission for the Bahamas, issued in 1718, provided for the establishment of an assembly but none met until 1729.³⁸¹ In the usual way, before 1729 the governor ruled with a council. It seems that during this period expenses of government were largely funded with indirect taxes, statute labour and quit-rents.³⁸² Once the assembly began to meet,³⁸³ it soon imposed an apparently perpetual law for the levying of tax.³⁸⁴ Besides various indirect taxes, this law also imposed tax on land per acre per annum, tax on town lots per annum, tax on the importation of Negroes and tax on Negroes living in the island per annum. In 1733, the Crown bought out the leasee company and, essentially, the Lords Proprietors.³⁸⁵ In the following year it seems that the tax law of 1729 was replaced. The new tax law was largely the same but the tax on land seems to have dropped out³⁸⁶ and the tax on Negroes was extended to a general poll tax.³⁸⁷ The governor's salary was generally paid with an export duty. An isolated poll tax was imposed on 'taxables' in 1746, which again included whites.³⁸⁸

3.3 Spain, France and the Great Colonial Victory

Austria lost Silesia to Prussia under the Treaty of Aix-la-Chapelle of 1748. In the period following the treaty, the Austrian Empress,

³⁸⁰ Burns (1954, pp. 462–3). ³⁸¹ Burns (1954, p. 465).

³⁸² A duty on liquors and other goods imported was raised by Order of the Council of 8 December 1720; CO 26/1, p. 57. Further, by 1722 there was statute labour. Order of the Council of 15 April 1722 refers to an earlier order 'which obliged every Inhabitant to do Duty by Himself or Negro one Day every Fortnight, in default of which Each Defaulter was to pay three Ryals per Day ...' CO 26/1, p. 59.

³⁸³ At this time the population of the Bahamas was little more than 1,000 (including Negroes); Burns (1954, p. 465).

³⁸⁴ An Act for Levying divers Sums of money for defraying the Publick Charges of these Islands (10 November 1729) (Bahamas); CO 25/1, p. 6.

³⁸⁵ Burns (1954, p. 465).

³⁸⁶ As mentioned, land was subject to a quit rent and this was confirmed by An Act for settling Claims and paying of Quit Rents (10 November 1729) (Bahamas); CO 25/1, p. 8. This law set the quit rent to the Lord Proprietors at three Shillings per hundred acres.

³⁸⁷ An Act for Levying divers Sums of Money for the Payment of Officers Salaries Defraying the Expences of holding Assemblies and other contingent Charges of the Government (17 December 1734) (Bahamas); CO 25/1, p. 14.

³⁸⁸ An Act to impose a further levy upon all Taxables in the Government for the building a Convenient dwelling House and settling a Salary for the Support of a School-Master (1746) (Bahamas); CO 25/2, p. 11.

Maria Theresa, proceeded to create alliances with former enemies France and Russia against Prussia. Fighting began in 1754 between Britain and France near the Ohio River in North America and soon spread to Europe when Prussia invaded Saxony. The British provided subsidies to assist the Prussians but the British military efforts were largely focused in the colonies where Britain made enormous gains at the hands of the French and even the Spanish, who entered the war against the British in 1761.

The Treaty of Paris of 1763 settled the hostilities between Britain and France and Spain. Under this treaty the French lost their colonies in North America and, in particular, Quebec. Britain also gained Florida from the Spanish but the Spanish gained New Orleans from France as well as the Louisiana Territory west of the Mississippi River. The British also gained a number of West Indian islands including Grenada, St Vincent, Dominica and Tobago.

This heading is divided into two subheadings. The first short subheading considers the manner in which Britain funded the Seven Years War. While this involved a massive expansion in the national debt, there was little in the way of development of direct taxes. The second subheading considers developments in the direct tax systems of the colonies during the Seven Years War. While the colonies also largely financed this war with credit, there were some substantial developments in direct taxation.

Land Tax and Supplements to the Assessed Taxes

The expense of the Seven Years War caused the British national debt to increase by 80 per cent. The additional borrowing was facilitated by the reduction in government interest rates to 3 per cent in 1758 and the usual increase in the land tax (among other taxes) from 2 to 4s. Further funds were raised on security of an increase in the infant Assessed Taxes (the house and window tax, and the tax on persons keeping pleasure carriages) and an addition involving a 1s per pound tax on salaries from offices exceeding £100.³⁸⁹ The main increases in taxation during this time involved indirect taxes. There was no immediate reduction in land

³⁸⁹ An Act for granting to His Majesty several Rates and Duties upon Offices and Pensions; and upon Houses; and upon Windows or Lights; and for raising the Sum of five Millions by Annuities, and a Lottery, to be charged on the said Rates and Duties (31 Geo. II. c. 22) (1758) (UK). This was in addition to the taxation of such salaries under the land tax. See Dowell (1965, Vol. II, pp. 134–5).

tax with the peace that followed the Treaty of Paris in 1763. This would not occur until 1767.³⁹⁰

By comparison, the French largely relied on the *capitation* and the *vingtieme* as forms of direct taxation during the Seven Years War. The *capitation* (see p. 187) had been imposed continuously since the start of the War of Spanish Succession. The *dixieme* (see pp. 195–6), imposed between 1710 and 1717, was re-imposed in 1733 to 1737 (during the War of the Polish Succession) and again in 1741 to 1749 (the War of the Austrian Succession). It became a permanent tax at half the rate after the latter war, when it was renamed the *vingtieme*.³⁹¹ Like the British land tax, the French *vingtieme* was in form a tax on most sources of wealth but in practice largely fell on land. Kwass describes the tax in the following terms:

The *vingtieme* ... was a tax ... on net income from three sources: industry, offices, and land. The tax on industry, which fell on members of guilds as well as individuals earning professional and commercial income, was levied simply as an addition to the *capitation* ... The *vingtieme* on offices struck all officers who earned money from service fees (as opposed to *gages*), such as notaries, clerks, and the countless petty officials who possessed the right to collect dues at the marketplace ... All in all, the *vingtieme* on industry and offices amounted to a tiny fraction of the tax, a mere 2 percent to 3 percent in Caen ... The bulk of the tax fell on landowners ...³⁹²

The Colonial Cost of Freedom from Threat

Confrontation between the French and the Virginians in the Ohio valley during 1754 was the catalyst that led to more serious disputes between French and British interests in North America and ultimately to broader disputes in the Seven Years War (referred to in the American colonies as the 'French and Indian War'). The same year saw the first intercolonial conference among the British American colonies, although a number of colonies including Virginia were not represented. While relations with Indians and a common defence were discussed at this conference, no concrete steps were taken. During 1754 only New York and North Carolina sent (a few) troops to support the Virginians. The British,

³⁹⁰ Dowell (1965, Vol. III, p. 86).

³⁹¹ Kwass (2000, p. 33). Kwass (2000, p. 86) notes that the *dixieme* and the *vingtieme* were often levied on declarations of wealth decades old.

³⁹² Kwass (2000, pp. 88–9).

however, sent troops early in 1755 and raised further troops (at British expense) in the colonies. Fighting began in earnest in mid-1755 but the British-led forces suffered defeats and achieved little.³⁹³

With early British-led losses, Pennsylvania and the southern colonies favoured a defensive war involving fort building. The Indians largely sided with the French and were involved in numerous raids, particularly on the western borders of the middle and southern colonies. With a large injection of money and troops British fortunes began to turn in 1757 and 1758. The French Fortress at Louisburg (on Cape Breton Island) was captured, the Gulf of St Lawrence largely blockaded and some troops made incursions up the St Lawrence. The British captured the final French stronghold of Quebec in 1759 and 1760 saw the ultimate capitulation of the French Canadian forces.³⁹⁴ Meanwhile, there was also an outbreak of hostilities further south with the Cherokee Indians. The Cherokee War (1759–61) was largely confined to the frontiers of North and South Carolina and Virginia. There were further confrontations with Indians in the Great Lakes region as late as the mid-1760s.³⁹⁵

Despite the substantial provision of troops from the British, the American colonies still incurred substantial debts during the French and Indian War. This was in large part funded by the further issue of letters of credit. Brock notes that:

[t]he truth is, that in a struggle of the magnitude of the French and Indian War, the colonies' only means of timely and adequate exertion was the issuance of bills of credit. No colony succeeded in supplying the funds by any other method.³⁹⁶

Despite the substantial costs incurred by Britain during the French and Indian War, as with King George's War, Britain paid a number of colonies subsidies to compensate them for expenses incurred during the war. Once again, this facilitated the retiring of substantial amounts of the bills of credit and, unlike Britain, 'no colony incurred lasting war debts'.³⁹⁷

By contrast, the West Indian colonists took 'no direct part in the fighting' during the Seven Years War and from 1756 to 1763 no West Indian colony suffered invasion.³⁹⁸ Nevertheless, British forces were still

³⁹³ Simmons (1976, pp. 277–80). ³⁹⁴ Simmons (1976, pp. 280–7).

³⁹⁵ Simmons (1976, pp. 287–9). ³⁹⁶ Brock (1975, pp. 466–7).

³⁹⁷ Simmons (1976, p. 292). ³⁹⁸ Burns (1954, p. 473).

active in the West Indies but this did not occur until 1759. In that year the British captured Guadeloupe from the French. The French had used Dominica as a military base but in 1761 the British sent a force from Canada (which had been captured in the meantime) to capture Dominica. With the arrival of further British forces in the West Indies, Martinique was also captured in 1762. St Lucia and Grenada quickly followed. In the same year British troops captured Havana, the capital of Spanish Cuba, and the 'booty taken was enormous'. The capture of these colonies, the blockade of the French coast and the loss to the Spanish navy at Havana meant that the British navy became supreme.³⁹⁹

This subheading first traces the development of direct taxation in the American colonies from the beginning of the French and Indian War until 1763. It then proceeds to cover similar developments in the West Indian colonies.

American Colonies

Southern Colonies In late 1753, George Washington was sent by the Virginian Council to provide a message of warning to the French in the Ohio Region. In early 1754 he delivered the French rejection of the message to the Virginian government and the government resolved to raise £10,000 by way of loan 'pending the raising of the money by a tax'.⁴⁰⁰ But there was no simple method of raising this money. French defeat of Virginian forces in mid-1754 made the need for funds more urgent and the Virginian government passed a law to raise £20,000 by way of tax.⁴⁰¹ This tax involved, as usual, a poll tax. The tax would take time to collect and, in the meantime, the British forces mentioned at page 253–4 arrived. In this circumstance the Virginian government, by law of 1755, authorised its first issue of letters of credit, to the value of £20,000, which were declared to be legal tender.⁴⁰² The same law added a land tax to the poll tax.⁴⁰³ This law did not follow the precedent

³⁹⁹ Burns (1954, pp. 485–9). ⁴⁰⁰ Brock (1975, p. 467).

⁴⁰¹ An act for raising the sum of twenty thousand pounds, for the protection of his majesty's subjects, against the insults and encroachments of the French; and for other purposes therein mentioned (1754) (Virginia); Virginia (1809–1823, Vol. VI, p. 435).

⁴⁰² An Act to explain an act, intituled, An act for raising the sum of twenty thousand pounds, for the protection of his majesty's subjects, against the insults and encroachments of the French; and for other purposes therein mentioned (1755) (Virginia); Virginia (1809–1823, Vol. VI, p. 461). The authority was in ss. 13 and 14. See also Brock (1975, p. 469).

⁴⁰³ The land tax was in s. 6.

of the 1645 land tax. It did impose the levy on land at a rate per hundred acres but instead of taxing cattle, horses, etc. it only taxed Negroes per head.

With a serious defeat of British-led troops at the hands of the French in the middle of 1755, the Virginian government voted a further £40,000 to be raised by further letters of credit to be sunk by extending the 1755 tax through to 1760.⁴⁰⁴ During the remainder of the war, further bills were issued, after 1757 non-interest bearing, and similar taxes (as well as taxes on Negroes imported and tobacco exported) were raised for sinking them.⁴⁰⁵ Throughout these years, the amount raised from the land tax never equalled that which was raised from the poll tax.⁴⁰⁶

With the outbreak of war in Virginia in 1754 Maryland appropriated £6,000 to the war effort, which was largely financed with indirect taxes.⁴⁰⁷ No further sums were granted until after the British-led forces suffered substantial defeats. In 1756, £40,000 worth of bills of credit were issued.⁴⁰⁸ As in Virginia, the proceeds of a property tax were to be used to sink the bills but the form of the property tax differed. It imposed a tax on bachelors, horses, billiard tables and other items as well as a tax on land per acre.⁴⁰⁹ This tax sank the vast majority of the bills by 1763.⁴¹⁰ This was the last general impost until independence, even the usual annual operating expenses of government went unpaid from 1756 to 1766.⁴¹¹

South Carolina continued with its usual annual direct tax into the French and Indian War. By 1754, this tax included Negroes per poll,

⁴⁰⁴ An Act for raising the sum of forty thousand pounds, for the protection of his majesty's subjects on the frontiers of this colony (1755) (Virginia); Virginia (1809–1823, Vol. VI, p. 522).

⁴⁰⁵ For example, see An Act for raising the sum of thirty-two thousand pounds, for the relief of the garrison of Fort Loudoun in the Cherokee country (May 1760) (Virginia); Virginia (1809–1823, Vol. VII, p. 357). See Brock (1975, pp. 470–8) and Ripley (1893, pp. 24–42, and particularly at 37 and 42).

⁴⁰⁶ Becker (1980, p. 78).

⁴⁰⁷ An Act for his Majesty's Service (24 July 1754) (Maryland); Maryland Historical Society (1883–1972, Vol. L, p. 559).

⁴⁰⁸ An Act for granting a Supply of Forty Thousand Pounds for his Majesty's Service, and striking Thirty Four Thousand and Fifteen Pounds Six Shillings thereof, in Bills of Credit, and raising a Fund for sinking the same (February/May 1756) (Maryland); Maryland Historical Society (1883–1972, Vol. LII, p. 480).

⁴⁰⁹ As noted above at p. 297, Antigua had imposed licensing on billiard tables as early as 1727.

⁴¹⁰ Brock (1975, p. 419). ⁴¹¹ Becker (1980, p. 93).

land per 100 acres, money at interest and now annuities.⁴¹² The tax on stock in trade of country store-keepers continued as did the special quota for Charlestown. The residual of this quota was to be levied on the full value of land in Charlestown as well as 'Profits of Trades, Factorage, Faculties and Professions . . . Stock in Trade, (that is to say) Wares, Merchandizes, Bonds, other Specialties . . .'.⁴¹³ The faculty tax had reappeared in a slightly different form.

In 1755, the Board of Trade issued an instruction to the governor of South Carolina not to consent to any law for the issuing of bills of credit in addition to those that had already been issued (as to which, see above at pp. 238–40) until a fund was established for the retiring of those existing issues. The instruction included further restrictions evincing a 'policy more severe even than had been applied to New England by the Currency Act of 1751 . . .'.⁴¹⁴ Despite these instructions, during the French and Indian War South Carolina met the expenses of government by issuing tax certificates that were receivable for the payment of taxes and other duties.⁴¹⁵ These issues began in 1755 and were secured with the usual tax. For example, the large tax of 1758 was in the same form as the 1754 levy but the charge had now extended to cover country physicians and surgeons.⁴¹⁶

South Carolina's largest issue of bills of credit during the French and Indian War was in 1760, during the height of the war, and amounted to £246,693, to be sunk with the usual taxes per annum until 1764.⁴¹⁷ This came with a slight change in the form of direct taxation.⁴¹⁸ It seems the quota for Charlestown had been dropped and the tax base applied

⁴¹² An Act for raising and granting to His Majesty, the Sum of Thirty-seven Thousand, Eight Hundred, and Ninety-eight Pounds . . . (11 May 1754) (South Carolina); American Antiquarian Society (1956–, No. 40719). See also Becker (1980, p. 81).

⁴¹³ *Ibid.*, s. 17. ⁴¹⁴ Brock (1975, pp. 454–5). ⁴¹⁵ Brock (1975, pp. 457–8).

⁴¹⁶ An Act for raising and granting to his Majesty the sum of one hundred and sixty-six thousand four hundred and thirty-eight pounds fourteen shillings and seven pence farthing . . . to defray the charges of this Government . . . (19 May 1758) (South Carolina); South Carolina (1836–41, Vol. IV, p. 53).

⁴¹⁷ An act for raising and granting to his Majesty the sum of two hundred and forty six thousand six hundred and ninety three pounds two shillings and five pence . . . to defray the expence of the late expedition against the Cherokee Indians . . . (31 July 1760) (South Carolina); South Carolina (1836–41, Vol. IV, p. 113).

⁴¹⁸ An Act for raising and granting to his Majesty the sum of one hundred and sixty three seven hundred and ten pounds six shillings and one penny . . . to defray the charges of this Government . . . (31 July 1760) (South Carolina); South Carolina (1836–41, Vol. IV, p. 128).

generally throughout the colony. The usual heads of assessment were applied with a residual tax on 'the profits of all faculties, professions ... factorage and handicraft trades, throughout this Province ...'.⁴¹⁹ The tax of 1764 was in similar form.⁴²⁰

North Carolina and New York were the only colonies to send troops to the assistance of the Virginians when war broke out in 1754.⁴²¹ In that year North Carolina emitted £40,000 in bills of credit, which, as with the issue of 1748 (see p. 242), was to be sunk with a poll tax and liquor tax.⁴²² A further poll tax was imposed in 1755 for the purposes of funding the war.⁴²³ There were further issues of bills of credit during the war, which, similar to the issue of 1754, were to be retired with a combined poll tax and liquor tax.⁴²⁴

In 1755, the first assembly of Georgia passed a law for the issuing of £7,000 bills of credit on loan.⁴²⁵ Four days later it passed its first tax law, which was similar to the South Carolina system.⁴²⁶ It imposed a tax on land per 100 acres, Negroes and slaves per head, money lent at interest, stock in trade of merchants and storekeepers and the value of town houses and town lots. Further bills were issued on the credit of the government in 1757 and 1759 and similar taxes imposed.⁴²⁷ In 1760,

⁴¹⁹ *Ibid.*, s. 2.

⁴²⁰ An Act for raising and granting to his Majesty the sum of two hundred and twenty thousand three hundred and seventy pounds seven shillings and three pence ... to defray the charges of this Government ... (6 October 1764) (South Carolina); South Carolina (1836–41, Vol. IV, p. 189).

⁴²¹ Simmons (1976, p. 278).

⁴²² An Act for granting to his Majesty the Sum of Forty Thousand Pounds, in Public Bills of Credit, at the Rate of Proclamation Money, to be applied towards defraying the Expense of raising and subsisting the Forces for his Majesty's Service in this Province, to be sent to the assistance of his Majesty's Colony of Virginia and for other purposes therein mentioned (1754) (North Carolina); North Carolina (1886–1905, Vol. XXIII, p. 392). Brock (1975, p. 432) suggests that the tax was inadequate to sink the bills. The poll tax under the 1748 law was still being levied at this time.

⁴²³ An Act for granting a further Aid to his Majesty, to repel the French, and Indians in their Alliance, from their Encroachments on his Majesty's Territories in America, and other Purposes (1755) (North Carolina); North Carolina (1886–1905, Vol. XXIII, p. 422).

⁴²⁴ See Brock (1975, pp. 435–6). ⁴²⁵ Brock (1975, p. 462).

⁴²⁶ An Act For Raising and Granting to His Majesty a Sum of Money to defray the Expenses of the Courts of Oyer and Terminer and other Contingencies of Government (21 February 1755) (Georgia); Georgia (1904–), Vol. XVIII, p. 66).

⁴²⁷ Brock (1975, pp. 462–3) and Georgia (1904–, Vol. XVIII, pp. 164, 240, 338).

during the height of the war with the Indians, a further £1,100 was emitted and a similar tax imposed for five years.⁴²⁸ During the remainder of the war there were further small issues on credit and in 1762 another large issue of bills on loan.⁴²⁹

Middle Colonies New York was the other colony that sent troops to assist Virginia against the French in 1754.⁴³⁰ However, the New York assembly fell into dispute with its governor and the Board of Trade over the issue of further bills of credit (for previous issues see pp. 235–6) to pay for its war expenses. Nevertheless, in 1755 it issued £45,000 in bills of credit and provided for their sinking by 1760 with the usual form of direct tax on real and personal estates.⁴³¹ Further issues were made along similar lines with similar provision for sinking during the rest of the French and Indian War, reaching a peak in 1759 with a total issue of £250,000.⁴³²

The pattern in New Jersey followed that in New York. After initial disputes between the assembly and the Board of Trade, copious quantities of letters of credit were issued during the French and Indian War, beginning in 1755. In all cases the bills were secured with taxes on real and personal estates in virtually the same manner as under the law

⁴²⁸ An Act for raising and granting to his Majesty the Sum of one thousand, one Hundred pounds Sterling for putting the town of Savannah, and the out forts in the several parishes of this province in a better State of defence (24 April 1760) (Georgia); Georgia (1904–, Vol. XVIII, p. 420).

⁴²⁹ Brock (1975, pp. 463–4). ⁴³⁰ Simmons (1976, p. 278).

⁴³¹ An Act for Raising a Supply of Forty five thousand Pounds by a Tax on Estates Real and Personal for putting this Colony into a proper Posture of Defence for furthering his Majesties designs against his Enemy's in North America and other the purposes therein Mentioned; for Emitting Bills of Credit for the like Sum and for Sinking and Cancelling the Said Bills in Short Periods (19 February 1755) (New York); New York (1894, Vol. III, p. 1038). See also Brock (1975, pp. 341–2).

⁴³² An Act for Raising a Supply of One hundred thousand Pounds for levying Paying and Cloathing Two thousand six hundred and Eighty effective men officers Included for forming with the Forces of the Neighbouring Colonies, an Army of Twenty thousand men To invade in Conjunction with a Body of his Majesty's Regular Troops the French Possessions in Canada; For Emitting Bills of Credit for the like Sum; and for Sinking and Cancelling the said Bills in Short Periods (7 March 1759) (New York) and An Act for Emitting Bill of Credit to the amount of One Hundred and Fifty thousand pounds to enable his Majesties General to Pay the Debts Contracted and to Carry on His Majesties Service in North America and for Sinking the same within twelve months (3 July 1759) (New York); New York (1894, Vol. IV, pp. 317 and 350, respectively).

of 1753 (see p. 236).⁴³³ By 1764, this form of tax had been mortgaged to 1783 in order to retire the bills.⁴³⁴

Pennsylvania procrastinated long over the issue of bills of credit to support the French and Indian War, due to a dispute between the assembly and the governor (on instructions from the proprietors).⁴³⁵ A break through finally occurred in autumn of 1755 with a law authorising the issue of £60,000 in bills of credit.⁴³⁶ The bills were to be sunk with the usual tax 'upon all the Estates, Real and Personal, within this Province . . . the Sum of Six-pence for every Pound, clear Value . . .'. The law went on to require the money to be raised according to the 1724 law on county levies (see p. 237). Tax under the 1755 law was to be raised annually until the bills were sunk. There was also a residual poll tax.

There was a further issue of bills of credit in 1756 but this time it was secured on the excise.⁴³⁷ A Pennsylvania tax law of 1757 added to the charge of 1755.⁴³⁸ Under a law of 1758 a further £100,000 bills of credit were to be issued, to be sunk in a similar fashion to the issue of 1755.⁴³⁹ So the rate of 1757 was continued until 1764 but the 1758 law now contained the tax base rather than simply referring to the law on county levies. Listers were to itemise matters similar to those under the 1724 county levies law but in addition mills, forges, rents and 'Trades or Occupations, and all Offices and Posts of Profit, Bodies politick or

⁴³³ This is also confirmed by the 1769 law referred to below at p. 305.

⁴³⁴ Brock (1975, pp. 401–3). These were the longest periods used by any of the colonies for taxes sinking bills of credit raised during the French and Indian War.

⁴³⁵ Brock (1975, pp. 369–76).

⁴³⁶ An Act for granting the Sum of Sixty Thousand Pounds thereof in Bills of Credit, and to provide a Fund for sinking the same (October 1755) (Pennsylvania); American Antiquarian Society (1956–, No. 7529).

⁴³⁷ Brock (1975, p. 377).

⁴³⁸ A Supplement to the Act, intituled 'An Act for granting the Sum of Sixty Thousand Pounds thereof in Bills of Credit, and to provide a Fund for sinking the same,' and for granting to His Majesty the additional Sum of One Hundred Thousand Pounds (23 March 1757) (Pennsylvania) in *The Charters and Acts of Assembly of the Province of Pennsylvania* (1762, Vol. II, p. 291); American Antiquarian Society (1956–, No. 9228).

⁴³⁹ An Act for granting the Sum of One Hundred Thousand Pounds to his Majesty's Use, and for striking the same in Bills of Credit; and for continuing the several Acts of Assembly of this Province herein after mentioned for sinking the Bills of Credit so to be struck, at the Times, and in the Manner hereinafter directed and appointed (18 August 1758) (Pennsylvania) in *The Charters and Acts of Assembly of the Province of Pennsylvania* (1762, Vol. II, p. 331); American Antiquarian Society (1956–, No. 9228). Brock (1975, p. 380) notes that the law included provision for the payment of taxes by the proprietors.

corporate, having Estate or Income . . .'. There were further issues of bills of credit during the remainder of the French and Indian War and further disputes between the proprietors and the assembly (which sought to tax the proprietors). However, the form of direct taxation remained the same for that period and committed the colony to impose this style of tax until 1770.⁴⁴⁰

Delaware also issued letters of credit to fund the French and Indian War.⁴⁴¹ The largest of these was a mixed loan and credit issue of 1759, which was to be sunk by addition to the annual county taxes.⁴⁴² Accordingly, the tax base was determined under the law of 1743 (see p. 238). Taxation continued in this manner during the remainder of the war.

New England As mentioned above at page 229, through the compensation paid by the British Parliament for expenses incurred during King George's War and British regulation through the Currency Act of 1751, around the year 1750 Massachusetts moved to a currency based on silver. It paid for its annual government expenditure by authorising the treasurer to issue non-legal tender certificates payable in silver in two to three years with interest. Unlike previous issues, these certificates were paid punctually and not extended. During the French and Indian War, Massachusetts issued these certificates to pay soldiers. The treasurer's notes did not enjoy a wide circulation (rather being kept as securities) and in specie silver remained the Massachusetts currency. Large issues began in 1756, reaching a peak in 1760. Taxation and British parliamentary grants enabled Massachusetts to retire its treasury notes promptly.⁴⁴³

Massachusetts continued to levy its usual form of direct tax under four heads (polls, real estate, personal estate and faculty) into the French and Indian War. There was a change in 1757 when the initial wording for the second and third heads was changed to 'And the Incomes of

⁴⁴⁰ Brock (1975, pp. 380–7). ⁴⁴¹ See Brock (1975, pp. 391–3).

⁴⁴² An Act for Re-printing, Exchanging and Re-emitting Twenty Thousand Pounds of the Bills of Credit of this Government, to be let out on Loan; and for striking the further Sum of Seven Thousand Pounds in such Bills, and giving the same to his Majesty's Use, and for providing a Fund for sinking the same (7 May 1759) (Delaware) in *Laws of the Government of New-Castle, Kent and Sussex, Upon Delaware* (1763, Vol. II, p. 22); *American Antiquarian Society* (1956–, No. 9375).

⁴⁴³ Brock (1975, pp. 271–5).

all Estates both Real and Personal ...' but otherwise the charge was in the same form.⁴⁴⁴ The reference to 'incomes' here is rather confusing as the law, in the typical fashion, proceeded to estimate real estate according to six years' rent and various animals according to a specified amount per head. The change in wording may have been targeted at addressing the anomaly that the form of previous laws seems to have required real and personal estate to be valued at its capital amount whereas faculty was valued at its annual amount.

Connecticut funded wartime efforts in a similar manner as Massachusetts. It began making new issues of bills of credit in 1755. The bills were to be sunk with the usual direct taxes on polls and estates, according to the lists prepared annually (see p. 230). Bills were issued until 1764 with taxes extending until 1767. Like Massachusetts, Connecticut also met part of its wartime expenditure with grants made by the British Parliament.⁴⁴⁵

In 1755, Rhode Island also made its first issue of bills of credit on taxes for the purposes of the French and Indian War.⁴⁴⁶ Further issues were made on a similar basis until 1762, with a high point in 1760.⁴⁴⁷ As in the other New England colonies the preferred basis of tax for sinking the bills was the traditional tax on polls and estates and the Rhode Island assembly continued its practice of passing a simple periodic tax law apportioning amounts to be raised to the towns.⁴⁴⁸ As noted at page 231, there is some question as to whether faculty

⁴⁴⁴ An Act for apportioning and assessing the Sum of Eighty-one Thousand three Hundred eighty-six Pounds thirteen Shillings and four Pence ... (25 May 1757) (Massachusetts); *American Antiquarian Society* (1956–, No. 7948).

⁴⁴⁵ Brock (1975, pp. 321–3).

⁴⁴⁶ An Act for emitting more bills upon the credit of this colony, for and towards the carrying on the part by this government undertaken in the present expedition, for removing encroachments made by the French (12 June 1755) (Rhode Island); *Rhode Island* (1856–65, Vol. V, p. 433).

⁴⁴⁷ An Act for printing £10,000, lawful money, to pay off the troops, and get them to Albany; and the sum of £1000, of the like money, to carry on the building of the court house in Providence (May 1760) (Rhode Island); *Rhode Island* (1856–65, Vol. VI, p. 62). See also Brock (1975, pp. 326–9) and the Report of the Committee appointed to prepare a statement of the condition of the currency of the colony (20 October 1764) in *Rhode Island* (1856–65, Vol. VI, p. 409).

⁴⁴⁸ An Act for proportioning a rate of £100,000, old tenor, upon the several towns in this colony; and for ordering the same to be assessed, levied and collected, before or upon the last day of October next (17 June 1757) (Rhode Island); *Rhode Island* (1856–65, Vol. VI, p. 62).

remained assessable under the 1747 law for valuing estates. A law of 1757 required a new valuation of rateable estates.⁴⁴⁹ This law provided:

the Articles following, and no other, shall be deemed rateable Estate, that is to say, All Lands ... all Slaves [various animals]; all trading Stock, Money, and Securities for Money; all Silver-wrought Plate; all Bills of Credit ... all Bills of Exchange ...

Debts were deductible but rateable estate was to be estimated at its full value. The lack of specific mention of 'faculty' suggests that the Rhode Island tax law had become (once again) a property tax with an associated poll tax. However, under the tax law passed just a few months later poll money was specified as six pence per £1,000 suggesting that different persons were valued at differing amounts.⁴⁵⁰

At the beginning of the French and Indian War, New Hampshire was still retiring its bills of credit issued during King George's War. In 1755 New Hampshire once again began issuing bills of credit in earnest to meet the costs of the war. The amount issued in 1755 was £45,000 to be sunk with the usual taxes on polls and estates over five years.⁴⁵¹ There were further emissions each year until 1762, to be sunk in a similar manner with annual taxes until 1767 (less British parliamentary grants).⁴⁵² It will be recalled that the last inventory of polls and rateable estate had been made in 1753. This was followed with a further inventory in 1760 and 1761, both of which followed precisely that used in 1753 and so included no reference

⁴⁴⁹ An Act for taking a true Account of the Value of all Rateable Estates, and the Value of all Rateable Polls, within this Colony (1 February 1757) (Rhode Island); American Antiquarian Society (1956—, No. 8020).

⁴⁵⁰ An Act for proportioning a rate of £100,000, old tenor, upon the several towns in this colony; and for ordering the same to be assessed, levied and collected, before or upon the last day of October next (17 June 1757) (Rhode Island); Rhode Island (1856—65, Vol. VI, p. 62).

⁴⁵¹ New Hampshire (1867—1915, Vol. VI, pp. 376 [£30,000] and 428 [£15,000]). Dates of laws are 11 April 1755 and 5 September 1755, respectively, but the titles are not available.

⁴⁵² Brock (1975, pp. 301—3) and see also Fry (1908, pp. 404—15). The 1762 law was entitled An Act for granting unto his Most Excellent Majesty the sum of Ten Thousand pounds Sterling for Levying, Clothing & Paying of Five hundred and thirty four men for securing his Majesty's Conquest in North America & for Levying One hundred & forty three men for recruiting his Majesty's Regular Corps in North America (22 March 1762) (New Hampshire); New Hampshire (1867—1915, Vol. VI, p. 818).

to faculty.⁴⁵³ These inventories were, as usual, used for apportioning tax to be raised between the towns.⁴⁵⁴

It remains to look at the period of the French and Indian War from the view of the colony closest to the action, Nova Scotia. In 1755, suspicious of the loyalties of the Catholic French Acadians, New England sent a force north. When the Acadians refused to swear allegiance to the British Crown, about 6,000 of them were effectively deported to other British colonies, including the West Indies.⁴⁵⁵ After early setbacks and reinforcements, the fortress at Quebec was taken in September 1759 and French authority was effectively removed from North America.⁴⁵⁶ The removal of the French Acadians and the defeat of the French in Quebec was sufficient inducement for a wave of migration from New England and, in particular, Massachusetts to Nova Scotia beginning in 1760. The New England settlers in many cases established themselves in the areas left by the French Arcadians.⁴⁵⁷

As noted above at page 235, Nova Scotia established an assembly, which first met in 1758, sometime after the expulsion of the Acadians. From the first meeting the Nova Scotia government continued to be largely funded by indirect taxes.⁴⁵⁸ The earliest direct assessment law of Nova Scotia, also being the earliest for Canada, was an Act of 1759

⁴⁵³ For example, see the resolution of the House of Representatives of 28 January 1761 requiring a new 'inventory of Rateable Estate' American Antiquarian Society (1956—, No. 8944). See also New Hampshire (1867—1915, Vol. VI, pp. 742—3 [resolution of 23 February 1760] and 761 [the same resolution of 28 January 1761]). See also Robinson (1902, p. 36).

⁴⁵⁴ For examples of the assembly imposing taxes on polls and estates, see New Hampshire (1867—1915, Vol. VI, pp. 285 [resolution of 2 May 1754] and 334 [resolution of 19 December 1754]). After this date the reference is simply to imposing a 'Province Tax', see New Hampshire (1867—1915, Vol. VI, pp. 516 [resolution of 9 April 1756], 591 [resolution of 30 March 1757], 669 [resolution of 19 April 1758], 712 [resolution of 17 March 1759], 751 [resolution of 6 May 1760] and 870 [resolution of 3 February 1763]).

⁴⁵⁵ Bourinot (1900, p. 10). See also Murray (1907, pp. 225, 230).

⁴⁵⁶ See Simmons (1976, pp. 277—87).

⁴⁵⁷ Bourinot (1900, p. 17).

⁴⁵⁸ For example, An Act for confirming the Proceedings on the severall Resolutions of the Governors and Council of this Province, relating to the Duties of Impost on Rum, and other distilled Liquors; and enabling the late Collector or Receiver to recover the Monies unpaid for any Bonds or Notes remaining in his Hands; And for establishing and regulating severall Duties of Impost on Wines, Beer, Rum, and other distilled Spiritous Liquors for the future (32 Geo. II c. 1) (1758) (Nova Scotia); CO 219/6 (first assembly), p. 1.

relating to the poor.⁴⁵⁹ The assessment was to be made ‘upon the Inhabitants of the Township of *Halifax* ...’ but no further details were provided regarding the basis of assessment. A law of 1763 extended this power of assessment to other townships.⁴⁶⁰ Further, there was some elaboration of the tax base. Twelve inhabitants of the town were to ‘assess the Freeholders, and other Inhabitants, in just and equal Proportion as near as may be ... and each particular Person being assessed according to his known Estate, either Real or Personal ...’.

West Indies

Barbados received a new governor in 1756. In the usual way, the governor was greeted with a provision for tax. The tax was a direct tax in the usual form, imposed for the duration of the new governor’s residency.⁴⁶¹ The law imposed a tax annually on ‘all and every person and persons being an Owner or Owners, or in any other right possessed of any Slave or Slaves, Wind-mill, Cattle-mill or Pot-kiln in this Island ...’ and set an amount yearly for each. The law continued:

And to the intent that all Owners of Houses in the respective Towns of this Island, as also the Traders, Inhabitants and persons keeping Offices or exercising any Trade or Profession therein, who shall by the respective Vestries be deemed capable of paying any Tax, may be proportionably rated ...

the law allocated a quota to each town:

for their Houses, Trade and Personal Estate, over and above their Levies on Negroes, and other Assessments by this Act appointed; which sums shall be apportioned by the respective Vestries of each Parish ...

The next head of charge was the discriminatory tax on the Jews. There was no longer a special charge for particular persons and professions, which now seem to be encompassed under the parish system. But there

⁴⁵⁹ An Act in Addition to an Act, intituled, An Act for the Relief of the Poor in the Town of Halifax: Made and passed in the 33rd Year of His Majesty’s Reign (33 Geo. II Session 2 c. 12) (1759) (Nova Scotia); CO 219/6 (second assembly), p. 28. Contrast Murray (1907, p. 259, fn 1) suggesting the earliest was the law of 1763. See also Vineberg (1912, p. 37).

⁴⁶⁰ An Act to enable the Inhabitants of the several Townships within this Province to maintain their Poor (3 Geo. III c. 7) (1763) (Nova Scotia); CO 219/7, p. 158.

⁴⁶¹ An Act for raising a sum of Money yearly, to defray the Expenses of the Government (31 August 1756) (Barbados); Hall (1764, p. 379 [Law No. 210]).

was a process by which the treasurer could identify 'notable' persons and lay the list and amount paid before the committee of public accounts.

In the usual way, additional taxes on the same base were imposed, as required.⁴⁶² The form of tax changed a little in 1761 while the British troops were in the region.⁴⁶³ A tax on carriages (a common style of tax by this time) was added to the tax on windmills and kilns. The wording of the second head of charge on inhabitants was also changed. It now provided that:

all Owners of Houses in the respective Towns of this Island, as also the able Traders, Inhabitants & Persons keeping Offices or Exercising any gainful Trade or profession therein . . . who Shall by the respective Vestry's be deemed capable of paying any Tax may be proportionably rated according to their Several Abilities . . .

The law proceeded to provide a quota for the various towns. After more than seventy years of development, the Barbadian direct tax system finally expressly included what may be considered a faculty tax. The express reference to 'ability' makes the connection between parish assessments in Barbados and those under the English Poor Law (as to which, see above at pp. 223–4) clear. It has been suggested (at p. 89)⁴⁶⁴ that there seems to be a similar connection between the English Poor Law and faculty tax in New England. A major difference between the Barbados form of direct tax and that of New England is the lack of reference to 'real and personal property' and a residual poll tax. However, the tax on slaves remained and for land without improvement this would have largely equated with a land tax. Further, it seems clear that while English concepts may have been imported into the colonies (at various times) they soon developed a life of their own according to local rather than English conditions.

By contrast, the Antigua direct tax system did not effectively change during the Seven Years War. It was still essentially based on the 1727 law and so involved a slave tax, liquor licensing, taxation of the annual value

⁴⁶² For example, An Act for raising an additional Levy on the Inhabitants of this Island, to answer the necessary expences of the Government, for the current year (28 April 1758) (Barbados); Hall (1764, p. 524 [Law No. 994]).

⁴⁶³ An Act for discharging the Suspension of the Payment of the present fifteen penny Levy: And also for raising an Additional Levy on the Inhabitants, to Answer the Exigency, as well as the current Expences of the Present Year (8 October 1761) (Barbados); CO 30/11, p. 35.

⁴⁶⁴ As noted at that point, the first direct tax law of Massachusetts, like the Barbados direct tax law of 1761, expressly referred to 'ability'.

of houses in the towns and licensing of billiard tables.⁴⁶⁵ The 1741 deficiency law also continued (see pp. 247–8). In a similar way, the direct tax system did not change in either St Kitts or Nevis in the period to the end of the Seven Years War. In St Kitts the law was still in a form similar to that of 1729 (see p. 246) and so involved taxation of slaves as well as houses, shops and tenements in the towns according to their yearly value.⁴⁶⁶ Nevis continued to rely purely on a slave tax.⁴⁶⁷

During the Seven Years War Jamaica continued to raise direct taxes under the deficiency law⁴⁶⁸ and supplemented this with periodic impositions on an alternate basis. For example, the 1757 supplementary levy largely followed that of 1733 (see pp. 249–50) and so included a tax per poll on slaves and cattle, a tax on traders according to the parish vestry roll, a tax on rents from houses, wharves and storehouses rented out and a tax on specific officers.⁴⁶⁹ In 1758 carriages were added to the charge on slaves and cattle.⁴⁷⁰ In 1763 only the tax on specific

⁴⁶⁵ For example, An Act raising a Tax for paying public Debts and Charges and particularly applying the said Tax (5 May 1761) (Antigua) and An Act raising a Tax for paying public Debts and Charges and particularly applying the said tax (14 May 1763) (Antigua); CO 8/13, pp. 16 and 55, respectively. The slave tax was accompanied with an indirect tax on sugar, rum and molasses.

⁴⁶⁶ For example, An Act for Granting an Aid to His Majesty by a Duty or Tax of Ten Shillings Current Money per poll on all Negroes and other slaves and the further Duty of Ten Pounds in the Hundred Pounds on the yearly value of all Houses Warehouses Shops and Tenements in the several Towns Within the said Island for Repairing the Forts and Fortifications and Defraying the other Publick expences of the said Island (30 May 1757) (St Kitts); CO 240/9, p. 82.

⁴⁶⁷ For example, An Act for Raising a Poll Tax on Negroes and other Slaves belonging to the Plantations and Inhabitants of the Island of Nevis (24 June 1755) (Nevis); CO 185/5, p. 15.

⁴⁶⁸ For example, An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men White Women or Children or pay certain Sums of money in case they shall be deficient and applying the same to several Uses to protect freeholders on the days of choosing Church wardens and Vestrymen and to ascertain who shall be deemed duly qualified to vote at such Elections (30 December 1763) (Jamaica); CO 139/22, p. 5. This law required a white person (that had been imported since 1741) per thirty slaves or 150 cattle already in Jamaica. Certain boats still required one white person and taverns the same. A fine was payable for each deficiency.

⁴⁶⁹ An Act for raising a Tax by the Poll and on Trade Super Cargoes and Masters of Vessells in the out Ports and on Offices and Rents and applying the same to Several Uses (26 November 1757) (Jamaica); CO 139/19, p. 20.

⁴⁷⁰ An Act for raising a Tax by the Poll and on Trade Super Cargoes and Masters of Vessells in the Out Ports and on Offices and Houses and also for laying a Tax on Certain Carriages applying the same to Several Uses (18 November 1758) (Jamaica); CO 139/19, p. 42.

officers was included in a general tax law that otherwise included indirect taxes.⁴⁷¹

The laws of the Bahamas were re-written in the late 1750s early 1760s. By this time the tax law included substantial changes from the 1734 law (see p. 251). A law of 1760 began by setting out indirect taxes.⁴⁷² This was followed by a tax on polls including whites and then a tax on land at two shillings and three pence per year for every £15 rental value. There followed a limited faculty tax in the following terms:

For Faculties and Professions such as the Professors of Law and Physick, the Civil Officers in the Government viz. The Treasurer, for the time being, the Secretary & Notary for the time being, the Vendue Master for the time being, The Collector & Naval Officer for the time being, the Searcher for the time being, The Chief Justice, Attorney General, Clerk of the Council, Clerk of the Assembly, Clerk of the Common Pleas, Crown Provost Marshall, Marshall of the Admiralty, Register of the Admiralty, Coroner, Advocate General Judge of the Admiralty at the Rate of Two Shillings & three pence for every Thirty Pounds such Faculty or Profession shall be Valued for one Year by the Assessors hereafter Mentioned to be by them Levied.

The law proceeded to tax certain animals by the head and carriages and then expressly taxed the commissions of agents of privateers! There is broad consistency between this law and that used in Jamaica and Barbados (and to some extent South Carolina) at this time. This law was followed during the remainder of the Seven Years War.⁴⁷³

3.4 Summary

This chapter has considered developments in the English and British direct tax system from the Glorious Revolution until the end of the

⁴⁷¹ An Act for laying a duty on all Wines Rum and other spirituous Liquors retailed within this Island and for laying a further Tax on Licences to be granted for the retailing of Wine and other Liquors and for laying a Tax on Super Cargoes and on the Public Offices, and applying the same to several uses (30 December 1763) (Jamaica); CO 139/22, p. 21.

⁴⁷² An Act for raising a Fund for the payment of Officers Salaries, defraying the Expence of holding Assemblies and other Contingent Charges of the Government of these Islands, and for Ascertaining the said Salaries (30 April 1760) (Bahamas); CO 25/2, p. 48.

⁴⁷³ For example, An Act for raising a Fund for the payment of Officers Salaries defraying the Expences of holding Assemblies and other Contingent Charges of the Government of these Islands, and for Ascertaining the said Salaries (11 May 1762) (Bahamas); CO 25/3, p. 6.

Seven Years War, a period of seventy-five years. It considered similar developments in the direct tax systems in the British American and West Indian colonies during the same period. The beginning of this period was as turbulent in terms of these developments, both in England and its colonies, as any covered by this study. It will be suggested in Chapter 5 that the 1690s were the crucible of the income tax. By comparison, the remainder of the period covered by this chapter was relatively quiet, as the direct tax systems appear to have settled during the early 1700s. It may be that the threats arising from war during this remainder were not as great as those during the 1690s and, therefore, caused less turmoil in the direct tax systems. However, it also seems clear that the practice of funding wars with borrowing or paper currency issues secured on taxes that arose during the 1690s and early 1700s had a stabilising effect on the form of direct taxes.

The chapter began with a consideration of the developments in England from William III's conquest until the end of the War of Spanish Succession. It noted how William III's conquest dragged England and its colonies into the existing dispute between the Netherlands and France, with England on the side of William III's native Netherlands. The French supported a counter-revolution in Ireland which immediately meant that William III needed funds for the military. The English Parliament did not hesitate in granting William III substantial amounts by way of direct taxes. There were four grants in 1688 alone including monthly assessments, a poll tax and two aids (similar to the former subsidy).

The monthly assessments of 1688 were in the usual form and the poll tax was based on that of 1678. However, there were some important developments in the aids. The aids for 1688 to a large extent followed the subsidy of 1671. But movables were now expressly converted to a yearly profit by applying a fixed ratio to their capital value. Further, landholders paying interest were entitled to deduct tax from such payments, a precursor to the charges on income provision of the income tax. Further, the deduction at source mechanism applicable to shares under the poll tax was extended to more companies.

The same styles of taxes continued in the ensuing years. A further poll tax was imposed in 1689 and monthly assessments were imposed in 1690 and 1691. The 1691 monthly assessment was the last such assessment. As movables had largely fallen out of charge, it was felt that this form of assessment fell too heavily on landowners. A poll tax of 1691 included a tax on coaches. Another aid was imposed in 1692 and

a separate tax was imposed on shares in certain trading companies. In 1693 there was another aid and another poll tax based on that of 1691 but under which coaches were removed and a licensing system introduced under a separate law of the same year. Further aids followed in 1694 and 1695 and in the latter year a house tax was introduced with rates varying according to the number of windows.

The first levy of 1696 was particularly important (though not successful). It was similar to earlier poll taxes and so included various heads of charge but also included a 'land tax'. The heads included a general poll tax and then a charge on servants for their wages at graduated rates. Pensions out of the public revenue were also charged as were stated public officials (including judges) for, among other things, their 'emoluments, income or profits'. This appears to be the earliest use of the word 'income' in a law of this type. The 1696 levy proceeded to charge physicians, lawyers and residually every person 'exercising any other professions whatsoever' for their 'yearly income or profits'. This is the first express effort to reach the income and profits of professionals and given the development of account keeping to this point (or lack thereof) must have been a substantial challenge for assessors.

The 1696 levy proceeded to charge money and net debts receivable. There was also an exceptional charge on various forms of business and trades. These were charged according to the capital value of their stock. The eighth head of charge was on the holders of livestock, again according to the capital value of the stock, but at a lower rate. Finally, there was a charge on the yearly value of land in a form typical of an aid or subsidy. For all of these heads the law contained a relatively precise set of jurisdictional rules and so persons were either taxed where they resided, where they exercised their office or employment or where their property was situated. The yield of the tax was poor and a tax of a similar comprehensive nature would not be seen until the income tax more than 100 years later. A second imposition of 1696 only incorporated the 'land tax'.

To stop the falling yield, in 1697 there was a return to a quota system, as under the monthly assessments. Only three heads of charge were used under this law (debts and movables, public offices and land), as under the 1695 aid. Importantly, there were fixed rates for the first two heads and any residual amount to be collected by a county or town was to be raised on the yearly value of land according to a pound rate. This law incorporated the essentials of the land tax that would be used for over a hundred years. Nevertheless, at this stage it was supplemented with

another poll tax, this time along the lines of the 1694 levy. There was a similar land tax in 1698 with minor adjustments but which required counties or towns in allocating their charge to hundreds or divisions to have regard to the proportion borne by the hundreds or divisions under the assessment of 1692. This would set a precedent for the future and was incorporated in the land taxes of 1699 and 1701.

William III died (March 1702) just before England entered the War of Spanish Succession. The English Parliament quickly granted its new queen direct taxation. Queen Anne's first grant in 1702 involved a mixture of the forms of taxes used in the first land tax of 1696 (the aid portion) and a quota system (the land tax portion). Importantly, this tax charged trades, debts receivable, pensions, etc. out of public revenue, high officers (including judges), professionals and residually polls in a broadly similar fashion to 1696. The tax on livestock and servants wages was not incorporated. Land and public offices and employments were charged separately under a quota system, with, as in 1697, the residual amount of the quota falling on land. The grant did not expressly cover personal estate. There were two further grants in 1702, one along the lines of the aid portion of the first 1702 grant and the other the land tax portion.

The grants of 1702 were rationalised in 1703 along the lines of the final grants to William III. Personal estates and debts were charged at 20 per cent (4s per pound) of their yearly value, as were wages from public offices and employments and pensions and yearly payments out of the public revenue. The residual amount of the quota for a county or town was to be made up with a charge on the 'yearly value' of land by a pound rate. The proportion of a quota allocated to subdivisions within a county or town was still to be according to the 1692 assessment. In this form the land tax was re-imposed each year until 1798. Because it produced a fixed amount (£2 million at a 4s rate) it was used as security when the British Parliament borrowed funds, especially in times of war. The land tax was extended to Scotland when it was united with England in 1707. In time, personalty fell out of charge (because it required reassessment whereas, because quotas did not change, land did not) and the tax fell almost entirely on land.

The chapter then moved to consider developments in the direct tax systems of the colonies to the end of the War of Spanish Succession (Queen Anne's War). As in England, the 1690s were turbulent times for the New England colonies. Massachusetts received a new charter in 1691 but this time with a governor appointed by the English Crown.

This caused a major change in the form of direct taxation in Massachusetts. A law of 1692 imposed a poll tax as well as a tax on the yearly value or 'income' from real and personal estates, four years ahead of the English use of that term. There was no reference to 'faculty' or 'ability' but under a clarifying law 'handicraftsmen' were to be assessed for income. Massachusetts also pre-empted English direct taxation in 1694 when it returned to a quota system.

Beginning in 1696 Massachusetts assessors were instructed to prepare lists of taxpayers with one column for polls and the other for estates, the tax quota of a town was to be apportioned half to the total of each column. In 1697 this became three columns; polls, real estate and personal estate with 'faculty'. In 1698 the poll tax became fixed and the residue of a town's quota was to be made up by a pound rate on the other columns. In this practice of residue, Massachusetts may have been following the English land tax of 1697. Subject to minor developments this system continued until 1700 when there was a return to expressly valuing particular types of personalty, such as animals, in the law. In 1702 faculty was separated from personal estate into its own, fourth column. The form of assessment changed again in 1706, but little in substance, and as with the British land tax, this form was to remain constant for some time.

The developments in direct taxation were less dramatic in the other New England colonies during King William's and Queen Anne's Wars. In New Hampshire the form remained essentially unchanged from that imposed during the Province of New England. By contrast, Connecticut resumed the form of direct tax it had applied before it was subsumed within the Province of New England. This system changed only little through to the end of the eighteenth century. Rhode Island, however, elaborated its method of assessment in 1695. Land, housing, merchants and tradesmen were to be assessed according to yearly profit, at the discretion of the assessors. Certain forms of livestock were to be assessed at set amounts per head. This form of assessment would also prove stable.

New York, by contrast to the New England colonies, did not try to tax faculty. It continued to impose its tax on real and personal estates. By 1709 it was clear that the amount to be raised was to be apportioned between the counties according to a quota system but otherwise the tax base was stable (if imposed somewhat differently from county to county). In the 1690s, East and West New Jersey also continued the direct tax systems used before the Dominion of New England.

These essentially involved the taxation of land, stock and polls. In 1702, the Jerseys were reunited as a royal province. The combined direct tax law charged land per 100 acres, slaves and various animals per head, various forms of boats and there was a residual poll tax. As in New York, a quota system was used in the 1709 law and the poll tax became graduated according to 'ability'. After specifying different amounts for different items, the law imposed the residue of the quota on land and chattels, this seems similar to the Massachusetts law of this time.

In 1692, while Pennsylvania was under the control of New York, a tax was imposed, as in New York, on real and personal property but with a residual poll tax. This style of tax was continued even after Pennsylvania was returned to William Penn in 1694, important levies being imposed on this basis in 1700. The three Delaware counties were granted a separate government in 1704. It seems that this was funded by agreed quotas from the three counties with taxes raised according to the rules for levying county taxes. These were similar to those used for central Pennsylvanian levies.

As for the southern colonies, Virginia continued with its poll tax. Maryland moved to a royal government in 1692 and enacted a new body of laws. It seems that the basic poll tax continued in Maryland as it did in Virginia until after the end of Queen Anne's War. North Carolina too relied on the poll tax for its source of direct taxation. This changed as a result of war with the Tuscarora Indians in 1711 when the colony imposed a tax per hundred acres of land in order to sink bills of credit raised for the purposes of the war.

The position was different in South Carolina where, as noted at page 161, the faculty tax had gained a foothold. The tax laws of the 1690s appear to have been lost but in 1701 South Carolina passed a law taxing estates, stocks, 'abilities' and, as with the English land tax, the profits of public offices and employments. In 1703 this was extended further to 'places of profits of whatever kind or nature so ever'. Financial pressure from conflicts with the Spanish and Indians and a general lack of currency caused South Carolina to be the first of the colonies to make an issue of bills of credit on loan in 1712.

The discussion proceeded to consider direct taxation in the West Indian colonies during King William's and Queen Anne's Wars. Here the turbulence that had occurred since the Restoration continued, with colonies changing hands and the destruction of trade and administrative systems. The retarding effect on the development of West Indian

colonies and their legal and administrative systems was substantial. As Dunn notes:

Since the 1660s Anglo-French warfare in the Caribbean had been highly destructive. Between 1666 and 1713 St Kitts changed hands seven times, Montserrat and Antigua were sacked twice each, and Jamaica and Nevis once each ...⁴⁷⁴

When King William's War began, the English quarters of St Kitts were immediately seized by the French. Barbados responded with a series of slave taxes in 1689 and a force was sent in mid-1690 that captured all of St Kitts.

There is a dearth of records of tax laws for Barbados and the Leeward Islands during the 1690s. However, it seems that in 1691 Barbados added to its slave tax taxes on houses, trades and personal estates of the inhabitants of the towns. Freestanding slave taxes were also imposed during the 1690s. By contrast, in 1689 Antigua supported the move of the Leeward Islands governor to the island with a tax on slaves per head, land per acre, town lots and liquor houses. Similar taxes were imposed by Antigua during the 1690s. Little is known about St Kitts and Nevis during the 1690s, although it may be that during this period Nevis used the form of tax it used before and after, i.e. a tax on slaves and on freeholders, householders and traders of towns. It may be that there were no taxes in St Kitts during the 1690s as the colony was not resettled for sometime after the French were expelled and the Leeward Island administration was forced to return the French quarters under the Treaty of Ryswick of 1697.

Jamaica also suffered terribly during King William's War and its direct tax system is sketchy. It suffered a massive earthquake in 1692 and was sacked by the French in 1694. In 1695 it imposed taxes on slaves per poll and other animals per head, rent paid in Port Royal and on trades, occupations and callings according to their assessment in the parish rolls of Port Royal. There was a similar levy in 1696. There seems to have been at least a loose connection in the type of taxes imposed in Barbados, Jamaica and probably Nevis.

Turmoil in the West Indies continued during Queen Anne's War. In 1701, Barbados prepared its fortifications funded with a tax on slaves and a quota tax on the towns to be imposed on houses, trades and personal estates according to vestry rolls. As with some of the English

⁴⁷⁴ Dunn (1998, p. 460).

poll taxes in the 1690s, there was also a charge on some specified persons and occupations (such as lawyers and overseers). This proved the standard style of charge throughout the war. Nevis imposed a similar levy in 1701, the bulk by a slave tax and the remaining sixth by a tax on the freeholders, householders and traders of the towns to be apportioned by a committee to be appointed. This would prove the typical style tax in Nevis.

In 1702 the Leeward Islands captured the French half of St Kitts. In the same year Antigua joined in taxing traders by adding it to its usual taxation of land, slaves, cattle and town lots. In 1704, St Kitts joined in the general style of West Indian direct taxation with a tax on slaves and on merchant traders. In 1706, both St Kitts and Nevis were sacked by the French. This, together with an unpopular governor, slowed direct taxation in the Leeward Islands. After the governor was murdered, direct taxation continued as before. In 1711, Antigua imposed tax similar to the 1702 levy (there were similar charges in 1703 and 1706). In 1711, St Kitts taxed slaves and the tax on traders now incorporated a quota system amongst the towns. In 1713, Nevis imposed tax along the lines of its 1701 levy (there was a similar charge in 1705).

Like Barbados, Jamaica raised funds at the start of Queen Anne's War for its defences. The tax of 1702 followed the charges of 1695 and 1696 but added a tax on carriages and specified officers (as in Barbados). In 1703, Jamaica imposed a different style of charge to accommodate British troops stationed there. The accommodation of a number of officers was allocated to persons based on the number of their slaves and certain animals. Persons that did not accommodate their quota of officers were required to pay a fine. Similar charges were imposed in Jamaica during the remainder of the war.

Table 3 takes a snapshot of the direct tax system in England and the colonies *c.* 1700 and once again some general observations may be made. Perhaps the most striking feature is the grouping of the colonies around their geographical locations. With important exceptions, it is possible to identify a 'typical' New England direct tax system or a 'typical' middle American direct tax system or one for southern America and the West Indies. The system for New England and southern America are at the extremes. In New England the standard is the general property tax supplemented with a poll tax and a faculty tax. In southern America the standard is just a poll tax. Within these regions South Carolina is an exception and, to some extent, Rhode Island. In middle America there

Table 3. *Direct taxation in England and the colonies circa 1700*

Subject of taxation	Circa 1700		Rate application			Jurisdiction		
	Tax base	Fixed value per item	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Property General			Massachusetts; Connecticut; New Hampshire; New York, Pennsylvania; South Carolina; Barbados (towns); Nevis (towns)		Connecticut; Pennsylvania (first levy 1700);	Massachusetts; New Hampshire; New York; Pennsylvania (second levy 1700); South Carolina; Barbados; Nevis	Massachusetts; Connecticut; New Hampshire; New York; Pennsylvania; South Carolina; Barbados; Nevis	
	Land	English house tax (graduated for windows),		English land tax; English Local Rates; Rhode Island;	English house tax; English Local Rates; Rhode Island; New Jersey;	English land tax	English land tax, English house tax; English Local Rates; Rhode	

	New Jersey; Antigua	Jamaica (Port Royal)	Antigua; Jamaica	Island; New Jersey; Antigua; Jamaica
Movables	Rhode Island (livestock), New Jersey (livestock, boats); Antigua (cattle); Jamaica (livestock)	English land tax; English Local Rates (typically only stock in trade)	English land tax; English Local Rates; Rhode Island; New Jersey; Antigua; Jamaica	English Local Rates (inhab itants only); Rhode Island; New Jersey; Antigua; Jamaica
Intangibles	English land tax (debts)	English land tax (pensions and yearly payments out of public revenue)	English land tax	English land tax (pensions and yearly payments)
				English land tax (debts)

(continued)

Table 3. (*cont.*)

	Rate application			Jurisdiction		
Circa 1700	Tax base	Income/ profits/ gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Subject of taxation	Fixed value per item	Capital value (including value estimated by return)				
<i>Personal</i>						
General	English subsidy 1702; Massachusetts; Connecticut; New Hampshire; New Jersey; Pennsylvania; Virginia; Maryland; North Carolina; Barbados	Barbados (specified persons); Jamaica (specified persons)	English subsidy 1702; Massachusetts; Connecticut; Rhode Island; New Jersey; Pennsylvania; Virginia; Maryland; North Carolina; Barbados; Nevis; Antigua;	New Hampshire (presumed)		English subsidy 1702; Massachusetts; Connecticut; Rhode Island; New Hampshire; New Jersey; Pennsylvania; Virginia; Maryland; North

(slaves); Nevis (slaves); Antigua (slaves); St Kitts (slaves); Jamaica (slaves)	St Kitts; Jamaica	Carolina; Barbados; Nevis; Antigua; St Kitts; Jamaica
Office/ employment	English land tax (public); South Carolina (public until 1703)	English land tax; South Carolina
Independent Services/ Profession	English subsidy 1702	English subsidy 1702;
	Barbados (lawyers, overseers)	Barbados
	English subsidy 1702; Barbados	

(continued)

Table 3. (cont.)

	Tax base		Rate application		Jurisdiction		
Subject of taxation	Fixed value per item	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Circa 1700							
Business/Trade	English coach licences 1694	English subsidy 1702; South Carolina (ability); Barbados (trades); Antigua (trades); St Kitts (trades); Jamaica (trades, occupations and callings)	Massachusetts (trade or faculty), Connecticut (arts and trades); New Hampshire (arts and trades)	English subsidy 1702; English coach licences 1694; Connecticut, Rhode Island; Antigua; St Kitts; Jamaica	Massachusetts; New Hampshire; South Carolina; Barbados	English subsidy 1702; English coach licences 1694; Massachusetts, Connecticut; New Hampshire; Rhode Island; South Carolina; Barbados	

is less uniformity but the dominant system is New York with its general property tax. Here the exception seems to be New Jersey.

The West Indian colonies seem to fall somewhere between the polls of New England and southern America. Like southern America, they raised their largest amounts by poll taxes, but in the West Indies these were usually limited to slaves (being, in any event, the dominant part of the population). This is, perhaps, not a surprising connection considering the similarity of the trade of these sets of colonies, both largely involving the export of locally grown raw products produced with slave labour. But unlike southern America, the West Indian towns were a hive of business activity and trade, not the least because of their proximity to other European colonies but also because of the large number of British troops stationed there. In this context it is not surprising to find efforts in the West Indies to tax that activity, just as New England did under its faculty taxes. The South Carolina direct tax system may have developed along similar lines for similar reasons but also because of its early connections with the West Indies and, in particular, Barbados.

In some respects the English tax system seemed to follow the colonial systems, but this is probably deceiving. Specific references to trades and professions in the English subsidies appear to follow earlier practice in the colonies. However, stock in trade was assessed (if decreasingly) in local rates including the Poor Rate and this may also have been the case under monthly assessments and earlier subsidies. The specific reference to trades and professions in English central levies during the 1690s may well have reflected non-expressed general practice in central levies and local rates until this time. It seems that the dropping of these heads from central levies in the late 1690s and early 1700s was reflected in the practice in local rates and the general provisions of the land tax. By contrast, the colonies continued in their efforts to tax trades. The English specific taxation of public officers seems to have had a limited reflection in the colonies, particularly in Barbados, Jamaica and South Carolina.

There is little to comment on regarding rate application and jurisdiction. The quota system revived from the monthly assessments under the English land tax had only limited reflection in the colonies at this stage; in Massachusetts and to a more limited extent in Barbados and (perhaps) Nevis. The quota system would soon extend to other colonies such as New York and New Jersey and it may well have been the practice in other colonies although not express in their laws. As for jurisdiction, there is the expected grouping of property taxes on a source

basis and poll taxes on a residence basis. The activity and faculty style taxes seem also to have been largely based on source (but much of this is presumed from unclear laws). The exception to this trend is taxation of movables and debts under the English land tax, which, in form, was on a worldwide basis. This is of little consequence since, in practice though not in form, personalty slipped out of assessment under the land tax.

The second heading of this chapter moved to consider the period between the first two main wars of the eighteenth century (the War of Spanish Succession and the Seven Years War). There were few developments in direct taxation in Britain during this period. The land tax was settled and its rate raised or lowered to meet current and projected financial needs. The national debt continued to grow, particularly during the War of Austrian Succession, but this was financed through borrowing secured on taxes and three important reductions in interest rates. Local rates continued to develop on the basis of the Poor Rate and a law of 1739 required county rates to be levied on the basis of the Poor Rate (just as the Constables Rate had been since at least 1662).

In the American colonies the imbalance of trade with Britain drained the colonies of currency. In more than half the colonies, the immediate expenses of King William's and Queen Anne's Wars had caused the colonies to issue bills of credit. These bills not only provided needed credit for the colonies but provided a form of currency. As with British practice, initially the bills were secured with taxes but in the colonies they were also issued on loan, a practice that some colonies used to fund government. Further, taxes raised to sink bills issued on the credit of the colonial governments were sometimes diverted to other causes and some such issues were made without the security of taxation. As the issues increased, the result was serious devaluation against the British currency. As the century wore on the British Board of Trade came under increasing pressure (particularly from creditors of the colonies) to regulate the issue of bills of credit.

Despite the turmoil caused by the issue of bills of credit in the American colonies, their direct tax systems, like the British system during the first half of the eighteenth century, saw few developments. The Massachusetts property, faculty and poll tax continued in the same form until a small alteration in 1738 when the faculty head became a tax on 'income or profits ... from any trade, faculty, business or employment'. There was also no change in the direct tax system in Connecticut. In 1744 Rhode Island experimented with a faculty tax

but for estate there was a move to capital (rather than annual) value. Within a few years faculty had fallen out of assessment. There was also little change in the direct tax system of New Hampshire. Nova Scotia had been ceded to the British by the French in 1713. There were few developments until a crown colony was established based at Halifax in 1749. It seems there were no direct taxes in Nova Scotia before 1755.

As in New England, there were few developments in direct taxation in the middle American colonies between 1713 and 1755. There was no change in the basic direct tax law of New York, New Jersey, Pennsylvania and it seems that the system that developed in Delaware was similar to that in Pennsylvania. There were also few developments in the southern American colonies. The poll tax persisted in Virginia and Maryland. In 1715, following the war with the Tuscarora Indians, North Carolina supplemented its poll tax with a tax per hundred acres of land. But this tax was short lived and otherwise North Carolina relied on the poll tax. In South Carolina the tax system relied on the taxation of slaves per poll and the taxation of land per hundred acres but there was broader taxation in Charlestown where land was taxed according to its value as were other estates, stock and abilities. Georgia was founded as a colony in 1732 but until 1755 was largely funded with British parliamentary grants.

Comparative peace settled on the West Indies post 1713. As in the rest of the British Empire, the direct tax system developed little until 1755. Barbados continued with its slave tax and quota town tax on houses, personal estates and trades according to vestry assessments as well as the tax on specified officers. Nevis continued with its similar tax but from 1725 it simply relied on the slave tax. St Kitts initially continued with its tax on slaves and trades but by the end of the 1720s this had settled into a slave tax combined with a tax on improved land in the towns according to yearly rent or value. This system continued to 1755. Antigua also initially continued with its slave tax coupled with taxation of the yearly value of improved property and the profits of traders in the towns. In 1727 the taxation of traders was dropped in favour of the licensing of billiard tables. From 1741 Antigua also relied on a deficiency law of the Jamaican style (discussed in the next paragraph).

Jamaica was constantly faced with Negro uprisings. In 1716, it established a law designed to encourage white servants that seems to have been based on the laws imposed during Queen Anne's War for accommodating troops. The 1716 law required persons to keep white

servants in a specified ratio to their slaves, animals and vessels. A fine was payable for each deficiency in white servants. The deficiency law would become Jamaica's primary direct tax law until 1755. It was supplemented from time to time with other direct taxes typically along the lines of the 1702 law, i.e. involving the taxation of slaves and cattle per poll, taxation of trades in the towns according to parish rolls and taxation of specified officers. As in St Kitts in 1729, in 1731 Jamaica supplemented this form of tax with a tax on rents from improved land in the towns. After a turbulent establishment, the Bahamas finally got around to imposing direct taxation in the 1730s. Until 1755 this largely involved a general poll tax and a tax on town lots.

Table 4 takes a snapshot of the direct tax system in Britain and the colonies *c.* 1750. As the above discussion suggests, there are no major differences from Table 3 but some subtle shifts seem to have taken place. First, the effects of bills of credit on loan is clear by the absence of New Jersey, Pennsylvania and Delaware (presumed) from Table 4. These colonies met their provincial expenses, *c.* 1750, with payments on these notes. The other trend is away from the direct taxation of trades. This is clearest in Britain and the West Indies but there was some movement away in the northern and middle American colonies as well (such as Rhode Island and New Jersey during periods when it was levying tax). In Britain this was caused by, in practice, allowing movables to fall out of assessment to the land tax and local rates. It seems it was a conscious British policy not to tax the trade that it tried hard to facilitate.

The falling of trade from the change to tax in the West Indies was more dramatic and was, perhaps, for a different reason. With the French and the Spanish becoming a decreasing threat in the area, this was a time of great economic growth in the West Indies and particularly in its local raw products, especially sugar. These products were heavily reliant on slave labour and, as has been mentioned, there were concerns in a number of colonies regarding the slave to white population ratio. In any case, to tax slaves was a simple and effective method of taxing production that raised substantial amounts for government. Most often in the West Indies this was now supplemented with a tax on improved land in the towns and town trades were reached in this manner. The taxation of lists of slaves was uniform in the colonies from Maryland southwards and most often this was to the exclusion of other polls.

The last heading of this chapter turned to consider direct tax developments during the Seven Years War. The developments in Britain during this period were small. The land tax was increased back to 4s and

government borrowing was increased dramatically but interest rates were lowered to facilitate this (once again). There were some small additions to the infant Assessed Taxes.

The situation was different in Virginia, which saw the first effects of the war. In 1754, Virginia passed a substantial tax, which in essence followed the West Indian style of tax. It involved a tax on Negroes per poll with a land tax imposed per 100 acres. The tax was used to secure the issue of Virginia's first bills of credit. Virginia continued to use the same system for raising funds throughout the French and Indian War. By contrast, when Maryland raised bills of credit in 1756 for the war it did so on security of a tax on land per acre together with levies on bachelors, horses, billiard tables and other items. North Carolina, by contrast, secured its wartime issue of bills with its usual poll tax (supported with a liquor tax).

South Carolina also issued credit to fund the war, beginning in 1755, and did so on security of its usual taxes on slaves, land per 100 acres, money lent at interest, stock in trade of merchants and storekeepers and the value of town houses and town lots. The additional tax base in Charlestown, which included a faculty tax, continued but by 1760 was extended to the colony generally. Georgia joined the fray on a similar basis. It also issued bills of credit in 1755 and at the same time passed its first direct tax law. It was similar to the South Carolina system and involved a slave tax, taxation of land per 100 acres, money lent at interest, stock in trade of merchants and storekeepers and the value of town houses and town lots.

Developments in the middle American colonies were less dramatic. New York secured its large emissions of credit with its usual property tax. New Jersey and Pennsylvania returned to provincial direct taxation to support their issues of credit in a manner consistent with their previous direct tax practices. The New Jersey tax was now similar to that in New York and, in particular, the reference to taxation of faculty or ability had fallen away, although it still residually taxed householders at the discretion of the assessors if estate was below a small limit. New Jersey taxed particular types of trade but only within set categories. The tax in Pennsylvania in 1755 was similar but incorporated a residual poll tax and taxation of trades or occupations having 'estate or income'. Delaware also secured the issue of credit, by adding to county direct taxes on persons and estates.

The direct tax systems of the New England colonies experienced the least development during the French and Indian War. Massachusetts

Table 4. *Direct taxation in Britain and the colonies circa 1750*

Circa 1750		Rate application			Jurisdiction	
	Tax base	Income/ profits/ gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Subject of taxation	Fixed value per item	Capital value (including value estimated by return)				
<i>Property</i>						
General		Massachusetts; Connecticut; Rhode Island; New Hampshire; New York; New Jersey; Barbados (towns)	Connecticut; Rhode Island	Massachusetts; New Hampshire; New Jersey; New York; Barbados	Massachusetts; Connecticut; Rhode Island (unclear); New Hampshire; New Jersey (presumed); New York; Barbados	
Land	British house and window tax; South Carolina	South Carolina (Charles- town)	British house and window tax; St Kitts; Antigua; Bahamas	British land tax; British Local Rates; South Carolina	British land tax, British house and window tax; British Local Rates; South	

(towns);
Bahamas
(towns)

Carolina;
St Kitts;
Antigua;
Bahamas
British carriage
tax; British
Local Rates
(inhabitants
only); South
Carolina;
Barbados

Movables
British carriage
tax;
Barbados
(mills, kilns)
British land
tax (largely
fictitious);
British Local
Rates (if
anything,
stock in
trade only);
South
Carolina
(stock in
trade)

British Local
Rates; South
Carolina

British land
tax, British
carriage tax;
Barbados

British
land
tax

Intangibles
British land
tax (debts
but largely
fictitious);
South
Carolina
(money at
interest,
annuities)

South
Carolina
British
land tax

South
Carolina

British land
tax

(continued)

Table 4. (*cont.*)

Subject of taxation	Circa 1750		Rate application		Jurisdiction		
	Tax base	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
<i>Personal</i> General	Massachusetts (poll tax); Connecticut; Rhode Island; New Hampshire; Virginia; Maryland; North Carolina; South Carolina (Negroes); Barbados	Barbados (specified persons);	Massachusetts (trade, faculty, business or employment); New Jersey	Massachusetts (poll tax); Connecticut; Rhode Island; Virginia; Maryland; North Carolina; Barbados; Nevis; St Kitts; Antigua;	Massachusetts (trade, faculty, business or employment); New Hampshire (presumed); New Jersey; South Carolina;	Massachusetts (trade, faculty, business or employment)	Massachusetts (poll tax); Connecticut; Rhode Island; New Hampshire; New Jersey (presumed); Virginia; Maryland; North Carolina; South

(slaves);
Nevis
(slaves);
St Kitts
(slaves);
Antigua
(slaves);
Antigua
(white
servant
deficiency);
Jamaica
(white
servant
deficiency);
Bahamas

Jamaica;
Bahamas

Carolina;
Barbados;
Nevis;
St Kitts;
Antigua;
Jamaica;
Bahamas

(continued)

Table 4. (*cont.*)

Subject of taxation	Tax base		Rate application		Jurisdiction		
	Fixed value per item	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Circa 1750							
Office/ employment			British land tax (public)	British land tax		British land tax	
Independent Services/ profession							
Business/ trade	British coach licences	South Carolina (Charles town) (trades, faculties and professions); Barbados (trades)	Connecticut (arts and trades)	British coach licences; Connecticut	South Carolina; Barbados	British coach licences; Connecticut; South Carolina; Barbados	

continued to levy its general property tax with a faculty tax and poll tax. The similar systems in Connecticut and New Hampshire also did not change. The similar Rhode island tax, which lacked the faculty head, also did not change. The year 1759 saw the first direct taxes levied in Nova Scotia, a poor rate assessed on Halifax.

The Seven Years War caused comparatively little disturbance in the West Indian colonies. Barbados continued with its taxation of slaves and separate taxation of inhabitants and others of towns according to vestry rolls but by 1761 the assessment by the vestry specifically referred to 'ability'. Antigua continued to rely on its slave tax and taxation of annual value of houses in the towns as well as the deficiency law. The St Kitts system also taxed slaves and the annual value of improved land in the towns, while Nevis just taxed slaves. Jamaica relied on its deficiency law but also periodic levies on slaves and cattle, traders according to the vestry roll, the rents from certain improved property and specified officers. The Bahamas continued to tax polls (in general), certain animals per head, land (now according to its rental value) and, from 1760, certain professions, public officers and agents of privateers. This period also saw the taxation of carriages in Barbados, Jamaica and the Bahamas.

The beginning of the period covered by this chapter, during the War of the Grand Alliance, was like many other periods of economic stress in England and resulted in substantial changes in the direct tax system. The same is true for many of the colonies, particularly those in New England, middle America and the West Indies. The American colonies broke from the Dominion of New England and a number of these moved to a system of royal government, with an appointed governor. This was also true in Maryland, and Pennsylvania also went through a turbulent period when the fate of its proprietor, William Penn, was not clear. In the West Indies things were more dramatic, with the loss and regaining of St Kitts and the sacking of Jamaica. All of these events left their mark on the form of laws and direct tax systems of England and its colonies. In particular, the colonial laws became more particular, more precise, more English.

The situation during the War of Spanish Succession and the following sixty years was dramatically different. The direct tax systems simply did not develop, at least not at the same rate as during previous periods. In England and its colonies the direct tax systems settled into a predictable format during the war and then changed little. The most likely reason for this settling seems to be the effect of government credit. In England the accession of William III had heralded a new era in government

funding. There was greater focus on managing government debts, and ensuring that debts were paid with appropriate interest. This was achieved by securing debts with taxes and had a major effect on the credit-worthiness of the government. To meet and service its debts, the government needed a secure source of funding and required a stable and settled tax system.

The same was true in the colonies in a slightly different form. Here attempts to secure voluntary loans usually failed. Instead the colonial governments resorted to forced credit. Initially, this was in the form of forcing public creditors (particularly during wars) to accept bills of credit issued by the government as payment, the bills to be redeemed within a certain period of time. The usual practice was to secure such issues with taxes over the term of the issue and so there was a need for a stable and settled tax system as in Britain. By causing these bills to pass as legal tender (or some variation) the colonies also found that these bills provided a convenient form of currency as a substitute to the commodities that had traditionally been used (European currencies typically finding their way back to Britain due to imbalance of trade).

The need for currency as a lubricant for trade caused some colonies, particularly Rhode Island and South Carolina, to engage in more questionable practices such as the issue of bills of credit on loan. Interest payable on these bills provided a ready source of government revenue, a form of indirect tax, and a source of credit (typically for landholders) as well as a currency. Therefore, some colonies that issued such bills on loan went through long periods when there was no direct taxation. The problem with issuing copious amounts of credit was that it caused devaluation of the currency, particularly to the detriment of creditors, who were often British interests. In the result the British government sought to regulate the issues of colonial bills of credit and the colonies returned to a more regular imposition of direct taxes. Despite the credit turmoil of the colonies, their direct tax systems came through the first half of the eighteenth century relatively unchanged.

The one area in which there was a discernible development in direct taxation in the first half of the eighteenth century was in the taxation of trades or, rather, the lack thereof. In Britain it seems the view was that, as a trading nation, Britain should not impose taxes that might discourage commerce and manufacture.⁴⁷⁵ This is consistent with the

⁴⁷⁵ See Dowell (1965, Vol. II, pp. 119–23) citing Henry Fox, former commissioner of the treasury.

lack of a general tax on trade during this period as well as the manner in which personal property, including goods, wares and merchandise fell out of charge to land tax (despite express wording in the law to the contrary) and the Poor Rate.⁴⁷⁶ There was also some movement in the colonies away from taxing trades directly, particularly in the West Indies, but the propensity towards taxing trade remained greater in the colonies than in Britain. This position would change little until the end of the eighteenth century.

⁴⁷⁶ Indeed in 1759 during the Seven Years War there was an attempt to impose a tax on shops precisely because they were benefiting from the increased trade caused by the war. But this attempt was abandoned. See Dowell (1965, Vol. II, p. 136).

1763 to 1792: Empire Divided

By comparison to the previous chapters, this chapter and the next each cover the relatively short periods of twenty-nine and twenty-eight years, respectively. Each chapter is centred on a major war. This chapter is centred on the American War of Independence (1775–83, alternatively known as the American Revolutionary War) and is structured under three headings. The first heading considers developments in direct taxation during the disquiet and pivotal events leading to the war. The Seven Years War had been the most expensive ever for Britain and had resulted in the greatest increase in the national debt. There was a perception that the American colonies had benefited disproportionately from this war at the expense of the British national debt. This was particularly so considering the substantial compensation paid by Britain to the colonies for war expenditure, which enabled many of them to discharge large portions, if not the entire amount, of their own debts.¹

¹ The cost of government in the American colonies was small and so the taxes were comparatively light. Writing in 1776, Adam Smith notes that '[t]he expense of the civil establishment of Massachusetts Bay, before the commencement of the present disturbances, used to be but about £18,000 a year. That of New Hampshire and Rhode Island, £3,500 each. That of Connecticut £4,000. That of New York and Pennsylvania, £4,500 each. That of New Jersey, £1,200. That of Virginia and South Carolina, £8,000 each. The civil establishment of Nova Scotia and Georgia are partly supported by an annual grant of Parliament. But Nova Scotia pays, besides, about £7,000 a year towards the public expenses of the colony; and Georgia about £2,500 a year. All the different civil establishments in North America, in short, exclusive of Maryland and North Carolina, of which no exact account has been got, did not, before the commencement of the present disturbances, cost the inhabitants above £64,700 a year; an ever-memorable example of how small an expense three millions of people may not only be governed, but well governed. The most important part of the expense of government, indeed, that of defence and protection, has constantly fallen upon the mother country' Smith (1776, book IV, ch. VII, p. 277).

Under the burden of this debt Grenville, the Chancellor of the Exchequer, perceiving the prosperity of the colonies, proposed to levy a light tax to assist in easing the burden in Britain. But for the Americans, taxation by the British Parliament raised fundamental constitutional issues. They had no representation in the British Parliament and, therefore, maintained that to seek to tax them was unconstitutional; no taxation without representation. It will be recalled that direct taxation in both Wales and Scotland followed the granting of representation in the English Parliament (see pp. 51 and 195, respectively). The only power to tax that might have been recognised by the American colonies was that of the Crown; stemming from historic precedents. But the colonists argued that the Crown's power to tax had been taken away by the reforms following the English Civil War and the Glorious Revolution, including the Bill of Rights.²

The Americans feared submission to British taxation for, although the proposal might be light at first, once admitted there was no obvious limitation on such taxation, particularly with no representation in the body imposing it. In short, the Americans felt this was an issue worth fighting for. The taxes the British sought to impose on the colonists were indirect taxes. By contrast, the direct tax systems of Britain and the colonies remained relatively stable between 1763 and the outbreak of war in 1775. Indeed, in the colonies, as in the period before King George's War, this was a period during which there as, in some colonies, little or nothing in the way of direct taxation. But with the outbreak of war in 1775 things changed dramatically, at least in the colonies.

The second heading considers developments in direct taxation in Britain and the American colonies from 1775 to the beginning of 1793. This covers the period through the American War of Independence and the relative peace between 1783 and 1793.³ As with the Seven Years War, the American War of Independence saw many of the former colonies issue bills of credit to pay for the war, but this time there would be no compensation from the British to assist in reducing this debt. The result

² For example, see Dowell (1965, Vol. II, pp. 147–8).

³ The period from 1789 to 1792 covers the initial stages of the French Revolution and Revolutionary Wars. Early in 1793 the French revolutionary government executed the French monarch Louis XVI. It was at this point that Britain joined the coalition against France and returned to a war footing. The period from this joining to the end of the French Revolutionary Wars is covered in Chapter 5.

was substantial amounts of direct taxation and, in many former colonies, particularly the southern colonies, substantial developments in the types of taxes used. Britain, by contrast, once again simply increased its debt without any major developments in direct taxation. In many of the colonies, the taxes imposed during the war continued into the decade after the peace, but some managed to liquidate their debts quickly and again enjoy little or no direct taxation.

The chapter proceeds to consider the same period (1775–93) but from the view of the colonies that remained under British control after the American War of Independence. The war had a substantial impact in these colonies, particularly when in 1778 France entered the war on the side of the American revolutionaries (as did Spain in 1779) and the war extended to the West Indies. The other colonies were not only affected by the war itself but, with failing British fortunes, with great influxes of loyalists fleeing retribution at the hands of the independents who had gained control in the newly independent states of the United States. Nova Scotia and Canada saw the greatest influxes but there was also a substantial exodus to the West Indies, where once again colonies were initially lost to the French, only to be restored at the end of the war. There are some important developments towards income taxation during this period, particularly in some of the former French colonies gained by the British at the end of the Seven Years War. The second heading is rounded out with a consideration of direct tax developments in the Canadian colonies. The final heading of the chapter is essentially devoted to developments in the West Indian colonies.

4.1 The Brewing Storm: To 1775

This heading is divided into two parts. The first part considers developments in direct taxation in Britain between 1764 and 1775, which are few. However, it also briefly considers the attempts by Britain to tax the American colonies, which, among other factors (such as currency regulation), provoked the Americans into revolt. The second part considers developments in direct taxation in the colonies during the same period. As in Britain, the developments here are not substantial. Rather, this is a period during which the remaining debt burdens of the French and Indian War are largely thrown off and direct taxation becomes somewhat more sporadic.

British Provocation

The Seven Years War had increased the British national debt by more than 70 per cent.⁴ As a result, a 4s land tax was necessary to service the debt and this rate ran until 1767. In 1764, Grenville, Chancellor of the Exchequer and leader of the government, hatched a two-stage plan for the taxation of the American colonies as a means of supporting the British debt. The first step was implemented by a law of 1764, which imposed customs duties at the American ports on certain exports to places other than Britain.⁵ Dowell suggests the colonists allowed these as a regulation of commerce.⁶ The second part of Grenville's plan involved taxation in the form of stamp and licence duties, which were imposed in the following year.⁷ The American colonies disputed the right of the British Parliament to tax them without representation in that parliament. This caused great unrest in the colonies.⁸ The Grenville administration fell in 1765 and, in 1766, the new Rockingham administration repealed the stamp and licence duties. However, at virtually the same time the Rockingham administration passed another act declaring legislative authority over the colonies and people of America.⁹

Adding to disquiet in the American colonies at this time was the Currency Act of 1764.¹⁰ By this law the British Parliament effectively extended the Currency Act of 1751 (which had only applied to the New England colonies) to all American colonies, including those

⁴ Dowell (1965, Vol. II, p. 453).

⁵ An Act for granting certain Duties in the British Colonies and Plantations in America ... (4 Geo. III. c. 15) (1764) (UK). Simmons (1976, p. 296) says this was commonly called the 'Sugar Act'.

⁶ Dowell (1965, Vol. II, p. 149).

⁷ An Act for granting and applying certain Stamp Duties, and other Duties, in the British Colonies and Plantations in America ... (5 Geo. III. c. 12) (1765) (UK).

⁸ See Simmons (1976, pp. 308–10).

⁹ An Act to repeal an Act made in the last Session of Parliament, intituled, 'An Act for granting and applying certain Stamp Duties, and other Duties, in the British Colonies and Plantations in America ...' (6 Geo. III. c. 11) (1766) (UK) and An Act for the better securing the Dependency of His Majesty's Dominions in America upon the Crown and Parliament of Great Britian (6 Geo. III. c. 12) (1766) (UK). See also the discussion in Dowell (1965, Vol. II, pp. 144–59).

¹⁰ An Act to prevent Paper Bills of Credit, hereafter to be issued in any of His Majesty's Colonies or Plantations in America, from being declared to be legal Tender in Payments of Money; and to prevent the legal Tender of such Bills as are no subsisting, from being prolonged beyond the Periods limited for calling in and sinking the same (4 Geo. III. c. 34) (1764) (UK).

without royal charters and, it seems, the West Indies. Accordingly, the ability of the colonies to raise funds through the issue of bills of credit was severely hampered and the colonies were deprived of this form of currency and credit.

The merchants of New York and Pennsylvania . . . were quick to realize the implications of the act. Without a medium to circulate it, trade must decline. In other words, the policy of the British government embodied in the Currency Act of 1764 would inevitably produce a deflation that would accentuate the natural post-war depression. It is a small wonder that the act raised 'such a mighty disturbance, as to shake all the Northern Colonies'.¹¹

The restrictions imposed by this act 'added by so much to the cup of grievance of the colonies during those critical years when England was losing an empire'.¹² Despite the restrictions of this Act, by the early 1770s the British authorities were regularly approving further issues by the colonies.¹³

The Rockingham administration also fell quickly and was replaced, in 1767, by the Grafton and Pitt administration. The opposition (led by Grenville) pressured the new administration into reducing the land tax from 4s to 3s (at which rate it remained until the war, except for a 4s rate in 1771).¹⁴ This put added financial pressure on the new administration, which proceeded to extend the customs duties imposed on America in 1764. In particular, a duty was imposed on tea.¹⁵ Many colonies responded by prohibiting the import of the dutiable goods. The British Parliament responded in 1770, after yet another change to a government led by Lord North, by repealing all of the duties imposed in 1767 except that on tea.¹⁶ The American resistance continued and

¹¹ Brock (1975, pp. 524–5).

¹² Brock (1975, p. 527). See also Simmons (1976, p. 311).

¹³ See Ferguson (1961, pp. 22–3). ¹⁴ Dowell (1965, Vol. III, p. 86).

¹⁵ An Act for granting certain Duties in the British Colonies and Plantations in America; for allowing a Drawback of the Duties of Customs upon the Exportation . . . (7 Geo. III c. 46) (1767) (UK). Pitt was unwell and the measure was the suggestion of the Chancellor of the Exchequer, Charles Townsend.

¹⁶ An Act to repeal so much of an Act made in the Seventh Year of His present Majesty's Reign, intituled 'An Act for granting certain Duties in the British Colonies and Plantations in America; for allowing a Drawback of the Duties of Customs upon the Exportation . . .' (10 Geo. III c. 17) (1770) (UK). See generally, Simmons (1976, pp. 294–306).

culminated in the sinking of tea ships in Boston harbour in December 1773 (further discussed below at p. 320). In response the British tried to close the port at Boston and altered the charter of Massachusetts.¹⁷

There were further problems to the north. The Treaty of Paris of 1763, which ended the Seven Years War, forced the French administration and many settlers out of Quebec and French-held territories of Upper Canada (Ontario) and islands in the St Lawrence. However, many French settlers remained and there was unrest under the new British rule. In an effort to ease the unrest in Quebec (and achieve other goals), the British North America Act of 1774 was passed.¹⁸ This Act provided for the government of Quebec and in doing so allowed the continuation of civil law and the French language in Quebec and provided freedom of worship and legal and political rights for French Catholics. It also extended Quebec's boundaries to include western territories claimed by the colonial governments. The provisions of the British North America Act caused further disquiet in the colonies as it was seen as an attack on American Protestantism through an unwarranted concession to the French Catholics.¹⁹

Colonial Direct Tax Systems before American Independence

Despite the growing list of grievances of the American colonies in the period following the French and Indian War, there were only moderate developments in direct taxation in those colonies. The same is generally true of the existing West Indian colonies. However, there were developments on two other fronts, which flowed from the British victory in the war. The defeat of the French and Spanish in the Seven Years War opened the opportunity for increased British influence in India, which had also become important in terms of trade. This influence was achieved through the medium of the British East India Company.

¹⁷ Simmons (1976, pp. 338–41) and Dowell (1965, Vol. II, p. 162). The relevant laws were An Act to discontinue, in such Manner, and for such Time as are therein mentioned, the landing and discharging, lading or shipping, of Goods, Wares and Merchandise, at the Town, and within the Harbour, of Boston, in the Province of Massachusetts's Bay, in North America (14 Geo. III. c. 19) (1774) (UK) and An Act for the better regulating the Government of the Province of the Massachusetts's Bay, in New England (14 Geo. III. c. 45) (1774) (UK).

¹⁸ An Act to establish a Fund towards further defraying the Charges of the Administration of Justice, and Support of the Civil Government within the Province of Quebec, in America (14 Geo. III. c. 88) (1774) (UK).

¹⁹ Simmons (1976, pp. 341).

The second front was in the West Indies. By the end of the French and Indian War (Seven Years War), Britain had secured all of the French West Indies (except western Hispaniola) and had captured Havana (see p. 255). Within months of the fall of Havana the French and Spanish were negotiating peace terms with the British. By the Treaty of Paris of 1763, Britain:

restored to France Martinique and Guadeloupe (with its dependencies) but retained Canada, while of the former neutral islands it was agreed that France should have St. Lucia while Britain took Dominica, Grenada and the Grenadines, St. Vincent and Tobago . . . Britain also agreed to restore Havana to Spain and to take Florida in exchange . . .²⁰

Accordingly, the time period covered by this heading sees the initial development in a number of these newly secured colonies. In general, the West Indian colonies did not find themselves in conflict with the British Parliament during this period. In contrast to the American colonies, the power of the West Indian sugar industry was concentrated in the hands of a few British owners, many of whom were either in or influential in British Parliament.²¹

This subheading considers direct tax developments in the colonies between 1764 and 1775. It first considers developments in the American colonies. Then it considers developments in the West Indian colonies. There were also substantial developments in India and Africa during this period. The subheading proceeds to outline the origins of British influence in India and Africa and then considers developments during the period covered by this heading.

American Colonies

New England Massachusetts continued to issue and sink Treasury notes every two or three years until the War of Independence, although the amounts were reduced substantially during the early 1770s.²² Further, the 1757 formulation of direct tax (including the reference to

²⁰ Burns (1954, pp. 488–9). Burns continues, ‘special arrangements were made regarding Central America. Britain was to demolish all fortifications in the Bay of Honduras . . . while the Spaniards undertook not to molest British subjects engaged in cutting and transporting wood, and to allow them to have dwellings and warehouses necessary for their work’.

²¹ Burns (1954, p. 491). ²² Brock (1975, p. 275).

'income' from real and personal estate) was used continuously in direct tax laws during this period.²³

By 1764, Connecticut had sunk all bills of credit except those issued since 1762.²⁴ These outstanding issues ensured the continuation of the usual poll and estate tax. By 1769, this charge had been extended to expressly cover, as in Massachusetts, money loaned at interest.²⁵ In 1771 there was substantial elaboration of the charge on trades and business:

All Traders or Shop-Keepers in this Colony shall be rated in the List, after the rate of Ten *per Cent.* on the prime Cost of all Goods, Wares, and Merchandizes which they purchase for Sale by Retail (except the Produce and Manufactures of this Colony) and all Traders by Wholesale, Tradesmen, Artificers, Tavern-Keepers, and other by Law Rateable on Account of their Faculty or Business, shall be rated in the List to the Amount of their annual Gains, Incomes or clear Profits by means of their Business, according to the best Estimate that can be made thereof, by the Listers, who shall assess such Traders, Tradesmen, & c. by their best Discretion, agreeable to the Rules aforesaid: But when it appears that any Persons have been unsuccessful, or sustained considerable Losses in their Trade, in such Cases the Listers may make proper Abatement for the same.²⁶

Despite this elaboration, it is clear that this was still to be an objective assessment according to the judgment of the lister, rather than a subjective assessment consistent with books kept according to some form of accounting practice. This remained the position for the remainder of the period under consideration.

As in other New England colonies, by 1764, thanks to substantial taxes and British parliamentary grants during the French and Indian War, Rhode Island had largely retired its bills of credit and the process

²³ For example, see An Act for apportioning and assessing a Tax of Ten Thousand three hundred and twelve Pounds ten Shillings . . . (7 June 1774) (Massachusetts); American Antiquarian Society (1956—, No. 13411).

²⁴ Brock (1975, p. 324).

²⁵ An Act for the Direction of Listers in their Office, and Duty in Acts and Laws of His Majesty's Colony of Connecticut in New-England in America (1769) (Connecticut), at p. 290; American Antiquarian Society (1956—, No. 11215).

²⁶ An Act in addition to a Law of this Colony, intituled, 'An Act for the direction of Listers in their 'Office and Duty' (1771) (Connecticut); American Antiquarian Society (1956—, No. 12016).

was virtually complete by 1767.²⁷ In this year Rhode Island ordered a new assessment of rateable estates and the rateable estate specified made the property basis of the tax clear.²⁸ The estimate was to be 'the Standard and Rule by which Rates and Taxes shall be apportioned unto the several Towns in this Colony, until a new Estimate shall be taken . . .'. This assessment remained in place until after the start of the American War of Independence.

New Hampshire continued to retire its paper currency after the French and Indian War until all had been redeemed by 1771.²⁹ Direct taxation continued in the same manner as under the law of 1753 (see p. 233).³⁰ Indeed, the law of 1753 was simply repeated in 1767.³¹ In 1770 there was an attempt to reformulate the tax base in a more equitable and uniform manner.³² Under this law 'all publick rates and taxes shall be made and assessed in proportion to the amount of each persons polls, ratable estate and faculty . . .'. The law proceeded to follow previous practice in valuing polls and certain animals at a set amount, land by the acre and then various types of buildings at one tenth of 'their neat yearly value':

And all stock whether money at interest or improved in trade, shall be estimated at the rate of one per cent. And any persons faculty may be estimated by the select men of each town or parish at their discretion, not exceeding twenty pounds rateable estate . . .

As in Massachusetts, the list was to be made in various columns, including one for faculty. However, the movement here, as in

²⁷ Brock (1975, pp. 332–3).

²⁸ An Act for taking a just Estimate of the Rateable Estates in this Colony, in order that the Rates and Taxes may be equally assessed upon the Inhabitants (June 1767) (Rhode Island); American Antiquarian Society (1956–, No. 41761).

²⁹ Brock (1975, p. 306).

³⁰ The resolutions of the Assembly continued to simply refer to imposing a 'Province Tax', see New Hampshire (1867–1915, Vol. VII, pp. 80 [resolution of 28 June 1765] and 107 [resolution of 30 June 1766]).

³¹ See resolution of 22 September 1767; New Hampshire (1867–1915, Vol. VII, pp. 142–3). See also Robinson (1902, pp. 36–7).

³² An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs (12 April 1770) in Acts and Laws of His Majesty's Province of New Hampshire in New-England With sundry Acts of Parliament (1771) (New Hampshire), Temporary Laws, p. 38; American Antiquarian Society (1956–, No. 12146). It seems likely that this law was directed at the lack of uniformity in the local application of assessment rules mentioned in Robinson (1902, p. 34).

Connecticut and Rhode Island, appears to have been away from income and annual gains and towards assessment of outward signs. This law was essentially re-enacted, in 1773, with some changes regarding stock and its valuation.³³

As noted at page 264, the expulsion of French Acadians from Nova Scotia sparked a wave of immigration from the American colonies and, in particular, New England. By 1767 the population of Nova Scotia was about 13,000 of which over half identified themselves as of American origin.³⁴ In 1765 the counties were given power to raise direct assessments for various public purposes.³⁵ The assessments were to be made by certain justices 'in the justest and most equal Manner they can devise . . .'. This law was amended in 1768 to give the justices further powers of assessment where the grand juries in the counties had not identified a sum to be raised for county purposes.³⁶ In this case the justices were instructed to identify an amount that they felt was necessary 'which said sum or sums shall be equally assessed on the Inhabitants of said County, according to their ability . . .'.

The poor law (see pp. 264–5) and these county rates show clearly the influence of New England style taxation in Nova Scotia, particularly with its reference to ability. It seems there was no general direct assessment for the purposes of the Provincial government at this time (although quit-rents were payable on land). However, in 1772 a tax was imposed for one year on 'every householder and owner of Lands in this Province . . .' to make a fund available for making and repairing roads and bridges.³⁷ The rate was a set amount per individual but with a set amount per 100 acres for those with in excess of 500 acres. At least in a rudimentary way, the administrative provisions of this law appear to

³³ An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs (2 January 1772) (New Hampshire); American Antiquarian Society (1956—, No. 12880).

³⁴ Bourinot (1900, p. 19).

³⁵ An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned (5 Geo. III c. 6) (1765) (Nova Scotia); CO 219/7, p. 187.

³⁶ An Act in Addition to, and Amendment of an Act made in the fifth Year of His Present Majesty's Reign, intituled An Act for the Raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned (No. 140) (1768) (Nova Scotia); CO 219/12, p. 32.

³⁷ An Act for raising a fund for the purpose of making and repairing Bridges and Roads of Communication thro' the Province (No. 201) (1772) (Nova Scotia); CO 219/13, p. 73.

have been based on the British land tax. The law was continued to the time of American Independence.³⁸

In 1769, Prince Edward Island was granted a government separate from that of Nova Scotia under the name of the 'Isle of St. Jean'.³⁹ Here there was also a system of quit-rents.⁴⁰ A tax on retailers of liquor was imposed in 1774.⁴¹ Roads were generally to be financed with statute labour to be assessed on the heads of resident families in a manner that seems 'most agreeable to Equity and Good conscience'. The labour could be commuted by paying a fine at a specified rate per day of labour.⁴²

The problems that beset Quebec in the early years of British administration have been mentioned above at page 299. It seems that no new taxes were imposed by this administration during the period covered by this heading. Rather, the French indirect taxes in place prior to the conquest of Quebec were continued.⁴³ There was no system of direct assessment in Quebec at this time. The British North America Act of 1774 (also mentioned above at p. 299) gave the colony a limited power to tax for local purposes but the Act continued to assert Britain's power of regulation of navigation and commerce, with the accompanying right of levying duties.⁴⁴ A supplementary law allowed some other indirect taxes.⁴⁵

Middle Colonies The New York property tax continued to be imposed after the French and Indian War and was used to retire large amounts of the bills of credit that had built up during that war. With the assistance

³⁸ CO 219/13, pp. 87 and 100. ³⁹ Murray (1907, p. 223).

⁴⁰ For example, these are mentioned in CO 228/1, at p. 10.

⁴¹ An Act laying an imposition upon retailers of Rum and other distilled Spirituos Liquors (No. 20) (17 October 1774) (Prince Edward Island); CO 228/1, p. 75.

⁴² An act in addition to and Amendment of an Act made and passed in the 14th year of His Majesty's Reign, Intituled an act empowering His Excellency the Governor or other Commander In Chief for the time being to direct the making of Public Roads and to appoint persons to carry the same into Execution (No. 29) (11 July 1776) (Prince Edward Island); CO 228/1, p. 105.

⁴³ See the Proclamation of the Commander in Chief of the Province of Quebec of 5 July 1766; CO 44/1, p. 86.

⁴⁴ An Act for making more effectual Provision for the Government of the Province of Quebec in North America (14 Geo. III c. 83) (1774) (UK).

⁴⁵ An Act to establish a Fund towards further defraying the Charges of the Administration of Justice, and Support of the Civil Government within the Province of Quebec, in America (14 Geo. III. c. 88) (1774) (UK).

of grants from the British Parliament, by 1768 the bills had been largely paid off.⁴⁶ In 1771, New York made a new major issue of bills worth £120,000.⁴⁷ These bills were made on loan and so were not backed with taxes.

As mentioned at pages 259–60, in New Jersey bills of credit issued during the French and Indian War were to be sunk by direct taxes on real and personal estate to be levied annually until 1783. A law of 1769 set quotas for the counties of the colony in levying these taxes.⁴⁸ Otherwise, the 1769 law provided instructions as to the tax base that were virtually the same as those used in the 1753 law (see p. 236).

The Pennsylvanian direct tax system continued under the law of 1758 until 1764, when a new law provided for the issue of a further £55,000 in bills of credit and for the imposition of taxes for 1770–2.⁴⁹ Under this law the assessors were to determine the ‘clear yearly value’ of real estate by reference to rents and to use their ‘best Discretion’ to determine the value of other estate. The assessors were still to make a list as under prior laws but this now appeared in tabular form in the law and in greater detail. In particular, land was to be valued, typically per 100 acres, various animals per head, trades, occupations and professions ‘at the Discretion of the Assessors ...’ and ‘All annual Salaries, and lucrative Posts and Offices, shall be rated at Four Fifths of the Sums annually received for the same’. This approach to the assessment of trades was common throughout the middle American and New England colonies

⁴⁶ Brock (1975, pp. 346–7). However, amounts remained outstanding for a number of years to come, e.g. An Act for raising and collecting the Arrears of Taxes due to this Colony, from the City and County of New-York (16 February 1771) (New York); American Antiquarian Society (1956–, No. 12154). The tax base under this law was in the usual form.

⁴⁷ An Act for emitting the Sum of One Hundred And Twenty Thousand Pounds, in Bills of Credit, to be put out on Loan, and to appropriate the Interest arising thereon, to the Payment of the Debts of this Colony, and to such public Exigencies as the Circumstances of this Colony may, from Time to Time, render necessary (16 February 1771) (New York); American Antiquarian Society (1956–, No. 12154). See also Brock (1975, p. 345).

⁴⁸ An Act to settle the Quotas of the several Counties in this Colony for the levying Taxes (6 December 1769) (New Jersey) in Acts of the General Assembly of the Province of New-Jersey (1776, p. 317); American Antiquarian Society (1956–, No. 14911).

⁴⁹ An Act for granting to His Majesty the Sum of Fifty-five Thousand Pounds, and for striking the same in Bills of Credit, in the Manner herein after directed, and for providing a Fund for sinking the said Bills of Credit, by a Tax on all Estates real and personal, and Taxables within this Province (May 1764) (Pennsylvania); American Antiquarian Society (1956–, No. 9780).

and demonstrates that it must have been considered too difficult to assess trades accurately and subjectively according to books of account. The 1764 law was used as the base tax law until independence.

Delaware used British parliamentary grants during the French and Indian War to retire its bills of credit issued for the purposes of the war.⁵⁰ There were no further developments in the Delaware direct tax system (which continued to essentially involve county levies) prior to independence.

Southern Colonies In Virginia the taxes on polls and land, first imposed in 1755 (see p. 255) were continued until 1769. In 1769, a tax was imposed on carriages, slaves and law licences.⁵¹ There were no further developments until independence.

In Maryland the levy under the law of 1756 was the last general impost until independence. The usual annual operating expenses of government went unpaid from 1756 to 1766.⁵² By 1765 virtually all bills of credit and other loans had been retired and Maryland was in surplus. In the same year, against this surplus, bills of credit were emitted, for the first time in Spanish dollars. Most of these were used to pay the accumulated government expenses.⁵³

South Carolina continued to issue tax certificates in the post-French and Indian War period.⁵⁴ By 1765, the 1754 form of charge (see pp. 256–7) had been abbreviated but in largely the same form.⁵⁵ The tax on stock in trade and profits from faculties and professions, factorage and handicraft trades now applied to the whole colony. This was reinforced by the law of 1767, which also added a reference to employment under this head of tax.⁵⁶ The same system applied for 1768 and 1769, which apparently was the last tax law before independence.⁵⁷

North Carolina continued to levy a poll tax after the French and Indian War, particularly to sink bills of credit. There were no further

⁵⁰ Brock (1975, pp. 392–3).

⁵¹ An Act for the better support of the contingent charges of government (1769) (Virginia); Virginia (1809–1823, Vol. VIII, p. 342).

⁵² Becker (1980, p. 93). ⁵³ Brock (1975, pp. 422–4).

⁵⁴ See Brock (1975, pp. 460–1).

⁵⁵ An Act for raising and granting to His Majesty, the Sum of ... (6 April 1765) (South Carolina); American Antiquarian Society (1956–, No. 10169).

⁵⁶ An Act for raising and granting to His Majesty, the Sum of ... (28 May 1767) (South Carolina); American Antiquarian Society (1956–, No. 41882).

⁵⁷ Smith (1903, p. 284).

developments in the pre-independence period. Georgia too simply continued its South Carolina form of direct tax. However, in 1768 the tax on stock in trade was altered to only charge imported stock.⁵⁸ Similar further charges were made until independence.⁵⁹

Following the Seven Years War, French Louisiana was ceded to Spain who in turn ceded Florida to the British. The British proceeded to simultaneously establish governments for East Florida, West Florida and Quebec.⁶⁰ Little is known about any taxation which may have been imposed in Florida until it was lost during the American War of Independence but it may be that the Spanish system was simply continued. This was a common practice where the British acquired a colony from another European power and happened, for example, with respect to French taxes on the acquisition of Quebec and Grenada.

West Indies

In Barbados direct taxation continued in the usual form. In 1767, there was a change in the form of the 1761 law but this was only for one year.⁶¹ In the following year, Barbados welcomed a new governor with a similar grant but for the term of the governorship.⁶² This base levy of 1768 was added to from time to time⁶³ and a permanent supplement seems to have been imposed in 1772.⁶⁴ Another governor arrived in 1772 and he was soon made the usual direct tax grant during his

⁵⁸ An Act For Granting to his Majesty the sum of Three Thousand, Three Hundred and Seventy Five pounds Four Shillings and One Penny for the use and support of the Government of Georgia ... (11 April 1768) (Georgia); Georgia (1904—, Vol. XIX, Part 1, p. 29).

⁵⁹ For example, An Act For Granting to His Majesty the sum of Five Thousand one hundred and Seventy One pounds fifteen Shillings and tenpence half penny for the use and Support of the Government of Georgia ... (29 September 1773) (Georgia); Georgia (1904—, Vol. XIX, Part 1, p. 449).

⁶⁰ Simmons (1976, pp. 287, 295).

⁶¹ An Act for raising a Sum of Money to defray the Expenses of the Government for the Current Year (24 February 1767) (Barbados); CO 30/11, p. 230.

⁶² An Act for raising a Sum of Money yearly to defray the Expences of the Government (15 March 1768) (Barbados); CO 30/12, p. 19.

⁶³ For example, see CO 30/12, pp. 37 (1768), 82 (1769) and 108 (1770) and CO 30/13, pp. 19 (1771) and 122 (1773).

⁶⁴ An Act in Addition to an Act Intituled An Act for raising a Sum of Money yearly to defray the Expences of the Government and for Altering the Time appointed by the said Act for the giving in of Slaves Windmills Cattle Mills Potkilns and Carriages (21 January 1772) (Barbados); CO 30/12, p. 57.

governorship.⁶⁵ This law continued to be supplemented on a periodic basis.⁶⁶

By comparison, Antigua continued with its deficiency law of 1740, despite which, the ratio of Negroes to white persons was about fifteen to one.⁶⁷ In 1764, there was a charge on liquor licences and billiard tables only.⁶⁸ In 1768, the deficiency law was used to fund the governor's salary.⁶⁹ In the same year, there was a return to more comprehensive direct taxation in a fashion consistent with the levy of 1761 (see p. 267) and so there were taxes on liquor licences, billiard tables, sugar, rum and molasses, and a supplementary tax on slaves not belonging to sugar plantations.⁷⁰ The form of the tax on houses had changed somewhat and provided:

Owners or Possessors of Houses in any of the Towns of this Island . . . shall pay at and after the rate of One pound for every Hundred pounds Rent they shall have received for the said Houses if rented out . . . and at and after the same Rate upon the yearly value of all Houses which the said Owners shall occupy themselves or have given Rent free . . .

There were similar charges in 1770, 1774 and 1775.⁷¹

By comparison, in St Kitts and Nevis there were virtually no developments. St Kitts continued to rely on the taxation of slaves per head as well as houses, shops and tenements in the towns according to

⁶⁵ An Act for raising a Sum of Money to defray the Expences of the Government Yearly (17 February 1774) (Barbados); CO 30/14, p. 22.

⁶⁶ For example, An Act in addition to an Act intituled 'an Act for raising a Sum of Money to defray the Expences of the Government Yearly' (16 May 1775) (Barbados); CO 30/14, p. 78.

⁶⁷ Burns (1954, p. 510).

⁶⁸ An Act for raising a tax for paying publick debts and charges and particularly applying the said tax (15 June 1764) (Antigua); CO 8/13, p. 69.

⁶⁹ An Act for providing an additional Support for His Excellency William Woodley Esquire during his Government and appointing particular Funds for the payment thereof (17 April 1768) (Antigua); CO 8/15, p. 1.

⁷⁰ An Act for raising a Tax for paying Publick Debts and Charges and particularly applying the said Tax (9 June 1768) (Antigua); CO 8/15, p. 3.

⁷¹ An Act for raising a Tax for paying Publick Debts and Charges and particularly applying the said Tax (15 June 1770) (Antigua), An Act Raising a Tax for paying Public Debts and Charges, and particularly applying the said Tax (13 August 1774) (Antigua) and An Act raising a Tax for paying Public Debts and Charges and particularly applying the said Tax (16 September 1775) (Antigua); CO 8/15, p. 47 and CO 8/18, pp. 20 and 55, respectively.

their yearly value (in essentially the same form as the 1739 law).⁷² Nevis continued with its simple slave tax.

Jamaica also continued with the tax mix it had used during King George's War. This included indirect taxes topped with a tax on certain public officers and, in a separate law, a tax on slaves and cattle, on trades according to vestry rolls and on rents from 'houses, wharfs and storehouses'.⁷³ The deficiency law also continued to play an important part in Jamaican finances and policies.⁷⁴ The Negro to white ratio remained at about fifteen to one.⁷⁵

In the Bahamas, by contrast, the race ratio was much more balanced but the overall population was still well below 5,000.⁷⁶ Initially after King George's War the Bahamas simply continued to impose the tax of 1762 (see p. 268).⁷⁷ The form changed somewhat in 1767 when there

⁷² For example, An Act for Granting an Aid to His Majesty by a Duty or Tax of Three Shillings and Six pence Current Money per poll on all Negroes and other Slaves and the further Duty of Three pounds Ten Shillings in the Hundred pounds on the Yearly Value of all Houses Warehouses Shops and Tenements in the Several Towns within the said Island for Repairing the Forts and Fortifications and defraying the other publick Expences of the said Island (22 March 1766) (St Kitts) and An Act for Granting an Aid to His Majesty by a Duty or Tax of five Shillings current Money per Poll on all Negroes and other Slaves and the further Duty of five pounds in the hundred Pounds on the yearly value of all Houses Warehouses Shops and Tenements in the several Towns within the said Island for repairing the Forts and Fortifications and defraying the other Public Expences of the said Island (18 July 1771) (St Kitts); CO 240/10, p. 50 and 240/11, p. 52, respectively.

⁷³ An Act for laying a duty on all Wines Rum and other spirituous Liquors retailed within this Island and for laying a further Tax on Licences to be granted for the retailing of Wine and other Liquors and for laying a Tax on Super Cargoes and on the Public Officers, and applying the same to several Uses (12 August 1766) (Jamaica) and An Act for raising a Tax by the Poll, and on Trades, Super Cargoes, and Masters of Vessels in the Out Ports, and also for laying a Tax on certain Wheel Carriages and applying the same to several Uses (12 September 1766) (Jamaica); CO 139/22, pp. 48 and 89, respectively.

⁷⁴ An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men White Women or White Children or pay certain Sums of Money in case they shall be deficient and applying the same to several Uses to protect Freeholders on the days of choosing Church Wardens and Vestry Men and to ascertain who shall be deemed duly qualified to Vote at such Elections (24 December 1773) (Jamaica); CO 139/28, p. 28.

⁷⁵ Burns (1954, p. 511) puts the population in 1774 as '12,737 whites, 4,093 free coloured people, and 192,787 slaves'.

⁷⁶ 'In 1773 the population of the Bahamas was estimated to be 2,053 whites and 2,341 coloured persons' Burns (1954, p. 514).

⁷⁷ For example, it was continued for two years in 1764 by An Act for reviving for a time herein mentioned, an act intiuled an act raising a fund for the payment of Officers salaries, defraying the expence of holding assemblies and other contingent charges of the Government of these Islands, and for ascertaining the said salaries (22 May 1764) (Bahamas); CO 25/3, p. 1.

was the usual poll tax, a tax on town lots in New Providence (the residual tax per acre seems to have fallen out of charge), animals per head and carriages.⁷⁸ The faculty tax had been broadened to provide: 'For faculties, professions and Trades, at and after the rate of Six shillings for every Thirty pounds such faculty, profession and Trade shall be valued at for one Year by the Assessors ...'. In 1771, this charge became: 'for profits of Merchandize, for Faculties, professions and Trades, at and after the rate of Six Shillings for every Thirty pounds such profits of Merchandize, Faculties, professions and Trades shall be valued at for One Year by the assessors ...'.⁷⁹ By this stage the practice was for each law to impose taxes for two years.⁸⁰

The British had a connection with central America from at least 1665. In particular, British logwood cutters had been working in what is now Belize (formerly British Honduras) but there was also a substantial connection on a similar basis with the Mosquito Coast (east coast of Nicaragua and part of Honduras).⁸¹ Burns notes that 'the Governor of Jamaica exercised only a shadowy authority over the English settlements from Yucatan to the Moskito [sic] Coast ...'.⁸² The Spanish had been uneasy about this presence and there were a number of disputes and confrontations. At the end of King George's War, the governor of Jamaica urged that civil government be set up on the Mosquito Shore and in 1750 a Superintendent for the Mosquito Coast was appointed.⁸³ In 1764, the Spanish in Yucatan (now part of Mexico) determined to drive the British logwood cutters from the banks of the Hondo River

⁷⁸ An Act for laying a Poll Tax, and other Taxes and Assessments, and for levying the Arrears of Taxes due for the several Years herein mentioned, and directing how the same shall be Collected and applied (14 January 1767) (Bahamas); CO 25/3, p. 29.

⁷⁹ An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein Mentioned, and directing how the same shall be collected and applied (12 March 1771) (Bahamas); CO 25/4, p. 46.

⁸⁰ For example, An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein Mentioned, and directing how the same shall be collected and applied (12 February 1773) (Bahamas) (taxes for 1773 and 1774) and An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein Mentioned, and directing how the same shall be collected and applied (24 December 1774) (Bahamas) (taxes for 1775 and 1776); CO 25/4, p. 58 and CO 25/5, p. 20, respectively.

⁸¹ Burns (1954, p. 362). ⁸² Burns (1954, p. 365).

⁸³ Burns (1954, pp. 496–7).

(now just inside Belize) but a British naval squadron, headed by Admiral Burnaby, was detached to meet the threat.

When Admiral Burnaby went to Belize in 1764 he found most of the Baymen anxious for law and order to be established among them and as a first step he codified the existing rules and customs of the settlement and drew up a form of constitution based on the existing organisation.⁸⁴

These rules were called 'Burnaby's Laws' and included a power to raise taxes.⁸⁵ The local currency was logwood. No formal government was established for Belize, no governor sent, because the British doubted their territorial rights to the area. Nevertheless, the local court imposed taxes, an early example being the tax of 15 May 1766, which was imposed annually on 'flats' (a type of boat).⁸⁶ This tax was payable in logwood according to the tonnage of the boat.

By contrast, Dominica, Tobago, St Vincent and Grenada had been transferred to the British as a result of the Treaty of Paris of 1763. A governor was appointed for this group and it was known as the Southern Caribbee Islands. The headquarters of the group was in Grenada but lieutenant governors were appointed for the other islands. The early years of the colony were difficult and there were a number of disputes with the native Caribs.⁸⁷ The governor's instructions included establishing the usual form of legislature (in each of the four islands) and laws were passed by an assembly in Grenada as early as 1767.⁸⁸

As to taxation, by letters patent dated 20 July 1764 the British Crown sought to impose the usual 4.5 per cent custom on exports of local produce from the new colonies, i.e. in a similar manner as the custom was imposed in Barbados and the Leeward Islands (see p. 146).⁸⁹ The imposition in Grenada was challenged in the famous case of *Campbell v. Hall* where Lord Mansfield held that the Crown had no power to impose

⁸⁴ Burns (1954, pp. 501–3).

⁸⁵ These Laws are reproduced in British Honduras (1931–35, Vol. I, pp. 101–5). In particular, Clause 6 provides power to raise taxes on 'the Inhabitants of the Bay'. Taxes were to be imposed by two of the Justices and five representatives of the inhabitants.

⁸⁶ British Honduras (1931–35, Vol. I, p. 113).

⁸⁷ Burns (1954, p. 505).

⁸⁸ See letters patent of 9 April 1764; C 66/3695.

⁸⁹ This was done by five consecutive letters patent of the same date applicable, in order, to the Grenadine Islands, Grenada, St Vincent, Dominica and Tobago; C 66/3697.

this tax because the Crown had abandoned this power when it granted the new colony a constitution without it.⁹⁰ As a result, 'the duty was abolished not only in Grenada but also in Dominica, Tobago and St Vincent'.⁹¹

In the case of Grenada, the same letters patent of 1764 continued:

And whereas a poll Tax that was Levied and paid by the Inhabitants of Our said Island of Grenada whilst it was under Subjection to his Most Christian Majesty It is Our further Royal Will and Pleasure that such poll Tax . . . shall be Continued . . . as the same was Collected Levied and paid whilst the said Island was under Subjection . . .⁹²

So as in Quebec, the previous tax system was continued when the British took control but in this case former taxation included a poll tax. The precise form of this tax is not clear but it may be that it was similar to the *capitation* imposed in France at this time (see p. 187) and to the poll tax imposed by Grenada later in 1778 (see p. 346). It seems this was a continuing charge.

In 1767, Grenada imposed a more typically British West Indian style of direct taxation. It seems this was closest to the Antiguan style of tax and involved taxation of the 'Inhabitants of Grenada and of the Grenadines . . .' with respect to slaves per head, land per acre and 5 per cent of 'the Value of Annual Rents of the Houses, Stores, and other Buildings in the several towns of the said Islands . . .'.⁹³ As in Antigua, there was also taxation of billiard tables and taverns. A new governor was welcomed in 1772 with a slave tax to meet the costs of his salary.⁹⁴

⁹⁰ *Campbell v. Hall* (1774) 98 ER 848.

⁹¹ Burns (1954, p. 507). It is assumed the same applied to the Grenadine Islands.

⁹² C 66/3697. This aspect of the letters patent was implemented by An Ordinance for the better Collecting and Receiving the Capitation Tax (10 February 1766) (Grenada); CO 103/1, p. 3. The same provision appeared in the letters patent for the Grenadine Islands but not for St Vincent, Dominica or Tobago. It seems, therefore, that there was no poll tax in the later colonies at the time they were taken by the British.

⁹³ An Act for Raising a Sum of Money, to pay off the Debts of these Islands, and to answer the present Exigencies of the Publick (20 April 1767) (Grenada); CO 103/1, p. 22.

⁹⁴ An Act for providing an Additional Support for His Excellency William Leyborne Esquire, during his Government, and appointing particular funds for the Payment thereof (4 July 1772) (Grenada); CO 103/3, p. 41.

The governor of the Southern Caribbee Islands set up a separate assembly for Dominica in 1767.⁹⁵ In 1770, Dominica was separated from the other islands and granted its own governor.⁹⁶ It seems that the first direct tax law passed by the Dominican Assembly was in 1772.⁹⁷ This law imposed a tax per acre of land sold by the crown and a tax on slaves employed in plantations or slave tradesmen not employed in plantations. The law proceeded to impose a ‘Tax of three per Cent on the Rent of all Houses and Buildings in the several Towns ...’ except if these belonged to a plantation. At the same time a separate law imposed a tax per acre of woodland.⁹⁸ In the following year a tax was imposed on taverns and billiard tables, which made the overall system in Dominica similar to that in Grenada.⁹⁹ These direct taxes were reimposed periodically until the American War of Independence.¹⁰⁰

St Vincent’s assembly met somewhat earlier than that of Dominica and it passed its first tax laws in 1767. These involved liquor licences and import duties on alcohol¹⁰¹ and, under a separate law, taxation of slaves per poll and land per acre.¹⁰² Later in the same year St Vincent followed

⁹⁵ An Ordinance for the Establishing an Assembly in the Island of Dominica, and Regulating the Elections thereof (12 September 1767) (Grenada); CO 103/3, p. 127. This ordinance was passed by the ‘Governor of the Southern Charibbee Islands of Grenada, the Grenadines, Dominica, Saint Vincent and Tobago in America with the advices of the General Council’.

⁹⁶ Burns (1954, p. 505).

⁹⁷ An Act for Raising a general Fund for defraying the Public Debts of This Island (2 June 1772) (Dominica); CO 73/6, p. 46. The preamble of this law states: ‘Whereas many Debts have necessarily been incurred in this Island and no Tax hath been hitherto laid for the Payment thereof ...’.

⁹⁸ An Act for laying a Tax on all Wood Land in this Island and to Encourage the Speedy Cultivation of the same (2 June 1772) (Dominica); CO 73/6, p. 47.

⁹⁹ An Act for raising a Fund towards defraying the present and contingent Debts of this Colony by licencing and taxing Taverns Tippling Houses Billiard Tables etc. in this Island (14 August 1773) (Dominica); CO 73/6, p. 60.

¹⁰⁰ For example, An Act for Raising a fund towards defraying the Publick Debts of this Island (12 October 1774) (Dominica) and An Act For laying a Tax on all Wood land in this Island and to Encourage the Speedy Cultivation of the same (1774) (Dominica); CO 73/7, pp. 52 and 56, respectively.

¹⁰¹ An Act for establishing a public Treasury in this Island for the raising a Fund for the Discharge of a public Debt and towards defraying the contingent Expences of the same by a Tax upon Vintners and Retailers of spirituous Liquors and an Impost upon spirituous Liquors imported into this Island and for appointing a Treasurer (11 July 1767) (St Vincent); CO 262/1, p. 3.

¹⁰² An Act for the laying a Tax on Lands and Slaves in this Island (11 July 1767) (St Vincent); CO 262/1, p. 47.

the Jamaican lead and adopted a deficiency law. Unlike the Jamaican law, but like the Antiguan law, the St Vincent law was perpetual and required one white servant for every thirty slaves.¹⁰³ The charge was £40 annually for each white deficiency. In 1769 the charge became similar to that imposed in Grenada, involving a tax on slaves, land per acre and the yearly rents of town lots, houses and stores.¹⁰⁴ A similar tax was imposed in 1774 and now incorporated liquor licensing.¹⁰⁵

Little is known as to direct taxation in Tobago during the period covered by this heading and the French held the island between 1781 and 1793. However, judging from the style of tax adopted after its recapture (see p. 379), it seems likely that Tobago adopted direct taxation similar to the other Southern Caribbee Islands and so taxed slaves per poll, land per acre and yearly rents in the towns.

Developments in India

The defeat of the French in the Seven Years War also substantially affected the balance of power in India and a few words about the development of British influence in Indian taxation is appropriate. Mention has been made of the chartering of the East India Company in September 1600, its involvement in early British overseas trade expansion and its early accounting practices (see pp. 132–3). Regarding its trading activities, the Company established its first trading factory on Java in 1602–3, which was eventually closed down by the Dutch in 1682. Other factories soon followed in Surat and Masulipatam (in India). In 1639 a fortified settlement was established at Madras and a town of white Europeans grew up. In 1651 a further trading factory was established at Hugli on the coast of Bengal. The Company

¹⁰³ An Act for compelling Owners and Possessors of Slaves to keep proportionable Numbers of white Protestant Servants (27 October 1767) (St Vincent); CO 262/1, p. 87.

¹⁰⁴ An Act for laying a Tax on Lands Slaves and Buildings in this Island (21 August 1769) (St Vincent); CO 262/2, p. 13. The wording of the latter part of the charge was: 'a Further Tax of three per Cent, upon the yearly rents or yearly Value of all Houses and Stores upon any Lotts of Land in this Island which Lotts have been Sold by his Majesty's Commissioners as Garden Lotts or Town Lotts . . . and five pers Cent upon the yearly Rent or Value of all Houses and Stores, built upon any Spots within the Three Chains of high Water mark . . . and one and a half per Cent upon the yearly rents or yearly Value of all Houses, and Stores built in Kingston . . . and also Forty Shillings upon all unbuilt Town Lotts . . .'.

¹⁰⁵ An Act for laying a Tax for paying Publick Debts and Charges and particularly Applying the said Tax (16 March 1774) (St Vincent); CO 262/3, p. 13.

was re-established in 1653 and again in 1657. The Portuguese ceded Bombay to the English crown in 1661 as part of Charles II's marriage settlement. In 1669, Charles II passed possession of the land to the Company for an annual rent of ten rupees.¹⁰⁶ The acquisition of lands from Indian owners did not commence until a few decades later.

Mention has also been made of the early English taxation of stock in the East India Company (as opposed to the Company itself), e.g. under the laws of 1678 (see p. 152) and 1688, 1689 and 1692 (see pp. 183–5). But it is in its role as administrator of Indian taxes that the Company is most famous. In 1696, the Company gained permission to build a fort at its settlement in Calcutta in Bengal and a considerable town grew up. In 1698, the Company purchased the 'zamindari' rights to the three small towns of Calcutta, Sutanuti and Govindapur. These were essentially rights to collect land tax from the peasants ('raiya'ts') in a particular district held by a 'zamindar' (superior land holder). At this time, and well into the nineteenth century, land taxation 'formed the bulk of the State income in India'.¹⁰⁷

The 1698 purchase required the Company to pay:

the local zemindar fifteen hundred rupees and agreeing to pay the Nawab of Bengal the same rent as had been paid by the previous zemindar. This latter payment amounted to Rs. 1.194-14-11 a year, to meet which the Company was empowered to collect a maximum rent of Rs. 3 per bigha of land from the inhabitants.¹⁰⁸

A 'nawab' was a type of governor or deputy of a province or amalgam of provinces, and so a government official under the Mughals who was appointed by and responsible to the emperor directly. While the zamindari rights amounted to personal property, through this purchase the Company first became involved in the Indian administrative system.

A new East India Company was chartered in 1698 and both it and the old East India Company traded in Asia until both were merged into the United East India Company in 1702.¹⁰⁹ Despite earlier promises from the emperor, it was not for some time that the Company would acquire further proprietary rights. In 1754, it obtained possession of a district adjacent to Calcutta from a local zamindar. Since the early 1700s there

¹⁰⁶ Marshall (1998, pp. 270–9) and Banerjea (1928, p. 127).

¹⁰⁷ Banerjea (1928, p. 126). ¹⁰⁸ Banerjea (1928, p. 127).

¹⁰⁹ Marshall (1998, pp. 282–3). The Company remained in this form until it was wound up in 1858.

had been friction between the Nawab of Bengal and the Company and during the Seven Years War, with French assistance, the Nawab captured the Company's Calcutta fort. In 1758, a British force led by Robert Clive recaptured Calcutta. Shortly after there was a change in nawab and the company obtained free tenure of Calcutta and its adjacent territory. It also acquired further zamindari rights to 'Twenty-four Perganas' from the new nawab and in 1759 the Company farmed out its rights to receive rent from these for three years. In the early 1760s the zamindari rights of Burdwan, Midnapur, and Chittagong were ceded to the Company.¹¹⁰

In 1765, the East India Company acquired directly from the emperor the 'diwani' (revenue administration system) for the great provinces of Bengal, Bihar and Orissa. This entitled the Company to collect the provincial land tax revenue in return for a fixed sum (26 lakhs of rupees) payable to the emperor. The Company proceeded to agree with a local nawab a fixed price for government administration (53 lakhs of rupees), leaving the Company to pocket the difference between these costs and the revenue collected. This arrangement proved profitable to the Company (though disastrous to the local economy) and in 1767 the British Parliament ordered that:

in consideration of an annual payment to the British Government, the extensive territories which had been recently acquired in India should remain in the possession of the Company for a term of two years. This term was soon afterwards extended for a further period of five years.¹¹¹

The years of East India Company rule were underlined by plunder of the Bengal economy, which collapsed, particularly in the face of the famine of 1769/70, which in turn led to a period of losses for the Company. The British Government provided the Company with relief in the form of a loan but as a consequence passed the Regulating Act of 1773.¹¹² This Act provided that the government of Bengal (through the Company) was to consist of a governor-general and four councillors. The other provinces (presidencies) were rendered subordinate to Bengal in peace and war, though retained an independent internal administration.¹¹³ Despite this British regulation, the Company continued as the holder of the revenue administration rights.

¹¹⁰ Banerjea (1928, pp. 128–9). ¹¹¹ Banerjea (1928, pp. 7–8, 130).

¹¹² An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe (13 Geo. III. c. 63) (1773) (UK).

¹¹³ Banerjea (1928, pp. 8–9).

Developments in West Africa

It is useful at this point to mention the various chartered companies that traded in West Africa from the early seventeenth century. These companies established various forts and settlements along the West African coast. As Hair and Law note, these forts and settlements may be:

regarded as the beginnings of what became the British colonies of Gambia, Sierra Leone and the Gold Coast, at least in the sense that physical occupation was more or less continuous from the seventeenth century, though the extension of British rule over the interior did not occur until the nineteenth century.¹¹⁴

The Guinea Company was formed in 1618 with a monopoly of trade in West Africa. The company was rechartered in 1631. During the 1630s the company established trading factories along the coast of what is now Ghana and a little further on the coast of what is now Nigeria. However, by the mid-1650s 'the Guinea Company had ceased to function as an effective trading body, though it retained its fort at Kormantin and other stations on the Gold Coast. In 1657 it leased its rights and factories to the East India Company . . .'.¹¹⁵

In 1660, a new company was formed and given trading rights in West Africa, which quickly established James Fort on the Gambia near the French in Senegal. This company was re-chartered as the Royal African Company in 1663 with the Duke of York, later James II, as its governor. The company undertook to provide a supply of slaves to the West Indian colonies. After hostilities with the Dutch leading to the Second Anglo-Dutch War (see p. 136), most of the English factories along the Gold Coast were lost. These losses ruined the Royal African Company, which did little trade after 1665 but rather licensed rights to private traders. A new Royal African Company was incorporated in 1672. This company traded mainly in slaves to the West Indies and Virginia. The company maintained trading posts in the Gambia, Sierra Leone, the Gold Coast and the Slave Coast.¹¹⁶

In 1698, the Royal African Company's monopoly on trade to West Africa was largely removed. 'By 1730 the Company had ceased to function as a trading company, but was then granted a government

¹¹⁴ Hair and Law (1998, p. 260). ¹¹⁵ Hair and Law (1998, pp. 251–4).

¹¹⁶ Hair and Law (1998, pp. 255–7).

subsidy in order to maintain its African factories, in the interests of English trade in general.¹¹⁷ These subsidies were in the order of £10,000 on a yearly basis but the British government ceased paying them in 1747. After a government inquiry a new company was formed in 1750 (largely of the merchants trading in the area and known as the Company of Merchants Trading to Africa) that was responsible for the management and upkeep of the forts. This company was in principal an organ of local government in West Africa and facilitated the carrying on of the slave trade.¹¹⁸

The Company of Merchants inherited from the Royal African Company the management of a number of British forts or trading stations, which were concentrated on the Gold Coast.¹¹⁹ Under the management of the Company of Merchants, parliamentary grants resumed. They were regularly of £10,000 per annum for the support of the forts, with an increase to £13,000 in 1761, and the Company was financially dependent on these grants. Its forts were small, with European staff typically varying between five and fourteen. The Company was not the territorial owner of the forts 'but tenants of the natives, to whom they paid rent for the forts that they held'. The position of the Royal African Company before it was the same. This position of tenancy was not altered during the existence of the Company of Merchants. Indeed, the Company had little power beyond the forts and no authority over law and order with respect to the traders in the area.¹²⁰

Following French naval defeats during the Seven Years War, France ceded Senegal to the British. In 1764, a British law united Senegal with the other forts under the management of the Company of Merchants trading to Africa.¹²¹ This arrangement proved unsatisfactory and a law of 1765 erected a separate crown province out of the Gambia

¹¹⁷ Hair and Law (1998, p. 259). ¹¹⁸ Martin (1929, pp. 450–1).

¹¹⁹ There were numerous European trading stations on the Guinea Coast. Martin (1929, p. 452) notes that '[t]his shore was divided, from west to east, into the Grain Coast, Tooth (or Ivory) Coast, Gold Coast and Slave Coast, the majority of the forts being concentrated on the Gold Coast, where the Dutch and English together had some twenty-five forts and factories, the Brandenburgers two, and the Danes one . . . All these Guinea forts were erected on a strip of coastal plain separated by a range of mountains from the little-known interior.'

¹²⁰ Martin (1927, pp. 17, 38, 48–9, 55).

¹²¹ An Act for vesting the Fort of Senegal, and its Dependencies, in the Company of Merchants trading to Africa (4 Geo. III. c. 20) (1764) (UK).

and Senegal settlements and forts, known as 'Senegambia'.¹²² The province was to be governed in a similar manner as the American colonies. The first governor arrived in 1766.¹²³ The cost of this administration was to be met with a duty on all gum exported from the coast¹²⁴ but the government of the new province was essentially funded with parliamentary grants in the same manner as the Company of Merchants.¹²⁵

4.2 War and Independence

Some of the British fiscal measures, which formed an important part of the list of grievances, that provoked the American colonies into revolt have been recounted at pages 297–9. The early 1770s were a time of depression and 'outpourings of radical rhetoric' in the American colonies. In 1773, the British Parliament passed a law allowing the East India Company to import tea directly into the American colonies without going through Britain, thereby avoiding British import duties but not the remaining duty payable under the 1767 Townsend Act on importation into America.¹²⁶ The law was designed to assist the Company, which, as mentioned at page 316, was in financial crisis, and to make its tea competitive with Dutch tea smuggled into the

¹²² An Act for repealing the Act made in the last Session of Parliament, intituled, An Act for vesting the Fort of Senegal, and its Dependencies, in the Company of Merchants trading to Africa; and to vest as well the said Fort and its Dependencies, as all other the British Forts and Settlements upon the Coast of Africa, lying between the Port of Sallee and Cape Rouge, together with all the Property, Estate and Effects of the Company of Merchants trading to Africa, in or upon the said Forts, Settlements and their Dependencies, in His Majesty; and for securing, extending and improving the Trade to Africa (5 Geo. III. c. 44) (1765) (UK). See also, Martin (1929, p. 454) and Martin (1927, p. 64).

¹²³ Martin (1929, p. 455).

¹²⁴ An Act for laying certain Duties upon Gum Senega and Gum Arabic imported into or exported from Great Britain, and for continuing the Exportation of Gum Senega from Africa to Great Britain only (5 Geo. III. c. 37) (1765) (UK). The duty was imposed by Britain and was not clearly earmarked for the colony. The law incorporated the usual Acts of Trade restrictions.

¹²⁵ Martin (1927, p. 72). It seems that at least one governor sought to raise a tax, Martin (1927, p. 95).

¹²⁶ An Act to allow a Drawback of the Duties of Customs on the Exportation of Tea to any of His Majesty's Colonies or Plantations in America; to increase the Deposit on Bohea Tea to be sold at the Indian Company's Sales; and to empower the Commissioners of the Treasury to grant Licences to the East India Company to export Tea Duty-free (13 Geo. III. c. 44) (1773) (UK).

American colonies. For the colonists the law was simply a reminder of the British assertion of a right to tax them and some viewed this as a British measure to increase importation of tea and so the taxation of the American colonies. One consequence was the dumping of East India Company tea into Boston harbour in late 1773, which was mentioned above at page 299.¹²⁷

In 1774, the British sent four regiments to Boston to enforce the measures that, among other things, had been passed to close the port of Boston. American resistance began to galvanise as town meetings turned into provincial congresses and a movement of resistance began to spread throughout New England and into the other American colonies. In mid-1774 there were growing calls for an annual continental congress and a number of colonies elected representatives for such a congress. The first such congress took place in Philadelphia in September 1774 and only Georgia was unrepresented. The congress encouraged armed resistance to the laws affecting Boston and called for an embargo on imports from Great Britain and Ireland and exports of American goods to Great Britain unless certain British Acts were repealed.¹²⁸

The British response was to send more troops to New England and blockade its coast. Later in 1775, the blockade was extended to virtually all American colonies. Confrontation commenced in Massachusetts in 1775 when British troops attempted to seize military supplies being stored by local militia. The attempt failed and the New Englanders took up arms against the British garrison at Boston. The Continental Congress of 1775 voted to raise an American army with George Washington as its commander-in-chief and fund this through the issue of bills of credit.¹²⁹ There followed an invasion of Quebec by New York militia and the British retreated from Boston to Halifax in Nova Scotia. By early 1776, the conflict had spread to the southern colonies and the Continental Congress had thrown American ports open to foreign ships (in retaliation for the British trade blockade) and sent an envoy to France to seek assistance. By the middle of 1776, the British had assembled in New York the largest force that it had ever sent overseas, more than 40,000 troops and seamen.¹³⁰

In 1776, a number of colonies called for the Continental Congress to declare the independence of the colonies, and Rhode Island pre-empted

¹²⁷ See Simmons (1976, pp. 335–9). ¹²⁸ Simmons (1976, pp. 341–7).

¹²⁹ The initial issue was \$6 million; Simmons (1976, p. 388).

¹³⁰ Simmons (1976, pp. 349–53).

this by declaring independence itself. The Congress approved a motion for independence and the Declaration of American Independence ratified by twelve of the former colonies on 4 July 1776. Most of the colonies proceeded to establish new constitutions.¹³¹ In the same year, Congress issued a further \$19 million in bills of credit, which were to pay for the war.¹³² The initial stages of the war seemed to favour the British but Washington began to turn the tide with some morale boosting victories late in 1776 and early in 1777. Further victories in 1777 assisted the Americans in securing assistance from the French, who joined the war on the Americans' side in mid-1778. Spain also entered the war on the side of the Americans.

The British tried to ease the conflict with the Declaratory Act of 1778.¹³³ Under this Act Britain renounced any right to tax its colonies for revenue purposes. It did, however, retain control over certain sources of tax with the proviso that the returns were to be expended where collected. But the war continued and settled into a battle of attrition, which devastated the economies of the former colonies and also drained the British through its costs. The Americans, aided by the French, eventually secured victory and the Treaty of Versailles formally ended the war in 1783. By this time between 60,000 and 100,000 loyalists had gone into exile.¹³⁴

The loss of the American War of Independence was followed by a decade of relative calm in Britain and America, although some disputes continued (particularly as to the western borders of the United States). But by the end of the 1780s the storm clouds were gathering again, this time in France. In 1789, the French monarch, Louis XVI, struggling under the pressure of debt and on the verge of bankruptcy, called the first *Estates General* (representative body of the people) since 1614 in an effort to secure greater taxation. But of the three estates (clergy, nobility and commoners), the commoners decided to meet by themselves and established a National Assembly. The National Assembly proceeded to abolish feudalism and the tithes of the clergy and generally to remove

¹³¹ Simmons (1976, pp. 354–70). ¹³² Simmons (1976, p. 388).

¹³³ An Act for removing all Doubts and Apprehensions concerning Taxation by the Parliament of Great Britain in any of the Colonies, Provinces and Plantations in North America and the West Indies; and for repealing so much of an Act, made in the Seventh Year of the Reign of His present Majesty, as imposes a Duty on Tea imported from Great Britain into any Colony or Plantation in America, or relates thereto (18 Geo. III. c. 12) (1778) (UK).

¹³⁴ Simmons (1976, p. 375).

monarchical power. The National Assembly procrastinated long over a new constitution but continued to pass laws removing monarchical power. The monarch was captured when he tried to flee Paris in 1791 and was returned to Paris, suspended and, with the queen, held under guard.

There followed skirmishes between the National Guard and the public and later in 1791 Austria and Prussia, among others, issued a declaration demanding the reinstatement of Louis XVI and threatening an invasion.¹³⁵ This gave the National Assembly the impetus to complete the constitution, which Louis XVI signed. The new Legislative Assembly met from late 1791 but slowly degenerated into chaos. French politics made war a popular option and when the Austrian Emperor died in 1792 France declared war and Prussia soon joined the war on the side of Austria. Later in 1792 there was an uprising in Paris, which resulted in the abolition of the monarchy and the usurping of the Legislative Assembly by the Convention, which had been created to draft a new constitution. In the face of a new threat from Austria and Prussia if Louis was not reinstated, the Convention condemned him to death, which was carried out early in 1793. As mentioned above, this brought Britain (as well as Spain and the Netherlands) into the war on the side of Austria and Prussia.

This heading considers the British direct tax system during the American War of Independence and the following decade of relative peace. It then proceeds to consider the direct tax systems of the former British American colonies during the same period. Finally it considers direct taxation in what remained of the British colonies in North America after the war, Nova Scotia, New Brunswick, Cape Breton, Prince Edward Island and Quebec.

Further Development and Formal Establishment of the Assessed Taxes in Great Britain

The immediate direct tax response of Britain to the outbreak of war in America was an increase in the land tax from 3 to 4s in 1776 at which rate it remained for the rest of the period covered by this chapter.¹³⁶

¹³⁵ Louis' Queen, Marie Antoinette, was the sister of the Austrian Emperor.

¹³⁶ Above at p. 195 it was noted how personal estate fell out of charge to the land tax. Writing in 1776 Adam Smith confirms that '[i]f the greater part of the lands of England are not rated to the land-tax at half their actual value, the greater part of the stock of England is, perhaps, scarce rated at the fiftieth part of its actual value. In some towns the whole land-tax is assessed upon houses, as in Westminster, where stock and trade are free. It is otherwise in London' Smith (1776, book V, ch. II, p. 419).

But this of itself would be insufficient for the purposes of the war, which by its end had increased Britain's national debt by about 75 per cent to £230 million.¹³⁷ In 1777, the growing Assessed Taxes were supplemented with a tax on male servants.¹³⁸ The next year the house and window tax was supplemented with a tax on the annual value of inhabited houses.¹³⁹ There were no other increases in or new direct taxes during the war, the British Parliament rather relied on increases in indirect taxes.¹⁴⁰

With the loss of the American War of Independence and a change in government, William Pitt became Chancellor of the Exchequer. In 1783, he launched the first of his eighteen consecutive budgets that started at the end of the American War of Independence and ran through to the Napoleonic War and the introduction of the income tax.¹⁴¹ Despite the peace treaty of 1783, Britain needed to increase taxation to service the increase in the national debt occasioned by the war. In 1784, Pitt added to the taxes on outward signs of wealth a tax on horses kept, a tax on qualification for sporting and an extension of the licensing system generally to all trades carrying on trade subject to the excise.¹⁴²

Importantly, the first of these was, like the then existing tax on carriages, 'a revival of one of the heads of charge in an old poll-tax . . .' from the 1690s (see p. 191).¹⁴³ This demonstrated the Pitt administration's knowledge of and willingness to resort to the more comprehensive forms of taxation used during the War of the Grand Alliance, a factor that would be important with respect to the introduction of the income

¹³⁷ Dowell (1965, Vol. II, p. 165).

¹³⁸ An Act for granting to His Majesty a Duty upon all Servants retained or employed in the several Capacities therein mentioned . . . (17 Geo. III. c. 39) (1777) (UK). See also Dowell (1965, Vol. II, pp. 169–70).

¹³⁹ An Act for granting to His Majesty certain Duties upon all inhabited Houses within the Kingdom of Great Britain (18 Geo. III. c. 26) (1778) (UK). See also Dowell (1965, Vol. II, p. 170) suggesting that both this tax and the 1777 tax on male servants were inspired by Adam Smith's *Wealth of Nations*.

¹⁴⁰ Dowell (1965, Vol. II, pp. 172–6).

¹⁴¹ As to which, see Hope-Jones (1939, p. 3).

¹⁴² An Act for granting to His Majesty certain Duties on Horses kept for the Purpose of Riding, and on Horses used in drawing certain Carriages, in respect whereof any Duty of Excise is made payable (24 Geo. III. c. 31) (1784) (UK), An Act for granting to His Majesty certain Duties on Certificates issues with respect to the killing of Game (24 Geo. III. c. 43) (1784) (UK) and An Act for laying certain Duties upon Licences to be taken out by the Makers of, and Dealers in Exciseable Commodities therein mentioned (24 Geo. III., Session 2, c. 41) (1784) (UK), respectively.

¹⁴³ Dowell (1965, Vol. II, pp. 184–5).

tax in 1799. The tax extension of the trade licensing system also demonstrates Pitt's willingness to tax the profits of trade and so, perhaps, a waning of the policy against the direct taxation of trades mentioned at pages 292–3. Indeed, it seems Pitt's intent was to tax various traders 'to the extent and profit of their respective modes of business ...'.¹⁴⁴ Although the measure fell far short of this, Pitt would pursue this endeavour of taxing the profits of trade in his income tax of 1799.

Various bodies had been administering the tax on outward signs of wealth, but in 1785 Pitt grouped the taxes on houses, carriages, man servants and horses under the management of the Board of Taxes and these taxes became formally known as the 'Assessed Taxes'.¹⁴⁵ In the same year the tax on man servants was extended to woman servants (repealed in 1792), shops were taxed in a similar way to inhabited houses and the trade licence system was extended.¹⁴⁶ Despite the novelty in Britain of some of these types of taxes, they were well known within the British Empire and broader a field. As described in Chapter 3, taxes on servants, houses and shops and trades had been staple taxes in, particularly, the West Indies since before the end of the seventeenth century.

Finally, in this direct tax system further mention should be made of the Poor Rate. By the 1780s, Slack suggests that the funds redistributed by the Poor Rate were about 19 per cent of the government's total revenue from direct and indirect taxes, a substantial increase from 12 per cent in 1750.¹⁴⁷ Further, as the Constables Rate (see p. 52 and pp. 140–1) had been slowly replaced with specific levies, by this time it had become 'practically obsolete'.¹⁴⁸

¹⁴⁴ Cobbett (1812–1820, Vol. XXIV, Column 1029) reporting on Pitt's Budget speech. See also Dowell (1965, Vol. II, p. 186).

¹⁴⁵ An Act for transferring the Receipt and Management of certain Duties therein mentioned from the Commissioners of Excise and the Commissioners of Stamps respectively, to the Commissioners for the Affairs of Taxes; and also for making further Provisions in respect to the said Duties so transferred (25 Geo. III. c. 47) (1785) (UK). See also Dowell (1965, Vol. II, pp. 189–90) and Soos (1997, pp. 131–2).

¹⁴⁶ An Act to repeal the Duties on Male Servants; and for granting new Duties on Male and Female Servants (25 Geo. III. c. 43) (1785) (UK), An Act for granting to His Majesty certain Duties on Shops within Great Britain (25 Geo. III. c. 30) (1785) (UK), An Act for granting to His Majesty certain Stamp Duties on Licences to be taken out by Persons using or exercising the Trade or Business of a Pawnbroker (25 Geo. III. c. 48) (1785) (UK) and An Act for granting to His Majesty certain Duties upon Licences to be taken out by Coachmakers; and also certain Duties upon Carriages to be built for Sale (25 Geo. III. c. 49) (1785) (UK), respectively. See also Dowell (1965, Vol. II, p. 191).

¹⁴⁷ Slack (1995, p. 26). ¹⁴⁸ United Kingdom (1843, p. 6).

United States

The cost of the united army, under George Washington and authorised by the Continental Congress, was largely funded with issues of bills of credit. There were eleven Congress Issues from 1775 to 1780 totalling \$241,555,000.¹⁴⁹ The issues were pledged on the credit of the states, each state 'was made responsible for the withdrawal of a certain share or quota of the total emission'.¹⁵⁰ The \$6,000,000 issue for 1775 was to be redeemed by the states from 1779 to 1786. But the position of the states was also difficult. The war made collection of import and export duties virtually impossible and the states had the difficulty of taxing the polls and property of men that were being encouraged to join the army. As a result, 'the states laid no taxes of any significance in 1775 and 1776'.¹⁵¹

As the cost of the war escalated, Congress, starting late in 1777, began making requisitions of the states and each state was required to pay its quota to Congress.¹⁵² But the states could not cope with such a burden, which meant that the only way for Congress to pay for the continuing war effort was the further issue of paper. The position of the states was similar. In the usual way, as the issues (both continental and state) increased the currency suffered from dramatic reductions in value. By the time the states started levying substantial taxes towards the end of the 1770s, 'all paper money — Continental as well as state currency — had gone into a decline ...'.¹⁵³ This meant that taxes were most often paid in depreciating currency resulting in the need for further paper issues. By the end of the war the initial continental issues had suffered a decline in the order of 150 times their initial value.¹⁵⁴ With no power of taxation, Congress was powerless to stop the decline in value of its currency.

By 1780, the position of Congress was untenable and it passed to the states the responsibility of paying sums due to their soldiers in the continental army.¹⁵⁵ Soon they were also paying interest on continental debt. With the collapse of the continental currency, most goods required by the army were obtained by 'impressment'. This involved little more

¹⁴⁹ Anderson (1983, p. 3). ¹⁵⁰ Ferguson (1961, p. 26).

¹⁵¹ Ferguson (1961, p. 30).

¹⁵² The states often permitted Congress bills to be used in payment of their taxes and credited this against their quota; Anderson (1983, p. 19).

¹⁵³ Ferguson (1961, pp. 30–1). ¹⁵⁴ Stablie and Cantor (1991, p. 13).

¹⁵⁵ Ferguson (1961, p. 50).

than taking the goods required from locals and giving in return certificates drawn by federal officers on their departments. This system imposed the greatest burden on those states where the fighting was taking place.¹⁵⁶ The states also issued substantial amounts in certificates.

By the end of the American War of Independence, with the power of Congress waning, the central debt became one of the major issues as to the future of Congress and the extent of its powers. Congress had sought, since the early 1780s, a power to tax and, specifically, a power to tax imports but this proved elusive as the states continually baulked at the surrender of sovereignty. The trend was in the opposite direction, the states assumed more responsibility and the states started exchanging continental debt for state debt, i.e. assuming the central debt. Most of the southern states simply converted federal debt into state debt.¹⁵⁷ The process was different in the middle states, which acquired congressional securities (loan certificates) and by 1786 Pennsylvania, New York and Maryland had appropriated 'almost a third of the principal of the public debt'.¹⁵⁸

The states attempted to sink the debt they had undertaken in a number of ways. Both during and after the war the states raised substantial sums in order to sink paper issues by confiscating and selling property belonging to loyalists. The states also sold tracts of previously unoccupied land. States also used substantial taxes to eat into paper debt. This debt position reversed itself following the adoption of the federal constitution in 1788, which granted Congress a broad power to raise taxes.¹⁵⁹ Indeed, besides the states, the remaining Congress bills and securities were largely held by wealthy speculators who 'looked to a reformed federal government as their only hope [of payment], and they played a significant role in bringing about the United States Constitution'.¹⁶⁰ In 1790, the United States Congress passed the Funding Act, which replaced old bill issues with a new issue and as part of this funding the central government exchanged their bills for state bills and thereby took on state debts.¹⁶¹ In 1792, Congress established a sinking fund for paying off the debt, which was financed by the post office, taxes and public land sales.¹⁶²

¹⁵⁶ Anderson (1983, p. 11). ¹⁵⁷ Ferguson (1961, p. 182).

¹⁵⁸ Ferguson (1961, pp. 229–34). ¹⁵⁹ Stablie and Cantor (1991, pp. 13–16).

¹⁶⁰ Anderson (1983, p. 40).

¹⁶¹ An Act making provision for the payment of the Debt of the United States (4 August 1790) (United States); United States (1856–1864, Vol. I, p. 138).

¹⁶² Stablie and Cantor (1991, pp. 18–21).

New England War and independence brought some changes to the Massachusetts tax system. At the time Congress started making requisitions in 1777, Massachusetts changed its form of assessment.¹⁶³ The charge was still imposed via a quota system with a specified amount per poll, the balance of the quota to be made up with a charge on the:

just value of the whole real estate lying within said town or place . . . [and the] just value of their whole personal estate, including money at interest more than they pay interest for, debts due to them not on interest more than they are indebted, monies of all kinds in hand, and also the amount of the just value of all goods wares and merchandize, stock in trade, vessels of all ports . . . and all kinds of produce of the land, and of all property whatsoever (excepting household furniture, wearing apparel, farming utensils, and tools of mechanics) more than what they are indebted . . . and on the amount of their income from any profession, faculty, handicraft, trade or employment . . .

Here the charge is more clearly a property tax than in the immediate pre-revolution period with its confusing reference to 'incomes'. The reference to 'goods wares and merchandize' may have been borrowed from the Connecticut law of 1771, which rated them at 10 per cent of their prime cost. Under this Massachusetts law the specific valuation rules seem to have disappeared.

This form was used again in 1778 and in 1779 but in the later case the value of income was not to exceed ten times the value of other estate.¹⁶⁴ Two years later the form of limit changed so that estate was to be estimated at 6 per cent of value (unimproved land at 2 per cent), whereas income was to be valued at its full amount.¹⁶⁵ As Seligman notes, in 1780 this form of tax was embedded in the constitution.¹⁶⁶ In the post-war period Massachusetts, despite a depression, continued to

¹⁶³ An Act for apportioning and assessing a Tax . . . (24 October 1777) (Massachusetts); American Antiquarian Society (1956—, No. 43290).

¹⁶⁴ American Antiquarian Society (1956—, Nos. 15907 [Tax of 1778] and 16373 [Tax of 1779]).

¹⁶⁵ American Antiquarian Society (1956—, No. 17225 [Tax of 1781]).

¹⁶⁶ Seligman (1914, p. 373). The constitution stated 'And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practiced; in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth taken anew once every ten years at the least, and as much oftener as the General court shall order.' See A Constitution or Frame of Government (1780) (Massachusetts), p. 16; American Antiquarian Society (1956—, No. 16845).

impose heavy taxes in order to pay off wartime debts. The strictness of the impositions led to an uprising known as Shays' Rebellion.¹⁶⁷ While the rebellion was put down, there was a change in legislature with substantial direct tax cuts. The rebellion played no small part in the events leading to the United States Constitution and the federal assumption of debt. Nevertheless, in Massachusetts the 1781 form of tax continued until the end of the period covered by this chapter.

Connecticut did not adjust its tax law until after the end of the war in 1784. In this year the pound rate tax on the value of estate (including polls at a set value) was retained with objective rules for valuation more specific than previously, e.g. valuing land by the acre according to type and animals by the head. However, the faculty tax was essentially transformed into a class tax. Instead of being taxed by reference to profits, different professions such as attorneys, physicians, surgeons, shopkeepers, and traders were to be listed at specific amounts. Listers were to use 'best Judgement . . . in due Proportion' for 'all other Works and Occupations . . . by which Profits arise, and which have not been enumerated in this Act (except Business in any public Office, Husbandry, and common Labour for Hire) . . .'.¹⁶⁸ There were no further developments until 1793.

In 1777, when Congress started making requisitions, Rhode Island began to lay taxes again and used the familiar poll tax and residual property tax apportioned by a town quota.¹⁶⁹ This form of tax continued without change during the period covered by this chapter.¹⁷⁰

¹⁶⁷ Ferguson (1961, p. 247).

¹⁶⁸ An Act for the direction of Listers in their Office and Duty in Acts and Laws of the State of Connecticut, in America (1784) (Connecticut), at p. 131; American Antiquarian Society (1956—, No. 18410).

¹⁶⁹ An Act assessing and apportioning a Rate or Tax of Sixteen Thousand Pounds Lawful Money upon the Inhabitants of this State (26 March 1777) (Rhode Island); American Antiquarian Society (1956—, No. 15574). There was still a fixed poll tax, in this case 8s. The residual amount was apportioned to the towns to be raised on rateable property. This law did not contain the assessment rules. There were two similar impositions during 1777, see American Antiquarian Society (1956—, Nos. 43364 and 43368).

¹⁷⁰ For example, An Act for Enquiring into the Rateable Property of this State, and for taking a Just Estimate thereof, in order that the Rates and Taxes may be equally assessed upon the Inhabitants (October 1778) (Rhode Island); American Antiquarian Society (1956—, No. 16043). The taxes were imposed by a separate law, e.g. An Act for granting and apportioning a Tax of Six Thousand Pounds, Lawful Money, upon the Inhabitants of this State (June 1791) (Rhode Island); American Antiquarian Society (1956—, No. 23737). Compare Seligman (1914, p. 376).

Like other states, Rhode Island had issued substantial amounts of debt during the war. In 1787 it sought to address its debt problems by forcing debt holders to exchange their debt for one quarter of the principal in a new emission of paper money.¹⁷¹

New Hampshire continued to impose its property tax coupled with a faculty tax into the war. However, under a law of 1776 the faculty tax continued to be limited.¹⁷² This law provided that the maximum that faculty could be assessed at was £10, reduced from £20 under the 1771 law. The provision was repeated in the assessing law of 1784¹⁷³ but the assessing law of 1789 repealed the faculty tax.¹⁷⁴ Accordingly, as in Rhode Island, New Hampshire had adopted a general property tax (including polls at a set value) according to a town quota system, which continued through 1792.¹⁷⁵

What became the State of Vermont is situated in an area that was the subject of competing claims by New York and New Hampshire. The New Hampshire governor made land grants to New Englanders in this area after the French and Indian War. However, in 1764 the British Crown confirmed that the land was within the boundaries of New York. New York proceeded to re-grant some of the land, creating competing title claims. The onset of the War of Independence enabled Vermont to rebel against New York and act with substantial independence. It declared its independence from New York in 1777 and adopted a separate constitution. Its legislature met from 1778.¹⁷⁶

¹⁷¹ Anderson (1983, p. 32). It would later reverse this exchange in an effort to secure greater funding from the federal government, but to no avail.

¹⁷² An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs (1776) in *Laws of the State of New-Hampshire . . .* (1815) (New Hampshire), at p. 511; American Antiquarian Society (1956—, No. 35432).

¹⁷³ An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs; and also for repealing certain acts herein after mentioned (11 June 1784) in *Laws of the State of New-Hampshire . . .* (1815) (New Hampshire), at p. 525; American Antiquarian Society (1956—, No. 35432).

¹⁷⁴ An Act to establish an equitable Method of making Rates and Taxes, and determining who shall be legal Voters in Town Affairs; and also for repealing certain acts herein after mentioned (7 February 1789) in *Laws of the State of New-Hampshire . . .* (1815) (New Hampshire), at p. 525; American Antiquarian Society (1956—, No. 35432).

¹⁷⁵ An Act for establishing an equitable method of making taxes, and for ascertaining the powers of Selectmen (8 February 1791) in *Laws of the State of New-Hampshire . . .* (1797) (New Hampshire), at p. 196; American Antiquarian Society (1956—, No. 32536).

¹⁷⁶ Wood (1893–94, pp. 9–15).

Vermont introduced its first direct tax in 1778, which was based on the Connecticut law and required assessors (listers) to rate persons 'proportionable to their gains and returns ... according to the best Judgment and Discretion of the Listers'.¹⁷⁷ In the usual way, some types of property were given set values (including polls) and the taxes were imposed on the *grand list* by the setting of rates at periodic intervals.¹⁷⁸ Despite this law, Wood notes that until 1780 Vermont's chief source of revenue was through confiscation of the estates of loyalists.¹⁷⁹ In the early 1780s, Vermont began issuing bills of credit.¹⁸⁰ Eventually, Vermont settled its disputes with New York and in 1791 was admitted to the United States.¹⁸¹ The form of direct tax law introduced in 1778 essentially continued through 1792.

Middle States During the war and first decade after independence, New York continued to impose its property tax. The tax of 1778 was still imposed 'upon all real and personal Estates ...', although there was some further detail with respect to the tax base.¹⁸² This style of tax continued until 1788 when there began a break in the imposition of direct taxation.¹⁸³

In New Jersey the direct tax system also continued to follow its pre-independence form. The law of 1778 incorporated the usual long list of items and activities, in many cases with broad discretion given to assessors within limits.¹⁸⁴ The system was, however, based on a pound rate rather than a quota system and 'Mortgages, Bonds, Bills and Notes upon Interest ...' were now covered.¹⁸⁵ While the basic structure did not change, the assessors' instructions became even more specific in 1779 and there was a return to the quota system. There were

¹⁷⁷ An Act directing Listers in their Office and Duty (11 February 1779) (Vermont) in Vermont (1779, p. 8). See also Seligman (1914, p. 377) and Wood (1893–94, p. 33).

¹⁷⁸ See Wood (1893–94, p. 74). ¹⁷⁹ Wood (1893–94, p. 70).

¹⁸⁰ Phillips (1972, pp. 213–14) and Anderson (1983, p. 166).

¹⁸¹ Wood (1893–94, p. 15).

¹⁸² An Act for raising Monies to be applied towards the public Exigencies of this State (28 March 1778) (New York); American Antiquarian Society (1956–, No. 43515).

¹⁸³ United States (1796, p. 425), which includes a description of the manner in which state taxes were apportioned and added to local taxes to be collected.

¹⁸⁴ An Act to raise a Fund by Taxation for discharging the Debts and defraying the necessary Expenses of the State of New-Jersey (26 March 1778) (New Jersey); American Antiquarian Society (1956–, No. 15927).

¹⁸⁵ Becker (1980, p. 171) suggests 'New Jersey had become a major battleground in the war ...' as a reason for the move away from the previous quota system.

two impositions in this year, the first to raise £1,000,000 and the second £3,000,000.¹⁸⁶ Under the second imposition, assessors were to rate householders with estate of less than £40 at their discretion 'in Proportion to their Abilities . . .'. In 1783, New Jersey imposed a direct tax for twenty-five years in order to sink its debts.¹⁸⁷ This law also included a quota system, which was to be adjusted every four years. The heads of assessment were the same as before but it seems that money at interest had fallen from express charge. The system remained in this form through 1792.

The Pennsylvanian direct tax system also changed little through the War of Independence and the decade thereafter, although the form of the tax law was somewhat shortened. Bills of credit raised under a law of 1777 were to be sunk with a tax on the 'clear yearly value' of real and personal estate.¹⁸⁸ The tax was to be collected and paid in accordance with the tax law of 1764. This system continued until the tax law of 1785, which was continued until 1789. This law imposed an annual tax of £76,945 on 'estates real and personal' which was to be apportioned by quota until Pennsylvania paid its share of Congress debts.¹⁸⁹ Section 31 was quite specific in outlining taxable articles including servants and slaves, horses, cattle, plate, carriages, land, mills, furnaces, breweries and ferries. The value of articles was typically their sale value. Residually the law provided that 'all offices and posts of profit, trades occupations and professions . . . shall be rated at the discretion of the Assessor . . . due

¹⁸⁶ An Act to raise the Sum of One Million of Pounds in the State of New-Jersey (8 June 1779) (New Jersey) and An Act to raise the Sum of Three Million Three Hundred and Seventy-five Thousand Pounds, in the State of New-Jersey (18 December 1779) (New Jersey); American Antiquarian Society (1956—, Nos. 16394 and 16833, respectively).

¹⁸⁷ An Act for raising a Revenue of Thirty-one Thousand Two Hundred and Fifty-nine Pounds Five Shillings per Annum, for the Term of twenty-five Years, for the Purpose of paying the Interest and Principal of Debts due from the United States, agreeably to a Recommendation of Congress of the eighteenth Day of April, One Thousand Seven Hundred and Eighty-three, and for appropriating the same (20 December 1783) (New Jersey); American Antiquarian Society (1956—, No. 18633).

¹⁸⁸ An Act for emitting the Sum of Two Hundred Thousand Pounds in Bills of Credit, for the Defense of this State, and providing a Fund for sinking the same by a Tax on all Estates real and personal, and on all Taxables within the same (20 March 1777) (Pennsylvania); American Antiquarian Society (1956—, No. 15539).

¹⁸⁹ An Act for furnishing the quota of this state towards paying the annual interest of the debts of the United States; and for funding and paying the interest of the public debts of this state (16 March 1785) (Pennsylvania) s. 24; American Antiquarian Society (1956—, No. 19160).

regard being had to the profits arising therefrom'. This is an extended version of the tax on salaries from lucrative posts and offices under the 1764 law. This was the last general tax imposed during the period covered by this chapter.¹⁹⁰

The Delaware direct tax system also continued intact through the war and afterwards. A law of 1777 apportioned funds to be raised to sink bills of credit between the counties and instructed that the amount be raised by addition to county levies for the next five years.¹⁹¹ In 1778, there was the added instruction for counties to impose their quota based on a pound rate calculated using the last county assessment.¹⁹² In the large assessment of 1779 the assessors were specifically instructed to make a new assessment and in that assessment to include lessees of tillable land and those 'fortunate in trade . . . agreeable to the profit arising thereon, and according to the best of their skill and judgment . . .'.¹⁹³ But another large imposition of 1781 reverted to raising the general tax in the manner directed by the county levies law¹⁹⁴ and this system continued through the period covered by this chapter.¹⁹⁵

Southern States Initially during the war period Virginia relied on familiar taxes, the poll tax, land tax (imposed per 100 acres) and tax on carriages.¹⁹⁶ These impositions coincided with large initial issues of bills

¹⁹⁰ United States (1796, p. 427).

¹⁹¹ An Act for printing and emitting Fifteen Thousand Pounds in Bills of Credit of this State, to be let out on Loan; and for striking the further Sum of Ten Thousand Pounds in such Bills for the Use of this State, and for providing a Fund for sinking the same (22 February 1777) (Delaware); American Antiquarian Society (1956—, No. 43241).

¹⁹² An Act for raising One Hundred and Ninety-eight Thousand Dollars in the Delaware State, for the Service of the Year One Thousand Seven Hundred and Seventy-nine, by a general Tax (2 February 1779) (Delaware); American Antiquarian Society (1956—, No. 16256).

¹⁹³ An Act for raising One Million Three Hundred and Sixty Thousand Dollars, in the Delaware State, between the first day of February and the first day of October in the year One Thousand Seven Hundred and Eighty; and for other purposes therein mentioned (25 December 1779) (Delaware); in *Laws of the State of Delaware (1797, p. 682)*; American Antiquarian Society (1956—, No. 32030).

¹⁹⁴ An Act for calling out of circulation and canceling the quota of this state, according to the resolutions of Congress of the eighteenth day of March last, and for other purposes (12 February 1781) (Delaware); in *Laws of the State of Delaware (1797, p. 719)*; American Antiquarian Society (1956—, No. 32030).

¹⁹⁵ For example, American Antiquarian Society (1956—, Nos. 17906 [1782], 18985 [1785] and 19601 [1786]).

¹⁹⁶ Virginia (1809—1823, Vol. IX, pp. 65 [July 1775], 143 [May 1776] and 219 [October 1776]).

of credit.¹⁹⁷ The tax system was transformed into a more general property tax in 1777 in order to meet war costs and requisitions made by Congress. A law of that year imposed a tax of 10s 'for every hundred pounds value ... for all manors, messuages, lands, and tenements, slaves ... horses, mules, and plate ...'.¹⁹⁸ The charge extended to money and interest received on debts and annuities as well as a charge per carriage, per head of cattle and per poll. Residually, there was 'a tax ... of ten shillings for every hundred pounds of the amount of all salaries, and of the neat income of all offices of profit ...'.

The tax of 1777 was to last for seven years and was added to by imposts of 1779 and 1780.¹⁹⁹ The next year the system was reformed again, in part by dropping the income element of the 1777 charge and making the revenue permanent. The 1781 tax was a tax on various articles including land, polls, slaves, horses, cattle, carriages and billiard tables.²⁰⁰ In the period after the war, Virginia exchanged federal debt for state debt and proceeded to redeem substantial amounts of state paper currency through taxation between 1782 and 1785.²⁰¹ Further adjustments were made to the direct tax system in 1786.²⁰² The poll tax was repealed in 1787 and other adjustments were made in 1790.²⁰³ By this stage the law had settled into a general pattern of a general law defining the tax base (which was based on the situs of the property) and an annual law that largely just set the rates for the year.²⁰⁴

¹⁹⁷ Phillips (1972, p. 199).

¹⁹⁸ An Act for raising a supply of money for publick exigencies (October 1777) (Virginia); Virginia (1809–1823, Vol. IX, p. 349).

¹⁹⁹ Virginia (1809–1823, Vol. IX, p. 548 [October 1778] and Vol. X, pp. 165 [October 1779] and 241 [May 1780]).

²⁰⁰ An act for ascertaining certain taxes and duties, and for establishing a permanent revenue (November 1781) (Virginia); Virginia (1809–1823, Vol. X, p. 501).

²⁰¹ Ferguson (1961, p. 182).

²⁰² An act imposing new Taxes (October 1786) (Virginia); Virginia (1809–1823, Vol. XII, p. 283). The new annual taxes were on various carriages, clerks of court (one third of what they received in the previous year), attorneys (a tenth of their court fees), £5 on physicians, houses and town lots were now to be assessed at 5 per cent of rent and an imposition on various retail licences.

²⁰³ Virginia (1809–1823, Vol. XII, p. 412 [October 1787, repeal of the poll tax] and Vol. XIII, p. 114 [October 1790, repeal of the tax on clerks of court, attorneys, merchants and physicians]).

²⁰⁴ For example, see An act concerning the taxes of the year one thousand seven hundred and ninety-one (October 1791) (Virginia) and An Act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue (13 December 1792) (Virginia); Virginia (1809–1823, Vol. XIII, p. 241) and Sheppard (1970, Vol. I, p. 53), respectively.

As noted above at page 306, Maryland imposed no general taxes in the decade immediately before independence. The financial stresses of the war quickly produced a general property tax imposed in 1777, at the time Congress started making requisitions. The declaration of rights agreed by the State convention in November 1776 required general taxes to be levied ‘according to . . . actual worth in real or personal property’ rather than by the poll.²⁰⁵ Therefore, the 1777 tax was imposed on ‘all real and personal Property within this State . . . according to the true Value thereof . . .’. Assessors were to ascertain the true value ‘as the [property] would in the Judgment of the Assessor sell for in ready Money . . .’ but the tax base was not further defined.²⁰⁶ The tax was imposed for 1777 and 1778 but was re-imposed with a more elaborate tax base in 1779.²⁰⁷

Under the 1779 law assessors were instructed to ‘inform himself . . . of every person residing in the hundred . . . and of all the real and personal property . . . within his hundred’.²⁰⁸ Specific valuation rules were provided for land and Negroes. There was also a tax on income from public offices and annuities of a similar type to that under the English land tax:

every person . . . having or exercising any public office or employment of profit [and various other clerks, etc. but not labourers for hire or military officers] shall be assessed two pounds ten shillings for every hundred pounds of the clear annual amount and profits of such office or employment; and . . . every person . . . having an annuity, stipend, or other yearly payment [except those issued out of land] shall be assessed two pounds ten shillings for every hundred pounds . . . which he . . . do receive in one year . . .²⁰⁹

Like Virginia, Maryland sunk large quantities of paper currency in the period immediately after the war. In 1785, it introduced two new assessment laws, one for the assessment of land and one for the

²⁰⁵ A Declaration of Rights and the Constitution and Form of Government, Agreed to by the Delegates (1776) (Maryland); American Antiquarian Society (1956–, No. 14836).

²⁰⁶ An Act to assess and impose an equal Tax on all Property within this State (1777 Cap. 21) (Maryland) s. 2; American Antiquarian Society (1956–, No. 15393).

²⁰⁷ An Act for the assessment of property within this state (1779 Cap. 35) (Maryland); American Antiquarian Society (1956–, No. 16827).

²⁰⁸ *Ibid.*, s. 9. ²⁰⁹ *Ibid.*, s. 48.

assessment of personal property.²¹⁰ A separate law imposed tax according to the valuations under the two assessment laws.²¹¹ It seems that profits from public offices and annuities had fallen out of charge, i.e. the Maryland direct tax had become a pure property tax. By 1786, Maryland was in a position to remove state direct taxation. From then until the end of the century it found revenue from various minor taxes and other sources sufficient for the purposes of general government and no general property tax was levied from this year, although such taxes were levied at the county level.²¹²

During and after the war, the direct tax system of South Carolina continued in much the same form as it had before 1769. The first post-independence tax was levied in 1777, at the time Congress started making requisitions, and was still imposed on land, slaves and Negroes as well as 'the profits of all faculties, professions . . . factorage, employment, and handicraft trades throughout this province . . .'.²¹³ During and in the immediate period after the war South Carolina had converted virtually all federal debts of its citizens into state debt, which, compared to other states, was disproportionately large. This meant no relief from direct taxation, which continued in broadly the 1777 form for the rest of the period covered by this heading.²¹⁴

Like in Maryland, the war brought constitutional change in North Carolina and as a result the direct tax system changed from a poll tax to a broad based property tax. In 1777, as Congress began making requisitions, the assessable items were expanded to include 'Lands, Lots, Houses, Slaves, Money, Money at Interest, Stock in Trade, Horses and

²¹⁰ An Act to ascertain the value of the land in the several counties of this state for the purpose of laying the public assessments (March 1785) (Maryland) and An Act for the valuation of personal property within this state (March 1785) (Maryland); American Antiquarian Society (1956—, No. 19770).

²¹¹ An Act to raise the supplies for the year seventeen hundred and eighty-six (November 1785) (Maryland); American Antiquarian Society (1956—, No. 19770).

²¹² United States (1796, p. 430).

²¹³ An Act For raising and paying into the Public Treasury of this State the Tax therein mentioned, for the Use and Service thereof (January 1777) (South Carolina); American Antiquarian Society (1956—, No. 43374).

²¹⁴ For example, see An Act For raising and paying into the Public Treasury of this State the Tax therein mentioned, for the Use and Service thereof (12 March 1783) (South Carolina) and An Act For raising Supplies for the Year 1790 (20 January 1790) (South Carolina); American Antiquarian Society (1956—, Nos. 18190 and 22895, respectively).

Cattle in this State.²¹⁵ The tax was to be imposed by a pound rate. There was also a residual poll tax for those having less than £100 in estate. As in most other southern states, North Carolina assumed large parts of the federal debts of its citizens.²¹⁶ The assessment law was essentially repeated in 1782.²¹⁷ It seems that the tax base was simplified in the mid-1780s and in the second half of the 1780s North Carolina used this tax base to redeem substantial amounts of paper currency.²¹⁸ By the end of the 1780s the tax base involved land per acre, town lots according to their value and a flat rate poll tax.²¹⁹

The Georgian direct tax system was also broadened during the war. Under a law of 1778 the property tax was still imposed on Negroes, slaves, land, tenements, money at interest and imported stock in trade. However, this was extended to cover a poll tax on white males, a tax on carriages and 'twenty shillings on every hundred pounds value on salaries allowed by the Legislature of this State, and profits of all publick Offices, Faculties and Professions except Divinity'.²²⁰ Becker suggests that it is 'doubtful ... that much was collected under the law,

²¹⁵ An Act for levying a Tax by General Assessment, and other Purposes (1777, Cap. 2) (North Carolina) ss 2 and 7 respectively; American Antiquarian Society (1956—, No. 15487.)

²¹⁶ Ferguson (1961, p. 182).

²¹⁷ An act for ascertaining what property in this state shall be deemed taxable property, the method of assessing the same, and collecting public taxes (April 1782) (North Carolina); American Antiquarian Society (1956—, No. 17644). The tax base under this law was little different from that under the 1777 law but carriages had been added and the residual poll tax now applied to unmarried free men who were not soldiers. The tax base defined by this law was used by the charging acts, e.g. An act for raising a revenue for the support of the government (April 1782) (North Carolina); American Antiquarian Society (1956—, No. 17644).

²¹⁸ Anderson (1983, pp. 29—30).

²¹⁹ For example, An Act providing Means for the Payment of the Domestic Debt, for appropriating certain Monies therein mentioned; and to amend an Act passed the last Session of the General Assembly, entitled 'An Act for levying a Tax for Support of Government, and for the Redemption of the old Paper Currency, Continental Money, Specie and other Certificates' (November 1789) (North Carolina); American Antiquarian Society (1956—, No. 22741). This law imposed tax at specified rates annually from 1790 until the debt was retired. The tax was to be paid in 'specie certificates of every kind'.

²²⁰ An Act for raising the sum of twelve thousand pounds for the use and support of the Government of the State of Georgia for the year one thousand seven hundred and seventy-eight, to be raised at certain Rates and after the Method therein mentioned (4 May 1778) (Georgia); Georgia (1904—, Vol. XIX, part 2, p. 87).

since within a year British invasion reduced rebel Georgia to a couple of upland counties'.²²¹ The next tax was not until 1783 when the tax base was reduced to cover only acreage land, slaves, town lots, free Negroes and white men not pursuing a profession, mechanical trade or cultivating at least five acres.²²² The system settled in 1785 with a classified land tax, a general poll tax, a tax on the value of certain buildings, carriages and stock in trade and a head tax on every 'Practitioner of Physic and Law ... Factors Brokers and Vendue Masters ...'.²²³ Like South Carolina, Georgia was left with a large war debt, which was not addressed until the 1790s.²²⁴ However, the direct tax system remained essentially the same until the end of the period covered by this heading.²²⁵

Florida, gained by the British from Spain during the Seven Years War, was recaptured by Spain in 1781. Spain retained Florida under the Treaty of Versailles of 1783.²²⁶

Canada

Citing rebellion in the United States, Nova Scotia passed an assessment law in 1775 under which 'all and every male person being an Inhabitant of this Province above the Age of twenty years ...' was required to pay an amount between 5s and £5.²²⁷ The amount was to be assessed by the Commissioners appointed on the inhabitants 'according to his or their Circumstances and Abilities, to bear and pay such rate ...'. It seems this was a one-off levy. After 1776, Nova Scotia seems to have continued to be funded through indirect taxes. However, in 1779, a tax was imposed

²²¹ Becker (1980, p. 210).

²²² An Act, for Imposing a Tax on the Inhabitants of the State of Georgia, for the use and Support of the Government thereof ... (31 July 1783) (Georgia); Georgia (1904—, Vol. XIX, part 2, p. 263).

²²³ An Act, For imposing a Tax on the Inhabitants of the State of Georgia and other Persons holding Property real or Personal therein for the use and support of the Government thereof ... (21 February 1785) (Georgia); Georgia (1904—, Vol. XIX, part 2, p. 398).

²²⁴ Anderson (1983, p. 28).

²²⁵ For example, see An Act To impose on the inhabitants of this state for the support of the government for the year one thousand seven hundred and ninety-three (20 December 1792) (Georgia); American Antiquarian Society (1956—, No. 25536).

²²⁶ Headlam (1929c, pp. 780–1). Florida was ceded to the United States in 1821; Burns (1954, p. 695).

²²⁷ An Act for raising a tax on the Inhabitants of this Province for defraying the Expence of Maintaining and Supporting the Militia of the said Province, and for the defence of the same (No. 247) (1775) (Nova Scotia); CO 219/14, p. 80.

on the value of land ‘within the Province . . .’.²²⁸ This law was similar in form to that of 1772. The 1772 land tax (which was imposed specifically for making and repairing roads and bridges) was separately continued until 1780.²²⁹ There then appears to be a gap in the imposition of direct taxation until after the end of the war. This may have been due to the calamitous effects of the large-scale immigration that befell the Canadian colonies towards the end of the war.

By contrast with Nova Scotia, Prince Edward Island continued to be largely financed with indirect taxes on alcohol despite the American War of Independence. Similarly, Quebec continued with the French indirect taxes that were imposed before 1763.

With the loss of the American War of Independence, thousands of colonists loyal to Britain flooded into the colonies in Canada, particularly in the year 1784. The greatest migration north was to Nova Scotia but substantial numbers also moved to part of Quebec. Bourinot notes that of a population of about 43,000 in 1784 over 28,000 were loyalists who had participated in the American War of Independence, 14,000 up on 1783.²³⁰ This mass movement strained the existing governmental structure and as a result three new Canadian colonies were founded, New Brunswick and Cape Breton in 1784 and Upper Canada (Ontario) in 1791. Around this time the area administered by the Hudson’s Bay Company was said to consist of little more than 120 individuals.²³¹

It was some time before Nova Scotia returned to provincial direct taxation. In 1791, an assessment was levied on ‘His Majesty’s Subjects within this Province’ of what may best be described as a class tax.²³² It was imposed with respect to certain animals and according to certain professions such as barristers, attorneys and physicians. There were also fixed amounts for persons with annual stipends, salaries or annuities within certain bands and a residual poll tax on males. The Act was continued until all of the Provincial debt was extinguished.

²²⁸ An Act for laying a Tax upon Lands Tenements and Hereditaments in the Province for a certain limited Time (No. 306) (1779) (Nova Scotia); CO 219/15, p. 63.

²²⁹ CO 219/14, p. 153.

²³⁰ Bourinot (1900, pp. 26–8).

²³¹ Smith (1776, book V, ch. I, p. 364).

²³² An Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the Funded Debt only Excepted (No. 444) (1791) (Nova Scotia); CO 219/18, p. 85.

By 1784, up to 10,000 of the loyalists had settled on the St John River. They became frustrated at 'delays in the issue of land patents' and demanded and in 1784 received separation from Nova Scotia.²³³ In 1786, New Brunswick enacted a number of laws that set its tax system for the remainder of the period covered by this study. As in the other seaboard provinces, the provincial government of New Brunswick was largely supported with indirect taxes.²³⁴ Another law provided for statute labour for roads, etc. under which a fine could be paid instead of performing the labour.²³⁵ This was backed up with a land tax on absent proprietors who were to pay their 'just Quota or proportion of all Charges hereafter to be assessed on the Lands within . . .' each county.²³⁶

In 1786, New Brunswick also enacted a general assessment for levying county rates, which was primarily a mechanism for funding the building of goals and court houses.²³⁷ Justices of the Peace for the several counties of the province had power to declare a sum necessary for these purposes. The sum declared was then to be distributed 'by equal proportion' among the towns and parishes of the counties. Assessors for the towns and parishes were then to 'apportion the quota . . . to be paid by the several and respective Inhabitants of the said Towns or Parishes as they in their discretion shall think just and reasonable . . .'.²³⁸ There was no reference to the assessment being made by reference to personal or real property or faculty or ability. Murray suggests that this discretion given to the assessors 'without regulation or appeal produced great dissimilarity in the mode of apportioning the rates throughout the province'.²³⁹ The assessment was to be collected by the Constables for the Towns or Parishes. The Justices of the Peace had similar power to

²³³ Murray (1907, p. 223).

²³⁴ An Act for raising a Revenue in this Province (No. 55) (1786) (New Brunswick); CO 190/2, p. 136.

²³⁵ An Act for laying out repairing and amending, highways, roads, and Streets, and for appointing Commissioners and Surveyors of highways, within the Several Towns or Parishes within this Province (No. 32) (1786) (New Brunswick); CO 190/2, p. 83.

²³⁶ An Act to oblige absent Proprietors to pay a proportion of any Public Charge, and to repair Highways (No. 40) (1786) (New Brunswick); CO 190/2, p. 103.

²³⁷ An Act for Assessing, Collecting and Levying, County Rates (No. 42) (1786) (New Brunswick); CO 190/2, p. 107.

²³⁸ An Act for Assessing, Collecting and Levying, County Rates (No. 42) (1786) (New Brunswick) s. 1; CO 190/2, p. 107.

²³⁹ Murray (1907, p. 260, n. 1). See also Vineberg (1912, p. 37).

raise assessments for the repair of 'any Goal or Court-House; or any public Bridges or other works . . .'.²⁴⁰

In a separate Act for raising sums for the support of the poor, the Justices of the Peace had a similar power to declare and apportion a sum necessary.²⁴¹ The amounts apportioned were then assessed on individuals according to the law for setting county rates. As in Prince Edward Island, there was also statute labour and a commutation for constructing and maintaining sewers, which the Commissioners were to assess according to their 'best Judgment'.²⁴²

The island of Cape Breton was granted a separate government from Nova Scotia at the same time as New Brunswick.²⁴³ However, there are no recorded tax laws imposed by this government during the period covered by this heading. It seems the government was, for various purposes, supported from Britain.²⁴⁴

Prince Edward Island did not impose direct taxation until 1790. In that year it followed New Brunswick's lead with a land tax on absentee owners of land that were not subject to the statute labour for repair of roads, etc.²⁴⁵ The assessment was to be 'as the true and equitable proportion which the said Proprietor or Proprietors ought respectively to pay . . .'.

The settlers that arrived after the capitulation of Quebec by the French in 1763 and the loyalists that arrived as a result of the American War of Independence largely settled away from the French in that part of Quebec known as Upper Canada. Earlier French unrest in Quebec had resulted in the British North America Act of 1774 (see p. 299) permitting the continuation of civil law, the French language and

²⁴⁰ An Act for Assessing, Collecting and Levying, County Rates (No. 42) (1786) (New Brunswick) s. 2; CO 190/2, p. 107.

²⁴¹ An Act to Regulate and Provide for the Support of the Poor in this Province (No. 43) (1786) (New Brunswick); CO 190/2, p. 111.

²⁴² An Act for appointing Commissioners of Sewers (No. 45) (1786) (New Brunswick); CO 190/2, p. 115.

²⁴³ Murray (1907, p. 223). Cape Breton was reannexed to Nova Scotia in 1820.

²⁴⁴ CO 219/1 & 2.

²⁴⁵ An Act to oblige the respective Proprietors of Lots or Townships of Land or of parts of Lots or Townships of Land in this Island and who have contributed nothing towards the Settlement or Improvement of this Island and whose Lands be in waste and uncultivated State to pay their proportion of the public Charges for the making and repairing of the Highways, Roads and Bridges of the said Island (No. 105) (5 April 1790) (Prince Edward Island); CO 228/2, p. 93.

freedom of worship. This was unacceptable to the English-speaking newcomers and further unrest followed. In an effort to quell this disquiet, in 1791, Britain split the province of Quebec into Upper and Lower Canada.²⁴⁶ The assemblies of the two provinces were granted the power to legislate with respect to local affairs and the magistrates appointed by the Crown were entrusted with the administration of the legislation.²⁴⁷ Neither Upper nor Lower Canada enacted any direct taxes before 1793.

4.3 Turmoil in the Remaining Colonies

As mentioned above at page 321, the French joined the American War of Independence on the side of the former colonies in 1778 and the Spanish followed in 1779 as did war with the Netherlands in 1780. With the British forces and, particularly, the navy already stretched, the French and Spanish caused turmoil in the West Indies. In 1778 the British lost Dominica to the French but the British captured St Lucia in the same year. In 1778 and 1779 'the French flag was swept out of India' by the British.²⁴⁸ The French captured St Vincent and Grenada in 1779 and in the same year the Spanish destroyed the settlement in British Honduras and the settlers took refuge elsewhere. In the same year the French captured the British colony of Senegambia on the west coast of Africa. The French took Tobago in 1781 but the British took the Dutch settlements of Essequibo, Demerara and Berbice Rivers, which at that time had a strong British element, in the same year.²⁴⁹ The French captured St Kitts and Nevis in 1782 and the Spanish the Bahamas in the same year. But the British fleet was able to prevent a combined French and Spanish invasion of Jamaica and this assisted in the peace negotiations that were soon to follow.²⁵⁰

Following the American War of Independence, under the Treaty of Versailles of 1783 Britain lost St Lucia and Tobago to the French

²⁴⁶ An act for making more effectual provision for the government of the province of Quebec, in North America, and to make further provision for the government of the said province (31 Geo. III c. 31) (United Kingdom). The population of Canada as at 1790 was about 160,000; Bourinot (1888, p. 30).

²⁴⁷ Vineberg (1912, p. 23). ²⁴⁸ Headlam (1929c, p. 713).

²⁴⁹ Burns (1954, p. 608). ²⁵⁰ See generally Burns (1954, pp. 520–33).

but Grenada, St Vincent, Dominica, St Kitts, Nevis and the Bahamas (which had already been recaptured) were restored to Britain.²⁵¹ In Africa, British possession of Fort James and the River Gambia was confirmed but Senegal was returned to the French. The French were also granted some trading posts in India.²⁵² The effects of the war had been extremely serious for the British West Indies, even for the few British islands (Antigua, Barbados and Jamaica) that had escaped capture. As Burns notes:

For long before the war the West Indian colonies had depended on North America for provisions and other prime necessities, and not only was this trade cut off by the Revolution, but American privateers preyed heavily on the other commerce of the islands even before the war broke out with France and Spain, when conditions became much worse.²⁵³

The position was different in India. Here the East India Company continued with its administrative rights. However, during the later stages of the war four battalions of British troops were dispatched to India.²⁵⁴ Shortly after the end of the war there were further constitutional reforms in the structure of the East India Company. By an Act of 1784 the Court of Directors of the Company was to be regulated by a Board of Commissioners.²⁵⁵ This was yet another step in the increasing regulation of the Company but its basic operations in India remained the same.²⁵⁶ As for West Africa, the destruction of the fledgling colony of Senegambia caused developments to focus further southward. By 1787, a new colony was established at Sierra Leone.

This heading first considers the development of the direct tax systems in the West Indies during the American War of Independence and during the decade thereafter. It proceeds to consider developments in the new colony of Sierra Leone on the coast of West Africa to 1792.

²⁵¹ Burns (1954, pp. 534–5). ²⁵² Headlam (1929c, p. 781).

²⁵³ Burns (1954, p. 535). ²⁵⁴ Headlam (1929b, p. 756).

²⁵⁵ An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India; and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of Offences committed in the East Indies (24 Geo. III., Session 2, c. 25) (1784) (UK).

²⁵⁶ Banerjea (1928, p. 10).

West Indies

During the American War of Independence Direct taxation continued in the usual vein in the older British colonies in the West Indies until France entered the American War of Independence. Barbados continued with its levy of 1774 on slaves, certain mills and kilns and carriages with the additional charge on inhabitants of towns for their houses, trades and personal estate according to the vestry rolls (see pp. 307–8). Additional levies continued to supplement this basic imposition on a similar basis. St Kitts continued to impose its tax on slaves and on the yearly value of houses, warehouses, shops and tenements in the towns.²⁵⁷ Nevis continued with its simple slave tax,²⁵⁸ Antigua with its permanent deficiency law and tax on liquor licenses, billiard tables, slaves and the yearly value of houses in the towns²⁵⁹ and Jamaica with its periodic deficiency law and tax on slaves, cattle and carriages, on trades according to the vestry rolls and on the yearly value of houses, wharfs and warehouses in the towns.²⁶⁰

With the British loss of Dominica in 1778 Barbados imposed a tax to raise funds for its defence.²⁶¹ It was in the usual form as was the

²⁵⁷ For example, An Act for Levying and Raising a Public Tax in this Island to Defray the Public Expences thereof (2 May 1776) (St Kitts); CO 240/12, p. 27.

²⁵⁸ An Act for Granting an Aid unto his Majesty by a Duty or Tax of three Shillings Current Money per poll on the Negroes and other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis for Repairing the Forts and Fortifications and defraying the other public expences of the said Island (1 July 1777) (Nevis); CO 185/7, p. 67.

²⁵⁹ An Act raising a Tax for paying Public Debts and Charges and particularly applying the said Tax (16 August 1777) (Antigua) and An Act raising a Tax for paying Public Debts and Charges and particularly applying the said Tax (12 October 1778) (Antigua); CO 8/19, pp. 12 and 41, respectively.

²⁶⁰ An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men, White Women, or White Children, or pay certain Sums of Money, in case they shall be deficient, and applying the same to several uses, to protect Freeholders on the days of choosing Church Wardens, and Vestrymen and to ascertain, who shall be deemed duly qualified to vote at such Elections (22 December 1777) (Jamaica) and An Act for raising a Tax by the Poll, and on Trades, Supercargoes, and Masters of Vessels in the Out Ports, and also on Offices and Houses and applying the same to several uses (22 December 1777) (Jamaica); CO 139/35, pp. 27 and 35, respectively.

²⁶¹ An Act for raising a further additional Levy on the Inhabitants to defray the expence to be incurred in guarding the Island against Invasion (16 September 1778) (Barbados); CO 30/14, p. 105.

imposition of the next year.²⁶² In the following year Antigua imposed a slave tax in isolation.²⁶³ The law expressly recounts the shortage of food caused by the war and a drought. The tax was to secure loans to be used to buy provisions. St Kitts imposed a tax along its usual lines to fund the repair of its fortifications in 1780.²⁶⁴ It seems these were the last direct taxes in this part of the West Indies before the loss of St Kitts and Nevis in 1782. In 1783 Barbados welcomed a new governor with the usual grant (less the tax on carriages).²⁶⁵ In the same year Jamaica also passed its usual deficiency law as well as its usual tax, now incorporating specified amounts for specified officers (formerly in a different law).²⁶⁶

Taxation in the Bahamas scarcely missed a beat until the Spanish invasion. It was imposed in its usual form, involving a general poll tax, a tax on land in New Providence according to rental value, a tax on the

²⁶² See CO 30/15, p. 55.

²⁶³ An Act for enabling Persons herein named to Borrow a Sum not exceeding Twenty Thousand Pounds Sterling Money of Great Britain on the Public Credit of this Island by means of drawing Bills on the Lords Commissioners of his Majesty's Treasury for the immediate Purchasing of Provisions to be Deposited in Public Granaries in the said Island to be Distributed amongst all the Owners or Possessors of Slaves within the same in Certain proportions and for raising and levying Certain Capitation Taxes on all the said Slaves as a Fund for paying the Principal and Interest and for Supporting the accruing Expences and for Providing Payment eventually for all Damages Costs and Charges incident to Drawing Bills of Exchange for the said Sum of Money and for Securing and Indemnifying the Persons for drawing and endorsing the said Bills and for Reimbursing the Public thereon by charging each Individual with their Proportion of Cost and Charges (3 July 1779) (Antigua); CO 8/20, p. 6.

²⁶⁴ An Act for granting an Aid to his Majesty by a Duty or Tax of Twenty Shillings Current Money per Poll on all Negroes and other slaves and the further Duty of Twenty Pounds in the Hundred Pounds on the yearly Value of Houses Warehouses Shops and Tenements in the several Towns within the said Island for repairing the Forts and Fortifications for the better Support of His Majesty's Troops stationed in this Island for the defence of the same and defraying the other Public Expences of the said Island (18 March 1780) (St Kitts); CO 240/13, p. 81.

²⁶⁵ An Act declaring the right of establishing Fees to be only in the three Branches of the Legislature in their Collective Body, and for the better support of his Excellency and the Dignity of the Government of this Island (21 January 1783) (Barbados); CO 30/16, p. 16.

²⁶⁶ An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men, White Women, or White Children, or pay certain Sums of Money, in case they shall be deficient, and applying the same to several Uses, to protect Freeholders on the days of choosing Church Wardens and Vestry Men, and to ascertain who shall be deemed duly qualified to vote at such Elections (23 December 1783) (Jamaica) and An Act for raising a Tax by the Poll, and on Trades, Super Cargoes and Masters of Vessels in the Out Ports and on Offices and Houses and for laying a Tax on Certain Wheel Carriages and Applying the same to Several uses (1 March 1783) (Jamaica); CO 139/38, p. 63 and 139/37D No. 535 (no page number), respectively.

profits of faculties, professions and trades and a tax on certain animals by head and carriages, and was imposed annually for the duration of the war.²⁶⁷ There was a special levy in 1780 to raise funds for defence, which required that a specified sum 'shall forthwith be raised by an equal Assessment upon the Estates real and personal of the Inhabitants . . .'.²⁶⁸ So this involved a change in tax base and a move to a quota system but was a one-off levy. With the Spanish capture of the island in mid-1782, there was no direct tax imposed in 1783.

Of the islands gained by Britain at the end of the Seven Years War, Dominica was captured by the French in 1776 and imposed no taxes under the British again until after the peace. St Vincent was separated from Grenada and established as a separate colony with its own governor in 1776.²⁶⁹ It continued to impose its deficiency law of 1767 (see pp. 313–14) and in 1777 imposed its usual direct tax involving a slave tax, tax on land per acre, tax on unimproved town lots and improved town lots according to yearly value and now an additional tax on billiard tables.²⁷⁰ This was the last tax of this style imposed before the French captured the island in 1779. Tobago (still administered from Grenada) was captured by the French in 1781 and, as mentioned, ceded to the French under the Treaty of Versailles of 1783.²⁷¹ No records have been uncovered of direct taxation in Tobago during British rule to the time of its capture by the French.

Grenada is the other colony that requires discussion and here there were some important developments in direct taxation before its capture by the French in 1779. In 1776, there were two levies. The first was similar to the law of 1767 (see p. 312) and so involved taxation of slaves per head (but more or less depending on type of plantation), taxation

²⁶⁷ For example, see An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein mentioned, and directing how the same shall be collected and applied (21 December 1776) (Bahamas), An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein mentioned, and directing how the same shall be collected and applied (3 April 1780) (Bahamas) and An Act for laying a Poll Tax, and other Taxes and Assessments for the Years therein mentioned, and directing how the same shall be collected and applied (21 February 1781) (Bahamas); CO 25/5, pp. 53, 83 and 124, respectively.

²⁶⁸ An Act for raising a sum of Money and empowering Commissioners for putting this Island in a better state of Defence (3 April 1780) (Bahamas); CO 25/5, p. 91.

²⁶⁹ Burns (1954, p. 505).

²⁷⁰ An Act for laying a Tax for paying publick Debts and Charges and particularly applying the said Tax (28 October 1777) (St Vincent); 262/3, p. 101.

²⁷¹ Burns (1954, p. 605).

of land per acre and the annual rents of buildings in the towns as well as a fixed amount for billiard tables and for taverns.²⁷² The second levy involved indirect taxes together with a slave tax to support the governor.²⁷³

In 1778, Grenada enacted a general revenue law that collected together the usual taxes imposed by it.²⁷⁴ Included in this collection is what may be assumed to be the enactment of the French capitation tax that existed prior to 1763 and that was continued by the British letters patent of 20 July 1764 (see p. 312). It seems that this law set a precedent for similar levies imposed by other British colonies in the West Indies ceded by the French in the period after the end of the war, a practice that would spread more broadly throughout the West Indies towards the end of the eighteenth century and into the nineteenth century. The issue is also raised as to whether this style of taxation was the immediate forerunner of the British income tax of 1799.

The 1778, Grenada law imposed the taxes on 'Inhabitants' and these taxes were to be paid for 1779, 1780 and 1781. So, as the French captured the island in 1779, only a small amount of the tax was paid under this law and, as noted below, the French took that amount. The law first imposed a tax on slaves not belonging to estates and then a tax of 5 per cent on the 'value of the annual Rents of the Houses Stores and other Buildings in the several Towns of the said Islands . . .'. The law proceeded to tax billiard tables, provide for tavern licensing and then taxed the yearly produce of sugar, molasses, rum, cotton, cocoa, coffee and indigo from the estates. The final tax imposed was the capitation tax according to classes. The law proceeded to list various debts to be paid.

²⁷² An Act for Raising a Sum of Money on the Inhabitants of this Island and Appropriating the sum to defray the Incidental Current Expences and to the Discharge of the Publick Debts of these Islands (19 January 1776) (Grenada); CO 103/4, p. 13.

²⁷³ An Act for providing an Additional Support for His Excellency the Right Honorable Sir George Macartney Knight of the Bath Captain General and Governor in Chief in and over His Majesty's Islands of Grenada the Grenadines and Tobago Chancellor Ordinary and Vice Admiral of the same during his Government and appointing particular funds for the payment of the same (26 July 1776) (Grenada); CO 103/4, p. 103.

²⁷⁴ An Act for granting an Aid to His Majesty by Taxes to be raised in the Islands of Grenada and the Grenadines and for appropriating the same towards discharging the Public Debts and defraying the Current Expences of the said Islands (12 October 1778) (Grenada); CO 103/5, p. 90.

Clause 12 of the law provided the core of the capitation tax and required:

that all white Persons . . . having using or concerned in any Employment Commerce Business Office Profession Occupation or profitable Transaction, or exercising any Trade, Calling Business or Occupation whatsoever . . . having a Yearly income of Fifty pounds Current Money of these Islands or upwards shall pay a Yearly Poll or Capitation Tax according to the Class in which they shall be rated by Assessors appointed by this Act . . .

Clause 15 set out eight classes into which persons might be classified, which were £1,000, £800, £600, £400, £300, £200, £100 and £50 yearly income. Clause 16 then set out the amount of the flat tax for each class; £33, £26 and 8s, £19 and 16s, £13 and 4s, £9 pounds and 18s, £6 and 12s, £3 and 6s and £1 and 13s. Assessors were appointed for each parish and, it seems, were to make their assessment on an objective basis. However, under clause 17, any person that thought they were overrated could swear an oath as to their income and could be reassessed.²⁷⁵ Clause 17 was also particular in that it made provision for partnerships. It provided that the:

Assessors shall also consider the peculiar Situation of such Persons as are Partners in Trade or other Callings and to the proportion any of the said Partners draw of the said Trades or Callings . . .

In many ways this Grenada law exhibits issues and terminology that would later be incorporated into the British income tax. It is unlikely that this law involved any radical change in direct taxation in Grenada. Rather, it reflects the French capitation tax, perhaps adapted to the situation of having become a British colony.

After the American War of Independence There was no immediate impact of this development in the older West Indian colonies in the decade after the Treaty of Versailles of 1783. Nevis was the first to impose new direct taxation in the period after the peace. In 1784, it moved away from its simple slave tax for the first time in six decades

²⁷⁵ This appears similar to the position under the French *vingtieme*. Kwass (2000, p. 142) notes with respect to the latter tax a petition was available against assessments but in order to be successful '[p]etitioners had to prove, by providing valid estate documents, that their income was lower than estimated, a feat that seldom occurred'.

and imposed a tax along the lines of that used in St Kitts and so one that involved a slave tax and a tax on the yearly value of houses, warehouses, shops and tenements in the towns.²⁷⁶ This tax proceeded to impose a residual poll tax on free persons. This was the only such imposition before 1793 but a slave tax was continued for the support of the governor. St Kitts itself imposed direct taxation in its usual form in 1789, being the first such levy since repossession from the French.²⁷⁷ There was a similar levy in 1792, with the addition of a tax on carriages.²⁷⁸

In the usual way, Barbados imposed levies in addition to the base levy imposed for the support of the governor under the 1783 law.²⁷⁹ Carriages re-entered the charge to tax in 1790 but otherwise the charge remained the same.²⁸⁰ The 1783 law was re-based with this

²⁷⁶ An Act for granting an Aid unto his Majesty by a Duty or Tax of Sixteen Shillings and six pence Current money per poll on the Negroes and other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis Also the Sum of fifteen pounds Current Money in the Hundred pound on the Yearly Value of all Houses Warehouses Shops and Tenements in the several Towns ... (20 May 1784) (Nevis); CO 185/8, p. 1.

²⁷⁷ An Act for raising a Tax of Fifteen Shillings per poll on all Negroes and other Slaves and Six Pounds per Centum on the yearly Value of Houses Warehouses Stores Shops and Tenements within the several Towns within the said Island to be applied for and towards the purchase of a certain number of Negroes and other Slaves for the use of the public of this Island and for directing and appointing in what manner such Negroes and other Slaves shall be employed (29 October 1789) (St Kitts); CO 240/14, p. 19.

²⁷⁸ An Act for raising a certain sum of Money by a duty or Tax of Ten Shillings Current Money per poll on all Negroes and other Slaves and a duty or Tax of thirty shillings Current Money for every single Horse Chaise, Chair Sulkey Curricule and two wheeled Chaise and a duty or Tax of Sixty shillings Current Money for every Phoeaton Post Chaise and four wheeled Chaise and a duty or Tax of twenty shillings Current Money for every riding Chaise Chair or Phoeaton Horse within the said Island and the further duty of Six Pounds in the Hundred Pounds on the Yearly Value of all Houses Warehouses Stores Shops and Tenements in the several Towns within the said Island for the Payment of the Public Debts of this Island and for the other Uses and Services therein declared (9 May 1792) (St Kitts); CO 240/14, p. 55.

²⁷⁹ For example, An Act for raising a further additional Levy on the Inhabitants of this Island was well for discharging the Debts of the Publick as to defray the Expences of the Government for the present year (9 May 1786) (Barbados) and An Act for raising a further Additional Levy on the Inhabitants of this Island was well for discharging the debts of the publick as to defray the Expences of the Government for the present year (16 December 1788) (Barbados); CO 30/16, pp. 127 and 166, respectively.

²⁸⁰ An Act for raising a sum of money, as well for discharging the debts of the public, as to defray the expences of the government for the present year (18 May 1790) (Barbados); CO 30/16, p. 186.

addition in 1791²⁸¹ and with additions it continued in this form until 1793.²⁸² By contrast, it seems that Antigua relied on indirect taxes and, for the governor's salary, the deficiency law until 1790. In that year there was a levy to raise funds for work on the fortifications, which was in a different form to the earlier levies, the last being in 1778.²⁸³ It imposed a slave tax and then a tax on the rent or yearly value of 'every person and persons who shall Occupy any Stores Ware-houses Cellars Retail-shops Lumber Yards and Wharfs wherein any Goods Wares and Merchandise have been sold or kept for Sale ...'. The tax was for two years but there were no more before 1793.

Like Antigua and St Kitts, Jamaica did not impose any additional direct taxes until the end of the 1780s. In 1789 it imposed its usual deficiency law.²⁸⁴ In the following year it imposed its usual tax on slaves, cattle and carriages, on trades according to the vestry rolls, specified offices and on the yearly value of certain houses, wharfs and warehouses in the towns.²⁸⁵

The Treaty of Versailles sought to deal with the conflict between Spain and Britain in Central America. Commissioners were appointed to delimit the boundaries of the British settlement in Belize. Following this there was a public meeting in Belize on 12 June 1784 where it was 'RESOLVED, that the original Laws and Regulations made and

²⁸¹ An Act for granting to His Excellency a Salary of three thousand pounds per annum for his better Support and the dignity of the Government of this Island and for Establishing a fund for the payment of it (25 January 1791) (Barbados); CO 30/16, p. 197.

²⁸² An Act for raising a further additional Levy on the Inhabitants of this Island to defray the Expences of the Government for the Present Year (6 March 1792) (Barbados); CO 30/16, p. 221.

²⁸³ An Act for granting an Aid of Negro Labour to His Majesty for the purposes of Erecting Works and Fortifications upon Dows Hill in this Island (31 July 1790) (Antigua); CO 8/21, p. 62.

²⁸⁴ An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of White Men, White Women, or White Children, or Pay certain sums of money in case they shall be Deficient, and applying the same to several Uses, to protect Freeholders on the Days of choosing Church Wardens and Vestry Men, and to ascertain who shall be deemed duly qualified to Vote at such Elections (19 December 1789) (Jamaica); CO 139/46, p. 40.

²⁸⁵ An Act for raising a Tax by the Poll, and on Trades, Super Cargoes and Masters of Vessels in the Out Ports, and on Offices and Houses, and for laying a Tax on certain Wheel Carriages, and applying the same to several Uses (30 March 1790) (Jamaica); CO 139/46, p. 83.

established in one thousand seven hundred and sixty five, be and continue in full force ...' (i.e. Burnaby's Laws, see p. 311).²⁸⁶ A superintendent for the colony was appointed in 1784 but did not take up duties until 1786. There remained a dispute between Britain and Spain over the Mosquito Coast. This was settled by agreement in 1786 under which the British Government agreed to the evacuation of its nationals from the Mosquito Coast in return for an extension of the Belize settlement southwards. To this agreement were added some severe restrictions, including that no form of government was to be established.²⁸⁷ Despite these limitations, the locals continued to hold public meetings and pass laws under the purported authority of Burnaby's Laws. In particular, it seems that substantial amounts were raised by an ad valorem duty on goods brought to the settlement for sale by 'transients', i.e. persons who were not on the inhabitants list.²⁸⁸

While many of the West Indian colonies had been affected by the influx of loyalists from the American colonies, the Bahamas was particularly affected. Burns notes that the loyalists particularly came from Georgia and South Carolina and the population was doubled.²⁸⁹ This did not affect the form of direct taxation, which, after the brief occupation by the Spanish, continued to involve a general poll tax, a tax on land in New Providence according to rental value, a tax on the profits of faculties, professions and trades and a tax on certain animals by head and carriages.²⁹⁰ Indeed, this was broadly a style of tax that the immigrants from South Carolina and Georgia would have been familiar with. Despite a royal government since 1718, the land in the Bahamas was still legally the property of the heirs of the Lords Proprietors. In 1787, the Crown purchased the remaining rights of these heirs.²⁹¹ The direct tax continued annually until 1789 when it was rationalised. The tax of this year involved the usual general poll tax but there was a particular levy on slave tradesmen and free coloured

²⁸⁶ British Honduras (1931–35, Vol. I, p. 144). ²⁸⁷ Burns (1954, p. 539).

²⁸⁸ For example, see the 5 per cent duty of 27 July 1786 and the 2.5 per cent duty of 26 February 1788; British Honduras (1931–35, Vol. I, pp. 144 and 168, respectively).

²⁸⁹ Burns (1954, p. 550).

²⁹⁰ An Act for laying a Poll Tax, and other Taxes and Assessments for the year therein mentioned, and directing how the same shall be collected and applied (20 May 1784) (Bahamas); CO 25/6, p. 10.

²⁹¹ Burns (1954, p. 550).

tradesmen.²⁹² There was also a tax on carriages, house lots in New Providence but there was no faculty tax. This form of tax continued until 1793.²⁹³

Grenada, St Vincent and Dominica were returned to the British after the war and it is here that we see the resumption and further development of the capitation tax along the lines of an income tax. Grenada was the first to impose tax after its return. Early in 1784, it simply imposed indirect taxes on the produce of the colony and a slave tax.²⁹⁴ By the middle of the year Grenada had returned to its 1778 tax. The new tax law was twenty pages long.²⁹⁵ Its preamble recounted the law of 12 October 1778 with its taxes to be paid in 1779 and further noted that the levy was never raised due to the invasion of the French, who took the proceeds that had already been raised under the levy. The law proceeded to impose a levy of £5,000 to be raised on the 'Inhabitants' and paid half in 1784 and half in 1785. The law was essentially in the same form as that of 1778, although the list of items subject to indirect duties had been lengthened. The poll tax was imposed in the same form, with the same classes, rates and administrative provisions. It seems there were no similar levies before 1793.

The position was different in St Vincent. Within ten days of Grenada passing its capitation tax of 1784 St Vincent imposed a similar tax.²⁹⁶

²⁹² An Act for laying a Poll Tax and certain other Assessments and Taxes for the year therein mentioned and directing how the same shall be collected and applied (26 June 1789) (Bahamas); CO 25/7, p. 86.

²⁹³ For example, An Act for imposing and laying certain Assessments and Taxes for the Year therein mentioned and directing how the same shall be collected and applied (8 August 1792) (Bahamas); CO 25/8, p. 19.

²⁹⁴ An Act for providing an Additional Support for His Excellency, Edward Mathew, Esquire, Lieutenant-General of His Majesty's Forces, Captain-General and Governor in Chief, in and over the Island of Grenada, and such of the Islands commonly called the Grenadines to the Southward of the Island of Carriacou including that Island and lying between the same and Grenada in America, Chancellor, Ordinary and Vice-Admiral of the same, during his Government, and Appointing particular Funds for the Payment of the same (20 February 1784) (Grenada); CO 103/6, p. 1.

²⁹⁵ An Act for granting an Aid to His Majesty by Taxes to be raised in the Island of Grenada and the other Islands thereon depending, and for appropriating the same towards discharging the Public Debts and defraying the Current Expences of the said Islands (5 July 1784) (Grenada); CO 103/7, p. 64.

²⁹⁶ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the said Tax (15 July 1784) (St Vincent); CO 262/4, p. 3.

As in Grenada this was a general revenue law but was only imposed for one year. It imposed liquor licensing, a tax on slaves not employed on the plantations, a duty on the value of various local products and alcohol, a tax on land per acre (if not producing the other items taxed), a fixed tax on unimproved town lots and a tax on the yearly value of houses in the towns. It also imposed:

The Respective Sums of Twenty five Pounds Twenty Pounds Fifteen Pounds Ten Pounds Seven Pounds Ten Shillings Five Pounds Two Pounds Ten Shillings and Two Pounds as a Poll Tax on every White or free Person in these Islands according to the Class in which they shall be rated in the manner herein after directed . . .

The reason for the poll tax was set out in Clause 11 and is worth repeating:

And Whereas the foregoing Taxes are insufficient for the Exigences of the Public and whereas divers Persons residing or concerned in these Islands and who derive considerable advantage from the same and for the protection of whose persons or properties in common with the rest of the Inhabitants the public expences have been incurred such as Practitioners of Law or Physic Merchants and ShopKeepers Attornies to absentees receiving Salaries or Commissions for transacting business in the said Islands Persons in public Employments Tradesmen Managers Overseers Clerks and others who will not be affected or who will be affected but very inconsiderably and under the Just proportion by the said Taxes and who by their annual profits or Earnings in the said Islands are well able and ought in Justice to bear an equal share in the general Taxation Be it therefore enacted . . . that all White and free persons . . . having using or concerned in any Employment Commerce Business Office Profession Occupation or profitable Transaction or exercising any Trade Calling Business or Occupation whatsoever having a Yearly Income of Eighty Pounds Current Money of these Islands or upwards shall pay a Yearly Poll or Capitation Tax according to the Class in which they shall be rated by Assessors appointed by this Act . . .

This head was clearly adopted from the Grenada law but it explains that this poll/income tax was targeted at those that escaped the regular forms of taxation, particularly traders and professionals.

The law proceeded to appoint assessors for the poll tax, which, interestingly, could be different from those for the house rent tax. Clause 13 provided instructions to the assessors and seems to have contained the jurisdictional limits. It seemed to have been based on

exercising or locating the trade or profession in the island.²⁹⁷ However, at other points the levy seemed to be imposed on ‘inhabitants’, so there is some confusion here. Clause 14 set out the eight classes, which were for yearly incomes of £1,000, £800, £600, £400, £300, £200, £100 and £80. Clause 15 then assigned the amounts mentioned earlier to the various classes. As under the Grenada law, a person that thought they should be in a different class could swear on oath, although in the St Vincent case it seems that this was sufficient to be moved to a new class.²⁹⁸ The same clause went on to provide for the assessment of partners in the same fashion as under the 1778 Grenada law.

St Vincent imposed a similar tax in 1786.²⁹⁹ This law contained a residual poll tax of 38s and 3d and, as a result, the last class of the law of 1784 (the £80 class) dropped out. The other classes were the same although the amount of the tax had increased. The tax was repeated in 1788 for two years.³⁰⁰ The number of classes in the capitation tax had now expanded to seventeen, with an upper category of £5,000 or more. The preamble to this tax expressly required payment of a ‘yearly poll Tax of One and an half per Cent according to the Class in which he or she or they shall be rated by the assessors ...’.³⁰¹ Interestingly, the law specifically taxed the owners of slaves for receipts from the labour of slaves by hire or taskwork. The tax of 1789 was similar.³⁰² The law of 1790 increased the number of classes to eighteen and increased the tax rate to 2.5 per cent³⁰³ and the law of 1791 was similar.³⁰⁴

²⁹⁷ Clause 13 read in part: the assessors are appointed ‘for the purpose of ascertaining in what class according to their judgment and in their Conscience the several persons having using or concerned in any Employment Business Commerce Office Profession Occupation or Profitable Transaction or exercising or concerned in any Trade Calling Business or Occupation whatsoever in the several Towns and Parishes in the said Islands ...’.

²⁹⁸ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the said Tax (15 July 1784) (St Vincent) clause 16; CO 262/4, p. 3.

²⁹⁹ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (9 September 1786) (St Vincent); CO 262/4, p. 107.

³⁰⁰ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (11 April 1788) (St Vincent); CO 262/5, p. 5.

³⁰¹ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (11 April 1788) (St Vincent) clause 9; CO 262/5, p. 5.

³⁰² An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (20 April 1789) (St Vincent); CO 262/5, p. 54.

³⁰³ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (9 March 1790) (St Vincent); CO 262/5, p. 78.

³⁰⁴ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (16 March 1791) (St Vincent); CO 262/5, p. 161.

In 1785, Dominica began to impose direct taxes again. In that year it imposed a tax broadly consistent with the earlier levy of 1774 but with some developments.³⁰⁵ This law imposed a slave tax with an addition for certain slave tradesmen. There was a tax of 5 per cent on ‘the estimated Rent of all Houses Buildings and Lots in the Towns . . .’. But there was an increase to 10 per cent with respect to certain buildings ‘on the Kings three Chains within three Miles of the Town of Roseau . . .’, unless used for plantation stores. The law also imposed indirect taxes on sugar, rum, coffee and cocoa produced. There was also a classified poll tax but not in the same form as Grenada and St Vincent. Rather it involved specific impositions on various types of traders, professionals and others.

The poll tax included a charge of £30 on foreign merchants, a poll tax on coloured persons, £16 and 10s on lawyers, medics, merchants and shopkeepers ‘who makes annually in the Course of his or their Profession or Business the Sum of five Hundred Pounds Currency or upwards . . .’. The charge was £9 and 18s on a ‘Public Auctioneer or Vendue Master’ and the same on managers of plantations that received a salary of £300 or more and £6 and 12s for managers with a salary between £200 and 300. There was a residual poll tax on all white males between the ages of twenty and fifty of 66s but ‘Provided always that if any Person shall make Oath before any one Justice of the Peace that his Annual Income does not exceed Ninety Pounds he shall be exempted from paying the said Tax of Sixty Six Shillings . . .’.

Dominica imposed a similar tax the following year.³⁰⁶ However, this tax incorporated increased graduation and classification. Besides the tax on lawyers and medical practitioners, there was also:

A Tax of twenty five Pounds on every Merchant Auctioneer Vendue Master, Master Tradesman Shopkeeper or other Person having a Natural Born or adopted Subject who makes annually in the course of his or their Profession or Business the Sum of five hundred Pounds every exemption from this Tax to be ascertained by the Oath of the Party before any one of his Majesty’s Justices of the Peace . . .

³⁰⁵ An Act for raising a Fund towards defraying the Public Debts and contingent Expences of this Colony (2 May 1785) (Dominica); CO 73/8, p. 112.

³⁰⁶ An Act for raising a Fund towards paying the publick Debts and contingent Expences of the Colony (4 August 1786) (Dominica); CO 73/9, p. 22.

There followed a charge of £12 on professionals and businessmen making between £250 and 500 annually, then a tax of £15 on managers of plantations receiving a salary of £300 or more or £10 if the salary was between £200 and £300. Then there was:

A Tax of five Pounds on every Male White Person resident in this Island between the age of Twenty one and Fifty Years whose annual income shall amount to one hundred and fifty Pounds currency or upwards and less than two hundred pounds . . . [unless swearing an oath to the contrary]
 A Tax of three Pounds Six Shillings on every Male White Person resident in this Island between the age of twenty one and fifty years whose annual Income shall be one hundred Pounds and upward and less than One hundred and fifty Pounds . . .

There was a fixed tax of £50 on 'every Merchant Auctioneer or Vendue Master, Master Tradesmann Shopkeeper or Vendor by Retail residing in this Island and not being a Natural Born or adopted Subject of his Britannic Majesty . . .', and then a charge of 33s on every free person of colour. This law had clearly drawn closer to the form of poll tax used in Grenada and St Vincent. It was continued in 1787 and again in 1788.³⁰⁷ There was another charge on a similar basis in 1789 but that was the last for the period covered by this heading.³⁰⁸

West Africa

As mentioned at page 341, the fledgling province of Senegambia on the west coast of Africa was lost to France at the time of the American War of Independence in 1779. Under the Treaty of Versailles of 1783, Senegal was returned to France and the Gambia to Britain. This marked the end

³⁰⁷ An Act to continue for a limited Time An Act of this Island entitled An Act for raising a Fund towards paying the Public Debts and contingent Expences of the Colony (17 November 1787) (Dominica) and An Act to revive and continue for a further limited Time two several Acts of this Island the one entitled 'An Act for raising a Fund towards defraying the present and contingent Debts of the Colony by taxing and licencing under certain Regulations and Restrictions Taverns Punch Houses Tipling Houses and Public Billiard Tables and for encouraging Persons to keep eating Houses and Lodgings and to prevent Planters or any Person or Person on their Plantations from selling Rum to Slaves' and the other entitled 'An Act for raising a fund towards paying the Public Debts and Contingent Expences of the Colony' (22 February 1788) (Dominica); CO 73/9, pp. 56 and 69, respectively.

³⁰⁸ An Act for raising a Fund towards paying the public Debts and contingent Expences of the Colony (12 March 1789) (Dominica); CO 73/9, p. 97.

of Senegambia and the return of the Gambia to the rule of the Company of Merchants trading to Africa, which was to receive an annual grant for its upkeep.³⁰⁹ Various forts on the Guinea Coast had also changed hands during the war but the Anglo-Dutch Treaty of 1784 largely restored these.³¹⁰

It was not long before an alternate West African settlement was organised. This happened under the aegis of the Sierra Leone Company in 1787. In that year a settlement was organised at Sierra Leone, which was largely made up of Negro loyalists that had been dispossessed during the American War of Independence. A plot of 20 square miles was purchased from King Nembana for this purpose. It seems that quit-rents were payable to the Company and that the Company was also funded with annual grants from Parliament.³¹¹ There are no records of taxes being imposed in this colony before 1793.

4.4 Summary

This chapter has considered developments in British direct taxation and that of its colonies from the end of the Seven Years War, through the American War of Independence until the eve of Britain's entry into the Napoleonic Wars. This period was relatively quiet in terms of these developments in Britain, where the important developments were rather in the form of management of the national debt and provocation of the American colonies into rebellion. The position was otherwise in the colonies where the war stands out as a period of great turmoil and there were some particularly important developments in the direct tax systems of the former southern American colonies. By comparison, the decades

³⁰⁹ An Act for repealing an Act, made in the Fifth Year of the Reign of His present Majesty, intituled, An Act for repealing the Act made in the last Session of Parliament, intituled, An Act for vesting the Fort of Senegal, and its Dependencies, in the Company of Merchants trading to Africa; and to vest as well the said Fort and its Dependencies, as all other the British Forts and Settlements upon the Coast of Africa, lying between the Port of Sallee and Cape Rouge, together with all the Property, Estate and Effects of the Company of Merchants trading to Africa, in or upon the said Forts, Settlements and their Dependencies, in His Majesty; and for securing, extending and improving the Trade to Africa; and for vesting James Fort, in the River Gambia, and its Dependencies, and all other the British Forts and Settlements between the Port of Sallee and Cape Rouge, in the Company of Merchants trading to Africa; and for securing and regulating the Trade to Africa (23 Geo. III c. 65) (1783) (UK).

³¹⁰ Martin (1929, p. 458).

³¹¹ Martin (1927, pp. 105, 111, 128, 138–9).

either side of the war were relatively calm. The West Indies also suffered great turmoil during the war but here some of the most important developments occurred after the war. In particular, in the colonies of Grenada, St Vincent and Dominica we see the imposition of classified income taxes.

The chapter began under the first heading with a consideration of the decade prior to the American War of Independence. There was little in the way of direct tax developments in Britain at this time. Rather, the issue was one of financing the bloated national debt. Through parliamentary grants to the American colonies, Britain had assisted these colonies in retiring large amounts of the debt they had incurred during the Seven Years War. Considering the large debt that Britain was left with, the British government devised a plan to impose some relatively light indirect taxation on the American colonies. This taxation was imposed in 1764 and 1765 but due to protests in the colonies part of the taxation was, with a change in government, removed in 1766. Another act of provocation was the Currency Act of 1764, which extended the New England restrictions on the issue of paper money to the other American colonies.

After another change in the government in Britain, the rate of the land tax was reduced in 1767. This put pressure on the British budget and the British Parliament sought in part to address this with an extension of the remaining taxation in the American colonies and, in particular, with a duty on tea. With another change in government and further protests in the colonies virtually all the taxes imposed in the colonies were removed in 1770 with the exception of the duty on tea. The result was the Boston Tea Party and the British response in trying to shut the port of Boston and alter the charter of Massachusetts. The colonists were further agitated by concessions made to the French Catholics of Quebec and an expansion of that colony in a constitutional reform of Quebec in 1774.

The first heading proceeded to consider development in direct taxation in the colonies before American independence. These were only moderate. In the American colonies the second half of the 1760s was a period of reducing debt incurred in the French and Indian War. There were no major changes in the New England direct tax systems although a number of colonies increased the specificity of their laws. For example, in Connecticut there was an elaboration of the charge on trades and businesses. In New Hampshire there was a general elaboration of the tax base. In Nova Scotia the counties were given express power to raise

levies according to 'ability' and in 1772 there was a tax on land with a residual poll tax to raise funds for repairing roads and bridges. Prince Edward Island and Quebec had no system of direct taxation although Prince Edward Island did have a statute labour law for building roads with a provision for commutation.

In Massachusetts, by contrast, its system of taxation of polls, real and personal estate and faculty did not change. In the pre-independence era, Massachusetts had been the chief exponent of the faculty tax, which existed throughout New England, except for Rhode Island. Selgiman confirms that during this time there is evidence that, despite the reference to profits or gains or income in the faculty taxes, the assessors did not require the calculation of actual profits, gains or income.³¹² The same was true of the taxes on property. These were objective assessments where the assessors filled out the relevant columns in the assessment form according to what they supposed the taxpayer enjoyed in the way of profits, gains or income. Most often, the assessments resulted in gross undervaluation.

The situation was not much different in the middle American colonies. New York used its typical property tax to retire bills of credit. Similarly there were few developments in the direct tax laws of New Jersey and Delaware although Pennsylvania, like some of the New England colonies, specified greater detail in its tax base. In the southern colonies Virginia moved from a tax on land and slaves to a tax on slaves, carriages and lawyers. The Maryland impost of 1756 was the last before independence. In South Carolina the form of the law was shortened but the substance changed little and the faculty tax was applied to the whole of the colony (and not just Charlestown). Georgia continued with a system similar to that of South Carolina but the tax on stock in trade now only applied to imported stock and North Carolina continued to rely on its poll tax.

In the West Indies too there was little change. Barbados and Jamaica primarily relied on slave taxes, taxation of trades according to vestry rolls and certain improved land in the towns. In Antigua and St Kitts the primary subjects of direct taxation were slaves and improved land in the towns, whereas Nevis continued to rely just on slave taxation. Both Jamaica and Antigua placed substantial reliance on deficiency laws. In the Bahamas (where the ratio of Negro to white population was

³¹² Selgiman (1914, pp. 374–5) referring to an example in Connecticut.

more balanced) the poll tax was general and it also relied on taxation of town lots, cattle and carriages with a supplementary tax on trades, professions and faculty. In Belize, the arrival of a naval squadron in 1764 saw the foundation of 'Burnaby's laws', after the name of the admiral of the squadron. Here local levies were associated with the local industry, logwood and boats.

In the newly acquired islands of Grenada and the Grenadines the French poll tax was continued. In 1767, Grenada imposed a tax more typical of the British West Indies, involving the taxation of slaves per head, land per acre and the annual value of improved land in the towns. In St Vincent and Dominica there was a similar tax by 1769 and 1772, respectively. St Vincent followed Jamaica and Antigua in imposing a deficiency law.

The first heading proceeded to consider the development of British East India Company influence in India. It recounted the Company's first purchase of 'zemindari' rights in 1698, rights to, in effect, collect a land tax or quit-rent. There were further important developments during the Seven Years War with certain military actions against French assisted locals and, in the result, the acquisition of further zemindari rights. The dominance of the British in India at the end of the Seven Years War led to the granting of the 'diwani' by the Indian Emperor in 1765. This entitled the Company to collect the provincial land tax revenue in return for a fixed payment. In the early years the diwani proved profitable to the Company but the Company's heavy-handed approach contributed to the collapse of the Bengal economy and by the early 1770s losses for the Company. This resulted in British Government assistance and, in 1773, the first regulation of the Company's government in India.

The heading turned in a similar manner to developments in West Africa. It recounted the various chartered trading companies trading in West Africa and the settlement of the Royal African Company in 1672, which largely traded in slaves to the West Indies and Virginia. The Company's monopoly was removed in 1698 and it survived on British government grants to maintain its forts along the West African coast. In 1750 the management of the forts was moved to the newly formed Company of Merchants Trading to Africa. Britain acquired Senegal during the Seven Years War and initially its management was in the hands of this Company. However, in 1765 the Crown created the province of Senegambia with a government similar to that used in the American colonies. Until the American

War of Independence this small colony was largely funded with British parliamentary grants.

The second heading of the chapter focused on developments in direct taxation in Britain and the American colonies during the American War of Independence and the decade thereafter. The British response to hostilities was the usual rise in the land tax to the wartime rate of 4s. But in a now familiar fashion the British largely met the cost of the war through major increases in the national debt. Some of this increase was secured with additions to the Assessed Taxes and increases in indirect taxes. With the loss of the war William Pitt (now Chancellor of the Exchequer) continued to increase the range of objects subject to the Assessed Taxes and in 1785 he formally grouped the taxes on houses, carriages, man servants, horses and shops, as the 'Assessed Taxes' under the management of the Board of Taxes. The importance of the Poor Rate at this time was also noted, equivalent to 19 per cent of government revenues by the 1780s.

The position of the newly formed United States was very different where there was a wave of constitutional reform following the Declaration of Independence and this resulted in substantial changes in direct taxation in some of the states. There was also the intervention of a new body, 'Congress', which, although it did not have power to tax individuals, had power to requisition funds from the states. In the usual way, the states and Congress funded the immediate needs of the war with bills of credit. The massive number of bills issued during the war would be sunk through three primary mechanisms: devaluation; confiscation of property of loyalists; and taxation. In the postwar era, questions as to allocation of the war debt would be settled under the constitution of 1788, which allocated it to the federal government but gave that government the right to tax.

In New England, Massachusetts changed its form of assessment in 1777, if not the substance. The tax was still on polls, property and professions, faculties, trades and employment but the property element was more clearly based on capital value. This form of taxation was imbedded in the Massachusetts constitution of 1780, with the result that this form of taxation continued in the postwar period. During the war the Connecticut system remained unchanged but in 1784 the faculty tax was transformed into a type of class tax, with particular professions being listed at particular amounts. Rhode Island continued to use poll and property taxes, without specific taxation of faculty. In New Hampshire the faculty tax was at first limited during the war

and by 1789 repealed entirely, leaving the poll and property taxes. Vermont declared its independence from New York during the war and proceeded to adopt a Connecticut-style tax system.

During the war and until 1788 New York relied on its property tax, from which date there was a break in state-level direct taxes. In New Jersey too there were few developments other than increasing specificity in instructions to assessors. The same was true for Pennsylvania. In 1779, Delaware experimented with expressing the tax base for the state-level tax but by 1781 it had reverted to raising state direct taxes by reference to the county levies law.

The greatest developments in direct taxation occurred in the southern states. During the war Virginia imposed tax on slaves, land per 100 acres and carriages. But, in 1777, this changed to a general property tax, with a residual tax on salaries and income from 'offices of profit'. This did not last long and during the peace the direct tax system settled on land, slaves, cattle, carriages and billiard tables. Maryland too adopted a general property tax in 1777 with, from 1779, a tax on income from public offices and annuities. By 1786 Maryland repealed its direct taxes and relied on other forms of financing. In North Carolina too there was a move to a general property tax, in 1777, with a residual poll tax, which continued to be imposed during the peace. By contrast the direct tax system of South Carolina did not change much, the primary subjects of tax continued to be slaves, land and faculties, professions, trades and employment. The Georgian system was similar but changed somewhat during and after the war. During the peace it settled as a land tax, general poll tax, tax on certain buildings, carriages and stock in trade and a specified amount for certain professions.

The second heading turned to consider direct taxation in the colonies that remained loyal to Britain. Nova Scotia imposed a poll tax in 1775 that was classified according to 'ability', but this was a one-off levy. In 1779 it imposed a land tax. This also was short lived. There was a break in direct taxation towards the end of and following the war but Nova Scotia picked up direct taxation again in 1791 with a return to a type of classified poll tax. By contrast, Prince Edward Island and Quebec relied on indirect taxation during and after the war, although Prince Edward Island did impose a land tax on absentees to supplement its statute labour law for maintaining roads. New Brunswick was created as a separate colony in 1784 as a result of the influx of loyalists. Early direct tax levies in New Brunswick were at the county level but the form of the tax base was largely left in the hands of the assessors with

such general words as 'just and reasonable' or 'best judgment'. In 1791, the province of Quebec was split into Upper and Lower Canada but there were no immediate developments in direct taxation.

The third and last heading of the chapter focused on direct tax developments in the West Indian colonies. French and Spanish involvement in the American War of Independence constituted a major threat to these colonies, a number of which were lost during the war. At the start of the war there were few developments in direct taxation in Barbados, Antigua, St Kitts, Nevis and Jamaica. The primary subjects of taxation continued to be slaves, improved land in the towns and, to a decreasing extent, trades. The Bahamas also continued its usual style of taxation, which was more 'southern American', primarily involved a general poll tax, tax on town land but with an express tax on 'faculties, professions and trades'.

Of the newer colonies, Dominica was captured early in the war, in 1776. St Vincent initially continued with its usual style of taxes but was also captured in 1779. Grenada was also captured in 1779, however, there was an important development in the general tax law of 1778. Imbedded among the usual taxes is what seems most likely to be the enactment of the French capitation tax that existed before 1763. The law began by taxing slaves and improved land in the towns according to annual value. There were various other, largely indirect taxes but the final tax was imposed on 'inhabitants'. The tax expressly applied to white persons concerned in any employment, office, profession or profitable transaction as well as those exercising any trade or business. Persons were allocated to one of eight classes depending on their 'yearly income' and liable for a fixed amount of tax depending on the class. The assessment was largely an objective one but individual taxpayers had the option of swearing an oath as to their income if they thought they were overrated.

In the period after the war, the direct tax systems of the older West Indian colonies continued to develop slowly. St Kitts continued to tax slaves and certain improved land in the towns and in 1784 Nevis moved from its simple slave tax to adopt this approach. Barbados continued to impose a similar tax with the additional taxation of trades and personal estates. In Antigua there was little direct taxation outside the deficiency law until 1790 when there was a charge on slaves and certain business premises. Jamaica also imposed little direct taxation until 1790 when the deficiency law was supplemented with the usual tax on slaves, cattle, carriages, trades according to the vestry rolls, specified offices and the

yearly value of houses and certain improved properties in the towns. In the Bahamas as well the tax system changed little from its southern American style. However, in 1789 the system was rationalised into a general poll tax, tax on slave and free coloured tradesmen, tax on carriages and house lots in New Providence but the faculty tax was removed.

Grenada, St Vincent and Dominica were regained after the war and Grenada re-imposed its capitation tax of 1778 in 1784 but there were no similar levies until the end of the period covered by this chapter. However, St Vincent imposed a similar tax in 1784 again classifying people into eight classes according to their 'yearly income'. St Vincent imposed a similar levy in 1786 and 1788 but under the latter law the number of classes had extended to seventeen. Further charges occurred in 1789, 1790 (when the number of classes was extended to eighteen) and 1791. Dominica, by contrast, imposed taxes along the usual lines in the period immediately after the war. In 1785, it also imposed a classified poll tax but in Dominica's case it was largely classified according to trade, profession or otherwise, but within these classifications there was some reference to income and salaries. This law included a residual poll tax but persons were exempt if their 'annual income' fell below a certain threshold. During the late 1780s the Dominican law was repeated but with increased graduation and classification. With each such increase it drew closer to the classified poll taxes of Grenada and St Vincent.

The period covered by this chapter is one of contrast. In Britain and a number of colonies and former colonies, especially in the New England and middle states of the United States as well as the older West Indian colonies, there was little development in the way of direct taxation and what there was involved tinkering rather than fundamental changes. In the southern American States and the newer colonies in the West Indies there were some substantial developments, typically involving increased equity and reaching untaxed activities. In some ways Britain was going through a similar process in a slightly different form. The continuous additions to the Assessed Taxes were often targeted at areas or activities that might otherwise escape taxation.

In this respect the Grenada law of 1778 is particularly significant. It is unlikely that this law involved any radical change in direct taxation in Grenada, rather it reflected the French capitation tax, perhaps adapted to the situation of its having become a British colony. Grenada's was not an isolated case, as the extension of the class tax to other West Indian

colonies demonstrates. There was also the earlier imposition of a class tax in Nova Scotia in 1775 and later in 1791. To a more limited extent there was a similar development in Connecticut, in 1784, and Georgia, in 1785, and Jamaica had imposed a specific tax on specific persons and offices for some time. In all these cases the impositions were an effort to further comprehensive taxation and particularly to reach the lucrative trades and professions. In some sense, therefore, these taxes were similar to the New England general faculty taxes spreading back 150 years. But in an important respect they were different. The rules were not general. There was increasing specificity and focus on reaching these activities.

What these taxes demonstrate is the building of a range of factors that would influence the British income tax. These no doubt included the comprehensive English poll taxes during the 1690s, the French capitation tax and *dixieme* (and *vingtieme*), the estate and faculty taxes that had grown in the New England and middle American colonies with their frequent reference to 'profits', 'gains' and 'income' and, during the period covered by this chapter, the new developments in the West Indies that demonstrate substantial affinity with what would become the British income tax. The stage was now well set for a new battle and the development of that tax, something this study turns to in the final chapter.

1793 to 1820: the Napoleonic Battle, the Mighty Engine and the Immediate Aftermath

This final chapter of the study is centred on the British income tax; the immediate build up, the tax itself, the immediate aftermath and contemporary developments in direct taxation in the colonies and, to a limited extent, the United States. In the usual way, the chapter is structured around historic events, which require some outline in order to facilitate a deeper understanding of context in which direct tax developments took place. Unlike the last chapter and the latter part of Chapter 3, the war around which this chapter is centred was, for Britain, more clearly focused at home. That is not to say that the colonies were not involved to a substantial extent in the war but, rather, that the war threatened British home security in a more serious way than the previous two wars, in a way not seen since the War of the Grand Alliance. The result, as in the latter and earlier wars involving such a local threat, was dramatic, even frantic development in direct taxation.

The chapter is structured around three headings, which centre on two important treaties: the Treaty of Campo Formio of 1797 and the Treaty of Amiens of 1802. The first of these is important not because Britain signed it but because it was not a party to the treaty and as a result was left alone in the battle against France. Britain was a party to the second treaty, which resulted in a short respite in the war with Napoleon. But within a short period of time that war had recommenced and ran continually until Napoleon's downfall more than a decade later.

This chapter is structured under three headings. The first heading covers the period from the beginning of Britain's entry into the war against revolutionary France and ends with the Treaty of Campo Formio. This period involves little in the way of developments in direct taxation in Britain but does involve some developments in the colonies, particularly in Canada and the West Indies. The second heading covers the period after the Treaty of Campo Formio, when Britain was isolated

and the funding crisis of the war set in. This is the major period of development in British direct taxation and sees the introduction of the income tax. This heading ends with the Treaty of Amiens and, therefore, the expiry of the first income tax.

The third heading covers the period from the resumption of war, through its end until 1820. It covers the reintroduction of the income tax in 1803, which importantly incorporated the deduction at source mechanism, through to the expiry of the income tax in Britain in 1817. This is another period in which there were substantial developments in the colonies, particularly the West Indies, where a number of colonies had income taxes. The extension of the period covered by this heading to 1820 provides an opportunity to consider what impact, if any, the repeal of the income tax in Britain had on the direct tax systems in the colonies.

5.1 To the Treaty of Campo Formio

The background to the Napoleonic Wars was discussed above at pages 321–2. As noted at that point, the execution of Louis XVI and Marie Antoinette in 1793 by the revolutionary government brought Britain (as well as Spain and the Netherlands) into the war on the side of Austria and Prussia. The French response was the conscription of hundreds of thousands of men into the French army. With its massive army France expanded its borders and was particularly victorious in 1794 and 1795 when, among other territories, it occupied Belgium and the Netherlands. In 1796 the branch of the French army led by Napoleon made large inroads into Italy. Napoleon secured further major victories in 1797, bringing the Austrian empire to its knees and suing for peace. The peace was established by the Treaty of Campo Formio of 1797 under which Austria ceded Belgium to France and recognised its control of the Rhineland and much of Italy.

This heading is divided into three parts. The first part briefly considers the initial direct tax developments in Britain during the initial stages of the French Revolutionary War. The second part considers direct tax development to 1797 in the United States and, in particular, the famous report of Oliver Wolcott. The United States was not directly involved in the French Revolutionary War but by 1797 was contemplating a naval war with France.¹ By contrast, the West Indies

¹ Anderson (1983, p. 62) suggesting there was an ‘undeclared naval war with France’.

was, as usual, one of the first fields in which the dispute with France produced aggressive activity. The heading concludes with a consideration of direct tax developments in the British colonies and, in particular, in the West Indies where there are developments of relevance to the imminent introduction of the British income tax.

Assessed Taxes Are not Enough for Britain

For the past century Britain had begun its wars with an increase in the land tax to 4s. However, that rate had continually been imposed since the start of the American War of Independence and so politically there was no room for an increase in this tax. Rather, Pitt's initial response in 1793 was to render perpetual a number of tax increases imposed in 1791, including additions to the Assessed Taxes, thereby establishing a fund that could be borrowed against. But during the early years of the war Britain largely relied on increases in indirect taxes. In 1796 there was an increase in the rates of the Assessed Taxes with another increase in 1797 and an extension to clocks and watches.² But the increases were still largely in indirect taxes.³ Austria signed the Treaty of Campo Formio in October 1797, Britain was alone at war with France and Pitt was considering his next move in taxation.

Federalist Era in the United States

The revenues (including indirect taxes) of the United States federal government between 1790 and 1794 were insufficient to pay debts (including interest on the newly established national debt) incurred during those years. In 1795, the federal government instigated a plan to create a sinking fund from which to redeem the debt.⁴ Accordingly, the federal government looked for new ways of raising revenue and asked the Secretary of the Treasury, Oliver Wolcott, to look into the possibility of imposing a federal direct tax. Wolcott's report of late 1796 provides a good snapshot of the direct tax systems of the states at this time, which were considered in devising possible options for a federal direct tax.⁵ The federal direct tax imposed in 1798 (see pp. 424–5) was based on this report.

² An Act for granting to His Majesty certain Duties on Clocks and Watches (37 Geo. III. c. 108) (1797) (UK).

³ See Dowell (1965, Vol. II, pp. 209–17). ⁴ Anderson (1983, pp. 58, 60).

⁵ United States (1796).

In 1793, Massachusetts, the leading exponent of the faculty tax, dropped the reference to 'faculty' in its tax law. However, the four-columned approach involving a quota system remained. The first three columns or heads covered polls, land and personal property. The fourth column now just referred to 'income from any profession, handicraft, trade or employment'.⁶ There were no further developments in the Massachusetts' direct tax law to 1797. The form of tax in Connecticut changed even less but there was a change to list specific valuations in tabular form.⁷ In Rhode Island the fixed poll tax and residual property tax apportioned by town quota continued until the end of the century, subject to periodic re-assessments.⁸ The New Hampshire direct tax system, which also included a poll tax and property tax according to a town quota system (faculty having dropped out in 1789, see p. 329), also continued for the rest of the century.⁹ The form of law introduced in Vermont after independence essentially continued until the end of the century. This involved the taxation of polls, lands, cattle, money and debts receivable as well as lawyers, doctors, merchants, traders, millers, mechanics and businessmen 'in proportion to the gains of their respective profession, employment, or business, according to the best discretion and judgement of the listers'.¹⁰

As for the middle states, as noted at page 330, New York and Pennsylvania began a break in direct taxes levied by the state in 1788 and 1789, respectively, and this continued throughout the period covered by this heading.¹¹ The New Jersey quota-based direct tax system

⁶ An Act for apportioning and assessing a Tax ... (1793, Tax No. 10) (Massachusetts); American Antiquarian Society (1956-, No. 25787). See also United States (1796, pp. 420-2).

⁷ An Act for the direction of Listers in their Office and Duty in Acts and Laws of the State of Connecticut, in America (1796) (Connecticut), at p. 277; American Antiquarian Society (1956-, No. 30260). See also United States (1796, pp. 423-4).

⁸ For example, An Act for taking a general Estimate of the rateable Property within the State, and of that belonging to the Inhabitants being without the State (June 1795) (Rhode Island); American Antiquarian Society (1956-, No. 47578). As noted at p. 328, a separate law imposed the taxes. See also United States (1796, pp. 422-3).

⁹ Robinson (1902, p. 86) and see the description in United States (1796, p. 419).

¹⁰ An Act ascertaining the principles on which the list of this state shall be made and directing listers in their office and duty (10 March 1797) (Vermont); American Antiquarian Society (1956-, No. 33117). See also the description in United States (1796, p. 418).

¹¹ United States (1796, pp. 425, 427). The earlier page includes a description of the manner in which New York State apportioned and added its taxes to taxes to be collected in the localities.

(essentially involving the taxation of land, houses and certain other buildings, cattle, certain carriages and boats, slaves, shopkeepers and single men keeping horses) continued and changed little to the end of the century.¹² As for Delaware, in 1796 specific instructions were provided for public assessments of real and personal property.¹³ Under this assessment, manufacturers' and tradesmen's stock, goods, wares and merchandize might be assessed according to the 'real profits arising' from the activity. Land was to be assessed at its 'actual worth' and buildings often based on their rental value. Many items of personalty were to be assessed at the 'discretion and judgment of the several Assessors . . .'. There was also a residual assessment by poll. The tax for the next year was, as usual, apportioned between the counties and a rate to be set according to an assessment under the 1796 law.¹⁴

In the southern states, Virginia continued with its tax on land, houses and town lots, slaves, horses, cattle, carriages and billiard tables, and the tax system followed this format through the turn of the century.¹⁵ Maryland, like New York and Pennsylvania, did not levy any state-level direct taxes during the period covered by this heading, although such taxes were levied at the county level.¹⁶ In South Carolina the taxation of land, slaves, Negroes, stock in trade and faculty, etc. lasted until the end of the century.¹⁷ As for North Carolina, by 1794 the tax on stock in trade, cattle and money at interest had fallen away, leaving the taxation of lands, houses, town lots, horses and polls (with a higher rate

¹² For example, see *An Act to raise the Sum of Fifteen Thousand Pounds, in the Year One Thousand Seven Hundred and Ninety-four* (17 February 1794) (New Jersey); American Antiquarian Society (1956—, No. 27385). See also United States (1796, p. 426).

¹³ *An Act for the valuation of real and personal property within this state* (9 February 1796) (Delaware) in *Laws of the State of Delaware* (1797, p. 1247); American Antiquarian Society (1956—, No. 32030). See also Seligman (1914, pp. 378–9) and United States (1796, p. 429).

¹⁴ *An Act making provision for the support of government for the year of our Lord One Thousand Seven Hundred and Ninety-seven* (21 January 1797) (Delaware) in *Laws of the State of Delaware* (1797, p. 1343); American Antiquarian Society (1956—, No. 32030).

¹⁵ See United States (1796, pp. 431–2). The direct tax system of the new State of Kentucky was similar; United States (1796, p. 433).

¹⁶ United States (1796, p. 430). The county taxes were levied according to assessments under the 1785 assessment laws discussed above at pp. 334–5.

¹⁷ For example, see *An Act for raising Supplies for the year one thousand seven hundred and ninety-six* (20 December 1796) (South Carolina); American Antiquarian Society (1956—, No. 32856). See also United States (1796, pp. 434–5).

for slaves), in which form the tax system continued until the end of the century.¹⁸ Georgia continued to raise its direct tax on land, generally on polls, on certain buildings, carriages, billiard tables and stock in trade, and a head tax on physicians, lawyers and certain other professions until the end of the century.¹⁹

War in the Colonies

In the West Indies the French royalists assisted the British against Revolutionary France. The war here began with the capture of Tobago by the British in 1793. In the same year the British invaded French Hispaniola but never secured the island and after five years of fighting the British left in 1798. With little difficulty the British captured Martinique, St Lucia and Guadeloupe in 1794. The Revolutionists retook Guadeloupe from the British within a few months and by mid-1795 the British had lost St Lucia as well. The occurrences in France had stirred a feeling of revolution among the slaves in a number of British-held islands and there were substantial revolts in Jamaica, Grenada and St Vincent. In 1796, the British took St Lucia yet again. With the French conquest of the Netherlands and the setting up of the Batavian Republic, the Dutch declared war on the British and Spain followed with a similar declaration later in 1796. The British responded by seizing the Dutch settlements of Essequibo, Demerara and Berbice Rivers in northern South America. In 1797, the British seized Trinidad from the Spanish.²⁰

The colonial war spread further a field with, upon hearing of the French–Dutch alliance, the British capture of the Dutch colony at Cape Town, South Africa in 1795. This was followed in 1796 by the capitulation of the further Dutch colony of Ceylon.²¹ The British had also seized French posts in West Africa. The war did not have a direct impact in Canada during the period to 1797²² but did have

¹⁸ An Act to raise a revenue for the payment of the civil list and contingent charges of government for the year one thousand seven hundred and ninety four (1794) (North Carolina) in The Acts of the General Assembly of the State of North Carolina passed during the Session held in the Years 1791, 1792, 1793, & 1794 (North Carolina: 1795, p. 129); American Antiquarian Society (1956–, No. 29221). For a description of the system at this time see United States (1796, pp. 433–4).

¹⁹ For a description of the system see United States (1796, pp. 435–6).

²⁰ See generally Burns (1954, ch. 18). ²¹ Holland Rose, J. (1940, pp. 59–60).

²² But see McArthur (1930, pp. 203–5).

a positive impact on its trade, particularly its developing timber industry. This subheading considers direct tax developments in Canada, the West Indies and Sierra Leone and South Africa between 1793 and 1797.

Canada

A Nova Scotia law of 1793 clarified that the class tax of 1791 was a yearly charge and also introduced some new heads of charge including for mechanics, handicrafts men, masters of vessels, merchants and retailers.²³ The law was discontinued after the assessment of 1795 and Nova Scotia returned to reliance on indirect taxes (but the poor rates and county rates continued to be levied at the regional level).²⁴ The approach of the other Maritime Provinces was similar. New Brunswick collected its poor rates and county rates for various purposes but there was no general provincial direct tax. The situation was similar in Prince Edward Island, which in 1796 added a further tax on owners of land for the purposes of constructing and maintaining sewers. The assessment was to be made according to the Commissioners best judgment.²⁵ As noted at page 340, there are no recorded direct taxes for Cape Breton.

In 1793, the newly created Assembly of Upper Canada enacted its first general provision for assessment for local purposes.²⁶ This assessment took the form of a graduated poll tax that seems to have had more similarity with the poll taxes of Grenada and St Vincent than with the class tax in nearby Nova Scotia. Accordingly, there may have been some French influence involved. The Assessment was imposed on

²³ An Act to amend and render more productive an Act passed in the thirty first year of his present Majesty's Reign Intituled 'An Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the Funded Debt only Excepted' (No. 479) (1793) (Nova Scotia); CO 219/18, p. 194.

²⁴ An Act in Amendment of an Act passed in the thirty first Year of his present Majesty's Reign Intituled an Act to raise a Revenue for the purposes of paying off all such Debts as are now due by the Province or which shall become due from the first day of July next the funded Debt only excepted And to suspend the Operation of such parts of the said Act and the several Acts in Amendment thereof as relate to any new Tax or Assessment hereafter to be made (No. 533) (1796) (Nova Scotia); CO 219/19, p. 58.

²⁵ An Act for appointing Commissioners of Sewers (No. 131) (13 February 1796) (Prince Edward Island); CO 228/2, p. 141.

²⁶ An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly (9 July 1793) (Upper Canada); CO 44/39, p. 37.

‘Inhabitant XXX House Holder living within the Limits of the said Parish Township reputed Township or place ...’. Householders were divided into eight classes. Householders were classed depending on the value of the ‘real or personal property Goods or effects to their Own use’ that they possessed. The bands progressed in £50 intervals from £50 up to £450. The law proceeded to impose a lump-sum tax for each class.²⁷ The law was amended the following year to add two additional £50 classes and an ‘Upper List’ for persons with property in excess of £500, who were to be taxed at the rate of 5s per £100.²⁸ The assessment law was further amended, presumably in 1795, to enable the tax imposed in each district to be a fraction or multiple of the rate imposed by the earlier law.²⁹

Lower Canada (Quebec) enacted what may be considered its first assessment law in 1796.³⁰ This was the general highway law and generally provided for statute labour in the usual manner. But the towns of Montreal and Quebec were permitted to raise the necessary funds by taxation. The Justices of the Peace were empowered to make an annual rate ‘upon all and every the Occupier or Occupiers of Lands, Lots, Houses, and Buildings in proportion to the annual value thereof, within the Cities aforesaid’.³¹

West Indies

The French Revolutionary War had no impact on the direct tax system of Barbados, which continued with its mixture of taxes on slaves, certain mills and kilns and carriages with the additional charge on inhabitants of towns for their houses, trades and personal estate according to the vestry rolls. A primary tax law continued to be imposed for the support of the governor with supplementary charges

²⁷ Vineberg (1912, pp. 32–3).

²⁸ An Act to amend certain parts of an Act passed in the thirty third year of the Reign of his present Majesty intituled An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly (7 July 1794) (Upper Canada); CO 44/39, p. 43.

²⁹ An Act to amend an Act intituled ‘An Act to authorize and direct the Laying and Collecting of Assessments and Duties in every District within this Province and to provide for the payment of Wages to the members of the House of Assembly’ (1795, presumed) (Upper Canada); CO 44/39, p. 72.

³⁰ An Act for the making repairs & altering the Highways & Bridges, within this Province, and for other purposes (7 May 1796) (Quebec); CO 44/6, p. 35.

³¹ *Ibid.* p. 64.

for other expenses.³² In addition to its deficiency law, Antigua imposed a slave and land tax in 1795.³³ The land tax was assessed by reference to the rental value of buildings in the towns and outside the towns was assessed per acre. The Antiguan system had, therefore, become very similar (in word and in substance) to that generally imposed in St Kitts since 1722 and imposed by Nevis in 1784. The Antiguan tax was repeated in 1797 and was expressed to be for the expenses of the war.³⁴

There were no direct tax developments in Nevis between 1793 and 1797, which continued to rely on its slave tax. The position was different in St Kitts, which, under pressure of the war, saw a major development in 1795. A law of that year dropped the slave tax and imposed tax under a number of heads that approximated a general income tax.³⁵ The first head was targeted at the main produce of the island and provided that:

every Owner, Renter or Possessor of any Estate within this Island the annual produce of which shall be equal to Twenty five Tons of Sugar shall pay . . . five Pounds Currency for the said Twenty five Tons of Sugar and in the same proportion for any larger or less Quantity . . .

Taxpayers were required to attend and state on oath how much they had made or would make 'from the first day of September last to the first day next September inclusive . . .'. While this does not equate with an income tax, it was a large step in that direction from the rough approximation through taxing labour that produced the produce, i.e. through a slave tax.

³² For example, An Act for raising a Sum of Money, as well for discharging the Debts of the Public as to defray the Expences of the Government for the present Year (11 March 1794) (Barbados) and An Act for the better support of his Excellency George Loyntz Ricketts Esquire during his Administration of the Government of this Island (4 June 1794) (Barbados); CO 30/16, pp. 244 and 253, respectively.

³³ An Act for raising a Fund to defray the Expences of this Island occasioned by the present War since the first day of June in the Year of our Lord one thousand seven hundred and ninety four (15 June 1795) (Antigua); CO 8/21, p. 116.

³⁴ An Act for raising a Fund to defray the extraordinary Expences of this Island occasioned by the present War and not yet provided for (27 May 1797) (Antigua); CO 8/22, p. 2.

³⁵ An Act for raising with all convenient Speed such a Sum of Money as is adequate to the immediate and pressing Necessities of this Country (19 September 1795) (St Kitts); CO 240/14, p. 98.

The 1795 St Kitts charge proceeded under a second head to provide that:

every person hereby taxed and Rated whose Income independent of Sugar plantations and Mortgages shall exceed Two Hundred Pounds Current Money and Managers and Overseers whose Income shall exceed One hundred and twenty pounds per annum shall pay . . . the Sum of Four Pounds Ten Shillings for every hundred pounds of his or her annual Income . . .

This head make it relatively clear that the intention of the first head was to reach income from sugar plantations and confirms that the intention was to produce a general income tax. However, the second head of charge proceeded to provide that ‘the Income every such person shall be rated at the Annual Amount set opposite to his Name in the Schedule hereunto annexed . . .’. The Schedule to the law included a list of persons and allocated them an amount of income, which suggests that, to a large extent (at least for these persons), the assessment of income was objective.

Two provisions ameliorated this lack of subjectivity. First, there was a residual charge for people that did not appear in the schedule:

every person omitted to be rated under this Law and whose Income shall exceed the Sum of Two hundred pounds per annum and all Managers and Overseers whose Income shall exceed One hundred and twenty pounds per annum shall pay . . . the Sum of Ninety Shillings for every One hundred pounds of his said Income . . .

Second, there was an appeal procedure against assessments to the council and assembly upon swearing an oath.

By contrast, the direct tax developments in Jamaica were few, although the impositions were substantial. In 1793, it imposed its usual tax on slaves, cattle and carriages, on trades according to the vestry rolls, specified offices and on the yearly value of certain houses, wharfs and warehouses in the towns and also imposed its deficiency law.³⁶

³⁶ An Act for raising a Tax by the Poll, and on Trades, Super Cargoes and Masters of Vessels in the Out Ports, and on Offices and Houses, and for laying a Tax on certain Wheel Carriages, and applying the same to several Uses (14 December 1793) (Jamaica) and An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of white men, white women, or white Children, or pay certain Sums of Money in case they shall be deficient and applying the same to several uses, To protect freeholders on the days of choosing Church Wardens and Vestrymen, and to ascertain who shall be deemed duly qualified to vote at such Elections (14 December 1793) (Jamaica); CO 139/48, pp. 17 and 26, respectively.

There were similar charges to 1797.³⁷ One development involved the imposition of a simple tax on land per acre, which was imposed twice in 1796.³⁸ The Belize settlement (still not formally a colony) continued to largely rely on its tax on transient traders³⁹ but also began, like so many other colonies, to impose tax on the import of liquors.⁴⁰

The direct tax system of the Bahamas went through some simplification during the French Revolutionary War. Since 1734, it had imposed a general poll tax but in 1793 this general tax was dropped, leaving the additional poll tax on slave tradesmen and free coloured persons and the tax on carriages and town lots in New Providence.⁴¹ By 1797, only this residual poll tax was left but it was coupled with liquor licensing and a tax on billiard tables.⁴² This was accompanied with a deficiency law along the lines of the one used in Jamaica, Antigua and St Vincent, although it seems that this law was not continued.⁴³

³⁷ For example, An Act for raising a Tax by the Poll, and on Trades, supercargoes and masters of Vessels and on offices and houses, and on certain wheel carriages, and applying the same to several uses (1 May 1796) (Jamaica) and An Act to oblige several Inhabitants of this Island to provide themselves with a sufficient number of white men, white women, or white Children, or pay certain sums of money in case they shall be deficient and applying the same to several Uses, To protect freeholders on the days of choosing Church Wardens and Vestrymen and to ascertain who shall be deemed duly qualified to Vote at such Elections (1 May 1796) (Jamaica); CO 139/48, pp. 115 and 127, respectively.

³⁸ An Act for raising a tax on land within this Island and for applying the same to the public Service (1 May 1796) (Jamaica) and An Act for raising a Tax on Land within this Island and for applying the same to the Public Service (21 December 1796) (Jamaica); CO 139/48, pp. 113 and 163, respectively.

³⁹ See resolution of 3 March 1796; British Honduras (1931–35, Vol. I, p. 215).

⁴⁰ See resolutions of 27 January 1795 and 19 January 1798; British Honduras (1931–35, Vol. I, pp. 212 and 242, respectively).

⁴¹ An Act for imposing and laying certain Assessments for the Year therein mentioned and directing how the same shall be collected and applied (16 September 1793) (Bahamas); CO 25/8, p. 87.

⁴² An Act for imposing and laying certain Rates, Assessments and Taxes for the Year therein mentioned, and directing how the same shall be Collected and applied (18 November 1797) (Bahamas); CO 25/10, p. 68.

⁴³ An Act to Oblige the several Inhabitants of these Islands and owners of Slaves therein to provide themselves with a sufficient Number of White Men on their respective Plantations or pay certain Sums of Money in case they shall be Deficient (11 May 1797) (Bahamas); CO 25/10, p. 40.

Grenada imposed a simple slave tax to support and welcome a new governor in 1797.⁴⁴ It seems that there was also an annual general tax law, but these are not available for the period covered by this heading (but see p. 423 below). By contrast, St Vincent continued to develop its mix of taxes including the poll/income tax. There were two such levies in 1793, the first at 2 per cent and the second at 1 per cent.⁴⁵ These general taxes involved liquor licensing, a slave tax (on slaves not belonging to estates or persons paying the poll tax), the usual tax on specified produce and a tax on imported wines. The law proceeded to tax land per acre (when the land was not producing the crops earlier specified) and the yearly rent or value of houses in towns or garden lots, with a fixed amount on unimproved lots.

The poll tax was in clause 9 of the first levy. It included a recital similar to that used in 1784 (see pp. 351–2) but the reference in this case was to ‘Gross yearly income of One Hundred and fifty Pounds Current Money . . . or upwards’ rather than ‘yearly income’ as in 1784. There were also developments on the assessment side. Assessors were required to:

issue out their Warrants to the Constables to summon all such Persons to appear before them on some certain day and at such Place as they shall . . . mention to make objections on Oath if they have any to the Sum assessed on them . . .

The law proceeded to provide for eighteen classes with incomes ranging from £10,000 down to £150. Each of these classes required the person be ‘considered as enjoying a Gross yearly income of . . . arising from the Objects aforesaid or some of them . . .’. The objects were the various trades and other activities listed as in the earlier laws. The use of the word ‘arising’ is interesting, particularly as it is used in the context of an activity rather than a location. There was a residual poll tax of

⁴⁴ An Act for providing an additional Support for His Excellency Charles Green Esquire, Captain General and Governor in Chief, in and over the Island of Grenada, and Such of the Islands commonly called the Grenadines to the Southward of the Island of Carriacou including that Island and lying between the same and Grenada in America Chancellor Ordinary and Vice-Admiral of the same, during his Government, and appropriating particular funds for the purpose (13 May 1797) (Grenada); CO 103/10, p. 34.

⁴⁵ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (15 March 1793) (St Vincent) and An Act for laying a Tax for paying Public Debts and Charges, and particularly applying the same (11 September 1793) (St Vincent); CO 262/6, pp. 42 and 83 respectively.

33s on 'free Coloured People'. Clause 13 proceeded to provide for partnerships but here the wording had become more specific:

Provided always that all Persons carrying on Trade or Business of any kind in Partnership shall be assessed for such Trade or Business jointly under the Firm by which they carry it on and not separately each for his Share.

As with the earlier laws, the next clause, clause 14, went on to state how the assessors were to be taxed. The eighteen classes allocated a set single amount of income to all persons falling within the thresholds of the class. A single proportionate rate was then applied in clause 15 to these particular amounts in the following terms:

And be it further enacted by the Authority aforesaid that all Persons included in the different Classes and paying a Poll Tax shall pay Two per Cent on their gross Annual income And in case where the Poll Tax does not amount to the Sum which the Person would pay on Slaves not making Produce or employed on Sugar Cotton Coffee Cocoa Indigo Tobacco or Provision Estates that the said Tax of Five Shillings per head shall be levied and paid in lieu of the said Poll Tax.

So while clause 15 gave the appearance of a simple proportionate income tax; this was misleading. The tax was still a classified poll tax because all persons assessed within a particular class were assumed to have the same amount of income.

These St Vincent levies of 1793 were followed by a large levy of 1797, which, it seems was intended to cover expenses for the years 1793 through 1796.⁴⁶ The heads of charge were essentially the same as in 1793 (without the liquor licensing and taxation of billiard tables).⁴⁷ However, there was a charge on sums earned by hiring out slaves.⁴⁸

⁴⁶ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (28 February 1797) (St Vincent); CO 262/7, p. 59.

⁴⁷ These were moved to An Act for obliging Retailers of Rum and other Spirituous Liquors to take out Licences and for laying a Tax on Public Billiard Tables (8 December 1797) (St Vincent); CO 262/7, p. 90.

⁴⁸ Clause 1 required taxpayers to 'give in a true just and exact Account upon Oath as aforesaid of the sum or sums of Money . . . He She or they may have earned or received or expect to receive by or from the labor of their Slaves by Hire Taskworks or Sale of any Article or Commodity whatsoever . . . raised or produced from their own or other Lands and shall pay unto the Treasurer at and after the rate of Two per Cent as well on their taxable Produce as before directed as also on all Sums or Sums of Money earned and received or expected to be received by the Means aforesaid . . .'.

The poll tax was in a similar form to that of 1793.⁴⁹ Saint Vincent also continued to impose its deficiency law of 1767.

Dominica continued to impose slave taxes but in 1797 there was a general tax law that was in many respects different from the law of 1786 (see pp. 354–5).⁵⁰ The 1797 law began with a slave tax and then imposed a 7.5 per cent tax on ‘the annual Rent of every Dwelling House, Store or Tenement in the Town of Roseau . . .’. The wording here is close to that used in St Kitts since 1722. Clause three of this law was an abbreviated version of the classified poll tax used during the 1780s. It began by requiring all lawyers, medics, merchants and auctioneers to pay a flat amount of £25. It proceeded to impose:

A Tax of nine Pounds eighteen Shillings on all Persons receiving Salaries of three hundred Pounds or upwards; A Tax of six Pounds twelve

⁴⁹ Considering the proximity of this law to the Triple Assessment and first income tax of Britain, it is appropriate to quote from some of the pertinent provisions of the 1797 St Vincent law: Clause 3

white and free People . . . having using or being concerned in any Employment Commerce Business Office Profession Occupation or Profitable Transaction or exercising any Trade Calling Business or Occupation whatsoever having a Gross yearly Income of one hundred and fifty pounds . . . or upwards shall pay a Poll Tax according to the Class in which he she or they shall be rated by the assessors appointed by this Act . . . which Assessors shall previous to the time of their meeting to assess the several Persons liable to this Tax issue out their warrants to the Constables to summon all such Persons to appear before them on some certain day and at such Place as they shall in their Warrant mention to make objections on Oath (if they have any) to the sum assessed on them by such Assessors And if they neglect to appear at such Time and place the Sums assessed on them shall be conclusive . . .

Clause 4 appointed the assessors and incorporated a somewhat confused jurisdictional rule. The clause ‘appointed Assessors for the purpose of ascertaining in what Class (according to their judgment and in their Consciences) the Several Persons having using or concerned in any employment Business Commerce Office Profession Occupation or profitable transaction or Exercising or concerned in any Trade Calling Business or Occupation whatsoever in the several Towns and Parishes in the said Islands . . .’

Clause 7 incorporated eighteen classes from £10,000 to £150 with a residual £3 6s tax on free coloured people. There proceeded the usual proviso for partners from the 1793 law as quoted above.

Clause 9 ‘all Persons included in the different Classes and paying a Poll Tax shall pay two per Cent on their gross annual Income for the Years 1793, 1794, 1795 & 1796 . . .’ with the proviso that if the slave tax was more the higher amount was payable.

⁵⁰ An Act to raise a Fund for discharging the public Debts of the Colony for the honorable Support of the civil Government thereof, and for appropriating the said Fund (4 October 1797) (Dominica); CO 73/10, p. 122.

Shillings on all Persons receiving salaries of two hundred Pounds and less than three hundred; A Tax of six Pounds twelve Shillings on all Master Tradesmen and Shop-keepers . . .

The law proceeded to impose some indirect taxes.

Tobago had been held by the British at the end of the Seven Years War, lost to the French during the American Revolutionary War and was the first West Indian gain by the British in the French Revolutionary War during 1793. In the usual way, one of the early laws of the newly acquired territory was a continuation of the taxes imposed under French rule.⁵¹ By the end of 1794 Tobago had enacted a general tax law.⁵² This was a typical West Indian tax law involving a number of features similar to the laws of Grenada and St Vincent (without the poll tax). The Tobago law incorporated the indirect taxation of local produce, the taxation of slaves not belonging to a plantation, a tax of 5 per cent on earnings from slaves working on estates other than the one they were attached to, a tax on billiard tables, taverns and a tax of 2.5 per cent on ‘The Value of the Annual Rents of Houses, Stores, and other Buildings in the Several Towns in this Island . . .’ (plantation buildings excepted).

In 1795, Tobago imposed simple slave taxes to fund the cost of putting down internal rebellion.⁵³ Later in the same year it imposed another tax along the lines of the 1794 levy but without the tax on taverns or billiard tables and similar levies were imposed in 1796 and 1797.⁵⁴ In 1797, Tobago imposed a deficiency law for three years.⁵⁵

⁵¹ An Act to Revive and put in force An Act or pretended Act of the late Colonial Assembly of this Island Entitled An Act to ascertain and fix the amount of Debts due by The Colony and to raise a Sum of Money necessary for the payment of the same (20 March 1794) (Tobago); CO 287/2, p. 29.

⁵² An Act to raise a Sum of Money for discharging the Public debts of the Colony and to appropriate for that Purpose certain Sums of Money now in the Treasurer’s hands and any other Sums that may come into his hands (24 December 1794) (Tobago); CO 287/2, p. 48.

⁵³ An Act to raise a Sum of Money for defraying the expenses that have already been Incurred in Endeavouring to Secure the Colony against Internal Enemies . . . (12 May 1795) (Tobago) and An Act to Raise a Sum of Money for Defraying the Expenses already Incurred, and which may be Incurred for the Protection and Security of this Island (20 June 1795) (Tobago); CO 287/2, pp. 86 and 99, respectively.

⁵⁴ An Act for Raising a Sum of Money for the Payment of the Public Debts of this Island, and of such Expences as may be Incurred for the Service of the Colony, and also to Appropriate for that Purpose Certain Sums of Money due on former Money Bills (17 August 1795) (Tobago); CO 287/2, p. 104. As to the further levies see CO 287/2, pp. 119 and 129, respectively.

⁵⁵ An Act to encourage the further Introduction of White Inhabitants in this Island (11 August 1797) (Tobago); CO 287/2, p. 141.

Sierra Leone and South Africa

In the usual way, a governor and council initially ran the colony of Sierra Leone and records of this council are available from 1792. These records reveal no formal taxation between 1793 and 1797.⁵⁶ However, various Hundredors and Tythingmen were appointed in the localities and often their resolutions were put to the governor and council and approved as laws. One such resolution dated 10 October 1795, which was approved by the council on 12 October 1795, contained a resolution requiring:

all Male Settlers within the said Territory of Sierra Leone . . . shall be liable to be called upon for six days work in the course of a year for clearing and keeping in order the Streets and Roads within the said Territory; and in case any person so liable to be called upon shall neglect or refuse to obey the summons of the Overseer of Roads . . . every person so offending shall be fined in the sum of One Dollar . . .⁵⁷

There was also licensing for the sale of spirituous liquor at this time and quit rents were also imposed.⁵⁸

As mentioned, the British captured Cape Colony in South Africa from the Dutch in 1795. In the usual way, upon seizing the colony the British continued the Dutch tax regime. A proclamation of October 1795 provided for 'the Payment of any taxes or contribution which for the present must continue on the same footing as formerly . . .'.⁵⁹ As discussed in more detail at page 448, at this time taxation in Cape Colony consisted of various indirect taxes, certain land rents and tithes payable to the Dutch East India Company and a poll or capitation tax used for local purposes.

5.2 During the Early Development of the Income Tax

Britain was not a party to the peace of Campo Formio, which left France free to focus its attention on Britain. In 1798, Napoleon invaded Egypt with little difficulty but his fleet was destroyed by the British Navy led by Nelson in the Battle of the Nile. French land victories continued through

⁵⁶ The colony was sacked by a French squadron in 1794; Coupland (1940, p. 211).

⁵⁷ CO 270/3, pp. 126–7.

⁵⁸ For example, see the resolution of the Council of 30 June 1796; CO 270/4, p. 32.

⁵⁹ Proclamation of 7 October 1795; Cape Colony (1897–1905, Vol. I, p. 179). Revenue officers were appointed a few days after; see Proclamation of 10 October 1795 in Cape Colony (1897–1905, Vol. I, p. 184).

the year with an invasion of Switzerland and Rome. In the same year a second coalition was formed against France involving Britain, Austria and now Russia. The new coalition, lead by Russia, had some success against the French in Italy in 1799 but the British had less success in the Netherlands. In 1799, with a political and military crisis in France, Napoleon seized control of France. But the Russians withdrew from the coalition and in 1800 the French again inflicted major defeats on the Austrians who again sued for peace in 1801. The British continued the war and with the Ottomans removed the French from Egypt. The year 1802 saw peace between Britain and France. Under the Treaty of Amiens the British recognised French gains including those in the Netherlands, Switzerland, Italy and along the Rhine.

This heading is divided into four parts. The first two parts cover the major direct tax developments in Britain during the period from 1798, through the Treaty of Amiens to the resumption of hostilities with France in 1803. The first considers the Triple Assessment of 1798 with its residual income tax and the second part considers the structure and content of the income tax of 1799. The third part covers direct tax developments in the West Indian and Canadian colonies during the same time period. Finally, the heading briefly considers direct tax developments during this period in the United States and, in particular, the introduction of the federal direct tax of 1798.

The Prelude: the Triple Assessment

By the end of 1797 Britain was isolated in its war against France, its war expenses were high and its stock low. Pitt, the chancellor of the Exchequer, needed further taxes with which to secure further borrowing and the most likely target was property. At least part of the public was aware of this need. Pitt's own papers⁶⁰ contain many proposals for the introduction of new taxes, most often in the form of a letter addressed to him. The situation had been the same throughout his period as chancellor of the Exchequer but the proposals came thick and fast during the mid to late 1790s. These proposals should not be overlooked as the ultimate source of various legislative tax measures. There are clear examples where some of these proposals are consistent with laws that ultimately found their way onto the statute books, such as with trade licences and various augmentations of the Assessed Taxes. This seems to

⁶⁰ Public Records Office files series 30/8.

have been particularly the case with proposals that found their way into the 'Schemes relating to Finance' files of Pitt's papers.⁶¹

The likely procedure with respect to these schemes is that a proposal was received and considered by Pitt or (more likely) the Treasury or Board of Taxes officials. If the proposal was felt worthy of further consideration, it seems it would be developed into a more precise scheme or plan by, most likely, officials. This seems to be the case because in these files, at various points, there are various different plans for taxes that appear in the same format and often in the same handwriting. While these documents are often undated, unsigned and not on a letterhead, the consistency of these documents, the use made of them and the fact that they most often resulted in some actual law suggests that they were official documents. The format was a page vertically split into two. On the right side of the page is the handwritten proposal, in neat and legible (official) handwriting. The left side of the page is left blank and seems to have been left for mark-up and comments by the person to whom the document was addressed. The comments on the left (which are often quite infrequent) are invariably in a different, typically scrawly, handwriting but most often these comments are incorporated in further drafts of the scheme or plan and ultimately legislation. It may be that the comments and mark-ups are those of Pitt himself, but it is also possible that they are of a high-ranking official.⁶²

There is a proposal in Pitt's 'Schemes relating to Finance' files dated 15 February 1796.⁶³ The author is difficult to decipher but it appears to be a Mr A. (All?) Burbidge.⁶⁴ The proposal is effectively for a class tax with progressive rates depending on how much a person was worth per year. The amount payable by a class was not fixed but was expressed to be so many shillings in the pound (the proposal did not use the word 'income'). There were eight classes with separate rates ranging from 6d per pound to 5s per pound for persons with over £3,000 per year. At least conceptually, there is a connection between this proposal and the French *capitation* but more clearly the West Indian poll taxes of Grenada, Dominica, St Kitts and, particularly, St Vincent.⁶⁵ Burbidge's

⁶¹ PRO 30/8/272–274.

⁶² This should be a relatively easy matter to determine for an appropriate expert.

⁶³ 'Plan of a Tax for the Ministers perusal'; PRO 30/8/272, p. 267.

⁶⁴ Interestingly, Mr Burbidge sought a public office (transferable to his son) if his proposal was felt worthy.

⁶⁵ At this stage, no serious effort has been made to trace Mr Burbidge and any connection to France or the West Indies.

proposal presumed about 6 million taxpayers and an ultimate yield from the tax of over £12 million, making this a proposal not easy to ignore and a prediction in the mid-range of the anticipated and ultimate yield of the Triple Assessment and the income tax through the Napoleonic war. As to assessment, Burbidge suggested:

The greatest number of people possessed of property can be easily ascertained, by rating them according to the books at the bank, or the land tax books, and this rate may be collected by those who collect the land tax . . .⁶⁶

The connection to the land tax, while perhaps obvious, is not less interesting considering the ultimate format of the income tax.

It is possible, but there is no certainty, that this proposal had an impact on the events of late 1797. The Burbidge proposal is in the preceding volume of Pitt's 'Schemes relating to Finance' to the volume that contains the official proposal that ultimately became the Triple Assessment.⁶⁷ The official document is of the type described in the penultimate paragraph. It is untitled, not signed but is dated 11 October 1797. The document is the likely source of a number of comments made by Pitt in Parliament but it seems unlikely that it was his direct work. The proposal begins by considering a property tax but notes:

The great practical objection to such a Contribution is the impossibility of ascertaining Property without a degree of inquisition which would be generally invidious and perhaps often (particularly in the Case of Persons of Trade) seriously mischeivous and from the complicated state of their Accounts very difficult to be executed.⁶⁸

The proposal proceeds to consider an imposition 'To be raised by a Rate proportioned to Assessments, a Sum equal to three times the Amount of all the present assessed taxes . . .'.⁶⁹ The anticipated yield of the proposal was £8 million.

So in the desperate fiscal situation of late 1797, consistent with this proposal, Pitt introduced his famous Triple Assessment, which became law early in 1798.⁷⁰ By reference to the assessments for the Assessed

⁶⁶ PRO 30/8/272, p. 272.

⁶⁷ PRO 30/8/273, p. 26. These documents are more proximate than they may at first seem. Burbidge's proposal is towards the end of Vol. 272 whereas the official proposal is towards the start of Vol. 273.

⁶⁸ PRO 30/8/273, p. 27. ⁶⁹ PRO 30/8/273, p. 32.

⁷⁰ An Act for granting to His Majesty an Aid and Contribution for the Prosecution of the War (38 Geo. III. c. 16) (1798) (UK).

Taxes in the previous year, i.e. a preceding year basis, Pitt levied an assessment of between three and five times the amount levied in 1797. The aspect of this law that is important for present purposes is that the levy on any particular taxpayer was limited by reference to the taxpayer's 'Annual Income', with a 10 per cent rate for incomes over £200 reducing to an exemption for incomes of less than £60. Where the taxpayer sought to use this limit, they were required to provide a declaration as to their income.⁷¹

The Triple Assessment, at forty-six pages, was longer than the land tax law of this time, which ran to thirty-five pages. The complexity of the income tax aspect of this law requires some analysis. This will be done in three parts: the first considering the concept and intent of the residual income tax; the second the form and content of the residual income tax; and the third part considers the four fundamental questions raised in the Introduction by reference to the residual income tax.

Concept and Intent of the Residual Income Tax

There is little doubt as to what Pitt was seeking to achieve through the Triple Assessment, this was made clear in his statements in Parliament towards the end of 1797. Through additions and increases, he had tried to use the Assessed Taxes as a tax on property.

If it was right to make unusual and vigorous exertions, those exertions should be confined within reasonable bounds. The principle point of inquiry then was, what mode was best? That certainty which ascertained the proportions of contribution as nearly as possible to the actual amount of property and income.⁷²

He continued ten days later:

If the amount of every man's property could be ascertained, it would be a most desirable thing to make people contribute to the public exigence in proportion to their wealth.⁷³

Despite this goal, Pitt did not think, at this stage, it appropriate to enquire as to the actual amount of a person's property.

⁷¹ 38 Geo. III. c. 16 s. 64. See also Dowell (1965, Vol. III, p. 87).

⁷² Cobbett (1812–1820, Vol. XXXIII, column 1074) referring to Pitt's speech of 4 December 1797.

⁷³ Cobbett (1812–1820, Vol. XXXIII, column 1137) referring to Pitt's speech of 14 December 1797. See also Hope-Jones (1939, pp. 13–14).

[I]f they could find the means of taxing property equally, without compelling improper disclosure, it would be a most desirable object; but as that could not be done without being open to stronger objections than the present plan, it became necessary that some visible criterion should be found.⁷⁴

The connection with the draft proposal in Pitt's papers discussed at page 383 is clear.

That Pitt sought to tax property or wealth through the Assessed Taxes is rather straightforward. A more difficult question is why, under the Triple Assessment, the Assessed Taxes were to be limited according to income. Despite referring to both 'property' and 'income' (see quote above), at various points in the parliamentary debates of late 1797 Pitt does not draw a very clear distinction between them. The same is true of the official proposal discussed at page 383. So what is the link between property or wealth, on the one hand, and income, on the other? A proposal for an income tax received by Pitt late in 1798 may provide an insight into this rather confusing simultaneous use of these two terms:

Income, then, is merely what a Person annually acquires, without regarding his Expenses; Property, on the contrary, denotes what a Man is worth, after the Deduction of those Expenses; — Property might in this Sense be more aptly termed Capital.⁷⁵

If this is an accurate assessment of the colloquial understanding of 'property' and 'income' at this time, it may help to explain Pitt's use of these terms. In some cases the rules for the Triple Assessment did try to assess gross amounts and in other cases net amounts. More conventionally, however, the conceptual link between property and income is relatively straightforward; the value of property is typically a function of the return available from it. This was particularly straightforward in the context of English history where land was typically valued by reference to its annual produce or rent rather than by

⁷⁴ Cobbett (1812–1820, Vol. XXXIII, column 1139) referring to Pitt's speech of 14 December 1797.

⁷⁵ 'Plan for levying a Tax upon Income' (29 November 1798); PRO 30/8/273, p. 169. The author is Mr N. Jickling who, according to the British Library catalogue, seems to have later participated in a publication on customs. He proceeded at page 170 to suggest that 'To tax Property and Income is to make each Person contribute according to his Ability; it is therefore the most obvious and equitable Mode of Taxation. — Accordingly we find it very much practised in early Times; — Census's, Capitations, Subsidies, Fifteenths, and the like, were clearly Imposts of this Nature.'

reference to its sale value. As noted above at page 29, historically land could not be readily sold and so there was no real market value for land. The annual or yearly value of land was regularly used as a tax base from medieval times.

A major difference between a property tax and an income tax is that the latter taxes human capital (or at least returns there from) whereas the former does not (or at least not directly). At this point Pitt faced dilemmas of a nature that had haunted the English tax system since the poll taxes of the 1370s and 1380. The English had never readily accepted the taxation of polls, not even when the poll tax was graduated according to wealth. Akin to this, the English had never readily accepted the taxation of income from labour. Wages (other than those from public offices) were only rarely taxed under the subsidies and aides (see list in the Conclusion). Indeed, historically the English had never really submitted to direct taxation much beyond the taxation of land. Attempts to tax movables, though frequent and at times successful, inevitably in time fell out of charge. This happened to varying extents under the fifteenth and tenth, the Tudor subsidies, the land tax and the Poor Rate.

But much had changed during the eighteenth century. The financial revolution caused by the establishment of the Bank of England in the 1690s, the securing of government borrowing on taxes and issue of that borrowing in small transferable bundles (government annuities) with the creation of a ready market had changed the face of the British financial system.⁷⁶ There was an increasing amount of wealth devoted to trade and an increasing amount of personal property represented by intangibles such as shares, loans and government stock.⁷⁷

At the same time, the focus on and expansion of trade meant that trade and the lucrative professions generated an increasing proportion of wealth. During most of the eighteenth century Britain had shied away from directly taxing this developing source of wealth for fear of retarding it. This sort of sentiment was well expressed by Fox (a man who clearly appreciated the difference between a property tax and an income tax) in the debate on the Triple Assessment Bill. Fox gave an example of a man who invested £10,000 in a trade and another who

⁷⁶ Edwards (2000a, p. 345) notes that before the 1830s the London Stock Exchange dealt principally in government stocks.

⁷⁷ And this was reflected in the rise of trusts holding stocks. Baker (2002, p. 311, note 78) says that 'in the 18th century it is common to encounter trusts of stocks and other funds'.

invested £10,000 in a mortgage. Not surprisingly, Fox presumed the trader would earn twice the return that the mortgagee would, the difference representing the risk premium and the trader's return from human capital. As a result, Fox presumed the trader would pay twice the tax that the mortgagee would.

What is the reason of this difference? They are both equal in point of real property. But as you make income the basis of your taxation, you impose upon diligence, upon activity, and upon industry, double the weight which you lay upon him who chooses to repose supinely upon the produce of his capital.⁷⁸

Neither this nor other observations perturbed Pitt. He pointed out that this measure did not properly tax income in any case, 'this tax applied only to such income as was in expenditure'. As a result, 'the present plan was in its nature imperfect . . .'. He simply accepted that trades and professions were to be taxed and this ensured they made an appropriate contribution.⁷⁹ It seems that British naval supremacy during the French Revolutionary War and the increase of trade during this difficult period abated any remaining fears of taxing trade and human capital. In any case, Britain's financial position was dire and it needed a contribution from this area, which represented an increasingly large share of the economy. Tapping this area would provide security for further government borrowing.

From a practical perspective, taxing movables had always been difficult, especially by comparison to land. Movables had a bad habit of 'moving' and could be destroyed or created. This required regular assessment. The Assessed Taxes had really only isolated a number of common types of movable for taxation. They did not and could not cover all types of movable. As mentioned, taxing labour was politically sensitive, although regular wages would clearly not involve any great practical difficulty for taxation, particularly through the deduction at source mechanism that had been previously used for wages as early as the subsidy of 1512 (see p. 57). However, trade or business, representing the merging, to varying degrees, of labour and capital, involved serious valuation issues and so serious practical issues for taxation.

⁷⁸ Cobbett (1812–1820, Vol. XXXIII, column 1115) referring to Fox's speech of 14 December 1797.

⁷⁹ Cobbett (1812–1820, Vol. XXXIII, columns 1137–8) referring to Pitt's speech of 14 December 1797.

Most trade or business involved the use of movables and often land. Land could be valued by its produce, but it was difficult to value movables in the same way. Movables could be valued by their capital amount. But how could the labour mixed with the use of capital be valued? It was not possible to value it accurately by reference to a capital amount, human capital was not typically saleable. Classified poll taxes were never popular as they lacked an acceptable level of subjectivity. The only acceptable method of valuing labour was by reference to the return from it and that meant quantifying income.

This was the experience in the American colonies with the faculty tax. Originally these taxes might have been based on a classified style of poll tax but with time they increasingly referred to income. Further, these faculty taxes were often mixed in with taxes on the capital value of property. In his report on direct taxes in the United States in 1796, Secretary Wolcott described the faculty taxes as:

4th Taxes on the profits resulting from certain employments

This head will comprise a variety of taxes collected in certain of the States, upon lawyers, physicians, and other professions, upon merchants, traders, and mechanics, and upon mills, furnaces, and other manufactories. In some States, these taxes are attempted to be proportioned to the gains and profits of individuals, in which cases they are both arbitrary and unequal; in other States, the taxes are uniform, in which cases they are only unequal.⁸⁰

Interestingly, it seems that Pitt's residual income tax under the Triple Assessment also did not tax common labour or employment. But the faculty taxes, like the taxes they supplemented, never represented an accurate assessment of income. As Seligman notes:

this faculty tax . . . was not levied on the total income of the individual. It was a tax not on actual profits, but on assumed profits. Just as articles of personal property were put down on the lists at fixed rates; just as plots of land were set down at sums supposed to represent their capitalized annual produce, — so the individuals subject to the faculty tax were not required to make returns of their earnings, but were assessed by the listers at fixed amounts . . . [T]he faculty tax was nothing but a classified product tax, in which different employments and different classes within each employment were rated at fixed amounts.⁸¹

⁸⁰ United States (1796, p. 439).

⁸¹ Seligman (1914, pp. 383–4). Wolcott felt that such taxes were not capable of federal adoption: 'It is presumed that taxes of this nature cannot be considered as of that

The goal of these taxes was, however, clear, they wished to tax all sources of wealth, all income-producing activities. The poll taxes of the West Indies during the 1780s and 1790s also demonstrate this propensity. In the colonies the effort to tax labour and trade was more determined and consistent than in Britain. As the eighteenth century wore on, the colonies taxation of trade grew increasingly sophisticated and particular. It was inevitable that, with the growth in trade and its relative importance, sooner or later there would be a concerted effort to tax profits from trade and to do it with acceptable accuracy. The question for Pitt was, particularly with respect to trade, whether income was capable of measurement with acceptable accuracy at this time. In the context of trade, the answer to this question was necessarily tied to the development of accounting practices.

All of these issues would have been well known to Pitt. Many of them had been highlighted in Adam Smith's *Wealth of Nations*.⁸² Smith's work was a constant source of reference for Pitt,⁸³ some of his predecessors, such as Lord North,⁸⁴ and a number of his contemporary Parliamentarians.⁸⁵ Smith noted labour, stock (movables) and land as the 'three original sources of revenue' and that taxes must be directly or indirectly founded upon them.⁸⁶ He proceeded to divide taxes into four types depending on which of the original sources they were targeted at (the first three) or whether they were targeted at 'all of them indifferently'.⁸⁷

Smith suggested that the catchall taxes were of two types: 'capitation taxes, and taxes upon consumable commodities'.⁸⁸ It seems that Pitt considered the Assessed Taxes as of the latter type and the income tax

description which the Constitution requires to be apportioned among the states . . . It is impossible to render them exactly equal; that they are easy of collection, that their operation is indirect, and that they are capable of being rendered perfectly certain, are recommendations in their favor' United States (1796, p. 439).

⁸² Smith died 17 July 1790.

⁸³ The Biographical Note in Smith (1776, p. vi) notes that 'Pitt is reported as saying, "We are all your scholars," when the author entered a room in which Pitt was seated with his fellow cabinet members . . .'. Indeed, Pitt cited Smith on 3 December 1798 in his Budget speech on the 1799 income tax; Pitt (1808, Vol. II, p. 438).

⁸⁴ Dowell (1965, Vol. II, p. 169) suggests that North had particular recourse to Smith's work in formulating tax measures in 1777 and 1778.

⁸⁵ For example, W. Smith in the House of Commons on 14 December 1798 quoted liberally from Adam Smith's work; Cobbett (1812–1820, Vol. XXXIV, columns 96–8).

⁸⁶ Smith (1776, Book I, ch. VI, p. 26). ⁸⁷ Smith (1776, Book V, ch. II, p. 405).

⁸⁸ Smith (1776, Book V, ch. II, p. 428).

might be viewed as of the former type. Smith had warned that, in order to render it sufficiently accurate and certain, an income tax would require a yearly assessment and that this may be unacceptable.⁸⁹ This warning was cited in the House of Commons debate on the Triple Assessment but without apparent response from Pitt.⁹⁰ Smith based his assessment on the poll taxes levied during the reign of William III and the French *capitation* tax. Smith had pointed to the very sources from which Pitt (or his revenue officials) and Addington (his successor) could derive precedents for an income tax. Of course, Pitt and his officials did not particularly need Smith for this reminder; the reference was there on the face of the annually enacted land tax.

Form and Content of the Residual Income Tax

The additional duties imposed by the Triple Assessment were to be imposed annually until such time as £8,000,000 worth of government annuities had been sunk, i.e. the Triple Assessment was to fund £8,000,000 pounds of government debt.⁹¹ Section 6 provided the limitation on the amount payable by reference to 'Annual Income'. It is interesting that this wording had changed from 'net Disposable Income' used in the proposal for the Triple Assessment (discussed above at p. 383).⁹² The words used in the first 'land tax' of 1696 were 'yearly income' with respect to the professions head of charge. But looking further a field, we find the use of the words 'annual income' in the Dominican poll tax of 1785 (see p. 355). Indeed the similarities between this poll tax and the Triple Assessment are greater than this. The Dominican poll tax of 1785 was a class tax with fixed amounts payable by various traders and professionals. But, like the Triple Assessment,

⁸⁹ 'Capitation taxes, if it is attempted to proportion them to the fortune or revenue of each contributor, become altogether arbitrary. The state of a man's fortune varies from day to day, and without an inquisition more intolerable than any tax, and renewed at least once every year, can only be guessed at. His assessment, therefore, must in most cases depend upon the good or bad humour of his assessors, and must, therefore, be altogether arbitrary and uncertain . . .' Smith (1776, Book V, ch. II, p. 428).

⁹⁰ W. Smith in the House of Commons on 14 December 1798; Cobbett (1812–1820, Vol. XXXIV, columns 96–8).

⁹¹ 38 Geo. III. c. 16 ss 1 and 101.

⁹² '[I]f he shall also make oath or declare in the form prescribed, that a rate treble the Amount of the Assessment of 1797 would exceed a given proportion (suppose 1/10th) of his net Disposable Income (to the best of his knowledge and belief) for the current year, he shall be released from so much of the additional Charges as exceeds the said tenth . . .' PRO 30/8/273, p. 44.

there was a limitation by reference to the overall 'annual income' of the taxpayer.

It is useful to compare these limitations for similarities. That in the Triple Assessment (in abbreviated form) read:

Provided also . . . That every Person charged to the Additional Rates or Duties hereby imposed, shall, upon proving, as herein-after is mentioned, that the Amount of his or her Annual Income, to be estimated as herein-after directed, is less than the Sum of Sixty Pounds, be exempted from the said Additional Rates or Duties . . .

The limitation in the Dominican poll tax of 1785 read:

Provided always that if any Person shall make Oath before any one Justice of the Peace that his Annual Income does not exceed Ninety Pounds he shall be exempted from paying the said Tax of Sixty Six Shillings . . .

As with the Dominican poll tax of 1785, under the Triple Assessment a taxpayer accessed the exemption by producing a declaration and swearing it on oath.⁹³

The foregoing is not to suggest that the Triple Assessment was drawn from the Dominican poll tax of 1785 but rather to emphasise that imposing a limitation on otherwise quite arbitrary and potentially unequal taxes by reference to income was not novel, even within the British Empire. Nor was the use of the words 'annual income' particularly novel. Dominica had consistently used those words in other poll taxes of the 1780s. Further, Grenada and St Vincent had used the words 'yearly income' (as in the first English 'land tax' of 1696) in their poll taxes from 1778 through to the 1790s. Further, the abatements within bands of income that proceeded under section 6 of the Triple Assessment bear a resemblance to the use of bands for classes of income under these West Indian poll taxes (although they may have produced different results) and the 1796 proposal of Mr Burbidge (see p. 382).

The income exemption or abatements under the Triple Assessment were to expire annually and so, in order to continually claim them, taxpayers were required to submit an annual declaration of income.⁹⁴ A schedule to the act set out rules by which a person was to estimate their income for the purposes of this declaration and these rules have been attributed to revenue officials.⁹⁵ The first part of these rules

⁹³ 38 Geo. III. c. 16 s. 64. ⁹⁴ 38 Geo. III. c. 16 s. 85.

⁹⁵ Hope-Jones (1939, p. 21).

incorporated nine cases. Broadly, the first seven cases were devoted to income from land, the eighth to income from business and the ninth to income from property. So these cases did not correspond to Adam Smith's original sources of revenue. The second part of the Schedule incorporated rules for deductions. As a result, it is clear that 'income' was intended, in some sense, to be a net concept.

But these rules (considered below) were not very precise. In the House of Commons, Pitt made it clear that the declaration was 'not of the precise amount of income, which might be an imprudent and dangerous request, but on a declaration that his income was not sufficient . . .'.⁹⁶ Again, Pitt's statement can be compared with the wording of the proposal discussed above at page 383:

Under these Provisions it appears any person really entitled to abatement from a change of circumstances, and a consequent reduction of any part of his Establishment, may obtain such an abatement, by showing that he has made such a Reduction of his Establishment, and by disclosing not the *precise amount* of his Income, but the limit which it does not exceed . . .⁹⁷

That this was intended to be in large part a presumptive tax is reinforced by the nature of the commissioners appointed to oversee the declarations. For each taxpayer these were local parishioners 'who, from local situation, might be most familiar with the true state of the person's condition who came to make the statement'.⁹⁸ Accordingly, the commissioners were given very little in the way of inquisitive powers and the failure of the Triple Assessment and the 1799 income tax which was based on it has been in large part attributed to this inaccuracy and lack of power (see p. 418).

Income from Land: First Seven Cases The first three cases were devoted to the assessment of the owner of land. The first case was devoted to owner-occupied land, which was to be assessed according to 'the true Annual Value, according to the best of his Knowledge and Belief'. This, of course, covered notional rather than actual income.

⁹⁶ Cobbett (1812–1820, Vol. XXXIII, column 1071) referring to Pitt's speech of 4 December 1797.

⁹⁷ PRO 30/8/273, p. 45.

⁹⁸ Cobbett (1812–1820, Vol. XXXIII, column 1073) referring to Pitt's speech of 4 December 1797.

But, as has been explained a number of times, this concept of annual value was deeply rooted in the English direct tax system. 'Annual value' was the historic manner in which land had been valued since feudal times and 'yearly value' of land had been expressly used in direct tax laws since 1404 (see p. 46).⁹⁹ The concept of 'Yearly Value' was still incorporated in the land tax at this time.¹⁰⁰ Pitt's intention to tax property or wealth (rather than the creation of or increases in wealth) is demonstrated most clearly by this part of the residual income. In any case, the income was not to be less than what it could be rented for, not for one year, but rather for eighteen months. This peculiar rule seems only explicable on the basis that the legislator assumed that there would be under valuation of this type of income. The second case was devoted to rented lands, which were to be assessed by reference to 'Rack Rent'.

The third case was 'Casual and uncertain Profits arising out of Lands', which were to be 'estimated according to the best of the Owner's Judgment and Belief, on the Amount of a Sum equal to the Receipts of One Year, on a fair Average'. There are a number of points regarding this head worthy of note. First, the use of the word 'arising' with respect to profits. Again, this is not novel and had been used in colonial direct tax laws (if not English ones) as early as 1711 and was used in the St Vincent classified poll tax of 1793 with respect to income generally (see p. 376).¹⁰¹ The use of the word 'estimated' suggests that there would be something less than a precise assessment and 'on a fair Average' reinforces this. The use of the word 'receipts' is also interesting and immediately suggests a realisation criteria by contrast to the notional

⁹⁹ This rule of valuation is, no doubt, related to prevalence of tenant farmers. Contrast the position in the United States at this time where in Wolcott's 1796 report he noted that '[i]n countries where lands are generally leased and cultivated by tenants, the annual rent affords a certain criterion of value; but in this country, where lands are generally held and cultivated under allodial tenures, the sums of money for which lands are commonly sold afford a more correct standard' United States (1796, p. 439). At this time much of the land in Britain was tied up in family settlements and so not readily saleable (see p. 131).

¹⁰⁰ For example, An Act for granting an Aid to His Majesty by a Land Tax, to be raised in Great Britain, for the Service of the Year One thousand seven hundred and ninety eight (38 Geo. III. c. 5) (1798) (UK) s. 5.

¹⁰¹ For example, see the levy in Antigua of 1711 (discussed above at p. 220), which taxed 'the profits arising from . . . business or Trade . . .'. Similarly, a number of the American colonies used 'arising' in their direct tax laws, particularly with respect to profits from trade; see the South Carolina levy of 1754 (discussed above at p. 331), the Delaware levy of 1779 and the Pennsylvania levy of 1785 (both discussed above at pp. 256–7).

income basis of the first case (realisation is discussed further below in the context of income from business). 'Receipts' is a term capable of determination with some accuracy, so a question is why was it used in conjunction with 'estimate' and 'average'? While it cannot be suggested with certainty, one explanation would be to exclude receipts that did not fall within the concept of 'annual income'. So it is possible that the intention was to exclude capital receipts.

Tenants of land were covered by the fourth and fifth cases. Their assessment was in addition to the owner of the land. Here the tenant, typically a farmer, was to be assessed at 75 per cent of the rent paid (or market value rent if the premises were rented for a fine) or, if the rent was £100 per year or more, the full rent. This is a necessarily arbitrary figure represented by what goes out rather than what comes in but was a practical necessity for the many poorly educated tenant farmers. The approach seems rather novel, the closest precedent appears to be the charge on livestock under the 'land tax' of 1696 (see p. 189), but in that case the tax base was a percentage of the capital value of the stock.

The sixth and seventh cases covered the occupation of houses. In the case of a rented house, the income of the owner was taken as annual rent 'after deducting the fair Average for Money expended in Repairs during the Ten preceding Years'. It is interesting that this special deduction was not in the second part of the Schedule with other deductions. Further, the deduction is based on money 'expended' and so again the realisation basis is clear. That repairs should be averaged over ten years suggests that the drafter did not want the tax base eroded by expenses of the current year incurred in respect of depreciation accumulated in the years before the assessment. Owner-occupied houses were to be assessed according to the market rent clear of repairs.

The similarity between these land heads of charge and the land tax has been mentioned. However, the mechanism to reach owners of tenanted land was different to that used under the land tax. Under the land tax, tenants were required to pay the tax and were then authorised to deduct it out of the payment of rent to the landlord. In turn, the landlord was authorised to deduct a proportionate part of the tax from the payment of encumbrances on the land ('Fee Farm Rent or other Annual Rent or Payment').¹⁰² By contrast, under the Triple Assessment, there was a deduction for such charges and so tax was not collected at source.

¹⁰² For example, 38 Geo. III. c. 5 ss 17 and 5, respectively. Fee farm was a method of holding land subject to a rent; see Baker (2002, p. 300).

Income from Business: Eighth Case The eighth case of the first part of the Schedule to the Triple Assessment was devoted to 'Income arising from Professions, or Trades, or Vocations.' Use of the word 'arising' has been mentioned above with respect to the third case. The eighth case proceeded:

The Income of such Person shall be taken at not less than the full Amount of his or her Profits or Gains, acquired or received within the Year . . . and which such Person might or could expend within such Year, or, at the Election of the Person assessed, at a Sum not less than the fair and just Average for One Year of the Amount of his or her Profits or Gains in the Three Years preceding . . . and which such Persons might or could expend within the said Three Years.

The tax on professions and trades and vocations may be traced to the first 'land tax' of 1696. Under that law certain officers and merchants and residually all professionals were charged on their 'Income or Profits'. By contrast, wholesale and resale traders were charged according to the value of their stock and so the Triple Assessment represents a development. It seems that the word 'vocation' is not one that was used regularly in direct tax laws in Britain or its colonies. It seems to have been used in the sense of an occupation but is unlikely to have covered regular employment.

Unlike the third case, the eighth case did not permit an 'estimation' of the profits and gains and some degree of certainty is suggested. The use of the words 'profits or gains' appears to necessarily mean an amount after deductions. The second part of the schedule seems to confirm this because it only deals with what would typically be considered 'personal' expenditure (see below). Without regulation, the deductions available would seem to be those fairly admitted by the words 'profits or gains' and this directly raises the issue of accounting practice at this time.

Accounting practice had developed, but not dramatically, from that outlined above at pages 127–35. By the late 1700s, the beginning of the explosion of statutory trading companies had commenced, particularly through the chartering of canal companies. This would be followed in the first half of the nineteenth century with the railways and public utilities.¹⁰³ But these developments did not involve any formal

¹⁰³ Edwards (2000a, p. 345).

regulation of accounting. It was not until the Regulation of Railways Act 1868 (UK) that mandatory accounts were prescribed for certain corporations, which was also the first statutory recognition of the 'double-account system', i.e. a system requiring separate statements for capital and revenue expenditure and receipts. At the end of the eighteenth century accounting practice would still not have required a strict separation of income from capital.¹⁰⁴

That said, by the end of the eighteenth century an increasing number of traders would have been accounting on a double-entry basis with particularly corporations paying attention to the capital—revenue distinction. Further, by the late 1700s there was increasing use of systematic depreciation charges.¹⁰⁵ Nevertheless, the vast majority of businesses were probably still using non-uniform methods of single accounting and not distinguishing between income and capital.¹⁰⁶ It will be recalled from page 383 that even the official proposal for the Triple Assessment felt that it would be difficult to assess trade directly because of the 'complicated state of their Accounts'. Clearly it was felt that trading accounts would not easily give the answers for an appropriate assessment of the property and income of trade. The issue is raised as to what records would have been required in addition to the personal declaration in order to secure a trader the benefit of the exemption or abatements. The Triple Assessment contained no rules requiring that particular records be kept but taxpayers were required to 'estimate' their income according to the rules in the Schedule.

This increased use of the capital—revenue distinction in accounting in the late 1700s is reflected in and was perhaps influenced by the writings of Adam Smith. Smith divided stock (the second of the original sources of revenue) into that which is to be consumed and that which is

¹⁰⁴ See the quote from Yamey (1977, p. 22) reproduced above at p. 135.

¹⁰⁵ Edwards (2000b, pp. 65–6).

¹⁰⁶ See the discussion in Flinn (1984, pp. 314–15) regarding accounting used by mining enterprises between 1700 and 1830. Flinn notes the lack of uniformity of accounts and the irregularity with which these enterprises balanced their books. He continues with respect to statements of profits: '[T]he elements that entered into the aggregated costs were somewhat arbitrary. The failure consistently to distinguish capital from current costs, the normal omission of any allowance for depreciation, or of interest on loan as opposed to share capital, mean that it is not common to find profit statements that have taken any precise account of capital costs.'

intended to produce revenue. Smith called the latter ‘capital’ (movables) and divided it into two types.

The goods of the merchant yield him no revenue or profit till he sells them for money, and the money yields him as little till it is again exchanged for goods. His capital is continually going from him in one shape, and returning to him in another, and it is only by means of such circulation, or successive exchanges, that it can yield him any profit. Such capitals, therefore, may very properly be called circulating capitals.

Secondly, it may be employed in the improvement of land, in the purchase of useful machines and instruments of trade, or in such like things as yield a revenue or profits without changing masters, or circulating any further. Such capitals, therefore, may very properly be called fixed capitals.¹⁰⁷

Smith’s comments reveal a number of import points that have direct relevance to the capital–revenue distinction and the residual income tax in the Triple Assessment. First, the distinction between revenue (circulating) and capital (fixed) assets is still one that prevails today, with added focus.¹⁰⁸ Second, with respect to fixed capital Smith talks of funds being used in improving land or purchasing movables. It is the movable assets, not the funds (so it seems), that is the fixed capital and it is the assets that yield the profits. In this sense, it seems that Smith was an advocate of ‘physical’ rather than ‘financial’ capital.¹⁰⁹ This position would be consistent with the distinction between capital and revenue commonly used in trust law and other landholding devices

¹⁰⁷ Smith (1776, Book II, ch. I, p. 133).

¹⁰⁸ Littleton (1966, p. 86) notes that ‘[t]he distinction between fixed and current assets is an interpretive element associated only with modern financing; capital and revenue expenditures grew out of the desire to determine net profits carefully; reservation of surplus appeared only after conservatism became a virtue in corporation finance.’

¹⁰⁹ Lee (1994, p. 493) makes the distinction between ‘financial’ and ‘physical’ capital and notes that it is impossible to measure periodic income without making a decision between the two. He notes that there are ‘two alternative capital maintenance approaches – that is, maintenance based on capital defined in terms either of a specific monetary attribute such as the money unit or the purchasing power unit (hereafter termed *financial* capital); or specific attribute of the reporting entity’s physical asset structure such as its physical units or operating capacity (hereafter termed *physical* capital).’ This issue dictates whether physical assets are recorded in the accounts at their historic cost or current value.

in English history and Smith may have been influenced by this distinction.¹¹⁰ It has been suggested that Pitt was.¹¹¹

The early trust law rules on the capital–revenue distinction were discussed above at pages 129–32, where it was pointed out that assets, not cash, were the typical trust corpus (fixed capital). But like the accounting rules, by the end of the eighteenth century trust law did not incorporate a complete or even coherent capital–revenue distinction. Trust law had also continued to develop at a slow pace since the late seventeenth century. The major area of trust law (and common law) dealing with the capital–revenue distinction continued to be the action for waste. By the mid-eighteenth century, the second volume of *Equity Cases Abridged* also contains a number of cases under the headings ‘Apportionment’ and ‘Contribution and Average’ that might be viewed as focusing on different aspects of the capital–revenue distinction, at least in an embryonic manner.

In 1708, in *Hele v. Wynn* 22 ER 72 a sum was to be raised through the sale of land for a number of years (a lease). It was held that this cost was intended to fall on the tenant for life and not the remainderman, i.e. this was a revenue charge. There were further cases apportioning interest receivable after the determination of a life estate on a time basis.¹¹² This contrasts with the rule that rent was not apportionable and so if received after the determination of a life estate the whole rent would go to the next interest despite the fact that part of the rent pertained to time before that interest became vested.¹¹³

¹¹⁰ ‘It seems reasonable to suppose that, as trusts flourished long before company accounting grew up, they gave the prime push to notions of income and valuation: “capital” and “revenue” become vivid when linked with the conflicting rights of known persons: theories become explicit when in trust work would automatically stretch its theory, when the time came, to companies and income tax’ Baxter (1980, pp. 70–1).

¹¹¹ ‘In an agrarian economy, income arose after a lapse of time from a continuing, fixed, source such as a farm or, to use the analogy of William Pitt, the fruit from a tree. The income could be used independently of the source from which it came, provided the physical asset of the farm or tree survived. In the case of settled aristocratic estates, a distinction was drawn between the income of the estate (which was available to the life tenant or beneficiary to spend) and the principal or capital of the land from which the income was derived (which was not available for disposal). Increases in the capital value of the estate were not available as income to the life tenant, except through a larger flow of income in the future. The same applied to trusts such as marriage settlements which held securities to provide an income for women’ Daunton (2001, p. 206).

¹¹² For example, *Edwards v. Lady Warwick* (1723) 22 ER 72.

¹¹³ For example, *Jenner v. Morgan* (1717) 22 ER 592 where it was held that equity followed the general law in this respect.

A case of greater interest is *ex parte Raymond and Ventris*,¹¹⁴ which did not directly involve land as the subject matter of the trust and so more problematically raises the physical—financial capital distinction. A testator instructed his trustees to lay out his personal estate in the purchase of lands to be settled according to the will. Until a proper purchase was made the funds could be used to purchase government or other securities, the interest to be paid to the life tenant, as rent would be when the land was purchased. The trustees purchased annuities in the South Sea Company, a payment which was made not long after the life tenant died. The administrator of the life tenant claimed an apportionment of the payment, which was granted by the court on the basis that the payment was analogous to interest. The trustees had also sold some of the annuities before the life tenant died, upon which annuities the next periodic payment was accruing, inflating the sale price. The administrator claimed that part of the sale proceeds should be apportioned to the life tenant on the basis that it represented an amount analogous to interest. This is a classic example of the issue of whether sale of an accrued income right represents income or capital (let alone a sale of a right to accrue income in the future). The court refused to apportion the amount, a conclusion that is consistent with physical rather than financial capital.¹¹⁵

Returning to the work of Smith, Smith refers to fixed capital ‘yielding’ profits. The use of the word ‘yield’ seems akin to the use of the word ‘arising’ in the Triple Assessment. The circulating capital yields profits by its very circulation, that is, by ‘trading’. But the trader does not ‘trade’ in fixed capital. Rather, the fixed capital yields profits by its use without any exchange. For the purposes of the Triple Assessment, it seems clear that the ‘income arising from . . . Trades’ would be the profits from the circulation of circulating capital and from the holding or use of fixed capital. Any gains arising from the sale or exchange of fixed capital was not contemplated as profits or gains subject to recognition.

¹¹⁴ (1730) 22 ER 72.

¹¹⁵ The reasoning is not so much that the amount sought to be apportioned was capital but that the life tenant would be entitled to the next payment of rent on any land purchased with the sale funds, part of which may have accrued before the purchase, and that the life tenant should not have both this rent and part of the amount under the annuity. In a similar case the trustees made a loss on the sale of South Sea stock and it was held that the loss was to be borne by the remaindermen, i.e. was a capital loss; *Chambers v. Chambers* (1730) 22 ER 190.

This is underlined by a number of other points. As discussed below, the cases devoted to land would not admit a charge on gains on realisation. It would seem anomalous if such gains were only charged in the context of a trade. Further, Pitt's intention was to reach property. As noted above, to tax the annual yield of property is akin to taking the property itself. To tax gains on the disposal of property is to tax something entirely different. The exception is circulating assets, which lose their identity in the broader activity of the trade, which itself is viewed as the property or source of revenue. Further, this was a temporary tax so to tax the fluctuations in gains from capital sales only occurring within the duration of that law would mean that two persons with the same amount of wealth might be taxed in very different amounts.¹¹⁶

This is also reinforced by the use of the words 'Annual Income'. It is true that the use of the word 'annual' was subsequently held by judges to mean no more than 'of the year'.¹¹⁷ But it may be questioned whether this was the original intent. The Triple Assessment imposed the tax annually and so its use in section 5 of the law is open to that interpretation. However, the phrase 'annual income' is used elsewhere in the law in contexts where the addition of the word 'annual' appears superfluous unless it had some additional meaning such as to exclude capital as opposed to revenue gains. Section 85 is the section that required a person to renew their income declaration every year in order to reduce the amount otherwise due under the Assessed Taxes. Here it would have been sufficient to refer to income of the relevant year. But section 85 refers to 'the Amount of the then Annual Income of the Appellant'. Similarly, the third part of the Schedule contains the form of declaration, which by reason of section 85 would have to be made every year. Again the declaration is an affirmation of the person's 'Annual Income', rather than the income of a particular year.

It may also be suggested that use of the word 'annual' was intended to be consistent with its use in other cases, e.g. under the first case referring to 'annual value' (see above). It makes little sense to interpret the word

¹¹⁶ Daunton (2001, p. 208) seems to make a similar point when he states that 'the acts were based on the assumption that the income tax was temporary, so that profits were assessed over the short rather than long term'.

¹¹⁷ The 'annual' profits discussion is by Rowlatt J in *Ryall v. Hoare* [1923] 2 KB 447 at 454–55, affirmed by the House of Lords in *Martin v. Lowry* [1927] AC 312 and again in *Jones v. Leeming* [1930] AC 415 at 422 and 427.

'annual' in that case to mean 'of the year', which might produce taxation of the full capital amount of land. The intention seems to be to refer to the amount or value expected from land 'annually'. This suggests the focus in the eighth case was on amounts that could be expected each year. That capital gains were not intended to fall within the scope the eighth case may also be suggested by the reference to being able to 'expend' the same during the year. A similar concept had been used in the poll tax of 1641 where the tax was graduated depending on the amount that a person could 'spend . . . per annum' (see p. 93). In 1641, the ability to spend was clearly to be balanced or measured by the maintenance of capital and, as suggested with respect to Adam Smith's comments, capital was measured by reference to assets not a monetary amount.¹¹⁸ While none of these arguments for the exclusion of capital gains may be, of themselves, conclusive, it seems that in their combination the legislative intent is clear.

Adam Smith's comments also raise the issue of realisation. The mere holding of appreciating stock does not produce profits; it is only the 'exchange' that gives rise to the profit. It also seems that realisation was incorporated into the eighth case of the Triple Assessment. The profits or gains were only recognised if they were 'acquired or received within the Year'. As noted above at page 135, realisation is one of the foundations of the charge-discharge system that was incorporated in the action for account. There seems no doubt that unrealised gains were not within and not intended to be within the tax net of the Triple Assessment.

Income from Movables: Ninth Case The ninth case of the residual income tax of the Triple Assessment covered 'Income arising from Annuities, Interest of Money, Rent Charge, or other Payments'. In this case the income was taken to be the 'the whole Sums payable within the Year preceding the passing of this Act'. The first three of these seem relatively straightforward. The reference to 'other payments' seems to necessarily require a qualification that it be *ejusdem generis* with the other types of payments referred to. For example, wages of servants were not specifically included in the Triple Assessment as they were in the

¹¹⁸ Daunton (2001, p. 206) suggests that '[t]he definition of income in Britain owed much to the legal traditions of settled estates in an agrarian economy. The crucial point was the different notion of the principal or asset to be conserved. In Britain, the emphasis was on the actual physical piece of land or res rather than its value.'

first 1696 'land tax'. It seems clear that 'other Payments' in the ninth case did not cover wages.

Deductions The second part of the Schedule to the Triple Assessment provided some rules on deductions. These rules first dealt with general deductions, which, as mentioned above, seem to have been largely in the nature of personal deductions. Annual interest on debts owing by or charged upon the estate of the person was deductible. Similarly, Annuities payable (other than to a spouse) were also deductible. Provision for these deductions may have been influenced by Smith's statement that these must necessarily be paid from original sources of revenue.¹¹⁹ Accordingly, to tax these amounts in the hands of the recipient without a deduction for the payer would constitute a form of double taxation. In any case, a general deduction for interest was somewhat familiar. The charge to tax on debts had long been on a net basis and under the land tax debts were deductible in calculating the chargeable amount of debts and movables (when this head of charge was being enforced). However, a novelty in the Triple Assessment is that interest on debt appears to have been generally deductible, including against unrelated income.

General deductions were also available in estimating income for the Assessed Taxes and local rates. Similarly, in calculating income from land, the land tax was deductible as were payments to be made out of land such as quit-rents and rent charges. The special rules for deduction in respect of land also repeated the rule from the sixth case for deducting repairs on a ten-year average. Finally, a deduction was provided for those holding life estates for insurance premiums to secure a provision for themselves, their family or their creditors.

The Four Questions

With respect to the residual income tax under the Triple Assessment, it remains to consider the four questions raised in the Introduction. The first being why did capital gains and losses fall outside the income tax. Conceptually, the clearest answer seems to be because the law sought to tax property or capital rather than income. This is most clear in the cases in the Schedule taxing income from land. Here there is nothing that could bring capital gains into charge. Indeed, in the context of fines

¹¹⁹ Smith (1776, Book I, ch. VI, p. 26).

payable to lease land or premises (which might be considered a capital amount), the second and fifth cases specifically retreat from taxing the fine and either tax fines on an average or use the presumed full market rent as the basis of taxation. Further, the use of notional income for owner-occupied premises was not capable of including a capital amount without a separate head of charge for sales. Similarly, only repairs were deductible and the declaration to be made by the taxpayer specifically incorporated a statement saying that no deductions were made other than those specified in the Schedule.

An assessment of why capital gains did not fall within the eighth case for trades, professions and vocations has already been provided above. Again, gains on the disposal of fixed assets do not 'arise' from the trade as an activity but, rather, from a part disposal thereof. The types of profits charged would also be expected to be *ejusdem generis* with the charge under the other cases and, as mentioned, the other cases, including the ninth case, were not capable of including capital gains. The temporary nature of the tax and the fluctuating nature of capital gains also suggest that they were not to be taxed.

The second question was why did the British system incorporate a schedular approach to the calculation of income. The clearest answer is history. Ever since the earliest subsidies in the fifteenth century the direct tax laws had always incorporated a number of heads of charge. They had traditionally distinguished between the taxation of land and the taxation of movables but often there were further heads for items such as wages and polls and this is most clear in the poll taxes of the 1690s. Further, this was the way in which the financial status of the country was dissected. This is clear in Adam Smith's work, with his three original sources of revenue, and clear in the way Pitt presented the likely revenue yield from the income tax of 1799 (see p. 405). The schedular approach was also the standard approach to direct taxation in the colonies, which also mixed different types of taxes in the same law.

As for the other two questions, here the Triple Assessment was rather undeveloped. There were only a few provisions in the Triple Assessment relating to corporations. Corporations were subject to the Assessed Taxes and so could claim abatement on the grounds of income. This was achieved by having a 'Committee, Steward, or Agent' make a declaration on behalf of the 'Body Corporate or Politick'.¹²⁰ But the

¹²⁰ 38 Geo. III. c. 16 s. 66.

Triple Assessment law was essentially devoid of any jurisdictional limitations as to source or residence. This is rather surprising given the legislative history of such limits dating back centuries. The income limitation did, however, only apply to persons subject to the Assessed Taxes but it is not clear whether the income limitation of these taxpayers was calculated on a worldwide or source only basis. These issues would be addressed by the income tax of 1799.

The Income Tax

In the same year as he introduced the Triple Assessment, Pitt made the land tax perpetual, a permanent charge.¹²¹ In doing this, Pitt also provided that landholders could, through the payment of a capital sum, redeem the land tax and become entitled to a rent charge equal to offset the tax. In this way a large part of the annual value of the land tax was redeemed, about a quarter between 1798 and 1799.¹²² The land tax was not finally repealed until 1963.¹²³ By contrast with the comparative success of redeeming the land tax, the amount collected from the Triple Assessment was below expectations and the fiscal situation became worse.¹²⁴

Nevertheless, by July 1798 the official position was still the re-imposition of the Triple Assessment and there is an official proposal of this date in Pitt's papers (in the form mentioned at p. 382) for improving the Triple Assessment.¹²⁵ This document was developed and

¹²¹ An Act for making perpetual, subject to Redemption and Purchase in the manner therein stated, the several Sums of Money now charged in Great Britain as a Land Tax for one Year, from the twenty fifth Day of March One thousand seven hundred and ninety eight (38 Geo. III c. 60) (1798) (UK). Kennedy (1964, p. 128) notes that by this time the Land Tax 'had come to be a rent charge rather than a tax'. He suggests that Pitt refused to interfere with the tax because it had already been factored into the price of land and to abolish it 'would have amounted to a gift to the landlord class'. See also Ward (1953, p. 132).

¹²² See Dowell (1965, Vol. II, p. 223 and Vol. III, pp. 88–9) for details of this redemption.

¹²³ Finance Act 1963 (UK) s. 68. See also Soos (1997, p. 140, note 52). Soos (1997, p. 141) notes that 'the taxes on personal estates was repealed in 1833. The taxes on offices and pensions were made perpetual in 1836 and repealed in 1876.'

¹²⁴ Dowell (1965, Vol. II, pp. 220–4). PRO 30/8/279/1 in Pitt's papers contains some interesting tables, which appear to have been prepared around this time (though maybe later). In particular, the tables contain the names, professions and locations of various persons, the income they declared and compares the income with their Assessed Taxes liability.

¹²⁵ PRO 30/8/273, p. 182.

a further draft issued dated 6 September 1798, still presuming the re-imposition of the Triple Assessment.¹²⁶ However, someone other than the author has quite heavily marked up this official document and, as explained at page 382, the most likely candidates are Pitt himself or a government official of high enough rank to be making policy decisions at the highest level. The importance of this document is that the parts of the document pertaining to the Triple Assessment are struck through with the word 'omit' appearing on the left side of the page.

In Pitt's papers relating to 'Income Tax Calculations' appears a second document entitled 'Heads of a Plan for Contribution' dated September 1798, which may have accompanied the proposal of 6 September 1798.¹²⁷ This document seems to be a step in the preparation of the law based on the proposals of 6 September 1798. The marking up of this document is dated October 1798, which gives some insight as to the likely timing of the amendment to withdraw the Triple Assessment from the proposal.

As Pitt would later explain, the idea was to lay aside the presumption of wealth in the Triple Assessment and levy a tax 'upon all the leading branches of income'.¹²⁸ In his Budget Speech of 3 December 1798 Pitt spoke of the failure of the Triple Assessment and 'the necessity of obtaining a more specific statement of income, than the loose scale of modification, which under the former measure, permitted such fraud and evasion'. This more specific statement was needed in order to meet the underlying principle of the Triple Assessment, i.e. 'to realize that full tenth'.¹²⁹ Again, this is consistent with the proposal for the Triple Assessment (discussed above at p. 383), which described the purpose of the Triple Assessment as taking 'a tenth or twelfth of their Income'.¹³⁰ Pitt firmly believed in the equity of his income tax and referred to it as 'an efficient and comprehensive tax upon real ability'.¹³¹ Pitt set out the heads or branches of income upon which he proposed to impose the tax and an estimate of the amounts of those heads. Many of these were familiar from previous forms of tax. Pitt calculated that a tax of 10 per cent on the total was likely to produce about £10,000,000.

¹²⁶ PRO 30/8/273, p. 193. This document is signed but the author's name is difficult to decipher. It is still in the official form.

¹²⁷ PRO 30/8/279/2, p. 9. This seems to be the document referred to in Hope-Jones (1939, p. 21).

¹²⁸ Pitt (1808, Vol. II, p. 432). See also Dowell (1965, Vol. II, p. 224).

¹²⁹ Pitt (1808, Vol. II, p. 431).

¹³⁰ PRO 30/8/273, p. 28. ¹³¹ Pitt (1808, Vol. II, p. 433).

The income tax of 1799 repealed the Triple Assessment and imposed a general income tax in its place.¹³² The rate was 10 per cent with an exemption and abatements similar to those under the Triple Assessment. The amounts to be raised were to support the interest on the debt raised in 1798 and, in that respect, to take the place of the Triple Assessment. The charge was to be annual until that debt was sunk.¹³³ As noted in the last paragraph, Pitt was of the view (through the experience of the tax administration no doubt) that the Triple Assessment had been subjected to 'fraud and evasion'. He sought to remedy this in two particular ways, to require all persons to make a declaration as to their income and to limit the deductions that could be claimed.

By comparison with the voluntary statement under the Triple Assessment, under the income tax of 1799 persons were required to file a statement of their income and how much they were liable to pay under the act. This was largely a self-assessment approach. The statement was to be in the appropriate form stating the person's 'Annual Income', which was to be estimated according to the provisions of the Act and, in particular, its Schedule.¹³⁴ The original schedule to the 1799 law was replaced two and a half months after the base law was enacted.¹³⁵ Farnsworth emphasises that this statement was an 'unparticularised lump sum return' and it was only where the Commissioners were not satisfied that extra detail was required.¹³⁶ As Pitt recognised in his budget speech, his proposal did not involve a requirement that:

income shall be distinctly laid open, but it shall only be declared that the assessment is beyond the proportion of a tenth of the income of the person on whom it is imposed.¹³⁷

Pitt appreciated that this limitation involved a risk of evasion but clearly thought it was the best he could achieve at this stage given the

¹³² An Act to repeal the Duties imposed by an Act, made in the last Session of Parliament, for granting an Aid and Contribution for the Prosecution of the War; and to make more effectual Provision for the like Purpose, by granting certain Duties upon Income, in lieu of the said Duties (39 Geo. III c. 13) (1799) (UK).

¹³³ 39 Geo. III c. 13 ss 72, 120 and 121. ¹³⁴ 39 Geo. III c. 13 s. 38.

¹³⁵ An Act for extending the Time for returning Statements under an Act, passed in the present Session of Parliament, intituled, 'An Act to repeal the Duties imposed by an Act, made in the last Session of Parliament, for granting an Aid and Contribution for the Prosecution of the War; and to make more effectual Provision for the like Purpose, by granting certain Duties upon Income, in lieu of the said Duties'; and to amend the said Act (39 Geo. III c. 22) (1799) (UK).

¹³⁶ Farnsworth (1951, p. 18). ¹³⁷ Pitt (1808, Vol. II, p. 434).

public sentiment against investigations. What he felt more able to achieve was to limit the availability of deductions and 'to guard every title to deduction from the danger of being abused'.¹³⁸

No deductions were to be allowed except as permitted by the Act.¹³⁹

While the central concepts of the income tax of 1799 were clearly borrowed from the Triple Assessment¹⁴⁰ and the machinery largely from the land tax,¹⁴¹ the sophistication added by this new law must be emphasised. This is probably due to added time for consideration and drafting and experience from the Triple Assessment. This subheading proceeds to consider the structure and content of the rules for calculating income under the 1799 income tax and then assesses it by reference to the four questions raised in the Introduction. Finally it considers the repeal of the income tax as a result of the temporary peace following the Treaty of Amiens of 1802.

Structure and Content of the Rules on the Tax Base

The rules for estimating income were contained in Schedule A and divided into four parts. The first three parts contained eighteen cases, each with their own specific rules for deductions. The first fourteen cases were devoted to 'Income arising from Lands, Tenements, and Hereditaments', the fifteenth and sixteenth cases to 'Income arising from Personal Property and from Trades, Professions, Offices, Pensions, Allowances, Stipends, Employments, and Vocations' and the seventeenth and eighteenth cases to 'Income arising out of Great Britain'. These rules were followed in the fourth part by a general 'catch all' category of 'Income not falling under any of the foregoing Rules', which was also to be estimated and returned.¹⁴² There followed general deductions very similar to those available under the Triple Assessment, and so the general deduction for interest and annuities was still available. The deduction for life insurance was more detailed. The Schedule was rounded out with a number of forms including the form for the general statement of income.

¹³⁸ Pitt (1808, Vol. II, p. 435). ¹³⁹ 39 Geo. III c. 13 s. 77.

¹⁴⁰ 'The income tax of 1799 was in many respects the Triple Assessment without the assessed taxes, and it contained many of the income tax features of the earlier tax' Soos (1997, p. 147).

¹⁴¹ Dowell (1965, Vol. II, p. 225). It will be recalled that the Burbidge proposal of 1796 (discussed above at p. 383) suggested use of the land tax machinery.

¹⁴² 'The "cases" themselves had been determined by experience gained in making the income tax legislation effective' Hope-Jones (1939, p. 21).

This structure is consistent, though not the same as, that which appeared in the official proposal and 'Heads of a Plan' (both discussed above at pp. 404–5). The earlier documents reveal that the four parts of Schedule A of the law were originally independent schedules, Schedules A to D of the proposal of 6 September 1798 and Schedules B–E of the 'Heads of a Plan'.¹⁴³ With reference to the proposal of 6 September 1798, the fourteen cases of the first part of Schedule A of the law were originally divided as to twelve cases to Schedule A, devoted to owners of land, and two cases to Schedule B, devoted to tenants of land.¹⁴⁴ The two cases of the second part of Schedule A of the law correspond to the two cases of Schedule C in the proposal. While the third part of the law corresponded to Schedule D of the proposal, the proposal contained three cases instead of two (further discussed below). The catchall category of the fourth part of the law is not apparent at the proposal stage.

Income from Land Part I of Schedule A of the 1799 income tax began with a general clarification that 'Annual Value of Lands' meant the rent or rental value of land, but a 25 per cent reduction was granted. The fourteen cases devoted to land largely followed the seven under the Triple Assessment, although the rules for calculation were more detailed. The first ten cases were devoted to the owners of land and the remaining four to tenants. The case devoted to owner assessment of lands demised to a tenant had been separated into three cases depending on whether the lands were leased for a rent, a fine or both. Similarly, the case devoted to houses leased to tenants had been divided into three cases. There was, in addition, a case devoted to tithes. The case for uncertain profits was extended to specifically cover profits from manors, timber, mines and insurance and the income was taken on a five-year average.

Tenants of land continued to be assessed by reference to rent paid rather than amounts received. There was an additional case for assessing tenants with income of an uncertain amount, which was similar to that for owners, and another for land leased in respect of a fine, with or without rent. A final additional case made provision for sub-lessors. It seems the additional cases are best explained as elaborations and clarifications of the corresponding cases under the Triple Assessment.

¹⁴³ Schedule A of the 'Heads of a Plan' was devoted to the form of the income declaration. See PRO 30/8/279/2, p. 9.

¹⁴⁴ PRO 30/8/273, pp. 200–3.

Some of these at least are likely to have been the result of experience gathered through the Triple Assessment.

Income from Business and Employment The fifteenth case of Schedule A broadly corresponded with the eighth case of the Triple Assessment with some important additions. In particular, it now included offices, pensions, allowances, stipends and employment in addition to trades, professions and vocations. These were assumed to produce income of an 'uncertain Annual Amount' and so were to be estimated on a preceding year basis or according to the average of the previous three years. This is consistent with the Triple Assessment. The basis of assessment was still 'Profits or Gains' of the activity in question.

The specific rules for deductions in calculating income under the fifteenth case did not clarify the issue of deductions available under the general concepts of profits and gains, being largely devoted to apportionment of rent where the person combined living and business premises and the deduction of certain taxes (including the land tax). There were some specific clarifying rules in the law itself, which again may be best explained as the result of experience with the Triple Assessment. Section 79 expressly required income from trades etc. to be 'estimated according to the actual Produce of the same ...'. This is consistent with the official proposal for the income tax (discussed above at p. 405), which referred to making a calculation of 'actual Income for one Year'.¹⁴⁵ The intent seems to be a subjective calculation and so a dramatic change from, for example, the assessments in the American States where the assessment was typically objective. The intended meaning of 'produce' is not so clear. If the assessment were to be on accurately determined profits there would be no need to refer to a different concept of 'produce'. 'Produce' would, however, be less susceptible to the inclusion of capital gains than 'profits and gains'.

Section 81 was also important and provided that it was unlawful:

for any Persons engaged in any Trade or Manufacture, in ... computing ... their Income arising from such Trade or Manufacture, to make any Deductions therefrom on Account of any Sums employed, or intended to be employed, in Improvements or as Capital, or on Account of Interest for the Capital by them employed therein, unless for Interest, which they are bound to pay to other Persons for the same ...

¹⁴⁵ PRO 30/8/273, p. 195.

It seems that the first part of this provision is targeted at capital expenditure. Money expended in the acquisition of fixed assets would seem to fit the criteria of being ‘employed as capital’. Even with the then state of accounting, the acquisition of fixed assets would have appeared in any balance sheet as capital (most likely at historical cost). One explanation for the appearance of this provision might be that experience with the Triple Assessment had raised the issue of deduction of capital amounts. The appearance of this provision seems to underline the intention that capital was not to be taxed or recognised in the calculation of income. It would be extraordinary if capital receipts were taxable but the deduction of capital expenditure made expressly unlawful. So section 81 is consistent with an interpretation that ‘produce’ in section 79 did not include capital amounts. In any case, the express references to capital in section 81 clearly incorporates the capital–revenue distinction within the law.

Section 81 proceeded to limit the deduction for expenditure on repairs to buildings ‘or for the Supply, or Repairs, or Alterations of any Implements, or Utensils, or Articles employed for the Purpose of such Trade or Manufacture . . .’ beyond a three-year average. It continued to apparently prevent trading or manufacturing losses from being set against other income. This focus on limiting deductions is consistent with the approach outlined in Pitt’s budget speech as a method of preventing abuse (see p. 407).

Section 82 made provision for the taxation of partnerships. It has been noted at pages 347 and 377 that the poll taxes of Grenada and St Vincent of the 1770s to 1790s incorporated a rule for the taxation of partnerships. It is interesting to compare section 82 with the corresponding provision in the St Vincent law of 1793. Section 82 read:

Provided always . . . That any Persons engaged in any Trade or Manufacture, or in any Adventure or Concern, in Partnership together, may be jointly charged to the said Rates and Duties, in respect of their Joint Income arising from such Trade or Manufacture, or such Adventure or Concern, under the Firm or Description of their said Business.

Clause 13 of the St Vincent poll tax of 1793 read:

Provided always that all Persons carrying on Trade or Business of any kind in Partnership shall be assessed for such Trade or Business jointly under the Firm by which they carry it on and not separately each for his Share.

Again, it is not suggested that one was drawn from the other but there is a clear connection in terminology and effect. It was later suggested in a report, presumably from the Board of Taxes, that the purpose of the rule for joint taxation of partners was 'to avoid a disclosure of a Share of each Partner in the Partnership . . .'.¹⁴⁶

It will be recalled that the Triple Assessment had only included 'Professions, or Trades, or Vocations' and the proposal of 6 September 1798 (discussed above at p. 405) originally only included these. However, in the marking-up process 'Places, Employments' were inserted between 'Professions' and 'Trade'.¹⁴⁷ Under the 'Heads of a Plan' (discussed above at p. 405), 'Places' was replaced with 'Offices'. Employment had fallen out of charge in England (once again) during the 1690s but had been tacked to trades and professions in New England as early as the Massachusetts law of 1738 (see p. 228). At the turn of the nineteenth century there was quite a broad practice of including employment as a taxable activity in both the colonies and the states of the United States. Further, the inclusion of income from employment in the 1799 income tax is, perhaps, not as dramatic as it seems at first glance. O'Brien suggests 'very few wage-earners paid income tax in the early nineteenth century. Most of them would be earning incomes below the exemption limit . . .'.¹⁴⁸

Income from Movable The ninth case of the Triple Assessment had also been restructured in the sixteenth case of the income tax of 1799. In addition, it now covered income from offices, pensions, stipends as well as annuities, interest of money and rent charges. Further, the residual category was 'other Payments of a like Nature', making the *ejusdem generis* requirement express. In all cases the income was now to be 'of certain Annual Amount'. As with the Triple Assessment, this case was to be assessed on a preceding year basis. Interestingly, in the marking up of the proposal of 6 September 1798 (discussed above at p. 405) 'Dividends in the Funds' were included but this was removed before the draft became law.¹⁴⁹ These would be formally included in the law of 1803 (see p. 430).

¹⁴⁶ 'A Statement of the Information received from Commissioners having the Execution of the Income Acts in the several Parts of Great Britain, to the Commissioners for the Affairs of Taxes' (25 April 1800); PRO 30/8/279/2, p. 210.

¹⁴⁷ PRO 30/8/273, p. 204. ¹⁴⁸ O'Brien (1959, p. 260).

¹⁴⁹ PRO 30/8/273, p. 204.

The Four Questions

With respect to the four questions raised in the Introduction in the context of the income tax of 1799, consideration of two of these questions are virtually the same as under the Triple Assessment but the other two demonstrate substantial developments. The income tax of 1799 largely embodied the principles of the residual income tax under the Triple Assessment and the reasons for suggesting that capital payments fell outside the scope of the law remain the same. The schedular approach was inevitable and necessarily followed as a consequence of the cases in the new law following (and adding to) the cases in the Triple Assessment.

With respect to the exclusion of capital payments, the new law still referred to income as 'arising' from various property and activities and particularly so in the charging provision of section 2. It still used the word 'annual' in strategic places (such as in sections 38 and 77 with respect to statements of income). A number of the cases devoted to land were still incapable of including capital amounts and the application of the *ejusdem generis* requirement produced the same result for the case devoted to income from movables. Further, the limitation on capital deductions for trade and manufacturing in section 81 seems to have excluded most capital payments from recognition in calculating income and may by implication suggest that capital receipts were similarly excluded. The reference to 'produce' of trade in section 79 seems to reinforce this. In any case, it is clear that the capital—revenue distinction was incorporated in the law.

The income tax of 1799 incorporated substantial developments with respect to the taxation of corporations and the jurisdictional rules used in (or absent from) the Triple Assessment. With respect to corporations, section 2 specifically charged 'every Body Politick or Corporate, or Company, Fraternity, or Society of Persons (whether Corporate or not Corporate) in *Great Britain*'. This largely followed the form in the land tax, although 'societies of persons' appears to be an addition.¹⁵⁰ Accordingly, the income tax followed developments in the charging of corporations outlined in the summary to Chapter 1.

The 1799 income tax expressly dealt with the issue of the economic double taxation of dividends. It did so by permitting corporations

¹⁵⁰ For example, see An Act for granting an Aid to His Majesty by a Land Tax, to be raised in Great Britain, for the Service of the Year One thousand seven hundred and ninety eight (38 Geo. III. c. 5) (1798) (UK) s. 3.

to estimate their income less amounts to be paid as dividends, i.e. a dividend deduction system.¹⁵¹ This system was set up by section 88:

no such Bodies Politick or Corporate, Companies, Fraternities, or Societies . . . shall be charged or chargeable, in respect of any Income, which, according to the Rules or Regulations of such . . . shall be applicable to . . . the Payment of any Annual Dividends or Interest to arise and become payable to any individual Members of Such Corporations or Publick Companies . . . provided that such Person or Persons . . . to whom such Dividends or Interest shall be payable, shall be charged and chargeable in respect thereof . . . as and when the same shall be received by them . . .

It is not clear whether the members would be chargeable on their dividends under the sixteenth case of Schedule A but, in any case, they would have been chargeable in the residual category under Part IV of that Schedule. There is no obvious precedent for this form of relief from economic double taxation.

In striking contrast to the lack of jurisdictional rules in the Triple Assessment, the income tax of 1799 gave such rules substantial prominence. As foreign trade continued to grow despite the war, Pitt was clearly keen to tap this source of revenue. In his budget speech of 1798 introducing the income tax, Pitt specifically quantified the income of residents from overseas possessions and the profits of capital employed in foreign trade. These amounted to more than 17 per cent of the total income that Pitt sought to tax. Further, Pitt declared that four-fifths of the income from overseas came from the West Indies, emphasising the importance that the West Indies had played in British trade for more than a century.¹⁵²

Jurisdictional issues (and the lack of rules with respect thereto) had clearly been a problem under the Triple Assessment. Even in the proposal of 6 September 1798 (discussed above at p. 405) there is evidence of greater attention to this issue. In the months that followed there would be substantial developments on this front. Schedule D of this proposal contained the following three cases:

1st Case, From foreign possessions, The full amount of the actual annual net receipt . . .

¹⁵¹ See generally Harris (1996, pp. 75–6).

¹⁵² Pitt (1808, Vol. II, pp. 441–2) (Budget speech of 3 December 1798). See also Burns (1954, p. 537).

2nd Case, Money arising from foreign securities . . .

3rd Case, From Capital employed in foreign Trade . . .¹⁵³

The second case was to be assessed on the preceding year or an unspecified average of years and the third case was to be calculated in the same manner as for domestic trade (i.e. under the first case of Schedule B of the proposal). Importantly, this proposal not only includes a special case for foreign trade but did not incorporate the remittance basis for any of the three cases. The ‘Heads of a Plan’ (discussed above at p. 405) did not incorporate any development of this proposal.

Following the ‘Heads of a Plan’ in Pitt’s papers is a note pointing out the difficulties in assessing foreign income.¹⁵⁴ This seems to have been an indirect instruction for the further development of these rules because soon there follows in Pitt’s papers a note, not authored or signed, providing a rather deep analysis of the international issues.¹⁵⁵ This insightful note recommended the following classifications:

1. Residents of Great Britain ‘whose income arises there’
2. Residents of Great Britain whose income partly arises there and partly arises abroad
3. Residents of Great Britain whose income wholly arises abroad
4. Non-residents whose income wholly arises from Great Britain
5. Non-residents whose income partly arises from Great Britain and partly from abroad
6. ‘British Subjects holding places of profit, under the Crown, India Company, or otherwise paid from England – resident abroad’
7. Residents of British Dependencies whose income wholly arises abroad

With respect to taxation of classes 2 and 3, the author noted the possibility that this ‘violates a fundamental principle of Taxation, that production and taxation is reciprocal . . .’. The result is a justification of source-based taxation or, at least in modern day terms, the source country entitlement principle. With respect to classes 4, 5 and 6, the author pointed out the inability of examining such persons with respect to their income. The author then questions whether it would be possible to tax these persons by deduction at source and goes on to question why deduction at source should not be used for all salaries. A marking made on this note adds ‘+ Bank & corporations’. Assuming that this note (and the person reviewing it) were treasury or revenue officials (or, perhaps, Pitt), it seems clear that the concept of deduction at source and its benefits

¹⁵³ PRO 30/8/273, p. 205.

¹⁵⁴ PRO 30/8/279/2, p. 30.

¹⁵⁵ PRO 30/8/279/2, p. 33.

were known and discussed within government before the income tax was even introduced. It seems likely that this note resulted in a reconsideration of the jurisdictional rules incorporated in the income tax.

Turning to the actual law passed in 1799, the income tax contained the jurisdictional rules up front in the charging provision. Section 2 began by charging non-residents with a source-based tax. The tax was charged:

upon all Income arising from Property in *Great Britain* belonging to any of his Majesty's Subjects, although not resident in *Great Britain* . . .

Interestingly, this provision does not seem to cover non-resident aliens and does not seem to cover income from activities such as trade, professions and employments. Section 2 proceeded to charge persons residing in Great Britain (whether or not British subjects) on a worldwide basis. The tax was imposed:

upon all Income of every Person residing in *Great Britain* . . . whether any such Income as aforesaid shall arise from Lands, Tenements, or Hereditaments, wheresoever the same shall be situate, in *Great Britain* or elsewhere, or any Kind of personal Property, or other Property whatever, or from any Profession, Office, Stipend, Pension, Employment, Trade, or Vocation . . .

Tax on the basis of residence and source was familiar in Britain and as discussed in Chapter 1 their history goes back a long way. However, the rules in section 2 of the income tax of 1799 are probably the clearest of any direct tax law to this date. The land tax was rather confusing, personal estate taxable to persons 'within Great Britain' but on a worldwide basis. Land on the other hand was, apparently, only taxable on a source basis.¹⁵⁶

¹⁵⁶ For example, 38 Geo. III. c. 5 ss. 3 and 4. It seems unlikely that foreign land might constitute personal estate so as to be taxed under the land tax as such. The issue arises under earlier subsidies as to whether foreign land might have constituted 'goods or chattels'. This issue is likely to be resolved by the larger issue of whether, under English common law, foreign land could be devised by will. As yet no answer has been found to that question. The issue may not have arisen under the land tax and its predecessors because while foreign land may not have been assessable as such, the return from it would have been within the worldwide basis of the personal estate head. It may be assumed that a person who occupied foreign land (and so had no return from it) would not have been resident in Britain and so not chargeable to the British tax in any case. See also Avery-Jones (2004, p. 38) suggesting that the 'Land Tax did not attempt to tax land abroad which at that time would have been a breach of sovereignty . . .'. Question whether this was always the situation throughout history. It will be recalled that in 1639 Massachusetts sought to tax English estates of its settlers but this provision was adjusted two years later to exclude land in England; see note 381 of Chapter 1.

As mentioned at page 151, the predecessor of the land tax largely represented a compromise between the monthly assessments, which had been source-based taxes, and poll taxes, which were largely based on residence or ‘inhabiting’. The jurisdictional rules in the Tudor subsidies were also somewhat confusing but, perhaps, closer to the rules in the 1799 income tax. In particular, by the mid-1550s these charged movables on the basis of location and residence of the owner and, possibly, land on the same basis (see pp. 67–8).

These primary charging heads of the 1799 income tax were supplemented with a number of other provisions in the Act. Section 8 confirmed that persons temporarily in Great Britain were not treated as resident.¹⁵⁷ By contrast, persons ordinarily resident in Great Britain but currently overseas for occasional residence were to be treated as residents.¹⁵⁸ Persons were typically charged in the district of their residence irrespective of the location of their income.¹⁵⁹ This is similar to taxation of personal estate under the land tax rather than land under the land tax, which was assessed at its location.¹⁶⁰ Non-residents were to be charged at the last place of ordinary residence or abode in Britain and otherwise at the place where their property in Britain was located. Again, this is similar to the assessment of absentees for personal estate under the land tax.¹⁶¹

These rules were to a large extent targeted at taxing on a source basis. They were supplemented with the seventeenth and eighteenth cases of Schedule A, which together comprised ‘Income arising out of Great Britain’. These cases reveal two important developments from the cases in Schedule D of the proposal of 6 September 1798 (discussed above). The first is the absence of the third case of the proposal. Considering Pitt’s subsequent speeches, it cannot be suggested that the dropping of the third case was intended to exempt income from foreign trade. The second important development was the incorporation of the remittance basis in the first case of the proposal. The seventeenth case of the 1799 income tax provided for income ‘from foreign possessions’, which was calculated as the ‘actual Annual Net Income

¹⁵⁷ Although such persons continued to be subject to the Triple Assessment. As they might also be charged on a source basis under the income tax, section 9 gave relief from any double taxation.

¹⁵⁸ 39 Geo. III c. 13 s. 10. ¹⁵⁹ 39 Geo. III c. 13 s. 73.

¹⁶⁰ For example, 38 Geo. III. c. 5 ss. 52 and 53.

¹⁶¹ For example, 38 Geo. III. c. 5 s. 52.

received in *Great Britain . . .*.¹⁶² The preceding year or average of three years basis was available. The addition of the words 'in Great Britain' after the word 'receipts' set up the remittance basis, which was not present in the first case of the proposal. It is not clear whether there was a link between these two developments. The eighteenth case of the 1799 income tax followed the second case of Schedule D of the proposal and applied to 'Money arising from Foreign Securities', largely on a preceding year basis. One likely source of income under this head was interest paid on stocks issued by the United States, including American War of Independence debt assumed from the states. Notably, the 'received in Britain basis was not expressly incorporated in this case.'¹⁶³

Considering the importance of trade with the colonies, the seventeenth case was the more important head and, specifically, there were two extra provisions for assessing income from the New World colonies. Under section 102, persons with 'Income arising from Property in any of the *British Plantations in America*, and imported into *Great Britain* from thence . . .' were to be assessed by commercial commissioners at specified places. Section 103 provided for a similar assessment of 'any Income received in *Great Britain*, and arising from Property of any Person or Persons in such Plantations as aforesaid, which shall not have been imported in *Great Britain . . .*'.

The remittance basis seems to have been a new development that is not represented in previous laws considered by this study. There was, no doubt, an element of practicality incorporated in it. But the *Acts of Trade* (see pp. 157–8) heavily regulated international trade at this time together with the foreign sources from which income could be derived and would have encouraged the channelling of foreign income to Britain (and so its remittance).¹⁶⁴ Further, considering the experience of the American War of Independence, the British would have resisted sending assessors to the colonies to impose British taxation. It will be recalled that the Declaratory Act of 1788, which extended to the

¹⁶² Note the change in wording from 'full amount of the actual annual net receipt' in the proposal of 6 September 1798 to 'actual Annual Net Income'. It seems that the change from 'net receipt' to 'Net Income' occurred when 'received in Great Britain' was added.

¹⁶³ See Avery-Jones (2004, pp. 24–5), speculating as to the distinction between 'foreign possessions' and 'foreign securities'. According to Pitt's Budget speech of 3 December 1798, the eighteenth case was targeted at interest on mortgages 'of estates in the West Indies'; Pitt (1808, Vol. II, p. 44).

¹⁶⁴ See also Avery-Jones (2004, especially pp. 17 and 43).

West Indies, renounced any British right to tax its colonies for revenue purposes (see p. 321).

Initial Repeal

Similar to the Triple Assessment and many other efforts at direct assessment before it, the yield of the 1799 income tax was disappointing.¹⁶⁵ The tax levied fell £1,500,000 short of expectations.¹⁶⁶ As a result Pitt resorted to further increases in indirect taxes in 1800.¹⁶⁷ However, Pitt felt that the income tax could be reformed to produce a greater yield. Trade was a particular problem. The problems in assessing traders under the early income tax are notorious. As noted, the increase in specificity required under the 1799 income tax might, perhaps, suggest an accurate calculation of actual profits or gains from trade rather than any notional calculation such as existed in the states of the United States. However, the general nature of the return required of taxpayers might suggest that practice of taxpayers was otherwise. There were three developments in 1800 in this regard worthy of note. There was a bill presented to Parliament that would have reformed the basis on which trades were taxed, there was a report from the Board of Taxes with recommendations as to the taxation of trades and there is also a bill that was enacted involving less dramatic steps.

Farnsworth documents a bill proposed by Pitt that would have required a more detailed return from taxpayers. He dates the introduction of this bill into Parliament as the ‘beginning of April, 1800’.¹⁶⁸ There are a number of aspects of this bill that are relevant to the present discussion. The bill allocated a case, the nineteenth case, to the catchall category of income in Part IV of Schedule A of the 1799 law (it had no case under that law). Further, the bill consistently referred to ‘income’ under all 19 cases rather than variously ‘annual value’, ‘profits or gains’, etc. under the Triple Assessment and the 1799 income tax law.

¹⁶⁵ O’Brien (1959, p. 255) notes that some 321,000 persons made returns for the first year of the income tax. At this time the population of Britain would have approximated 10 million.

¹⁶⁶ Farnsworth (1951) attributes a large part of the failure of the 1799 income tax to the limited return required of taxpayers and the limited power of the tax administration to challenge it, e.g. at pp. 18 and 20–21.

¹⁶⁷ Dowell (1965, Vol. II, p. 226).

¹⁶⁸ Farnsworth (1951, pp. 27–8). The bill is reproduced in Pitt’s papers; PRO 30/8/279/2, p. 55.

More importantly, the bill contained a different set of rules for calculating taxable income from trade.

Under the April 1800 bill, income from trade was to be measured by reference to 'Gross Profits', without the addition of the word 'gains'.¹⁶⁹ It may be that 'Gross Profits' was intended to replace the reference to 'actual Produce' in section 79 of the 1799 law. 'Gross Profits' seems to inherently envisage some deductions (though what is not clear), otherwise a term such as 'receipts' might have been used. The bill proceeded to specifically provide:

The following DEDUCTIONS may be claimed by Persons engaged in Trade or Manufacture, from the Gross Profits of such Trade or Manufacture.

Actual Losses in Business; (*videlicet*)

By Sea Risque,

Stock in Trade destroyed or damaged,

By Insurances on Stock in Trade,

By Debts

By Repairs.

The above must be estimated from Losses actually sustained within the Period for which the Estimate of Gross Profits is made ...

By Rent of Warehouses wholly used in Trade.¹⁷⁰

The form in Table III of the bill made it clear that losses 'by debts' covered trade debts that could not be recovered.¹⁷¹ These rules would have added some specificity to the rules for calculating profits from trade and are further evidence that the intention under the 1799 income tax was to tax 'actual' rather than presumptive or notional profits from trade. They are consistent with the exclusion of capital sums and, if anything, suggest that adjustments from accounting profit calculations were envisaged. Farnsworth recounts the difficulty that Pitt had in trying to pass this bill, which was withdrawn in mid-April 1800.¹⁷²

Pitt's papers also contain an internal report, presumably of the Board of Taxes, dated 25 April 1800.¹⁷³ This report contains an

¹⁶⁹ PRO 30/8/279/2, p. 55. ¹⁷⁰ PRO 30/8/279/2, p. 57.

¹⁷¹ PRO 30/8/279/2, p. 51. ¹⁷² Farnsworth (1951, p. 30).

¹⁷³ 'A Statement of the Information received from Commissioners having the Execution of the Income Acts in the several Parts of Great Britain, to the Commissioners for the Affairs of Taxes'; PRO 30/8/279/2, p. 203.

interesting discussion of the problems encountered in taxing trades at this time. With respect to some small businesses it was noted that:

all Victuallers and such little Shop-keepers and Mechanics whose Returns are so inconsiderable that the Estimate of their Profits is to be gathered more from their manner of living than from any investigation of their Accounts . . .¹⁷⁴

The suggestion here was to remove these small businesses from assessment by the commercial commissioners and have them assessed by a general commissioner who would better know their circumstances. This is clear evidence of a suggestion for, if not evidence of, presumptive assessments being made of small traders. It seems likely that a substantial number of such businesses did not maintain sufficient records from which to readily determine their profits with any reasonable accuracy, if they kept sufficient records to do that at all.

The 1800 report went on to make a number of recommendations with respect to trade. These included:

That in inferior Trades the Criterion of Income should be taken from the aggregate of certain Payments *viz* Rent, Taxes & c. within the Year, in which it is proposed that the Income should be considered as ten times the Sum of those Payments.¹⁷⁵

The result would have been to tax small traders under a presumptive tax similar to the way in which farmers were taxed. Other proposals included:

That the Books of Traders should be open to the Inspection of Commissioners That the Accounts should be made up by them annually and a Balance struck before such Inspection . . .¹⁷⁶

The latter recommendation is particularly interesting in that it shows that, even with respect to larger traders (small traders being caught by the previous recommendation), the tax officials were faced with difficulties as to form of accounts and the periods for which they were made up.

¹⁷⁴ PRO 30/8/279/2, p. 204. ¹⁷⁵ PRO 30/8/279/2, p. 216. ¹⁷⁶ Ibid.

This report was followed in May 1800 with a further but successful bill.¹⁷⁷ Parts of the Act seem to have been based on the internal report of 25 April 1800 but none of the recommendations for trade referred to above were adopted. The rules for partners and traders that were incorporated were largely mechanical.¹⁷⁸ The Act also replaced the rules of assessment for two of the cases applicable to land but these are not presently relevant.¹⁷⁹ It introduced the rule that a person was deemed to be resident after a presence of six months.¹⁸⁰ The provision also clarified that aliens meeting this criteria were to be taxed on a worldwide basis.

In 1801, Addington replaced Pitt at the head of Government. With the peace following the Treaty of Amiens in mid-1802, Addington repealed the income tax, considering it a war measure.¹⁸¹ In order to meet the shortfall, Addington increased various indirect taxes and broadened the Assessed Taxes.¹⁸²

Colonies

The big developments in the colonies during the period covered by this heading centre around the return of various colonies to France and the Netherlands at the end of this period under the Treaty of Amiens of 1802. The colonies returned to the French included (among others) St Lucia (held since 1796) and Tobago (held since 1793). Similarly, the colonies of Essequibo, Demerara and Berbice Rivers were returned to the Dutch under the Treaty of Amiens as was Cape Colony. By contrast, the Spanish ceded Trinidad to the British under this treaty and the Dutch ceded Ceylon.¹⁸³ With little in the way of opposition or threat from Britain's enemies by way of sea,¹⁸⁴ for the West Indian and Canadian colonies at this time the main issue was trade.

¹⁷⁷ An Act for the better ascertaining and collecting the Duties granted by several Acts passed in the last Session of Parliament, relating to the Duties on Income: and to explain and amend the said Acts (39&40 Geo. III c. 49) (1800) (UK).

¹⁷⁸ 39&40 Geo. III c. 49 ss. 1–14. ¹⁷⁹ 39&40 Geo. III c. 49 ss. 15–18.

¹⁸⁰ 39&40 Geo. III c. 49 s. 19.

¹⁸¹ An Act for repealing the Duties on Income; for the effectual Collection of Arrears of the said Duties, and accounting for the same; and for charging the Annuities specifically charged thereon upon the Consolidated Fund of Great Britain (42 Geo. III. c. 42) (1802) (UK).

¹⁸² Dowell (1965, Vol. II, p. 230). ¹⁸³ Burns (1954, p. 579).

¹⁸⁴ Even a heavy Spanish attack on Belize in 1798 was repelled by British led forces. Burns (1954, pp. 576–7).

This subheading considers direct tax developments, first in the West Indies, briefly in Sierra Leone and then in the Canadian colonies.

West Indies

There were no direct tax developments in Barbados between 1797 and 1803. It welcomed a new governor in 1801 with the usual direct tax for the duration of the administration.¹⁸⁵ Antigua also relied on its usual law, in its case the deficiency law, for the support of the governor.¹⁸⁶ St Kitts continued to impose its tax on sugar and 'annual income' along the lines of the 1795 law (see p. 373).¹⁸⁷ Nevis, by contrast, imposed slave taxes¹⁸⁸ and also its tax on slaves and the yearly value of certain improved land in the towns consistent with the law of 1784 (see pp. 347–8).¹⁸⁹ It seems that Jamaica imposed no direct taxes between 1798 and 1802. The Belize settlement also imposed no direct taxes, continuing to rely on its taxation of transient traders and importation of liquor.¹⁹⁰ The Bahamas continued to impose its annual poll tax on slave tradesmen and free coloured persons together with the tax on billiard tables and some indirect taxes.¹⁹¹

¹⁸⁵ An Act for the better support of his Excellency the Right Honorable Francis Lord Seaforth during his Administration of the Government of this Island (14 April 1801) (Barbados); CO 30/17, p. 39.

¹⁸⁶ An Act for providing an additional Support and convenient Habitation for the residence of His Excellency The Right Honorable Ralph Lord Lavington Baron of Lavington during his actual residence within the Government of these His Majesty's Leeward Charibbee Islands and for appointing particular Funds for the payment thereof (26 February 1801) (Antigua); CO 8/22, p. 58.

¹⁸⁷ See An Act for raising such a Sum of Money as shall be adequate to the Annual Expence of this Country (28 May 1801) (St Kitts) and An Act for raising such a sum of Money as shall be adequate to the annual expence of this Country (26 March 1802) (St Kitts); CO 240/15, pp. 32 and 38, respectively.

¹⁸⁸ For example, An Act for raising a Fund for paying the Salaries of Matrofoes employed on the Forts of this Island and other Expences of the said Island (17 December 1798) (Nevis); CO 185/8, p. 39.

¹⁸⁹ An Act for Granting an Aid unto His Majesty by a Duty or Tax of Three Shillings and Six pence per poll on the Negroes and other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis Also the Sum of Two Pounds Ten Shillings in the Hundred Pounds on the Yearly Value of all Houses Ware Houses Shops and Tenements in the several Towns . . . (2 September 1802) (Nevis); CO 185/8, p. 67.

¹⁹⁰ For example, see resolution of 4 March 1800; British Honduras (1931–35, Vol. I, p. 278).

¹⁹¹ For example, An Act for imposing and laying certain Rates, Assessments and Taxes for the Year therein mentioned, and directing how the same shall be Collected and applied (2 December 1799) (Bahamas); CO 25/10, p. 246.

At this time Grenada's annual general tax was typically West Indian. It involved taxation of the rental value of certain improved land not attached to a plantation, billiard tables, taverns, slaves (not attached to plantations), horses and local produce.¹⁹² St Vincent continued to impose similar taxation but with the addition of income tax based on 'gross yearly income'.¹⁹³ Dominica continued to simplify its direct taxes and by early 1803 these had become a slave tax, fixed amount taxes on various trades, professions and polls, a tax on the rents of houses in Roseau and a tax on carriers.¹⁹⁴ Tobago continued with the form of tax used in 1795 (see p. 379).¹⁹⁵ It supplemented this with a straight slave tax.¹⁹⁶ As mentioned, the Treaty of Amiens of 1802 returned Tobago to France. By contrast, Trinidad, which was ceded by Spain, appears to have based its early tax system under British rule on indirect taxes.¹⁹⁷

Sierra Leone

It seems that the first indirect tax imposed in Sierra Leone was by a resolution of 27 December 1800.¹⁹⁸ Tax was imposed on imports of goods, wares, merchandise, liquors and certain other items and a further duty imposed on certain exports. There is no record of any direct taxes at this time.

¹⁹² For example, An Act for granting an aid to His Majesty by a general tax to be imposed upon the Inhabitants of Grenada and its Dependencies to be applied towards the discharge of the Public Debts and of the Current and incidental expences of the said Islands (12 July 1800) (Grenada); CO 103/10, p. 83.

¹⁹³ For example, An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (21 December 1801) (St Vincent) and An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (15 April 1802) (St Vincent); CO 262/8, pp. 13 and 26, respectively.

¹⁹⁴ An Act to raise a Fund for defraying the Expence of the Civil Government for discharging the Debts of the Colony and for appropriating the said fund and for other purposes (19 April 1803) (Dominica); CO 73/11, p. 40.

¹⁹⁵ For example, see CO 287/3, pp. 1 (law of 16 May 1798) and 11 (law of 29 August 1801).

¹⁹⁶ An Act to raise a Sum of Money for the payment of the expences incurred by reason of the late intended insurrection of the Slaves, and for such other incidental charges as may not be already provided for (3 March 1802) (Tobago); CO 287/3, p. 36.

¹⁹⁷ A resolution of the Council of 23 June 1802 imposed a duty of 3.5 percent on goods imported. This is mentioned in the minutes of 15 September 1803; CO 298/1, p. 61.

¹⁹⁸ See CO 270/5, p. 53. See also the resolutions of 27 January 1801 in CO 270/5, p. 82.

Canada

Cape Breton passed its first tax law, an indirect tax law, in 1800.¹⁹⁹ At the provincial level, Nova Scotia was also effectively funded with indirect taxes during this period. The same was true of New Brunswick, Prince Edward Island²⁰⁰ and Lower Canada (Quebec).

There were, however, further developments in Upper Canada. A law of 1798 would have specified the type of property rateable under the 1793 graduated poll tax and its presumed value (land by the acre, certain animals by the head, houses by the fire place, mills, shops, etc.). This would have moved the tax in the direction of a New England style direct tax, consistent with the large numbers of loyalists that had settled in Upper Canada following the American War of Independence.²⁰¹ Further, as this law included a provision for assessing non-residents, it seems the law was administered as a source-based tax despite its wording. It appears that this law was disallowed by the Board of Trade on 1 February 1799.²⁰² In 1800, however, Upper Canada effectively repealed the law of 1793 in order to refine the method of assessment.²⁰³ As with the disallowed law of 1798, this law specified rateable property and specified various values (indeed this law was essentially a rewrite of the 1798 law).

United States

In 1798 Congress was preparing for a potential naval war with France and turned to direct taxation. Following from Secretary Wolcott's report on direct taxation in 1796 (see p. 367), Congress passed a direct tax on land, houses and slaves.²⁰⁴ The law was specified to raise \$2,000,000 and so was not of a periodic nature. This amount was apportioned between

¹⁹⁹ An Ordinance for Granting to His Majesty a Duty of Impost on Rum and other Distilled Spirituous Liquors (14 December 1801) (Cape Breton); CO 219/2, p. 12.

²⁰⁰ Due to confusions created by the multiple use of 'Saint John' in North America, a law passed in 1798 changed the name of the island from the Island Saint John to Prince Edward Island. See An Act for altering and Changing the name of this Island from Saint John to that of Prince Edward Island (No. 134) (26 November 1798) (Prince Edward Island); CO 228/3, p. 9. See also Murray (1907, p. 223).

²⁰¹ For a similar assessment, see Vineberg (1912, p. 38).

²⁰² An Act for the more uniform laying of Assessments throughout this Province (1798, presumed) (Upper Canada); CO 44/40, p. 7.

²⁰³ An Act for the more uniform laying of Assessments and Rates throughout this Province (30 June 1800) (Upper Canada); CO 44/40, p. 44.

²⁰⁴ An Act to lay and collect a direct tax within the United States (14 July 1798) (United States); United States (1856–1864, Vol. I, p. 597).

the states. Consistent with the approach of many of the states, a separate law provided for the valuation of land, houses and slaves.²⁰⁵ Under this law houses were valued according to their capital amount whereas land was valued according to quantity but with different rates for different types of land. Slaves were valued per head unless infirmed. The tax law then proceeded to tax different houses at different amounts and slaves at the rate of 50 cents each. The remainder of a state's quota was to be assessed on land according to the valuation 'at such rate per centum as will be sufficient to produce the said remainder . . .'.²⁰⁶ This residual charge on land is broadly consistent, at least in form, with the British land tax of the time. It seems clear that only property sited in the United States was subject to charge. It also seems that the tax was difficult to assess and collect. These processes continued at least seven years later.²⁰⁷

There is nothing of particular relevance to report for the period covered by this heading in the states of the United States, although New York did revive its state property tax towards the end of the century with some greater specification of the tax base.²⁰⁸ By contrast, Pennsylvania did not impose a central direct tax but did enact a new law for raising county levies.²⁰⁹ This was broadly consistent with the central levy of 1785 (discussed above at p. 331). Taxable property included land, houses, mills, furnaces, breweries, certain animals 'and all offices and posts of profit, trades and occupations . . .'. Property was typically valued at its sale value whereas offices, posts, trades and occupations continued to be valued at the discretion of the assessors 'having due regard to the profits arising from such trades and occupations . . .'.²¹⁰

²⁰⁵ An Act to provide for the valuation of Lands and Dwelling-Houses, and the enumeration of Slaves within the United States (9 July 1798) (United States); United States (1856–1864, Vol. I, p. 580).

²⁰⁶ An Act to lay and collect a direct tax within the United States (14 July 1798) (United States) s. 2.

²⁰⁷ An Act to provide for completing the valuation of lands and dwelling-houses and the enumeration of slaves in South Carolina, and for other purposes (30 January 1805) (United States); United States (1856–1864, Vol. II, p. 311).

²⁰⁸ For example, see An Act for the Assessment and Collection of Taxes (1 April 1799) (New York). The tax was imposed by An Act To raise a Sum of Money for the use of this State by Tax, and for the further Support of Government (3 April 1799) (New York). American Antiquarian Society (1956–, No. 35916).

²⁰⁹ An Act to raise and collect county rates and levies (11 April 1799) (Pennsylvania); American Antiquarian Society (1956–, No. 36059).

²¹⁰ *Ibid.*, s. 8.

5.3 Deduction at Source to the Closing

The peace of 1802 did not last long and the British recommenced hostilities in mid-1803. Napoleon was declared emperor of France towards the end of 1804. In the following year a new coalition was founded against Napoleon involving Austria, Britain, Russia and Sweden. In this year Napoleon planned to invade Britain and amassed an army of 150,000. But British naval superiority prevented this army from crossing the English Channel and it was diverted to attack Austria, which once again was brought to its knees and peace. Through 1806 and 1807 Napoleon continued his successes in what is now Germany, which led to peace with Russia and the division of Sweden in 1808.

Britain remained in the war but could achieve little on land as the French Empire reached its greatest extent in 1810. Rather, the British focused on its naval blockade of Europe. Its efforts to enforce this blockade led to the Anglo-American War of 1812 to 1814. American shipping had suffered from restrictions imposed by both the French and the British during the war and had it protested to both. But once Napoleon's navy was effectively neutralised he offered to withdraw the restrictions if Britain would. Britain would not and so American attention focused on the British restrictions. The United States eyed Canada as an easy target, which would cut off naval stores and foodstuffs to the British and secure a virtual monopoly on the fur trade. The United States declared war on Britain in mid-1812. The attempts at invading Canada proved unsuccessful and while damage was caused to the British supply chain from the West to the East the war did 'not vitally affect the great issues in Europe ...'²¹¹

Napoleon's greatest enemy proved to be his over ambition. In mid-1812 his army invaded Russia with 600,000 men. Napoleon proceeded to Moscow but the Russian Emperor refused to capitulate and eventually Napoleon began the Great Retreat, which, by the time of its completion, had decimated his army to a mere 10,000 men. Austria and Prussia re-entered the war against France. The year 1813 saw the breaking of French power in Spain and later in that year the French suffered further defeat at the hands of allied forces. By March of 1813 the Allies had entered Paris and Napoleon abdicated shortly after and the monarchy was restored. The Treaty of Paris of 1814 concluded the supposed peace. Peace with the United States followed in 1814 with the Treaty of Ghent.

²¹¹ Holland Rose (1940, pp. 119–20).

Napoleon was exiled but returned to France in 1815 gathering an army as he approached Paris. Within a few months he was defeated at the battle of Waterloo. The Treaty of Paris was confirmed in 1815 following this defeat.

This heading is broken into three parts. First it considers direct tax developments in Britain after the recommencement of hostilities in 1803. This subheading discusses the deduction at source income tax, its expiry in 1816 and the taxes that replaced it to 1820. Second, the heading considers direct tax developments in the colonies between 1803 and 1820. Finally, the heading briefly considers direct tax developments in the United States and its states over the same period.

The Deduction at Source income Tax

With the recommencement of the war with France, Addington re-imposed the income tax in 1803 and in doing so renamed it the 'Property Tax' and halved its rate.²¹² The new tax was in many respects different from the income tax of 1799. This subheading first considers the structure and tax base of the 1803 income tax and then analyses it by reference to the four questions raised in the Introduction. Finally, this subheading considers amendments made to the 1803 law until the lapsing of the income tax in 1816 and the taxes that replaced the income tax on its lapsing through to 1820.

Structure and Content of the Rules on the Tax Base

The new law was in a number of respects a fundamental revision of Pitt's income tax and is famous for its incorporation of the deduction at source mechanism. The cases of Pitt's tax had been rationalised into five schedules, which has been suggested 'were five separate and distinct forms of taxation'.²¹³ The idea was to avoid the unpopular and ineffective general statement of income and have the various Schedules to the Act administered separately. Soos has looked into this matter in depth and suggests that:

For its basic approach, however, the income tax of 1803 followed the land tax, which identified certain types of property and taxed each separately.

²¹² An Act for granting to his Majesty, until the sixth Day of May next after the Ratification of a Definitive Treaty of Peace, a Contribution on the Profits arising from Property, Professions, Trades, and Offices (43 Geo. III c. 122) (1803) (UK).

²¹³ Hope-Jones (1939, p. 6).

The schedules in the income tax of 1803 were comparable to the categories of property chargeable under the land tax. Schedule A corresponded generally to the land tax category 'lands, tenements and hereditaments', and Schedule E to the land tax categories 'public offices and employments of profit' and 'public pensions, annuities and stipends'. Schedule D corresponded roughly to the land tax category 'personal estates' (ready money, debts, goods, wares, merchandise, etc.), both schedule and category being directed at the commercial class. As in the land tax, a person was assessed separately in each schedule, and a determination of total income was not necessary (except, under the income tax, to claim an exemption or abatement) ...²¹⁴

Indeed, the deduction at source mechanism for which Addington's tax is famous was clearly founded on similar provisions in the land tax.²¹⁵ As mentioned above at page 414, deduction at source was being contemplated in the context of the income tax in official circles even before the income tax was passed. It was further being considered during the period of operation of Pitt's income tax. In Pitt's papers there is a proposal of 22 April 1800 entitled 'Scheme for more effectually securing the Tax on Income without exposing the Debts of Private Persons'.²¹⁶ This proposal suggested the denial of a deduction for interest as a way of taxing interest at source. The same was suggested for the taxation of dividends, i.e. denial of a deduction. The proposal went further in suggesting, in effect, a refundable credit based on a certificate system. This is precisely the system adopted in 1803 for dividends and interest (discussed further below).

In other respects the 1803 income tax followed the 1799 tax.²¹⁷ This was particularly the case with respect to rates and abatements. These were set out in section 193. This form of graduation complicated the deduction at source system. Through a certificate system it was possible

²¹⁴ Soos (1997, p. 155). Soos goes on at p. 180 to suggest that '[t]he provisions are sufficiently similar, in substance or wording or both, to show that the drafters of the income tax of 1803 had relied heavily on the land tax in preparing the new legislation.'

²¹⁵ Farnsworth (1951, p. 43) and Soos (1997, p. 181).

²¹⁶ PRO 30/8/273, p. 143. It is difficult to decipher the author but it may be R. 'Bradon' or 'Brandon'.

²¹⁷ It is true that in his Budget Speech Addington referred to taxes in the time of William and Anne, i.e. the last decade of the seventeenth and first decade of the eighteenth centuries (discussed above at pp. 181–95); Cobbett (1812–1820, Vol. XXXVI, column 1600). But there is little revealed in the parliamentary debates that Addington might not have picked up from Adam Smith's *Wealth of Nations*, from discussions in the House of Commons on the 1799 income tax or the land tax itself.

to claim the exemption and abatements with respect to tax deducted at source and to claim a repayment.²¹⁸

Income from Land: Schedules A and B With respect to income from land, the trend of extending the cases in the 1799 income tax from the Triple Assessment was reversed; the fourteen cases became two Schedules.²¹⁹ Schedule A charged the owners of land and the words identifying the tax subject were clearly drawn from the land tax rather than the 1799 income tax. However, like the 1799 income tax, the charge was on the 'annual Value', defined as the market value rent. So the tax was, in the English tradition, a tax on notional income for owner-occupied property. The tax was to be paid by the occupier and so, like the land tax, where the land was rented, Schedule A incorporated deduction at source. However, the rules of valuation and deductions seem to have been largely taken from the income tax of 1799.

Schedule B imposed tax on income from the occupation of land and houses, again according to 'annual Value'. This was essentially an additional tax targeted at farmers (houses from which the tenants expected to derive no income were largely excepted, for which the Schedule A charge was deemed sufficient). As under the Triple Assessment and the 1799 income tax, the charge continued to be largely based on the rental value rather than actual income of the tenant.

As a revenue protection measure, land was to be valued at not less than the value used for the purposes of the Poor Rate. Indeed, in most cases it was the Poor Rate that would be used for valuation purposes. This emphasises the importance of the Poor Rate at this time. During the eighteenth century the Poor Rate had continued to grow in importance. By 1800 the funds redistributed under the Poor Rate equalled 21 per cent of the central government's revenues from direct and excise taxes.²²⁰ It also demonstrates that feature of first the Monthly Assessments and eventually the land tax of trusting assessment for local purposes. Parishes were also made generally liable for defaulters within the parish. While not equivalent to the quota system in the land tax, there was a similarity.²²¹

²¹⁸ 43 Geo. III c. 122 ss. 199 and, particularly, s. 200.

²¹⁹ 43 Geo. III c. 122 s. 31. ²²⁰ Slack (1995, p. 26).

²²¹ 43 Geo. III c. 122 ss. 50 and 51. See also Soos (1997, p. 159).

Income from the Funds: Schedule C Addington had originally planned to subject interest payable on the national debt to deduction at source. However, Pitt objected to this deduction as an effective breach of the terms on which the funds were issued and thought that taxpayers should declare their income from this source.²²² Accordingly, in the 1803 income tax, income from the national debt was given its own Schedule and not subjected to deduction at source.²²³ Non-resident aliens were exempted from the charge.²²⁴

Income from Property, Business and Employment: Schedule D Schedule D dealt with a number of sources of income and only loosely incorporated the rules from cases fifteen through eighteen and the residual category under the 1799 income tax.²²⁵ It charged ‘annual Profits or Gains’ from ‘any Property whatever . . . or any Profession, Trade, Employment, or Vocation . . .’. The word ‘annual’ was not used in the corresponding cases of the 1799 income tax and appears to have been inserted as a matter of consistency with ‘annual Value’ or ‘annual Amount’ under the first three Schedules. The Schedule proceeded to be divided into six cases, which broadly correspond to the four cases and residual category of the 1799 Act just mentioned.

The fifteenth case of the 1799 Act was divided into Case I and Case II of the 1803 Act. Case I only dealt with trades and manufacturing. It will be recalled that the 1799 Act incorporated some specific rules for trades and manufacturing and it was obviously decided to constitute these as a separate case. The profits or gains under Case I were to be calculated on an average of three years basis, under wording similar to that used in 1799. Interestingly, no deduction was allowed for interest paid, unless paid to foreigners. This was part of the deduction at source mechanism and the recipient would nevertheless receive a credit for the tax indirectly paid on the interest received. This followed the proposal of 22 April 1800 discussed above and see further below. This approach was, however, hardly novel, having been used in the 1688 subsidy (discussed above at p. 183).

Case II applied to ‘Profits, Gains, and Emoluments of . . . Professions, Employments, or Vocations . . .’. The word ‘emolument’ had been used

²²² Farnsworth (1951, pp. 48, 66–7). Contrast Dowell (1965, Vol. III, pp. 99–100).

²²³ 43 Geo. III c. 122 s. 66. ²²⁴ 43 Geo. III c. 122 s. 71.

²²⁵ 43 Geo. III c. 122 s. 84.

in direct tax laws since the first 'land tax' of 1696 (see p. 187). Here the preceding year basis applied (perhaps another reason for the division of the former fifteenth case of the 1799 income tax).

Case III was specifically devoted to 'Property of an uncertain annual Value' and covered the activities of things like mines, canals, docks, and the like. Cases IV and V dealt with foreign income and are further discussed below at page 434. The residual case was Case VI, which dealt with 'any annual Profits or Gains not falling under any of the foregoing Rules [or] Schedules . . .'. This was clearly based on the residual category from the 1799 law. The passive payments covered by the sixteenth case of the 1799 income tax were not repeated in the Schedules to the 1803 Act.

Section 208 expressly charged 'Annuities, yearly Interest of Money, or other annual Payments' and provided for their Assessment under the provisions of Schedule D. This charge did not apply where the payments were made out of profits subject charge. Payers of such amounts were entitled to deduct the tax from the payment due, producing a type of deduction at source similar to that used for dividends of companies and described below at pages 432–3.

Schedule D comprised income that was not easily subjected to deduction at source and so a general statement of income was retained. As might be expected, income from business proved difficult to assess. As O'Brien notes:

In assessing the income of a multiplicity of personal and small business units, the government was undoubtedly very much more dependent on the integrity of the people concerned. Advantage was taken of administrative difficulties, but just how much under-declaring of income went on is a matter for speculation.²²⁶

The denial of a deduction for interest helped in the taxation of income from trade but could not entirely resolve the essential difficulties.

Public Office or Employment: Schedule E Schedule E applied to salaries, wages and various other payments to public officers and employees. This was largely borrowed from the land tax and again provided a ready mechanism to secure deduction at source.²²⁷

²²⁶ O'Brien (1959, p. 261). ²²⁷ 43 Geo. III c. 122 s. 175.

The Four Questions

Regarding the four questions raised in the Introduction, there were few developments with respect to the capital–revenue distinction in the 1803 law. The law still used the word ‘arising’, particularly in Schedule D. As mentioned above, it also still used the word ‘annual’ in the context of profits or gains, income and various payments. Further, most parts of Schedules A, B, C and E were not capable of capturing capital gains. The provision limiting deductions was also repeated including the denial of a deduction for ‘Sums employed or intended to be employed as Capital, or in Improvement of Premises occupied for the Purpose of . . . Trade or Manufacture.’²²⁸ For the reasons discussed with respect to the Triple Assessment and the 1799 income tax, it seems clear that the law was not intended to extend to capital gains and losses.

As for the schedular nature of the system, as discussed with respect to the Triple Assessment and 1799 income tax, as an historical matter this was inevitable. Further, this was reinforced by the 1803 law’s greater reliance on the land tax, which, like its predecessors, also incorporated a schedular approach. If anything, the 1803 income tax was more schedular than the Triple Assessment and the 1799 income tax in the sense that the taxes under the various Schedules had become more independent.

The deduction at source mechanism was also set up for corporations and, like that for interest, followed the proposal of 22 April 1800 (discussed above at p. 428). Section 127 expressly required corporate profits to be estimated without a deduction for dividends, i.e. the opposite of the 1799 law. It required any ‘Corporation, Fraternity, Fellowship, Company, or Society . . .’ to deliver a:

a Statement of the Duty payable by such . . . computed according to the Directions of this Act, together with such Declaration of the Manner of estimating the same as aforesaid; and such Estimate shall be made on the Amount of the annual Profits and Gains . . . before any Dividend shall have been made thereof to any other Person or Persons . . . having any Share, Right, or Title, in or to such Profits or Gains; and all such other Person or Persons . . . shall allow out of such Dividends a proportionate Deduction in respect of the Duty so charged . . .

²²⁸ 43 Geo. III c. 122 s. 213.

This principle of deduction at source in respect of corporations seems to have been developed from a provision in the land tax. The land tax provision required certain water works, lighting and fire insurance companies as well as the King's Printing House to pay tax on the value of their stock. They were then permitted to deduct the tax 'out of their next Dividend'.²²⁹ The land tax rule has its origins in the rule for the 'East India and Guynea Companies' incorporated in the poll tax of 1678.

The use of the deduction at source mechanism was effective in relieving the economic double taxation of corporate income, just as the dividend deduction system had done under the 1799 income tax. One complexity was the interaction of the deduction at source, at the rate of 5 per cent, and the system of exemption and abatements incorporated within the income tax. Like other forms of deduction at source, this was covered by the certificate system in sections 199 and 200 (mentioned above at pp. 428–9) and so a refund of duty paid by the company and deducted from its dividends was available where the recipient claimed an exemption or abatement. The result was an early form of imputation system.

Unlike the 1799 Act, the jurisdictional rules were effectively scattered throughout the Schedules of the 1803 Act. Schedules A and B only charged land situated in Britain, the traditional rule under the subsidies, monthly assessments and, most directly, the land tax. Schedule C only charged income from the British National Debt and Schedule E income from British public offices. The jurisdictional rules from the 1799 income tax law had effectively been moved to Schedule D. In Schedule D these rules largely followed the general rules for the 1799 income tax law. However, non-resident aliens were now clearly covered by the source-based tax.

In some respects the 1803 source rules were more sophisticated than those of 1799. Tax under Schedule D was charged in respect of profits or gains from:

any Property whatever in *Great Britain*, or any Profession, Trade, Employment, or Vocation, exercised in *Great Britain* . . .

This filled the void in the source rules under the 1799 Act with respect to activities by using the rule 'exercised in' Britain. A similar rule had

²²⁹ For example, see An Act for granting an Aid to His Majesty by a Land Tax, to be raised in Great Britain, for the Service of the Year One thousand seven hundred and ninety eight (38 Geo. III. c. 5) (1798) (UK) s. 57.

been used domestically since at least the poll tax of 1667, which required certain officers to be rated 'where the said Office is executed' (see p. 139). The land tax required persons assessed for offices or employment to be rated 'where the same shall be exercised'. Though used in a slightly different context, these rules seem to be the origin of the Schedule D source rule.

As mentioned above, Case IV and Case V of Schedule D largely repeated the seventeenth and eighteenth cases of the 1799 income tax. They also made specific reference to Ireland and 'the British Plantations in America' and so seem to have accounted for part of the provisions in sections 102 and 103 of the 1799 law. However, Case IV clarified that tax was only imposed on income from foreign securities 'received in *Great Britain*'. Further, Case V provided further elaboration of the remittance basis including amounts payable in, property imported into and money received in Britain. The rules for temporary residents and deemed residence after six months presence were repeated.²³⁰

After 1803, the Lapsing and Beyond

The 1803 income tax was an immediate success, in its first year netting virtually the same amount as the 1799 income tax despite its imposition at half the rate.²³¹ By 1805, Pitt was back in power and the rate of the income tax was increased to 6.5 per cent.²³² The income tax law was re-written in the same year.²³³ This law incorporated a number of changes, including the movement of certain businesses concerned with land, such as mines, quarries, canals, docks, etc., from Schedule D to Schedule A. Case I of Schedule D was now extended to include not only trades and manufacture but any other 'Adventure, or Concern, in the Nature of Trade.' Case III covered non-annual interest.

Napoleon inflicted a major defeat on the Austrians and Russians late in 1805 and Pitt died early in 1806. Lord Grenville formed a coalition government to replace that of Pitt with Lord Petty as chancellor of the

²³⁰ 43 Geo. III c. 122 ss. 85–7. ²³¹ Seligman (1914, p. 98).

²³² An Act for granting to His Majesty additional Duties in Great Britain, on the Amount of Assessments to be charged on the Profits arising from Property, Professions, Trades, and Offices (45 Geo. III c. 15) (1805) (UK).

²³³ An Act to repeal certain Parts of an Act, made in the Forty-third Year of His present Majesty, for granting a Contribution on the Profits arising from Property, Professions, Trades, and Offices; and to consolidate, and render more effectual, the Provisions for collecting the said Duties (45 Geo. III c. 49) (1805) (UK).

Exchequer. During the desperate days of 1806, the new government raised the income tax to 10 per cent and restricted or repealed various forms of exemption or allowance. The law was consolidated again to incorporate the changes.²³⁴ For present purposes, the law of 1806 was essentially the same as the law of 1803, it did, however, extend the deduction at source mechanism to Schedule C. The effect was a further increase in the yield of the tax per percentage point.²³⁵ The number of persons charged with the tax had more than trebled since 1799.²³⁶

The 1806 law remained in force for the duration of the war. The total yield of the income tax peaked in 1813 at in excess of 250 per cent of the amount raised under Pitt's income tax in 1799, £15,800,000 compared with £6,050,000. In the years between 1806 and 1815, Schedule A was the most productive, bringing in about 35 per cent of the total yield. Schedule D was next bringing in about 25 per cent, Schedule C (consistently rising with the war debt) about 18 per cent, Schedule B with 15 per cent and way behind was Schedule E with 7 per cent.²³⁷

As the title of the 1806 income tax suggested, the income tax was due to expire in the April following a definitive treaty of peace, which occurred in 1815. There was some effort by Vansittart, the then chancellor of the Exchequer, to continue the tax at a reduced rate. But the public held the government to its promise that the income tax was a wartime measure and the tax was allowed to lapse in 1816. The lapsing left the chancellor with a hole of about 20 per cent in his total revenue. The chancellor turned to indirect taxes in an effort to fill part of the hole. There were no further direct tax developments in Britain to 1820.²³⁸

²³⁴ An Act for granting to His Majesty, during the present War, and until the Sixth Day of April next after the Ratification of a Definitive Treaty of Peace, further additional Rates and Duties in Great Britain [on the Rates and Duties on Profits] arising from Property Professions Trades and Offices; and for repealing an Act passed in the Forty-fifth Year of His present Majesty, for repealing certain Parts of an Act made in the Forty-third Year of His present Majesty, for granting a Contribution on the Profits arising from Property Professions Trades and Offices; and to consolidate and render more effectual the Provisions for collecting the said Duties (46 Geo. III c. 65) (1806) (UK).

²³⁵ See Dowell (1965, Vol. III, pp. 102–5) and Seligman (1914, pp. 101–6).

²³⁶ Farnsworth (1951, p. 94).

²³⁷ Hope-Jones (1939, p. 78). See also, O'Brien (1959, p. 262) covering the years 1803–1814.

²³⁸ Dowell (1965, Vol. II, pp. 257–8, 262–8).

Colonies

With the resumption of the war in 1803, the British forces quickly recaptured a number of colonies. In 1803 these included the French colonies of St Lucia and Tobago and the Dutch settlements of Essequibo, Demerara and Berbice Rivers. The French navy harassed the West Indies during 1805 and 1806 but '[b]y the end of 1810 all European colonies in the West Indies, except those belonging to Spain, now in alliance with Britain, were in British hands.' The British also seized Cape Colony, returned to the Dutch under the Treaty of Amiens in 1802, in 1806 and Mauritius in 1810. There were many other gains not presently relevant.²³⁹ The British returned most of the seized colonies under the Treaty of Paris of 1814, except St Lucia, Tobago and Mauritius, which were ceded by France and Essequibo, Demerara, Berbice Rivers and Cape Colony, which were ceded by the Netherlands.²⁴⁰

This subheading considers developments in direct taxes in the colonies between 1803 and 1820. It first considers developments in the West Indies, then in the Canadian colonies and finally in some of the remaining colonies.

West Indies

There were no developments in direct taxation in Barbados between 1803 and 1820. Barbados continued to welcome governors with a grant during their administration involving the usual mixture of taxes on slaves, certain mills and kilns and carriages with the additional charge on inhabitants of towns for their houses, trades and personal estate according to the vestry rolls.²⁴¹ Further, the additional costs of

²³⁹ See Holland Rose (1940, p. 106). ²⁴⁰ Burns (1954, pp. 587–8, 604–8).

²⁴¹ For example, An Act for the better support of His Excellency Sir George Beckwith, Knight of The Most Honorable Order of the Bath, His Majesty's Captain General and Governor in Chief of this Island, Chancellor Ordinary and Vice Admiral of the same during his Administration of the Government of this Island (14 August 1810) (Barbados) and An Act for the better support of His Excellency The Right Honorable Stapleton Lord Combermere, Knight Grand Cross of the Most Honorable Military Order of the Bath and of the Portuguese Royal Military Order of the Tower and Sword His Majesty's Captain General and Governor in Chief of this Island, Chancellor Ordinary and Vice Admiral of the same during his Administration of the Government of this Island (17 June 1817) (Barbados); CO 30/18, p. 127 and 30/20, p. 62, respectively.

government were met from time to time by additions on the same tax base.²⁴² In Antigua, direct tax seems to have all but expired during this period except for funds collected under the deficiency law of 1740. In 1817, it imposed a tax similar to that used in 1795 and so involving the taxation of slaves and a tax on the annual rent from improved land in the towns and per acre on land outside of the towns.²⁴³ The following year there was a simple slave tax.²⁴⁴

St Kitts and Nevis were among the colonies harassed by the French and each paid a ransom to the French navy in 1805 to spare themselves from being sacked.²⁴⁵ In 1808, St Kitts imposed its style of income tax (along the lines of the law of 1795, discussed above at p. 373) for two years in addition to a tax on sugar and salt.²⁴⁶ No further levies are recorded until 1820 but in that year the levy was still essentially the same as that in 1795.²⁴⁷ By contrast, Nevis continued its slave tax to support the governor and this was renewed in 1816 to welcome

²⁴² For example, An Act for raising an additional Levy on the Inhabitants of this Island to answer the current Expences of the Present Year (18 June 1805) (Barbados) and An Act for raising an additional Levy on the Inhabitants of this Island to answer the Current Expences of the present Year (21 July 1818) (Barbados); CO 30/17, p. 177 and 30/20, p. 116, respectively.

²⁴³ An Act for laying a tax to be applied to the payment of the public debts and charges of the Island (14 November 1817) (Antigua); CO 8/23, p. 107.

²⁴⁴ An Act for raising a Sum of Money to be applied to the payment of the Public Debts and Charges of this Island (5 February 1819) (Antigua); CO 8/23, p. 136.

²⁴⁵ Burns (1954, p. 584).

²⁴⁶ An Act for raising a Sum of Money and for laying a Tax upon all Sugar made within this Island and upon Income and upon all Salt sold within and exported from this Island and also upon all Lime Lemon and Orange Juice exported from the said Island for the payment of the Public Debts of this Island (10 May 1808) (St Kitts); CO 240/15, p. 49.

²⁴⁷ An Act for raising an adequate Sum of Money for the exigencies of the Island (7 February 1820) (St Kitts); CO 240/16, p. 164. The law continued to attach a schedule, which listed the allocated income of various persons. The core provisions of the income tax were:

Section 3 'And be it further Enacted by the authority aforesaid that every person hereby taxed or rated whose Income (independent of the Sugar made upon such Plantations) shall amount to two hundred Pounds Current Money per Annum shall pay . . . Forty Five Shillings Current Money for every hundred pounds of his or her Income from the first day of August 1818 to the first day of August 1819.'

Section 5 'And be it further Enacted by the authority aforesaid that any person omitted to be rated by this Law whose Income shall amount to two hundred Pounds Current Money shall pay . . . at the rate of forty five shillings for every hundred pounds of his or her Income for the aforesaid period, which said Income shall be ascertained and rated by the Treasurer and shall be recovered as aforesaid.'

a new governor.²⁴⁸ In the same year it imposed its usual tax on slaves and on the yearly value of certain improved land in the towns.²⁴⁹ These style charges continued until 1820. Interestingly, in 1821 Nevis supplemented this style of tax on slaves and land with an income tax in the following terms:

And also upon all Incomes of Persons having property in this Island or arising from any property or Stipend or Profession Office Employment Trade or Vocation exercised in this Island either in person or by deputy and not arising from the ownership or renting of any Sugar Plantation at the rates following . . .²⁵⁰

The tax was 3 per cent for those with income above £200. Commissioners were to be appointed to 'estimate' income of persons. Taxpayers were to be examined and answer on oath the amount of their income. It seems likely that the British income tax and that of neighbouring St Kitts influenced this tax, although the wording does not precisely follow either.

Jamaica welcomed a new governor in 1806 with a number of tax grants. These included a land tax along the lines of the 1796 levy.²⁵¹ It also reimposed its deficiency law²⁵² and also its usual tax on slaves,

²⁴⁸ An Act for raising a Sum of Money towards an Honourable Support for His Excellency Thomas Robyn Esquire Captain General and Governor in Chief in and over His Majesty's Islands of Saint Christopher Nevis Anguilla and the Virgin Islands Chancellor Vice Admiral and Ordinary of the same during his Government and also for laying a Duty or Poll tax on Negroes and other Slaves for the Payment thereof (14 September 1816) (Nevis); CO 185/9, p. 11.

²⁴⁹ An Act for Granting an Aid unto His Majesty His Heirs and Successors by a Duty or Tax of Five Shillings Annual Money per poll on the Negroes and other Slaves belonging to the Inhabitants of and the Plantations in the Island of Nevis And also the Sum of Three Pounds Current Money in the hundred pounds on the Yearly Value of all Houses Ware Houses Shops and Tenements in the several Towns . . . (14 September 1816) (Nevis); CO 185/9, p. 13.

²⁵⁰ An Act for granting an Aid unto His Majesty His Heirs and Successors by a Duty or Tax in Current Money on the Yearly Rent of all Houses and other Tenements not belonging to any Sugar Plantation and on the Negroes and other Slaves owned or possessed by the inhabitants or belonging to the Sugar Plantations in the said Island of Nevis and on the Yearly Incomes of the inhabitants of said Island not arising from Sugar Plantations for the discharge of demands against the Public of the same (1 September 1821) (Nevis); CO 185/9, p. 77.

²⁵¹ An Act for raising a Tax on Land within this Island and for applying the same to the Public Service (14 November 1806) (Jamaica); CO 139/53, p. 26.

²⁵² An Act to oblige several Inhabitants of this Island to provide themselves with a Sufficient Number of White persons, or pay Certain Sums of Money in case they shall be deficient (19 December 1806) (Jamaica); CO 139/53, p. 46.

cattle and carriages, on trades according to the vestry rolls, specified offices and on the yearly value of certain houses, wharfs and warehouses in the towns.²⁵³ These taxes were reimposed with minor adjustments periodically until 1820.²⁵⁴

Britain continued to station troops at Belize but no colony was formally erected until 1840. During the period covered by this chapter, Burnaby's Laws (see p. 311) remained 'the only written authority available ...'.²⁵⁵ Public meetings continued to impose taxes. These included the tonnage tax and the tax on sales by 'transient' persons but the array of taxes on imports was generally broadened.²⁵⁶ In 1805, a tax of £25 was imposed on granting freedom to slaves but this was repealed in 1808.²⁵⁷ In 1813, there was an attempt to impose tax on legacies and the administration of estates as well as a poll tax. The poll tax was a flat rate per head but differentiated between men and women, and whites, coloureds, blacks and slaves with white males paying the highest rate.²⁵⁸ These new taxes were abolished virtually immediately together with some of the additional indirect duties imposed in 1812.²⁵⁹ This left the public finances in a precarious state. While Belize had no governor, the situation caused its superintendent to address the public meeting on 6 January 1815 urging it to reconsider and espousing the virtues of a poll tax for the settlement. In the result, the additional duties of 1812 were

²⁵³ An Act for raising a Tax by the Poll, and on Trades Supercargoes and Masters of Vessels and on Offices and Houses and on Certain Wheel Carriages and applying the Same to Several Uses (19 December 1806) (Jamaica); CO 139/53, p. 55.

²⁵⁴ For example, An Act to oblige the several Inhabitants of this Island to keep a number of White persons serving in the Militia in proportion to the number of Slaves they shall possess and to enable persons of Colour and Negroes of free condition to save deficiencies for their own Slaves and for the Slaves of each other or to pay certain sums of money in case they shall be deficient (19 December 1818) (Jamaica), An Act for raising a tax on land within this island and applying the same to the Public Service (18 December 1819) (Jamaica) and An Act For raising a tax by the poll and on trades supercargoes and masters of vessels and on offices and houses and on certain wheel carriages and applying the same to several uses (18 December 1819) (Jamaica); CO 139/63, pp. 134, 214 and 232, respectively.

²⁵⁵ Burns (1954, p. 503).

²⁵⁶ For example, see resolutions of 19 November 1805, 25 February 1806 and 7 July 1812; British Honduras (1931–35, Vol. II, pp. 86, 92 and 154, respectively).

²⁵⁷ See resolutions of 29 October 1805 and 28 June 1808; British Honduras (1931–35, Vol. II, pp. 84 and 119, respectively).

²⁵⁸ Resolution of 6 January 1813; British Honduras (1931–35, Vol. II, p. 162).

²⁵⁹ Resolutions of 23 February 1813 and 26 October 1813; British Honduras (1931–35, Vol. II, pp. 164 and 165, respectively).

reinstated and the poll tax was re-enacted for two years.²⁶⁰ At this time the population of the Belize settlement was still very small, totalling less than 4,000, most of which were slaves with only 150 white settlers.²⁶¹ The tax system changed little through 1820.

The Bahamas direct tax system also changed little and it continued to rely on a poll tax on slave tradesmen and free coloured persons together with a tax on carriages, now also horses and licensing of billiard tables.²⁶² The direct tax continued in much the same manner until 1820, although by 1815 the poll tax seems to have become general and a tax was imposed on dogs.²⁶³

The Grenada direct tax system also continued with but few developments. In 1809, the tax was imposed on produce of the island, on houses and certain buildings (not attached to plantations), on slaves (not attached to plantations), on horses per head and certain duties on alcohol.²⁶⁴ With minor amendments, this system continued through 1820.²⁶⁵ By contrast, in 1804, St Vincent converted its poll tax classified according to income into a proportionate income tax but still based on 'gross yearly income'.²⁶⁶ The fixed charge for incomes falling within particular bands was abolished and Clause 3, the charging provision, simply stated:

all White and Free People . . . having using or being concerned in any Employment Commerce Occupation or business whatsoever having Gross Yearly Income of Three Hundred Pounds . . . or upwards shall pay

²⁶⁰ Resolution of 6 January 1813; British Honduras (1931–35, Vol. II, p. 177).

²⁶¹ See British Honduras (1931–35, Vol. II, p. 188).

²⁶² For example, An Act for imposing and laying certain Rates, Assessments and Taxes therein mentioned, for altering the mode of assessing the same and for other Purposes therein mentioned (22 December 1806) (Bahamas); CO 25/13, p. 33.

²⁶³ An Act for imposing and laying certain Rates Assessments and Taxes therein mentioned and for other purposes (29 December 1815) (Bahamas); CO 25/16, p. 99.

²⁶⁴ An Act for granting an Aid to His Majesty by Taxes to be imposed upon the Inhabitants of Grenada and its Dependencies and for imposing a Tax upon the Importation of Madeira Wine and Foreign Spirits to be applied towards the Discharge of the Public Debts and of the Current and Incidental Expences of these Islands (21 June 1809) (Grenada); CO 103/10, p. 262.

²⁶⁵ For example, An Act for Granting an Aid to His Majesty by Taxes to be imposed upon the Inhabitants of Grenada and its Dependencies and for imposing a Tax Upon the Importation of Madeira Sicilian Teneriffe and Spanish Wines to be Applied towards the Discharge of the Public Debts and of the Current and incidental Expences of these Islands (28 August 1819) (Grenada); CO 103/11, p. 206.

²⁶⁶ An Act for laying a Tax for paying Public Debts and Charges and particularly applying the same (13 March 1804) (St Vincent); CO 262/8, p. 89.

a Poll Tax of Two per Cent upon such Gross Yearly Income according to the Sum at which he shall be rated by the Assessors appointed by this Act . . .

The last such tax imposed during the period covered by this heading appears to be that of 1811.²⁶⁷ This law continued to impose tax on slaves, the importation of certain alcohol, the yearly value or rent of houses in the towns and garden lots, a charge on money received for labour of slaves by hire and a tax on unimproved lots. The proportionate income tax followed in broadly the same form as in 1804. St Vincent continued to impose its deficiency law of 1767 through 1820.

Dominica was sacked by the French in 1805²⁶⁸ and imposed a direct tax along its usual lines in 1806.²⁶⁹ This involved a slave tax, fixed amount taxes on various trades, professions and polls, a tax on the rents of houses in Roseau, a tax on carriers and an additional tax on taverns. Similar impositions continued until 1817, when, just after the British income tax expired, the income tax aspects of Dominica's charge were strengthened.²⁷⁰ Tax was imposed on imported liquors and tea, slaves not attached to plantations or exported, local produce and carriers. In addition there was:

on all Incomes derived in this Island from the exercise of either of the three professions Divinity Law or Physic from the emoluments arising from Public Offices from Salaries as Managers Overseers or Clerks from Commissions fees wages or Gains from Trade or Commerce, as Auctioneers Attornies or Agents for Estates a tax at and after the following rates . . .

There followed ten classes: the first on incomes between £200 and £300, paid a flat amount of £10, ranging up to incomes of £4,000 and upwards, paying a flat £300. The use of classes in this way is similar to the approach originally adopted by Grenada in 1778 and later by St Vincent in 1784 (but abandoned in favour of a proportionate tax in 1804). The law

²⁶⁷ An Act for laying a Tax for Paying Public Debts and Charges and particularly applying the same (25 April 1811) (St Vincent); CO 262/11, p. 11.

²⁶⁸ Burns (1954, p. 584).

²⁶⁹ An Act to raise a Fund for defraying the Expense of the Civil Government for discharging the Debts of the Colony and for appropriating the said Fund and for other purposes (25 February 1806) (Dominica); CO 73/11, p. 70.

²⁷⁰ An Act to raise a Fund for defraying the expenses of the Civil Government for discharging the debts of the Colony and for appropriating the said Fund and for other purposes (2 June 1817) (Dominica); CO 73/12, p. 108.

proceeded to provide that the 'said per Centage shall be calculated on the Gross Incomes deducting Clerk Hire Store or Office rent as aforesaid of all such persons as are hereinbefore specified . . .'. Taxpayers were required to 'appear personally or by his representative or partner . . . before the Treasurer or his Deputy . . . and make a true and exact return of his her or their Income for the twelve Months preceding the said time . . .'. The taxpayer was required to swear to this income on oath.

Dominica quickly moved from this classified poll tax to a graduated income tax. In 1818, it imposed similar taxes²⁷¹ but the income tax was now charged (using essentially the same words) at the following percentage for the following bands:

- Two percent on incomes between £200 and £500,
- Three percent on incomes between £500 and £1000,
- Four percent on incomes between £1000 and £2000,
- Five percent on incomes between £2000 and £3000,
- Six percent on incomes between £3000 and £4000 and
- Seven percent on incomes above £4000.

Dominica persisted with its income tax through 1820. The rates and the number of bands were reduced, although the tax remained graduated and the tax base was slightly expanded.²⁷²

²⁷¹ An Act to raise a Fund for defraying the expenses of the Civil Government for discharging the debts of the Colony and for appropriating the said Fund and for other purposes (22 April 1818) (Dominica); CO 73/12, p. 153.

²⁷² An Act to raise a Fund for defraying the Expense of the Civil Government for discharging the Debts of the Colony and for appropriating the said Fund (19 August 1820) (Dominica); CO 73/13, p. 45.

Clause 7 imposed 'a Tax on Incomes derived in this Island from the exercise of either of the three learned professions, Divinity Law or Physic by [certain public officers] . . . on Commissions as Attornies, Factors Auctioneers and agents for Estates, and also from all Emoluments arising from public Offices and from Salaries as managers and also on Master Tradesmen and Shopkeepers, That is to say three per Cent on Incomes from three hundred pounds to five hundred pounds, and on Income above five hundred pounds five per Cent which said per Centage shall be calculated on the Gross Incomes asforesaid for the twelve months preceding the said first of September (deducting clerk hire and office rent) as aforesaid of all such persons as are hereinbefore specified . . .'.²⁷²

Clause 8 provided that 'there shall be paid . . . by all Merchants a tax or duty of two and a half per Cent on their Gross Incomes derived in this Colony from [1 September 1819 to 1 September 1820] after deducting Clerk Hire and Store rent and they and each of them in their own behalf and on behalf of their absent partner or partners on the aforesaid first day of October shall appear before the Treasurer and make Oath to the Amount of such Income as derived and pay the Tax thereon.'

St Lucia was recaptured in 1803 and a British administration installed. The early tax system of St Lucia is not clear but it at least involved indirect taxes and the 4.5 per cent duty on exported produce in favour of the Crown.²⁷³ It seems that the French form of government was not abolished until 1816 (after St Lucia had been ceded to Britain) and executive and legislative functions were transferred to a Privy Council. A more typical legislative council was not set up until 1832.²⁷⁴ By 1820, the direct tax system of St Lucia involved the taxation of slaves (with a higher rate on domestic servants) together with a 'house tax of five per cent upon the rent of all houses, stores, and lots, in the towns of Castries and Soufriere . . .'.²⁷⁵

The first direct tax in Tobago after the British re-conquered it in 1803 was a simple poll tax.²⁷⁶ This style of tax alternated with a simple slave tax through 1820.²⁷⁷ Nearby Trinidad had been ceded by Spain under the Treaty of Amiens of 1802 but the British inhabitants were for many years only a fraction even of the white population and the English language was not used in the minutes of the legislature until 1813 nor in the courts until 1814.²⁷⁸ In the early days of British administration the

²⁷³ The 4.5 per cent was introduced into St Lucia by Proclamation of 27 October 1803; CO 253/3 (no page number). A little later in the same document is an estimate of the produce of proposed taxes, which include taxes on inbound and outbound cargoes, liquor licences, billiard table licences, hawkers and peddlers licences and tax on emancipation of slaves.

²⁷⁴ Burns (1954, p. 646).

²⁷⁵ An Ordinance fixing the taxes to be raised for the public service in 1820 (11 January 1820) (St Lucia); CO 255/1, p. 16.

²⁷⁶ An Act to ascertain the Debts of the Island and to raise a Sum of Money for payment thereof and of all such other expences as may be necessary for the service of the Colony, and to appropriate any such Sums of Money now in the Treasurer's hands and other Sums of Money that may come into his hands (22 March 1804) (Tobago); CO 287/3, p. 54.

²⁷⁷ See An Act to ascertain the Debts of the Colony and to raise a Sum of Money for payment thereof and for payment of all such other expences as may be necessary for the service of the Colony and to appropriate any sums of money for that purpose in the Treasurer's hands (8 September 1810) (Tobago), which was a poll tax, and An Act to ascertain the Debts of the Colony and to raise a Sum of money for payment thereof and for payment of all other Expences that may be necessary for the Service of the Colony; and to appropriate any Sums of money to that purpose remaining in the Treasurer's hands not otherwise specifically appropriated or to be appropriated to any other purpose by any other Act or Acts of this Island (24 January 1820) (Tobago), which was a slave tax; CO 287/3, p. 291 and 287/5, p. 8, respectively.

²⁷⁸ Burns (1954, p. 606).

former indirect tax system was continued.²⁷⁹ In addition, some public works were financed with a levy of Negro labour²⁸⁰ and by 1808 this seems to have developed into a slave tax.²⁸¹ This system appears to have continued through 1820, although it seems that there was a tax on houses in 1814 and 1815.²⁸²

The Dutch colonies of Demerara, Essequibo and Berbice Rivers were re-conquered by the British in 1803 and ceded by the Dutch in 1814. Demerara and Essequibo had been joined in 1784 but it would not be until 1831 that all three would be united as the colony of British Guiana.²⁸³ During the early years of British rule the direct tax systems of these colonies are somewhat sketchy. It seems that in 1810 Berbice imposed a poll tax (which, if similar to that in Demerara and Essequibo, may have been classified according to income) and separately a slave tax.²⁸⁴ Records suggest that the tax system was similar in 1814.²⁸⁵ Similarly, as early as 1805 there is a record of a slave tax and (presumably) a poll tax (perhaps based on income) in Demerara and Essequibo.²⁸⁶ The records of 1807 reveal a slave tax and 'a rate on Incomes agreeable to the Same Seale and Classification Contained in the Court's Resolution respecting the Taxes of the year 1806 ...'²⁸⁷

²⁷⁹ For example, see the discussion in the Council minutes of 23 April 1805; CO 298/2, p. 60.

²⁸⁰ For example, at the Council meeting of 9 July 1803 a levy of Negro labour was ordered for furnishing the public works. The plantations were required to provide a certain proportion of their Negroes: 'When the Slaves do not exceed ten on a plantation no contribution be required but where they shall be between ten and Thirty Six the Proprietors to pay in Money at the rate of one Dollar Per Head for every Negro ...' CO 298/1, p. 6.

²⁸¹ Minutes of the Council of 20 April 1808 include the following: 'Resolved that it is expedient for the public service to levy immediately the said Tax of 4/6 a head ...' on each slave. CO 298/3, p. 174.

²⁸² The colonial accounts for this period are reproduced in CO 300/17, which lists revenue collected from these and indirect taxes.

²⁸³ Burns (1954, p. 644).

²⁸⁴ This is apparent from the Minutes of the Court of Policy and Criminal Justice of 15 March 1810, which reveals the imposition of a 'Capitation Tax' and 'Plantations Money' together with some indirect taxes; CO 114/1. The Minutes of 2 October 1810 suggest that plantations money was levied according to the number of slaves employed by plantations, which had to be returned periodically. This minute also fixes this tax per head for the then present year.

²⁸⁵ Minutes of the Court of Policy and Criminal Justice of 11 January 1814; CO 114/2.

²⁸⁶ Minutes of the Court of Policy of 27 November 1805 provide: 'resolved to lay a Colonial Tax of four Guilders Ten Stivers on all Slaves, and a Tax on the Revenue in a proportional Classification.' CO 114/6.

²⁸⁷ Minutes of the Court of Policy of 7 December 1807; CO 114/7.

The records of 1808 make it clear that the ‘income tax’ was a poll tax classified according to income.²⁸⁸ The taxes for that year involved a slave tax and:

2ndly a Tax on all Income derived in these Colonies during the year 1808 from any other Source than Military Situations fixed Salaries from Government or the Cultivation of Estates or Plantations, according to the following Classifications . . .

There were twenty-eight classes of income from 2,000 to 3,000 Guilders as the lowest up to 140,000 to 150,000 as the highest. A fixed amount of tax was payable with respect to each class. Again, the clearest precedents for this style of tax seem to be the impositions in Dominica in 1778 and those of St Vincent from 1784. The tax was still being imposed in 1815 but it is unclear whether it was imposed through 1820.²⁸⁹

Canada

There were no developments in direct taxation in the Maritime Provinces between 1803 and 1820 (Nova Scotia, New Brunswick and Cape Breton), other than in Prince Edward Island. The land tax to supplement statute labour was continued subject to some adjustment in 1808.²⁹⁰ In the following year a further land tax was imposed for the purposes of constructing government buildings.²⁹¹ The tax was imposed at 2s per 100 acres of land and the same per pasture lot. There were no further developments to 1820. There were also no further developments in direct taxation in Quebec to 1820.²⁹²

²⁸⁸ Minutes of the Court of Policy of 2 November 1808; CO 114/6.

²⁸⁹ Minutes of the Court of Policy of 1 February 1815; CO 114/8.

²⁹⁰ An Act to alter and amend An Act made and passed in the Thirtieth year of His present Majesty’s Reign intituled An Act to oblige the respective Proprietors of Lots or Townships of Land or of parts of Lots or Townships of Land in this Island and who have contributed nothing towards the Settlement or Improvement of this Island and whose Lands be in waste and uncultivated State to pay their proportion of the public Charges for the making and repairing of the Highways, Roads and Bridges of the said Island (No. 165) (8 April 1808) (Prince Edward Island); CO 228/3, p. 95.

²⁹¹ An Act for raising the Sum of Sixteen Hundred Pounds for the purposes of Erecting Buildings for the Meeting of the General Assembly, the Supreme Court and its Offices and other public Offices in Charlotte Town And for Building two Goals vizt one in Prince County and one in King’s County in this Island (No. 177) (10 May 1809) (Prince Edward Island); CO 288/3, p. 130.

²⁹² Vineberg (1912, p. 34).

By contrast, the Upper Canada direct assessment continued to develop. In 1803 the law was consolidated with greater elaboration of rateable property.²⁹³ The rate payable by each person continued to be based on a quota system. This law also incorporated a form for returning the items subject to tax much as was found in many of the states of the United States. There were some further minor amendments,²⁹⁴ which are not presently relevant, until a further consolidation in 1819.²⁹⁵ The tax continued to be on real and personal property but the rate bands had been removed. The types of rateable property were set out and a valuation method specified. Land was valued at a set rate per acre or town lot, buildings according to their type, horses and cattle per head and carriages were also subject to charge.

Other Colonies

In 1800, the population of Sierra Leone was boosted by the arrival of Negroes from Nova Scotia. A large number of these were Jamaican Maroons who had been deported from Jamaica to Nova Scotia in 1796 following the uprising in Jamaica in 1795.²⁹⁶ Sierra Leone was surrendered to the Crown in 1808 and the Sierra Leone Company eventually liquidated.²⁹⁷ The colony continued to base its tax system largely on indirect taxes although the law of 1795 levying labour for the highways (see p. 380) was reflected in a law of 1812.²⁹⁸ There were no further developments at the Gambia or the Gold Coast, which remained under the management of the Company of Merchants Trading

²⁹³ An Act particularizing the Property, real and Personal, which during the Continuance thereof shall be subject to Assessment and Rates, and fixing the several Valuations at which Each and every Particular of such Property shall be rated and assessed (5 March 1803) (Upper Canada); CO 44/41, p. 41.

²⁹⁴ See Vineberg (1912, pp. 33, 34).

²⁹⁵ An act to repeal the several laws now in force, relative to levying and collecting rates and assessments in this province, and further to provide for the more equal and general assessment of lands and other rateable property throughout this province (12 July 1819) (Upper Canada).

²⁹⁶ Burns (1954, p. 555).

²⁹⁷ An Act for transferring to His Majesty, certain Possessions and Rights vested in the Sierra Leone Company, and for shortening the Duration of the said Company; and for preventing any dealing or trafficking in the buying or selling of Slaves within the Colony of Sierra Leone (47 Geo. III, Session 2, c. 44) (1808) (UK). See also Martin (1927, p. 141).

²⁹⁸ An Act to amend and explain an Act 'For the making and keeping in repair, the Highways of this Colony' (12 September 1812) (Sierra Leone); CO 269/1, No. 5 (no page numbers).

to Africa (see p. 318). Through 1820, the Company continued to rely on British parliamentary grants.²⁹⁹

There were few developments of present relevance in India. The British East India Company continued to manage its various rights of land revenue (see pp. 315–16). However, parliamentary regulation of the Company increased. In 1813, it was ordered to maintain its administrative accounts separately from its commercial accounts.³⁰⁰ Banerjea notes that the '[l]and revenue formed the bulk of the State income in India during the entire period of the Company's rule.'³⁰¹

As noted above at page 370, the troops of the East India Company conquered Ceylon in 1796 and the officials of the Madras Presidency became responsible for its administration, which, as in India, largely involved revenue collection. After a period of revolt and strife, a royal government was established in 1801. The direct tax system of Ceylon from this time until 1820 is somewhat sketchy. It seems to have involved an ancient Sinhalese land revenue system, though somewhat different from the Indian system (and the attempted imposition of the Indian system by the Company was one of the reasons for the earlier revolts). The system seems to have been of an almost feudal nature, involving the holding of land in return for services.³⁰² It is also clear that import and export duties were imposed at an early stage and were the backbone of the tax system during the first two decades of the nineteenth century.³⁰³

²⁹⁹ Martin (1927, p. 17). The Company was terminated in 1821 and 'the forts, possessions and property' of the Company were vested in the crown; Martin (1927, p. 166).

³⁰⁰ An Act for continuing in the East India Company, for a further Term, the Possession of the British Territories in India, together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same; and for regulating the Trade to and from the Places within the Limits of the said Company's Charter (53 Geo. III. c. 155) (1813) (UK) s. 64. See also Banerjea (1928, p. 6).

³⁰¹ Banerjea (1928, p. 126).

³⁰² Harlow (1940, pp. 166–71). See also Mendis (1956, Vol. I, pp. 77–120). Mendis (1956, Vol. II, p. 277) reproduces a Proclamation of 3 September 1801. It seems that the feudal system under which land was held for services was changed by the British on this date into a system of 'payment of a tenth of the produce' or a fourth depending on the type of land. The produce was to be paid to the government annually. It was largely targeted at the cultivation of grain.

³⁰³ See Regulation to consolidate the several Regulations for Collecting Export and Import Duties levied in the Island of Ceylon (Regulation 10 of 1813) (Ceylon) in The Ceylon Government Gazette, No. 647 of 9 February 1814; CO 58/1. See also Abstracts of the Net Revenue and Expenditure of the Island of Ceylon for the Years 1815 and 1816 of 30 December 1819; United Kingdom (1801–, 1819–20, Vol. IV, No. 56). This report suggests that direct levies at this time made up only slightly more than 10 per cent of all revenue.

The British again seized Cape Colony in 1806 and the Dutch ceded it under the Treaty of Paris of 1814 but no serious British colonisation occurred until 1820.³⁰⁴ In 1806, the British inherited a comparatively sophisticated tax system from the Dutch, which included a tithe 'levied upon the produce of the arable lands, and upon stock maintained upon pasture lands ...'³⁰⁵ as well as certain indirect taxes. There were also various charges on land, which the British, in 1813, converted into a universal system of landholding and quit-rents.³⁰⁶ In addition, there was an array of taxes levied at the local level in Cape Town and the districts.³⁰⁷ In particular, these typically included a 'head money' or poll tax 'levied from time immemorial', which, in principle, was assessed 'in proportion to the property and income of each individual' but, in practice, levied at 'the discretion of official persons or boards ...'.³⁰⁸ The perceived uncertainty and potential abuse of this form of local direct tax led to reform under the British in 1814.

This reform transformed the head money into, at least in form, a British-style income tax. This is not, perhaps, surprising given the success of the income tax in Britain at this time. A Proclamation of 1 April 1814 expresses as the driving force for this change that 'Assessments, throughout the Settlement, should be made upon uniform, avowed, and universally known principles ...'.³⁰⁹ In the districts the head money was to be turned into a flat rate tax per poll. However, with respect to Cape Town, the Proclamation provided:

that the ordinary assessment, instead of the general way of taxing each person, according to his apparent wealth and income, shall be taxed according to his income *alone*, either arising from office, profession,

³⁰⁴ Harlow (1963, p. 211).

³⁰⁵ See Report of the Commissioners of Inquiry to Earl Bathurst upon the Finances of 6 September 1826 in Cape Colony (1897–1905, Vol. XXVII, p. 397 at p. 404). This report has a useful history of the development of taxation in Cape Colony from the late seventeenth century.

³⁰⁶ Plant (1963, pp. 791–2) and see Proclamation of 6 August 1813 in Cape Colony (1897–1905, Vol. IX, p. 204).

³⁰⁷ See Report and opinion of Sir John Truter on the Memorandum of Sir John Francis Cradock, dated the 26th May 1813, respecting the Taxes which are paid by the Inhabitants of Cape Town, and of the respective Country Districts in Cape Colony (1897–1905, Vol. IX, p. 368).

³⁰⁸ Cape Colony (1897–1905, Vol. IX, pp. 375–6). In some of the lesser districts it seems that the head money was levied at a flat rate per poll.

³⁰⁹ Proclamation by Sir John Cradock (1 April 1814) (Cape Colony); Cape Colony (1897–1905, Vol. IX, p. 454).

trade, commerce, slave hire, and other sources of a life interest, or other temporary nature, or from houses, mortgages, debts, &c., of a permanent and transmissible nature.

It seems likely that the form of this tax was directly influenced by the British income tax. In particular, the distinction between temporary and transmissible income in many ways reflects the difference between Schedule D and the other schedules of the British income tax. Cape Town, therefore, provides another example of a European capitation tax being converted into, at least in form, a tax that is more recognisable as an income tax proper. The difference in the case of Cape Town is that the evidence of this process is clear. The Cape Town income tax lasted through 1820.

Mauritius too imposed a capitation tax at the time the British seized the island from the French in 1810. Unlike the Dutch capitation tax in Cape Town, the French capitation tax in Mauritius appears to have lasted through 1820.³¹⁰

The British settlements in Australia (New South Wales) began in 1788 as convict stations, a place to send British criminals.³¹¹ The governor enjoyed autocratic rule through 1820 during which period the governor imposed duties on certain imports.³¹² A constitutional issue arose as to the governor's power to impose these duties, which resulted in British legislation authorising the duties in 1819.³¹³ There were no developments in direct taxation in Australia before 1820.³¹⁴

United States

There were few developments in direct taxation at the federal level in the United States from 1803 until the war with Britain of 1812 (see p. 426). The United States largely financed this war through borrowed funds. There was some difficulty in raising funds on loan (the central bank's

³¹⁰ Abstracts of the Net Revenue and Expenditure of the Island of Mauritius for the years 1816 and 1817 of 30 December 1819; United Kingdom (1801–, 1819–20, Vol. IV, No. 57). It seems the capitation tax made up 20 per cent of all revenue at this time.

³¹¹ At this time Tasmania was a dependency of New South Wales.

³¹² Mills (1925, p. 27).

³¹³ An Act to stay Proceedings against any Governor or other Persons concerned in imposing and levying Duties in New South Wales; to continue, until the First Day of January One thousand eight hundred and twenty one, certain Duties; and to empower the said Governor to levy a Duty on Spirits made in the said Colony (59 Geo. III c. 114) (1819) (UK).

³¹⁴ Generally, see Harris (2002, pp. 13–14) and the references cited therein.

charter had lapsed in 1811) and so the federal government turned to the usual vehicle of issuing treasury notes, 'which were only slightly different from the 'Continental' of the Revolutionary War'. During the war Congress did enact new taxes but these were largely indirect taxes.³¹⁵

An exception was during the height of the war (and height of a United States financial crisis) in 1813. As in 1798, there was an assessment law and a separate charging law both of which largely followed the earlier laws. The assessment law provided for a direct tax to be 'assessed and laid on the value of all lands, lots of ground with their improvements, dwelling houses and slaves . . .'.³¹⁶ Again the source basis of the tax is clear, assessors being instructed to list these taxable items 'lying and being within the collection district . . .'.³¹⁷ The charging law sought to raise \$3,000,000.³¹⁸ In the usual way, it was apportioned between the states. An interesting provision granted states a 15 per cent discount if they paid their quota before 10 February 1814, 10 per cent if before 1 May 1814.³¹⁹ Again, this was a one-off rather than a periodic charge.

As the war with Britain was drawing to its final climactic closure in early 1815 the federal government doubled the charge of 1813 with a new imposition of \$6,000,000 but to be 'annually laid'.³²⁰ This law amalgamated both the assessing and charging provisions although the format largely followed the earlier levies. This annual direct tax was repealed a couple of years after the war.³²¹ There were no further federal direct taxes through 1820.

There was little development of the state direct taxes in the United States between 1803 and 1820.³²² However, a brief review will serve to

³¹⁵ Stabile and Cantor (1991, p. 33).

³¹⁶ An Act for the assessment and collection of direct taxes and internal duties (22 July 1813) (United States) s. 5; United States (1856–1864, Vol. III, p. 22).

³¹⁷ *Ibid.*, s. 6.

³¹⁸ An Act to lay and collect a direct tax within the United States (2 August 1813) (United States); United States (1856–1864, Vol. III, p. 53).

³¹⁹ *Ibid.*, s. 7.

³²⁰ An Act to provide additional revenues for defraying the expenses of government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same (9 January 1815) (United States); United States (1856–1864, Vol. III, p. 164).

³²¹ An Act to abolish the internal duties (23 December 1817) (United States); United States (1856–1864, Vol. III, p. 401).

³²² This discussion does not account for the nine states that joined the United States between 1792 and 1820, namely Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama and Maine.

complete this study. In New England, the Massachusetts system continued to impose tax of a set amount with a fix poll tax and the residual levied on a valuation list. This list included real estate within the state according to a just valuation, other estates within the state including 'goods, wares, and merchandize, or any other stock in trade ... and also the amount of the income of such inhabitants, from any profession, handicraft, trade, or employment ...'.³²³

The similar tax in Connecticut (but including fixed taxes on certain professions and trades) continued under the 1796 law (see p. 368) with annual resolutions setting the tax.³²⁴ Interestingly, by 1819, Oliver Wolcott, who had drafted the United States Treasury report on state taxation in 1796 (see p. 367), had become the governor of Connecticut. In the spring of 1819 he finished a report for the Connecticut legislature on its current direct tax system.³²⁵ Wolcott's report recommended continuing the taxation of polls, trades, physicians, lawyers and innkeepers and his recommendations were largely followed in the new assessment law of 1819.³²⁶ Section 2 of the 1819 law assessed real property at 3 per cent of its value and personal estate at 6 per cent of its value and there was a flat fixed rate poll tax. Section 4 provided:

Attornies, physicians, surgeons, traders of all kinds, mechanics, taverners, brokers and distillers, shall be assessed, and set in the list of the town where they reside, at the discretion of the assessors, according to the value and income of their business, occupation or profession ...

While a change in wording from Connecticut's historic assessment, the effect seems to have been substantially similar to the former law. In particular, this clearly still involves an object assessment of income rather than an actual assessment.

³²³ An Act To apportion and assess a Tax of one hundred and thirty three thousand, three hundred and two dollars ... (18 February 1819) (Massachusetts) s. 2; *American Antiquarian Society* (1990—, No. 48630).

³²⁴ Kinsman (1903, p. 28).

³²⁵ Wolcott (1819). In his report Wolcott outlines the Connecticut 'General List' for 1817, i.e. the tax base. At this time the tax raised from 'Assessments on Trade, Professions, Machinery &c.' accounted for about 5 per cent of the total assessment.

³²⁶ An Act for the Assessment of Taxes (1819) (Connecticut); Connecticut (1826, Title 102, ch. 1). This law was passed at the same time as Connecticut adopted a new constitution. Contrast Seligman (1914, p. 389).

In Rhode Island the property tax continued through the end of 1820 but it seems that the poll tax fell away.³²⁷ Similarly, in New Hampshire the basic assessing law of 1789 (see p. 329) continued, subject to amendment, through 1819. Accordingly, taxation involved the taxation of estates but, unlike Rhode Island, the supplementary poll tax (but not faculty tax) continued. The poll tax decreased in importance over time.³²⁸ Each year there was a short charging law,³²⁹ the total amount being apportioned between the towns and localities according to an apportionment law.³³⁰ The taxes levied by the towns and localities were to be according to the assessment law. Vermont, by comparison, continued with its 1797 assessment law³³¹ and so the pre-War of Independence Connecticut approach, which included taxing certain professions and businesses ‘in proportion to the gains’, continued through 1820.

As for their middle states, New York continued with its tax on ‘the valuation of real and personal estates within this state . . .’³³² A separate law provided for the making of assessments.³³³ The New Jersey direct tax system also changed little through 1820. It continued to involve a fixed amount tax apportioned to the counties and the tax base changed little from that described above at pages 368–9.³³⁴ Accordingly, the

³²⁷ An Act for granting and apportioning a Tax of Ten Thousand Dollars (June 1818) (Rhode Island); American Antiquarian Society (1990–, No. 45530). In the usual way, the tax was on ‘the rateable estates of the inhabitants of this State, and upon the rateable estates of others lying therein . . .’. The tax was apportioned to the towns and localities. It seems that Rhode Island was still working under the 1795 assessment of rateable estates at this time (see p. 368).

³²⁸ Robinson (1902, pp. 87–8).

³²⁹ For example, An act imposing taxes for the support of Government (4 March 1819) (New Hampshire); American Antiquarian Society (1990–, No. 49461). The tax was to be apportioned to the towns, parishes and districts ‘agreeably to the last proportion act’, i.e. in this case the act referred to in the next note.

³³⁰ For example, An Act for making and establishing a new proportion for the assessment of public taxes among the several towns and places within this state, and to authorize the treasurer to issue his warrants for levying the same (21 December 1816) (New Hampshire); American Antiquarian Society (1990–, No. 41580).

³³¹ Kinsman (1903, p. 10).

³³² For example, An Act to improve the funds and to provide for the redemption of the funded debt of this state (21 April 1818) (New York) s. 7; American Antiquarian Society (1990–, No. 45045).

³³³ For example, An Act For the Assessment and collection of Taxes (5 April 1813) (New York); American Antiquarian Society (1990–, No. 45045). This appears to be the assessment law current as at 1820.

³³⁴ For example, An act to raise the sum of thirty thousand dollars, for the year of our Lord one thousand eight hundred and nineteen (10 February 1819) (New Jersey); American Antiquarian Society (1990–, No. 48866).

New Jersey system continued to incorporate the valuation of houses and small lots 'having regard to the yearly rent' and limited the assessment of merchants, shopkeepers and traders to ten dollars. So remnants of the faculty tax survived. It seems Pennsylvania remained free of central levies through 1820.³³⁵ The 1799 law on county levies (see p. 425) appears to have applied through 1820 and as this incorporated a tax on occupations and trades having regard to their profits, the faculty tax survived to this extent. Delaware continued to impose tax on 'real and personal property of this State . . .'.³³⁶ Here too a remnant of the faculty tax appears to have survived, at least to the extent of the assessment of manufacturers' and tradesmen's stock, goods, wares and merchandize according to profits from the activity.

As for the southern states, the Virginian direct tax system, involving the taxation of various items of property, changed little through 1820 from that described at page 369.³³⁷ Maryland continued without centrally levied direct taxes. County levies were still to be imposed according to the 1785 assessment laws discussed above at pages 334–5.³³⁸ The direct tax system of North Carolina described above at page 369 continued into the nineteenth century.³³⁹ Little had changed by 1818 although billiard tables, banks and certain dealers in foreign goods were now charged.³⁴⁰ The 1818 law required that the valuation of land for state tax purposes be at least as much as that used for federal direct tax purposes. In South Carolina too the direct tax system changed little through 1820.³⁴¹ Therefore, in this case, the faculty tax

³³⁵ For example, see Report on the Finances of the Commonwealth of Pennsylvania for the year 1817 (19 December 1817); American Antiquarian Society (1990–, No. 41761). This report reveals no direct taxation.

³³⁶ For example, An Act making provision for the support of Government for the year one thousand eight hundred and sixteen (February 1816) (Delaware); American Antiquarian Society (1990–, No. 37425).

³³⁷ For example, An act imposing taxes for the support of Government (4 March 1819) (Virginia); American Antiquarian Society (1990–, No. 49995).

³³⁸ For example, An act for the valuation of real and personal property in the several counties of this State (November 1812) (Maryland); American Antiquarian Society (1990–, No. 29062).

³³⁹ For example, An Act to raise a Revenue for the payment of the Civil List and contingent Charges of the Government, for the year one thousand eight hundred and two (November 1801) (North Carolina); American Antiquarian Society (1990–, No. 1062).

³⁴⁰ An Act to provide a Revenue for the payment of the civil list and contingent charges of Government for the year one thousand eight hundred and nineteen (1818) (North Carolina); American Antiquarian Society (1990–, No. 48946).

³⁴¹ For example, An Act to raise Supplies for the year one thousand eight hundred and eighteen, and for other purposes therein mentioned (18 December 1819) (South Carolina); American Antiquarian Society (1990–, No. 49461).

survived in the form of a charge on ‘all stock in trade, factorage, employments, faculties and professions ...’. The Georgian direct tax system also remained essentially unchanged through 1820 from that described above at page 370. The base law of 1804³⁴² was referred to again and again, at least indirectly, until the close of the period covered by this study.³⁴³

5.4 Summary

This chapter has focused on the development and implementation of the British income tax of the French Revolutionary and Napoleonic Wars during three broad time periods: the immediate build up prior to implementation; the initial implementation and settlement of the tax; its lapsing and the immediate aftermath. The chapter also tracked direct tax developments in the British colonies and the United States during these periods in order to identify and analyse any cross-influence. As discussed in the Conclusion, this cross-influence was not direct but there is reason to believe that, considering the growth in trade and commerce during the previous 200 years and the financial stress of the wars, a comprehensive tax in the style of the income tax was inevitable.

The chapter began with Britain’s entry into the French Revolutionary War in 1793. To 1797 there was little in the way of direct tax developments other than some increases in the Assessed Taxes. There were even fewer developments in the United States, which was not a party to the war. The states’ direct tax systems continued in much the same fashion as they had settled in the 1780s and the federal government did not enter the direct tax field during this period.

By contrast, there were some developments worthy of note in the colonies. Nova Scotia discontinued its classified poll tax in 1795 but there were few other developments in the Maritime Provinces. In 1793, just before Nova Scotia repealed its classified poll tax, Upper Canada introduced such a tax. However, the form of the tax in Upper Canada was very different from that in Nova Scotia, being based on the value of a person’s property rather than their profession. Interestingly, there was

³⁴² An Act to raise a Tax for the support of Government for the year one thousand eight hundred and five (December 1804) (Georgia); Antiquarian Society (1990–, No. 8512).

³⁴³ For example, An Act To raise a Tax for the support of Government for the political year 1818 (9 December 1817) (Georgia); Antiquarian Society (1990–, No. 40904).

a similar split in some of the classified poll taxes in the West Indian colonies at this time.

The French Revolutionary War had little impact on the direct tax systems in the older British colonies in the West Indies. There were no developments in the Barbados system and Antigua reduced its tax base to cover only slaves and land, similar to the system in St Kitts and Nevis during the 1780s. But during the 1790s it seems Nevis simply relied on its slave tax. In St Kitts, by contrast, there was an interesting development in 1795. In that year St Kitts abandoned its former system and introduced a tax which approximated an income tax. Plantations were charged according to the amount of sugar produced but residually there was a charge according to 'income per annum'. A schedule to the law set out the presumed income of listed persons but there was a residual assessment for others, which could be challenged on oath.

Jamaica continued with its usual direct taxes but in 1797 it imposed a simple tax on land per acre, which continued irregularly. Like Antigua, the Bahamas when through a period of rationalisation of its direct tax system during the early 1790s and by 1797 was essentially left with a poll tax and indirect taxes. Grenada imposed slave taxes but St Vincent continued with its mix of direct taxes including the tax on polls according to income. This tax now referred to 'gross yearly income' but taxpayers were still charged with a fixed amount depending which band of income they were in. In Dominica, the classified poll tax went through some rationalisation during the period from 1793 to 1797 but in substance remained the same. Tobago had been retaken from the French in 1793 and in 1794 imposed tax on local produce, slaves and the rental value of improved property in the towns, among other things.

Table 5 takes a snapshot of the direct tax system in Britain, its colonies and the United States circa 1795, just prior to the implementation of the British income tax. There are a number of features of this table worthy of note. The table is the longest of the tables produced for this study. This is a function of the colonies gained, particularly as a result of the Seven Years War but is misleading in that it still includes the lost American colonies. The table might have been longer because it demonstrates the comparative small effect of the European wars on the direct tax systems in America at this time. New York, Pennsylvania, Maryland, Nova Scotia, New Brunswick, Prince Edward Island, Cape Breton, Upper Canada and Lower Canada

Table 5. *Direct taxation in Britain, the colonies and the United States circa 1795*

Circa 1795		Rate application			Jurisdiction		
Subject of taxation	Tax base	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
<i>Property</i>							
<i>General</i>							
Land	British assessed taxes (house and window tax);	British assessed taxes (inhabited house tax);	British land tax; British Local Rates; Antigua	British assessed taxes; Virginia; South Carolina;	British land tax; British Local Rates	British assessed taxes, British land tax; British Local	
		Massachusetts; Connecticut; Vermont; Rhode Island; New Hampshire; New Jersey; Delaware; Barbados (towns)	British land tax; British Local Rates; Antigua	Connecticut; Vermont; British assessed taxes; Virginia; South Carolina;	Massachusetts; New Hampshire; Rhode Island; New Jersey; Delaware; Barbados	Massachusetts; Connecticut; Vermont; Rhode Island; New Hampshire; New Jersey (presumed); Delaware; Barbados	

South	Virginia; North	(towns);	North	Rates;
Carolina;	Carolina	Jamaica	Carolina;	Virginia;
North	(house lots);	(towns);	Georgia;	South
Carolina;	Georgia (house	St Vincent	Antigua;	Carolina;
Georgia;	lots)	(towns);	Jamaica;	North
Antigua;		Dominica	St Vincent;	Carolina;
St Vincent		(towns);	Dominica;	Georgia;
		Grenada	Grenada	Antigua;
		(towns)		Jamaica;
				St Vincent;
				Dominica;
				Grenada

(continued)

Table 5. (*cont.*)

Subject of taxation	Tax base		Rate application		Jurisdiction		
	Fixed value per item	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Movables	British assessed taxes (carriages, servants, horses); Virginia (horses, cattle, carriages, billiard tables); North Carolina (horses);	British land tax (largely fictitious); British Local Rates (if anything, stock in trade only); South Carolina (stock in trade); Georgia (stock in trade)	St Kitts (annual produce)	British assessed taxes, British land tax; Virginia; South Carolina; North Carolina; Georgia; Barbados; St Kitts; Jamaica; Bahamas	<i>British Local Rates</i>	British assessed taxes; British Local Rates (inhabitants only); Virginia; South Carolina; North Carolina; Georgia; Barbados; St Kitts;	British land tax

Georgia
 (carriages, billiard tables);
 Barbados
 (mills, kilns, carriages);
 Jamaica (cattle, carriages);
 Bahamas
 (billiard tables)

Jamaica;
 Bahamas

Intangibles

British
 land tax
 (debts but
 largely
 fictitious)

British
 land tax

British land tax

(continued)

Table 5. (cont.)

Circa 1795		Tax base			Rate application		Jurisdiction	
Subject of taxation	Fixed value per item	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax	
<i>Personal</i>								
General	Massachusetts (residual poll tax); Connecticut (residual poll tax); Vermont (residual poll tax); Rhode Island; New Hampshire; New Jersey (residual	Connecticut (classified works and occupations); Georgia (doctors, lawyers, factors brokers, vendue masters)	Massachusetts (profession, handicraft, trade, employment); Vermont (various, employ-ments, professions and busi-nesses); New Jersey; South	Massachusetts (residual poll tax); Connecticut; Rhode Island; Vermont; Virginia; North Carolina; Georgia; Barbados; Antigua; Nevis	Massachusetts; New Hampshire; Delaware; New Jersey; South Carolina	South Carolina	Massachusetts; Connecticut; Vermont; Rhode Island; New Hampshire; Georgia; New Jersey (presumed); Delaware; Virginia; North Carolina; Barbados;	

poll tax);			Antigua;
Delaware	Carolina	(slaves);	Nevis
(residual	(faculties,	St Kitts;	(slaves);
poll tax);	professions,	Jamaica;	St Kitts
Virginia	factorage,	Bahamas;	(presumed);
(slaves);	employment,	Grenada;	Jamaica;
North	handicrafts);	St Vincent;	Bahamas;
Carolina;	St Kitts; St	Dominica;	Grenada;
South	Vincent	Tobago	St Vincent;
Carolina			Dominica;
(slaves and			Tobago
Negroes);			
Georgia			
(residual			
poll tax);			
Barbados			
(slaves);;			
Antigua			
(white			
servant			
deficiency)			
(slaves);			
Nevis			
(slaves);			

(continued)

Table 5. (*cont.*)

Subject of taxation	Tax base		Rate application		Jurisdiction		
	Fixed value per item	Capital value (including value estimated by return)	Income/profits/gains	Fixed rate tax	Fixed amount tax (divided by quota)	Source tax	Residence tax
Jamaica (white servant deficiency) (slaves); Bahamas (white servant deficiency) (slave tradesmen, free coloured); Grenada (slaves); St Vincent							

(slaves, free coloured)					
(white servant deficiency);					
Dominica (slaves)					
(classified for certain trades,					
professions, employ-ments);					
Tobago (slaves)					
Office/employment	British land tax (public); Jamaica (specified)	British land tax; Jamaica	British land tax; Jamaica	British land tax; Jamaica	
Independent services/profession					
Business/trade	British trade licences	British trade licences; Jamaica	British trade licences; Jamaica	British trade licences; Jamaica	
	Jamaica (trades, occupations and callings)				

Notes: No direct taxes of the types mentioned at this time at the central or state level by the United States, New York, Pennsylvania, Maryland, Nova Scotia, New Brunswick, Prince Edward Island, Cape Breton, Upper Canada or Quebec.

are absent from this list due to the lack of direct taxation at the state or provincial level.

There are a number of discernable trends in Table 5 by comparison to Table 4. There seems to be an increased reliance in the colonies on the objective taxation of certain items of personalty, such as carriages and billiard tables. This is consistent with the Assessed Taxes in Britain, which are generally of an earlier date. There also seems to be a slight return towards taxing trades. Even Britain had joined this group of countries, contrary to previous policy, in the form of its trade licence system. A much stronger trend is in the taxation of polls, most commonly just slaves. This trend is almost universal in the colonies and the United States and is a serious absence, by comparison, in Britain. Many of these poll taxes involved some form of differentiation, often with respect to the taxation of trades and professions. But there are few colonies where this differentiation is generally by reference to wealth or income. As this was a comparative time of peace for the colonies, it may be that the taxes were sufficiently low to make any substantial differentiation on the grounds of equity unnecessary. There are certainly examples of the taxation of persons according to income at this time but there is no strong trend in this direction. The clearest examples are in those colonies taken from the French and this may have reflected earlier imposition of the French *capitation* tax.

The second heading of the chapter recounted the difficult position in which Britain found itself when its allies made peace with the French and Britain found itself alone at war with France. Britain needed further revenue to secure further borrowing and the chancellor of the Exchequer, William Pitt, turned first to the Assessed Taxes. The Triple Assessment imposed tax at three to five times the amount raised by the Assessed Taxes in 1797. However, the amount to be imposed on a person was limited by reference to the person's 'annual income'. In order to access this limitation, taxpayers were required to make a declaration of their income and the Triple Assessment incorporated rules for this purpose.

Contemporary statements by Pitt suggest that what he was seeking to tax through the Triple Assessment was property or wealth. In this context, the income limitation seems to have been targeted at the conceptual link between income and the holding of property, i.e. the value of property is to a large extent a reflection of the income that might be generated by it. This link had been drawn in English direct taxation continually since the middle ages. However, Pitt's residual

income tax recognised the rise in importance of labour (human capital), particularly in the trades and liberal professions and sought to access this economic capacity. The taxation of movables and human capital (polls) had been problematic in English history, largely because of the need for regular assessments. But the rise in importance of movables and trade and the liberal professions and the urgency of the times justified the unpopularity of Pitt's measure. The conceptual analogy with the American faculty tax was noted, but Pitt's income tax sought to introduce an element of accuracy in assessment that did not exist in America. It was also noted that the link in the Triple Assessment between taxes on consumption (the Assessed Taxes) and income (the residual income tax) was consistent with the writing of Adam Smith.

The heading proceeded to consider the form and content of the residual income tax of the Triple Assessment. The precedents for 'annual income' were considered. In English history these included 'yearly income' under the land tax and 'annual value' or 'yearly value' under the various forms of subsidies. The Dominican poll tax of 1785 also referred to 'annual income' and limited other taxes by reference to this income in a manner not dissimilar from the Triple Assessment, including the requirement of a declaration of income. There was also some similarity between the rate bands used in the Triple Assessment and the bands used for the purposes of the poll taxes classified according to income in Grenada and St Vincent.

The Schedule to the Triple Assessment set out rules for calculating income. Income was divided into nine types or cases. The first seven cases, which were devoted to land, typically required an owner's income from land and improved land to be calculated according to its actual rent or, in the case of owner occupation, its rental value. Strangely, a tenant's income from land (such as a farmer) was also calculated by reference to rent paid, rather than requiring an actual calculation of amounts received. There seems to be no clear precedent for this approach. In the case where a property was actually rented out, the Schedule referred to 'receipts' and so incorporated a cash basis involving realisation. The rules incorporated a number of deductions, including for repairs, which made it clear that the law sought to reach 'net' rather than 'gross' income and this is consistent with historic precedents.

The eighth case of the Schedule set out a rather limited set of rules for calculating income from business. In particular, it calculated income from 'professions, trades or vocations' as equal to the 'profits and gains'

from such. These were calculated by reference to amounts 'acquired or received' within the year of assessment or on a three-year average. The similarity between this charge and that on professions and trades under the first land tax of 1696 was pointed out. It was suggested that deductions under this head were limited by the concept of 'profits and gains' and therefore accounting practice, which, at this time, was still rather unsettled. It was suggested that the majority of trades and businesses at this time would have been using non-uniform methods of single entry accounting to calculate profits and there was no consistent application of the capital–revenue distinction.

While the capital–revenue distinction may not have been applied consistently at this time, there was an increasing amount of literature on it and, in particular, in the writing of Adam Smith. In particular, Smith's distinction between 'circulating capital' and 'fixed capital' may have influenced the drafters of the residual income tax of the Triple Assessment. Smith also referred to fixed capital as 'yielding' profits, which may have been reflected in the 'arising' basis incorporated in the residual income tax and so the capital–revenue distinction. For these reasons it was suggested that capital gains were not contemplated within the charge of the eighth case. This is reinforced by the structure of the seven cases for land, which seem incapable of charging capital gains. It is also consistent with the central concept of the tax as an effort to tax property and the use of the word 'annual' in conjunction with 'income'.

The ninth case of the Triple Assessment was targeted at income from investments. Importantly, it included a residual category of 'other payments', which may well have been limited by reference to the types of payments from investments preceding it. The calculation rules in the Schedule were rounded out with some rules on deductions. These were largely of a personal nature and, importantly, included a general deduction for interest and annuities.

Finally, with respect to the Triple Assessment, the heading considered the four questions raised in the Introduction. It seems that capital gains and losses fell out of recognition primarily because the target of the law was the taxation of property or wealth by reference to returns from it. This was clear from the use of notional income in respect of owner-occupied property. It was also consistent with the temporary nature of the tax and with the lack of evidence that capital gains were sought to be taxed under any previous direct tax law. A schedular system (the cases) was incorporated because nearly all direct tax laws since the early 1400s had done so and, probably, because it assisted

in calculation and administration. The Triple Assessment incorporated no special provisions for corporations, although they were subject to the Assessed Taxes. Unlike the land tax and many previous direct taxes, the Triple Assessment was devoid of any substantive jurisdictional rules.

The second heading then turned to consider the poor yield of the Triple Assessment and how in 1799 this led Pitt to drop it in favour of a general income tax. As Sabine notes:

it is clear that the imposition by Pitt of income tax in 1799 was not by any means a complete break with the theory and practice of the past, but rather a gradual development in both aspects, the final change-over from an expenditure to an income tax being forced on him by the inexorable pressure of war. But the change, as is usual with historical change, was not dramatic; there had always been direct taxes available as precedents from which the new income tax could and did borrow both mechanism and techniques.³⁴⁴

The rates imposed were consistent with the residual income tax of the Triple Assessment and the tax base rules represent a development of those in the Schedule of the Triple Assessment. The tax base rules of the 1799 income tax were also largely incorporated in a Schedule to the law. It divided the charge into nineteen categories or cases, broadly consistent with those in the Triple Assessment but incorporating a number of splits. The first fourteen cases were devoted to land and there were few developments here of present relevance other than to note a general increase in sophistication and particularity.

The fifteenth case of the 1799 income tax dealt with trades, professions and vocations but was now importantly extended to include employments, offices, pensions and certain other amounts. The basis of assessment was still 'profits or gains'. There was also a new rule denying a deduction for, among other things, sums 'employed in improvements or as capital'. It was suggested that this provision was targeted at capital expenditure and is consistent with the non-recognition of capital gains and losses. The sixteenth case covered payments of a 'certain annual amount' and, particularly, included payments on certain investments. The nineteenth category of income under the 1799 law was a general sweep up provision covering 'income not falling under any of the foregoing rules'.

³⁴⁴ Sabine (1966, p. 25).

The heading turned to assess the 1799 income tax by reference to the four questions in the Introduction. Analysis of the first two questions was the same as under the Triple Assessment. However, there were substantial developments in the taxation of corporations and their shareholders. The law specifically provided a reduction in the profits of corporations for dividends distributed to shareholders. The shareholders were required to return dividend income with other income. The result was relief from the economic double taxation of corporate income.

There were even more developments with respect to the jurisdictional question. British citizens were charged with respect to income from property situated in Great Britain, irrespective of whether they were resident. All residents were assessed on their worldwide income. These tax bases of source and residence were familiar in England and stretched back as far as the subsidies of the early 1400s. There were special rules for temporary residents and temporary non-residents. These jurisdictional rules were supplemented with the seventeenth and eighteenth cases in the Schedule that covered foreign possessions and foreign securities, respectively. Importantly, income under the seventeenth case only included amounts 'received in' Britain. This remittance basis seems to have been targeted at practicalities and issues of extraterritorial application of British taxes, especially in the colonies.

The yield of the 1799 income tax was also poor and Pitt was forced to resort to further increases in indirect taxes. Addington became chancellor of the Exchequer in 1801 and, with the peace following the Treaty of Amiens in 1802, repealed the 1799 income tax.

The second heading then turned to consider direct tax developments in the colonies. Generally, these were insubstantial between 1798 and 1802. In particular, St Kitts continued with its tax on 'annual income', St Vincent with its tax on 'gross yearly income' but the Dominican classified poll tax, by contrast, became less responsive to income. The graduated poll tax of Upper Canada drifted in the direction of the tax systems of the New England states of the United States. It continued to be levied with respect to property but now only 'rateable' property and various objective valuation rules were provided in order to determine the amount subject to assessment.

The second heading finally turned to briefly consider direct tax developments in the United States. The federal government imposed its first direct tax in 1798 on land, houses and slaves. This was consistent with the recommendation of a report of the Secretary of the Treasury in 1796. The tax was a one-off levy. By contrast, there were no

developments of note in the direct tax systems of the states of the United States between 1798 and 1802, although at least New York and Pennsylvania revived state level direct taxation during this period.

The last heading of this chapter considered the period from the resumption of hostilities and the income tax in 1803 until 1820. The income tax of 1803 was a fundamental revision of the income tax of 1799, incorporating many more features from collective British experience and, particularly, the land tax, than the earlier effort. The most famous aspect of the new income tax is its incorporation of the deduction at source mechanism, a feature nearly inexplicably excluded from the 1799 law considering British experience in this area. The tax had become more 'schedular' in the sense that the division of the tax base into different types of income had become a virtual division into different types of taxes. The combination of deduction at source and this schedular system is widely viewed as the reason why the tax immediately yielded the same amount as the 1799 law, despite being levied at half the rate.

The 1803 income tax reversed the trend in the 1799 income tax by reducing the number of classifications of income. These were now grouped under five broad schedules. Schedules A and B dealt with income from land ownership and land occupation, respectively. The rules for these Schedules incorporated a number of developments from those in the 1799 law, but none of these are particularly relevant for present purposes. One matter worthy of mention was a linking of the annual value of land under this law to that used for the purposes of the Poor Rate, in the sense that it could not be less. This reinforces the importance of the Poor Rate at this time. Schedule C taxed income from British government stocks but there were a number of exemptions, including for non-resident aliens.

Schedule D was dedicated to income of an uncertain value and so covered trade, employment, income from certain investments, overseas income and the residual category of other 'annual profits or gains'. There were a few developments in the tax base from the law of 1799 of particular relevance here. One was the denial of a deduction in calculating income from a trade or profession for the payment of interest, annuities or other annual payments. The taxation of the trader or professional in this way constituted part of the deduction at source approach and the recipient was only directly taxed if the interest or other payment was not received from a trader or professional. Schedule E rounded out the Schedules with a tax on the remuneration

of public officers and employees, a tax largely borrowed from the land tax.

The heading proceeded to assess the 1803 income tax by reference to the four questions raised in the Introduction. Again, there was no further assessment with respect to the exclusion of capital gains and losses and the incorporation of the schedular system from that under the income tax of 1799 and the Triple Assessment. By contrast, the corporate tax system had changed substantially and now incorporated the famous deduction at source imputation system. Corporations were no longer permitted to deduct their dividends and were taxed on their profits gross of dividends. Recipients of dividends were not further taxed unless they sought the benefits of the exemption and abatements (graduated rates). In this case they were effectively credited with the tax paid by the corporation and could claim a refund of the corporate tax paid if it exceeded their tax liability.

Unlike the 1799 Act, but like the land tax and its precedents, the jurisdictional rules of the 1803 income tax were largely scattered throughout the Schedules. The first two Schedules only applied to land in Britain. This is consistent with the land tax and generally with the taxation of land in England dating back to the early 1400s. Similarly, Schedules C and E only applied to payments from the public funds of Britain. By contrast, Schedule D incorporated the jurisdictional rules that had been used with respect to goods, chattels and personal estate in the subsidies, aids, grants and land tax since the early 1500s. Further, it repeated separate cases for income from foreign securities and income from foreign possessions used in the 1799 income tax. The source rules were clearer in the 1803 law and now covered trades, professions, vocations and employments 'exercised' in Britain and non-resident aliens were now clearly covered by the source based tax. Otherwise, the jurisdictional rules followed those in the 1799 law.

The heading proceeded to consider developments in British direct taxation from 1803 to 1820. There were substantial developments in 1805 and 1806, which are not presently relevant. With flagging fortunes of the allied forces on the continent, both years saw an increase in income tax rates. Through the long years until the defeat of Napoleon, the income tax remained an important feature of the British tax system, by 1815 accounting for about 20 per cent of the national revenue. Despite some hesitation, the income tax was allowed to expire in 1816 in accordance with the terms of its imposition. The chancellor of the

Exchequer struggled to fill the gapping hole left by the lapsing of the income tax with increases in indirect taxes through to 1820.

The heading then turned to consider developments in direct taxation in the colonies from 1803 through 1820. In the West Indies the developments were again sporadic. The Barbados direct tax system remained static as did the system of Antigua. St Kitts continued to sporadically impose its version of income tax. The system in Nevis changed little until 1821 (largely relying on slave taxation), when it too imposed an income tax. Jamaica continued with its usual style of direct taxation, including the periodic taxation of land by the acre. There were few developments in the Bahamas other than the return to use of a general poll tax in 1815.

The direct tax system in Grenada also developed little. In 1804, St Vincent converted its poll tax classified according to income into a proportionate income tax but it was still based on 'gross yearly income'. Dominica also, at first, continued with its usual direct tax system. But in 1817 it strengthened the income tax aspects of its classified poll tax. There were now a number of classes graduated according to income and a fixed amount payable by each class. The next year Dominica moved to a fully fledged graduated income tax, with rates ranging up to 7 per cent. Dominica persisted with the income tax through 1820.

Of the West Indian colonies acquired during the Napoleonic Wars, St Lucia imposed direct tax in the form of a slave tax with accompanying tax on the rental value of improved land in the towns. This system was used through 1820. Tobago relied on general poll taxes and slave taxes. Trinidad also relied on slave taxes but seems also to have imposed tax on houses. By contrast, the former Dutch colonies of Demerara and Essequibo provide examples of early poll taxes classified according to income. It seems these taxes were similar to the classified income taxes imposed in the other conquered West Indian colonies of Grenada, St Vincent and Dominica. These colonies also imposed slave taxes.

Similarly, there were few direct tax developments in the Canadian colonies. One development worthy of note is the introduction of a land tax in Prince Edward Island in 1809. Further, Upper Canada consolidated its assessment law in 1803 and again in 1819. In particular, the latter consolidation removed the assessment bands, leaving a general rate on specified real and personal property (according to objective valuation rules).

Colonies outside of the West Indies and Canada were also briefly considered. It was noted that the fledgling colony of Sierra Leone did

not impose substantial direct taxation before 1820, although the usual statute labour law provided for a commutation. The British East India Company continued to administer the land revenue in parts of India, though subject to increasing regulation from the British Parliament. After a brief spell under the East India Company, Ceylon was created as a separate colony and continued with its ancient form of land revenue system (different from that in India) but otherwise relied on indirect taxes. Cape Colony also relied on indirect taxes although Cape Town used a local form of income tax that seems to have been loosely influenced by the British law. Finally, the convict colony of New South Wales remained under the autocratic rule of the governor through 1820, who relied on indirect taxes, authorised by British legislation in 1819.

The final subheading of the chapter noted the reintroduction of the United States land, house and slave tax in 1813 in order to meet the expense of the war with the British and secure the value of bills it issued for the purposes of the war. The tax base was essentially the same as that used in 1798. This, like the 1798 charge, was a one-off charge but the 1813 tax was doubled in 1815 and made annual. With the end of the war this direct tax was repealed in 1817. There were no major developments in the direct taxes of the states of the United States in the first two decades of the nineteenth century. The faculty tax survived relatively intact in Massachusetts and South Carolina. The same is true of Connecticut, although the tax was reformulated in 1819. In Vermont too the faculty tax survived through 1820. Remnants remained in other states, such as New Jersey, Delaware and Georgia, and in some states it survived in local taxes, such as Pennsylvania.³⁴⁵

The implementation of the income tax in Britain was the first major overhaul of the direct tax system in Britain for more than one hundred years. Its coincidence with the first time that British mainland security had been seriously threatened for more than one hundred years comes as no surprise. This is the trend in direct tax developments throughout English history. It also comes as no surprise that the form of taxation attempted was broadly similar to that attempted in the 1690s. But despite these similarities in principle, there were major changes in social and economic structure and administrative practicalities in the intervening hundred years. The rise in the importance of trade, commerce and the liberal professions meant that their economic

³⁴⁵ Contrast Seligman (1914, pp. 390–9).

importance rivalled (but did not exceed) that of landholding. Further, in many ways the Napoleonic Wars were trade wars and particularly British traders benefited from sea dominance secured, for the British, by the British navy.

While efforts to tax trade had largely failed during the 1690s, during the Napoleonic Wars it was important, near essential that they succeed. This time the British government did not give up taxing trade. It persisted and, first through the efforts of Pitt in bringing the income tax aspect of the Triple Assessment to dominance and then through the recasting of the income tax in 1803 by the Addington administration, ensured the viability and great success of the income tax. The persistence and perseverance was in some ways inevitable. The American colonies had taxed trades, if somewhat imprecisely, since the seventeenth century. Further, a number of the West Indian colonies demonstrated that a general tax on income was viable. The question was one of administration, not conceptual viability. The administrative issue was overcome as a necessary wartime effort. Broader conclusions are drawn in the general Conclusion, which follows.

Conclusion

In 1188, Henry II sought ‘a tenth of rents and movable goods’ under the Saladin Tithe. More than 600 years later William Pitt put aside the Triple Assessment in order to ‘realise a full tenth’ of property and income. A mere coincidence, or does this reveal something deeper about a society and the importance of history in justifying direct taxes? Two hundred years after Pitt’s effort we may find it difficult to believe that taxes imposed decades ago have relevance to the way in which we currently tax, let alone taxes of hundreds of years ago. What is the reason for this shortening of the collective tax memory? Is it a reflection of increases in the complexity of society or the rise in dominance of economists in tax policy?

Perhaps historically lawyers held more influence in tax policy matters and, as a result of their adherence to precedent, lawyers have long memories. This was clear when Charles I resorted to the ship writs in the 1630s and lawyers played no small part in the major social reforms during Henry VIII’s reign. Pitt and his administration were little different. There are extracts from the Parliamentary Rolls reproduced in Pitt’s papers that go back beyond the Tudor times and include, for instance, extracts of the fifteenth and tenth.¹ The collective tax memory of Pitt’s time knew well of the more comprehensive direct taxation in the times of William III and Mary II. It was still present on the face of the land tax, explicit in the writings of Adam Smith and referred to more than once in correspondence to Pitt and debates in Parliament.

So why was history so important? One simple answer seems to be because fundamental social values change so little over time. The reason why both Henry II and Pitt sought a ‘full tenth’ is because that is what society felt was a fair and equitable manner in which to share a common burden. Perhaps the most surprising outcome of this study is the fundamental consistency of English direct tax policy during the

¹ PRO 30/8/274.

last millennium. It simply changed very little, if at all. Though the terminology changes over time, in present day terms the consistent policy was to seek to tax proportionally net income available during a year with some progression at the lower end for persons with small incomes. This is what was meant by 'ability', a term that clearly has religious or altruistic connotations and overtones.

The terminology was not consistent through the centuries. The Saladin Tithe referred to 'rents' or 'revenues' and 'movables' and the fifteenth and tenth referred to 'movables'. The poll taxes of 1379 and 1380 referred to 'estates' and 'ability'. The 1404 subsidy referred to 'yearly value' and 'movables' as did the definitional subsidies of 1450 and 1512. Local taxation emphasised 'ability' and this was reproduced in the Poor Law in 1601 and earlier. The royal instructions for the ship writs of the 1630s referred to 'ability'. The classified and graduated poll tax of 1641 referred to what a person could 'spend per annum'. The monthly assessments spanning from 1645 to 1691 referred to the 'yearly value' of 'real and personal estate'. The classified and graduated poll tax of 1660 referred to persons having specified amounts 'per annum'. The aids that developed into the land tax referred to the favourite 'yearly value'. The poll tax of 1696 referred to both 'yearly value' and 'yearly income or profits'. The Triple Assessment of 1798 and the income tax of 1799 referred to 'annual value' and 'annual income'.

But did these terms, in essence, really mean anything different? Since feudal times the English had valued land according to what it might produce each year. Even when movables were taxed directly, these were most often simply what land *had* produced in a year. English direct taxation had always tried to get people to contribute in proportion to their means, in proportion to what they had per year, in proportion to their ability.² As early as the thirteenth century, Walter of Henley made it clear that maintenance of capital was a virtue in English society. Discretionary expenditure and potential consumption were the appropriate measure of ability.

² Assessing the levies of the seventeenth century, Kennedy (1964, p. 48) makes the following comment: 'The above account does not leave it in question that the intention of the seventeenth century Acts was a tax on income; the only question open is what sort of income. Was it only property incomes which were intended to be taxed? It is clear that it was not. Income from offices, the earned though tithe-found income of clergy, and the endowed incomes of teachers and the like were taxed regularly, and the earnings of doctors, advocates, etc., and the wages of servants at intervals.'

Taxation according to dominant social values becomes more important in times of financial stress when taxes rise. In English history the most comprehensive forms of direct taxation always coincide with wars, a change in monarch or government or, quite often, both. The battle was not so much over tax policy but, rather, tax administration. The monarch or administration needed to know what resources were available in order to tax and tax equitably and, as a result, maintain control and local order. This often raised the thorny issue of investigations into private means, i.e. subjective assessment.

For most of the period covered by this study England sought to raise the funds for wars currently and that caused wild fluctuations in the levels of taxation. As a result, until the seventeenth century direct taxation was sporadic. When the Crown did borrow, it had a bad habit of not paying the sum back, let alone with interest, blurring the distinction between taxation and borrowing. This meant that the Crown had a distinct lack of creditworthiness. Matters started to change with the English Civil War period, when direct taxation became essentially continuous. While the Restoration brought a return to sporadic direct taxation, the Glorious Revolution and Wars of the Grand Alliance and Spanish Succession brought with them a fundamental change in the way in which wars were funded. The securing of borrowing against future commitment to impose specific taxes increased massively the amount that the government could borrow and so the funds available to conduct war. This increase in borrowing was augmented by commitment to strictly pay returns on government borrowing with the resultant increase in government creditworthiness.

Once the government's creditworthiness was solid, the government could further increase its borrowing capacity by lowering official interest rates. The result was an unprecedented amount of funds available to the British during the eighteenth century to fight wars. There was no need to broaden the tax system, which, in principle, narrowed around the turn of the eighteenth century when further borrowing would meet the expense of war. It took nearly 100 years of constant war for Britain to effectively mortgage its entire income source from direct taxation. This was the pressure and urgency that Pitt faced when he introduced the Triple Assessment.

The American colonies were inevitably caught up in the British wars of the eighteenth century but their experience of borrowing and direct taxation was somewhat different. The bills of credit of the American colonies were a form of borrowing forced on creditors, which also

served as a currency. Often the bills were, like the British borrowing, secured on direct taxes. But these taxes were often inadequate (or non-existent) as were returns on the borrowing for the creditor. Often the American colonies did not redeem their debts on time but they found that the resultant devaluation of their currency was an effective way in which to meet the expense of war. The devaluation could be used instead of direct taxation or at least make it easier for direct taxation to sweep up devalued currency.

Effective borrowing required a consistent stream of revenue. One of the results was minor tinkering with direct tax systems during the eighteenth century but little fundamental reform. It was difficult to reform or replace taxes that had been mortgaged substantially into the future. The wholesale replacement of taxes would involve substantial risk if the taxes proved unsuccessful. This issue of the risk of failure of new taxes was obvious from English history and inherent in the whole issue of whether or not to make new assessments. The problem with new assessments is that the risk of inadequacy falls on the central government. As early as 1334 England appreciated that it could throw this risk onto the local governments through the use of a quota system. But in doing so the central government would also enhance the autonomy of local governments and remove its own control of the equity of the overall system.

The growth in the ability of the government to raise funds to fight wars was contemporaneous with the rise of the trading company as a vehicle to raise funds for capital-intensive commercial ventures. As wars and trade spread to the colonies it becomes difficult to keep the two differentiated. Trading companies secured the collective pooling of resources through the promise of high returns from foreign trade. The government secured the collective pooling of resources through borrowing with a more secure return in order to fight wars, often in order to secure the foreign trade. In many ways these were alternate avenues of investment from the typical investment in land. Historically the wealthy had invested in land through the mechanism of the settlement. It is not surprising that the rise of government stock and company securities was soon reflected in settlements in which stocks and securities were the subject matter. As early as 1678 the English direct tax system had recognised (and taxed) these alternative investments, i.e. government borrowing and company shares.

The funding system was not the only way in which the colonial systems resembled their British counterparts, if in a somewhat

distorted form. The governmental structure of the colonies largely followed that in Britain. There were regional differences but by and large the colonies did have counties, districts, towns and parishes analogous to those in Britain. Early in settlements, whether Virginia in the 1610s, New England in the 1620s, Nova Scotia in the 1750s or Sierra Leone in the 1790s, there was a communal system not that different from a feudal system. This was particularly so in the early communal working of land but is also reflected in the colonial statute labour laws for building and maintaining roads, bridges, gaols, courthouses and other infrastructure. Often there was commutation under these statutes and the link to the knight's fee in England is clear. Further, during the majority of time dealt with by this study, taxes in the colonies were payable in kind, again something similar to rents under a feudal relationship and the form in which taxes were originally paid in England. Of course, in the colonies this was also linked to a lack of authority to produce a currency.

Some of these developments in funding and government structure may not be just cross influence but also natural steps in the development of society. The colonial direct tax systems also developed, again in ways that are at least analogous to those in England. It is easy to suggest that the fundamental social values were, with regional variations, essentially the same in the colonies as they were in England and particularly so during the early years of a new settlement (as opposed to a conquered colony). This seems obvious, but was it born out in the colonial direct tax laws? As early as 1634 the Massachusetts direct tax law referred to 'estates' and 'ability'. Is the similarity with the English Poor Law and ship writs a mere coincidence? The 1634 Massachusetts law expressly rejected a poll tax but by 1646 it expressly incorporated a residual one as well as references to 'estates', 'returns' and 'incomings', the latter soon replaced with 'gains'. Was the poll tax influenced by the English poll tax of 1641? Was the New England tax system substantially different from that in England at this time?

It is suggested that there is sufficient evidence in the other colonies of sharing the direct tax burden according to means, according to 'ability', to suggest that the dominant philosophy and social values were really quite similar in the colonies, including in direct tax matters. So in the Connecticut Code of 1650 there is a reference to 'ability' and 'estate' as there is in the New York law first applicable in the 1660s, but even the poll and land taxes in the West Indies in the 1660s are broadly consistent with the direct tax system in England at that time. Further, there is a reference to 'ability' in the South Carolina direct tax law as early

as 1686 and a similar reference in New Jersey in 1709. The Massachusetts law of 1692 referred to 'income' and its 1738 law referred to 'income or profits from trade, faculty, business or employment'. By 1760, the Bahamas law also expressly referred to 'faculty'. There is further reference to 'ability' in Barbados in 1761 and Nova Scotia in 1768 and 1775. There are the capitation taxes graded according to 'income' beginning in Grenada (with likely French influence) in 1763 but extending to St Vincent and Dominica in the 1780s. During the American War of Independence there is a move to a broad-based property tax in Virginia, Maryland and North Carolina. The income taxes of St Kitts, Demerara and Essequibo, Cape Town and Nevis of the late eighteenth/early nineteenth centuries also demonstrate this tendency.

While the broad direct tax policy may have been substantially the same in Britain and the colonies the details of the laws and administration were not. The English laws of the fifteenth century were already longer than virtually any that can be found in the colonies and the United States to the end of the eighteenth century and beyond. Considering comparative population and level of social development, this is, perhaps, not surprising. An essential part of this difference pertains to the complexity of the English landholding system during the period covered by this study, with its feudal tenures, uses and trusts. Often these concepts and complexities were not replicated in the colonies, at least not to the same extent. And therein lies a difficulty for countries that adopted various English concepts and terms in their laws and attempt to apply English precedents to interpret those concepts. Often a deeper understanding of the English concept can only be gained by considering the social context in which it was adopted, a social context that did not and would never exist in the country adopting the English concept.

Corporations provide an example of this. Corporations existed in England during the whole of the period covered by this study. They were inherent in certain offices and organisations, particularly religious. But by the fourteenth century this was extending, largely for purposes of trade, to the incorporated boroughs and the sixteenth century saw the first incorporation of groups of merchants in the form of trading companies. As British trade developed through the seventeenth and eighteenth centuries the number of trading corporations grew substantially. By contrast, there is very little in the way of corporations in the colonies during the period covered by this study, at least before American independence. Rather, the very vehicle by which the British

sought to trade was often the form of government in the colonies. The vehicle used by the British for collective investment in trade often became, in the colonies, the vehicle for granting representative government to the people.

One issue that English history does provide a striking example of, which is still highly relevant today, is the use of corporations as tax shelters. In England this use is as old as the century leading to the Statute of Mortmain of 1279. Artificial entities have been and always will be a problem for direct tax systems. The lesson from history is that artificial entities are most problematic where tax or other laws place some substantial tax consequence on an issue that is inherently related to being an individual. In the time of the Statute of Mortmain these were largely the lack of ability to let property descend by will and the attachment of financial duties to the death of an individual.

English history also shows that these problems with corporations are not limited to the creation of artificial entities as such. Similar problems arise where, rather than creating an artificial entity, the law allows a person to borrow the identity of another person. This was the fundamental feature of the use and explains why uses were adapted to in large part by-pass the restriction imposed by the Statute of Mortmain. English direct tax law attempted to adapt to deal with such issues, uses being expressly mentioned in English direct tax laws as early as 1435 and corporations and guardians soon after in 1450. Just as the Statute of Mortmain sought to deal with corporations, the Statute of Uses of 1536 sought to deal with uses. Just as uses were adopted, at least in part, to deal with the Statute of Mortmain, so trusts were adopted, at least in part, to deal with the Statute of Uses. Importantly, as with artificial entities today, corporations, uses and trusts were largely developed for non-tax purposes but were easily adapted for use as tax shelters.

These corporations, uses and trusts were largely used for landholding purposes and landholding is the dominant example of where English concepts and terms can only be fully appreciated in their original English context. Landholding was the engine of direct taxation in England during virtually the whole of the period covered by this study. It was the essence of the feudal system, which tied the person to the land. At some level the feudal system was a direct tax system. The feudal system tied the land and the person in a way (typically by attaching use of land to individuals for their life) that direct tax laws are still trying to separate. The tables to this study are structured in a way that tries to separate out the taxation of property and that of persons, the classic

difference between an *in rem* tax and a personal tax. It seems possible, it seems logical, but history demonstrates the difficulties of making this distinction with any accuracy.

In order to highlight this difficulty in distinguishing *in rem* and personal taxes it is useful to simultaneously consider the jurisdictional issue, with which it is bound up. In a tax system focused on land, it is inevitable that the tax will be directed at land in the jurisdiction, and this was the inherent jurisdictional rule in the feudal relationship that survived into Schedule A of the British income tax. While the feudal relationship is strong it does not matter whether the intention is to tax the person or the land, the two are inherently linked. But if the intention is to tax the individual, then by analogy with land, it seems logical to adopt a jurisdictional rule requiring the presence of the individual, thus the inhabiting or residence basis of poll taxes in England as early as 1379. Problems occur once the feudal relationship breaks down and individuals move or reside in places different from their landholding. Further, problems arise where the government seeks to tax the produce of land instead of the land itself. The land cannot move, the produce can. Should the produce be taxed at its situs or the situs of its owner?

Once manufacturing and trade develops there is the further difficulty that assets other than land are productive of other assets. And individuals, like other assets, are also productive assets. And here, in the context of slaves and other servants, the issue comes full circle. A distinction between an *in rem* and a personal tax, with their jurisdictional connotations, is only practical where there is a clear distinction between individuals and assets. Were the unfree, the villeins of feudal times and their counterparts in the colonies, the Negro slaves, personal assets of their lords for the purposes of the tax system or were they persons in themselves? Such an important conceptual issue should not be avoided because of its political sensitivity.

In accordance with political sensitivities of current times, the tables in this study have included poll taxes under the personal taxes head, even where the tax was specifically directed at slaves. This is an arbitrary allocation. It is clear that the unfree were assets, personal assets, of their lords, if not in law then in fact. In the colonial direct taxes slaves are often listed in the same breath as various forms of cattle and, like the cattle, assessed a fixed amount per head. However sensitive this may be, it must be remembered that where the free were subject to poll taxes they were often valued in the same manner. This was a common practice in New England, and Connecticut provides a classic example of this.

Just as cattle might be valued and set in the assessment list at various rates according to their age and type, so too were individuals (essentially free individuals). The value assigned to the individual was lumped with the value assigned to cattle and, with agricultural produce and non-living assets, the total taxed. The connection between the general poll tax and the slave tax is also demonstrated in the West Indies, where the slave taxes beginning in the 1670s and 1680s grew out of more general poll taxes.

In the result, there is a fundamental problem in trying to distinguish between *in rem* and personal taxes. Just like the imprecise distinction between direct and indirect taxes, in substance the distinction between *in rem* and personal taxes is a question of tax incidence. A tax on slaves was clearly intended to be and was a tax on the individual to whom the slaves were bound. So when Henry VIII taxed servants in 1512 and required the tax to be paid by the servant's masters, albeit deducted from their wages, was there really any substantial difference in taxation? The answer must pertain to whether Henry's tax could be passed on by the servants.

The English had a consistent aversion for taxing polls and servants. That would be unnecessary where labour was effectively tied to the land as in feudal times. When the labour market opened up following the Black Death in the mid-fourteenth century, labourers became more mobile and the tie to the land was loosened. The poll taxes of the 1370s and 1380s represent an attempt to tax this mobility but it was short lived. In 1450, there was an attempt to expressly tax wages in the subsidy, but this was dropped in the next subsidy of 1472. The 1450 tax was also critical in the development of jurisdictional rules because it amalgamated taxation of land according to its situs and wage earners according to their residence. When the second head (wages) was replaced with goods and chattels in 1489 the jurisdictional rule remained the same, i.e. residence of the owner. Exceptions to this jurisdictional rule for goods and chattels started to appear in the subsidy of 1497.

Henry VIII also tried to tax servants' wages under his poll tax of 1512 and this persisted for a decade but wages fell out of express charge after 1523 and were expressly exempt from 1545. The tax of 1512, like typical poll taxes, was based on personal connection to the jurisdiction, in this case presence. This caused further jurisdictional developments when the direct tax moved back to the more typical subsidy form in 1515. Goods and chattels of residents were taxed wherever located and those

of non-residents if they were situated in the realm. Charles I tried a poll tax again in 1641 but this was not continued when Parliament seized control during the English Civil War. Charles II was more persistent in taxing polls with his impositions of 1660, 1667 and 1678, the latter two expressly covering wages. Once again the jurisdictional rules developed as a result of the taxation of labour, in 1667 officers were taxed where their office was 'executed'.

William III also tried to tax wages under his poll taxes of 1688 and 1696. The latter was the most obvious precedent for Pitt's income tax of 1799 but it is pertinent to note that the Triple Assessment of 1798 did not cover employment but, by amendment, the 1799 income tax did. Once again the jurisdictional rules go through substantial development when there is a substantial effort to tax labour. The 1799 income tax incorporated the most comprehensive jurisdictional rules of any direct tax that had gone before it, rules that form the basis of those used today. In the result, the importance of the connection between *in rem* and personal taxes as regards jurisdiction to tax seems clear from English historical experience. That there is no clear distinction between these two types of taxes is made clear from the slave taxes of the colonies and the confused English historical development in this regard.

If a clear distinction could be made between *in rem* and personal taxes then that distinction should be clearest between, on the one hand, taxes on land and, on the other hand, taxes on the poll or servant's wages. Where the position becomes most unclear is where property (capital) and labour are combined, in trade or business. Until the 1690s, there is little legislative evidence that England tried to expressly tax trade under its direct taxes. This does not mean that trade was not taxed, it was. But when it was taxed it was typically taxed under the movables or personal estates head of charge. It would also have been taxed under local taxation, especially through the concept of 'ability'. There is evidence of trades being taxed under the Poor Laws. In practice, English taxation in this regard was probably not much different to the early 'faculty' or 'ability' taxes in the colonies.

However, in England personal property, and so trades, had a habit of falling out of charge. This had been the experience with the fifteenth and tenth, the Tudor subsidies and was even the reason why the monthly assessments were dropped after 1691. England tried to expressly tax trades and professions in the aid of 1696 but once again this was short-lived. Here the colonies were, at least in legislative form, more persistent. The New England and middle American colonial direct tax

laws typically incorporated express valuation rules for particular items or trades. South Carolina and the West Indian colonies were clearer in their intention to tax traders and this was express in tax laws from 1686 (South Carolina), 1688 (Nevis), 1691 (Barbados), 1695 (Jamaica), 1702 (Antigua) and 1704 (St Kitts).

The taxation of trades gave rise to particular problems of valuation that did not exist in the context of land and pure labour. Where servants were taxed, it was typically their wages that were taxed. Where land was taxed, in England it was historically valued according to its 'yearly value'. The Saladin Tithe of 1188 had sought to tax 'rents' but from 1404 through to the income tax the English direct tax laws referred to 'yearly value'. This was an objective assessment rather than a subjective assessment, involving the taxation of notional rather than actual income. For many years this distinction was ameliorated by the possibility of assessment of the yearly value of land or movables (typically the produce of land and so more like actual income), the higher charge applying. Either assessment could be based on what could be seen, the land or the movables and if a taxpayer managed to hide the movables they were still going to be taxed on the notional income of the land.

But this could not be done with trade. Here too, at least in principle, there could be a notional or actual taxation of income from trade. But it is very difficult to value a trade by what can be seen and so objective assessments of trade run the risk of being very arbitrary and open to abuse. This was a notorious problem with the taxation of faculty in the colonies and, like movables in England, the amount of tax collected from faculty was typically disproportionately small when compared to the taxation of land. Where the type of produce of a colony was limited and labour intensive, slave or servant taxation could act as a decent proxy, it being presumed that a master would put servants to work in an efficient manner such that, on average, each servant could be presumed to produce a given amount.

Subjective assessment of trades was retarded by the slow development of accounting practices. Even by the end of the time period covered by this study it must be questioned whether the majority of even quite large businesses kept sufficient records from which to determine their profits with reasonable accuracy and consistency one trader to the next. Where accounts did exist the practice was one of diversity rather than uniformity. At the time of the introduction of the British income tax at the turn of the nineteenth century the states of the United States

typically did not rely on accounts for determining the taxation of trade. It was typically still an objective assessment. It must be questioned how different the British income tax really was in practice. Income under the Triple Assessment was essentially by 'estimate'. Even with an attempt to become more precise under the income tax of 1799 the tax return was not very specific and the tax administration felt it had inadequate powers of inquiry. There is contemporary evidence from the tax administration that, at least with respect to small businesses, the assessment of traders was largely objective.

The main difference between an objective assessment of income and a subjective assessment is one of timing. An objective assessment can be made at a given point in time. The result is that an objective assessment is in essence a wealth tax, provided it is accepted that individuals are also assets and so that a wealth tax also taxes human capital, i.e. incorporates a classified poll tax. By contrast, a subjective or actual assessment of income is necessarily over a period of time. It measures not what assets (including individuals) might produce but what they actually do produce. Taxing capital gains is only possible where the assessment is subjective.

But even where subjective taxation is possible, income tax does not dictate that capital gains must be taxed. The exclusion of capital gains from an income tax made substantial sense in the context of English history. A basic historic tenant of English society was focus on physical as opposed to financial capital. Capital gains would be included under an income tax adopting a financial capital base. But in feudal times the focus was on landholding, the tying of individuals to land resulting in an obvious emphasis on the asset, the land and its maintenance. This focus on physical capital and the tying of land to individuals for time periods (typically life) inherently incorporated a capital—revenue distinction. This was most obvious in the common law action for waste. The form of landholding in England changed over time, from the feudal origins through holding by way of use and to trusts and family settlements. But the focus on the physical asset did not change and the capital—revenue distinction continued in much the same manner over the whole of the period covered by this study.

As mentioned, it is not possible to tax capital gains under an income tax based on objective assessment. So a subjective income tax that excludes capital gains is more consistent with an objective income tax and makes it more acceptable to incorporate both into the same law. This was the essence of the early subsidies under which the tax was on

the yearly value of land or, through the taxation of movables, effectively the produce from it. The income tax of 1799 similarly incorporated aspects of objective assessment (land ownership and occupation) and in other aspects apparent subjective assessment, wages of public officers, interest on the public debt and, at least in form, business income. In this context, and for a number of other reasons explained in Chapter 5, it seems obvious that the 1799 income tax did not intend to tax capital gains, which would mean that some form of capital/revenue distinction would be required.³

Accounting had not developed sufficiently by the turn of the nineteenth century to incorporate a comprehensive set of rules for distinguishing capital and revenue. There were starts in this direction and they were largely from two interlinking sources. The increase in trading companies saw the embryonic development of the maintenance of capital doctrine, i.e. dividends are only payable out of profits. But with the increase in collective investment, business accounts generally were showing the beginnings of capital–revenue accounting. Trading companies also saw the development of investment in the form of shares around the same time as government stocks were developing. Trusts at this time were the dominant vehicle for holding land, previously the near exclusive form of investment. Trusts were adapted to cater for holding these new forms of investments. Unsurprisingly, the capital/revenue distinction in landholding was adapted to these new forms of investment.

Accounting had its origins in landholding and the stewards that received and paid amounts on behalf of their principals. The legal action for account reinforced this. Accounting was also enforced between merchants. It was obvious that this would also extend to companies of merchants when they began to be formed. This provides another link between landholding and the vehicles used to hold land, and trade and the vehicles used to conduct trade. It is this link between trade and landholding in English history that is important in understanding the capital–revenue distinction and not, as it might seem, trust law rules *per se*. There is no evidence prior to 1820 of trust law having a direct effect on the determination of income for tax law purposes. In any case,

³ This is not to suggest that a capital–revenue distinction is not required under an income tax that seeks to tax capital gains. The capital–revenue distinction is essentially a timing issue and so inherent in a subjective periodic income tax. It seems obvious that, for the purposes of making this distinction in its income tax, Britain would adapt rules that already existed in other areas of the law.

the trust law rules that later became relevant were not, in origin, trust law rules. Waste, account and apportionment were areas in which equity simply followed the common law.

This study has, for the most part, been heavily structured. It started out by asking four apparently quite distinct questions. But in concluding, it is obvious that these four questions are not so distinct as they appear. In the context of history they necessarily run together. The capital—revenue distinction was inherent in the nature of English feudal society and, in particular, landholding. Various vehicles were used at different periods in history for holding land in England, including corporations, uses and trusts. Accounting was a basic requirement for stewards that extended not just to landholding but also to commercial interests. Corporations were used as collective investment vehicles and, in the New World, as instruments of government. Corporations and government stock issued to raise funds to secure trade in the New World were a new form of investment which led to further development of the capital—revenue distinction as trusts came to be used as vehicles to hold these new investments.

As feudalism broke down, the freeing of individuals from the land gave rise to difficult issues for the tax system centred on the distinction between an *in rem* and a personal tax. This distinction gave rise to jurisdictional rules that would be used when trade expanded overseas. The slave labour used in the colonies, and its taxation, fundamentally questions the appropriateness of a distinction between *in rem* and personal taxes. There is a clear analogy between the colonial slaves and the unfree villeins of feudal times. The unfree of feudal times provide an example of overlap with the capital—revenue distinction. Landholders who treated their unfree tenants badly and caused them to run away might be liable in an action for waste. Considering servants as assets still has relevance today, especially for service industries where employees are often recognised as substantial assets of the business.

All of this is overarched by the schedular system. From the early subsidies right through to the 1799 income tax, it was used to provide different rules for objective or subjective assessment. It was also used in an attempt to supplement and augment basic rules in an attempt to make taxation more comprehensive. So during the Tudor period the taxation of servants was added as a separate head. This approach was used extensively from the time of the Restoration, reaching a peak during the desperate times of the 1690s as the need for comprehensive taxation peaked before being relieved by the advent of the funding system.

In any case, in some ways schedular just means that you have a structure, a plan and parts of the plan can work independently. There is a lesson here in history for the current mess that is the income tax.

So how different really was the income tax of 1799 from prior types of tax? It is clear that the basic policy underlying it was not so different from what had been the underlying policy of direct taxation for centuries. Virtually every aspect, every case of the 1799 law and every schedule of the 1803 law had been tried. They had not been tried in combination for over 100 years, since before the advent of the funding system. The exception was the taxation of trade but the evidence is that this was not successful in any case. The income tax of the Napoleonic Wars was viewed as a major development, a major success, but in what context? As others have noted before, the major success was on the administrative front.⁴

At other times in history the central English government had tried comprehensive taxation based on subjective assessment but in the end this was abandoned. Each time the central government was faced with problems in securing accurate and continual assessments. Localities complained of inquisition by the central authority and sought to retain local autonomy to apportion charges amongst themselves. This happened with the settling of the fifteenth and tenth into a quota system in 1334, the similar indirect settling of the subsidy in the 1550s, the quota system used for the ship writs in the 1630s, the express quota in the subsidy of 1642, the power given to the localities to determine their own tax base under the monthly assessments from 1650 and the return to a quota system in 1697 after another flirtation with direct assessment, paving the way for the quota system in the land tax that ran until the end of the eighteenth century.

The quota system can lead to unevenness in terms of assessments from locality to locality, which in turn can result in allegations of inequity and abuse. In the seventeenth and eighteenth centuries this caused the direct tax base to gravitate towards objective handles that might approximate an acceptably fair tax base. In this way, the variations in forms of direct taxation over the centuries have more to do with variations in the development of society, the types of objective

⁴ 'The essential difference between the direct taxes of [1640–1698] and the Income Tax of the nineteenth century is not one of intention but of execution. The former failed, while the latter succeeded, in devising tolerably efficient methods of enforcing the provisions of the Acts . . .' Kennedy (1964, pp. 47–8).

handles available and the political power to impose new inquisitive assessments than with any change in the goals or principles of taxation. This is clear from the poll taxes in the West Indian and southern American colonies, which might not have been as inequitable in their context as their form seems.

It is easy to be critical of the Triple Assessment and the 1799 income taxes and call them failures in terms of revenue collection, at least by comparison to the 1803 income tax. But perhaps they were necessary steps in reaching the 1803 form, which proved so resilient for over a century. Politically, Pitt may not have been able to achieve a comprehensive inquisition into a person's private income in 1798, but what he did achieve was a personal income declaration from a person in order to have their Triple Assessment reduced. That made it more politically acceptable to lay aside the Assessed Taxes in 1799 and focus on an income declaration from everyone, albeit a weak form of declaration. It is true that under the 1803 law all of a person's income might not be declared to a single person, but it is also true that this was required to claim abatements and that the powers of inquisition were strengthened as the income tax bedded in.

The difference in 1799 to previous direct assessments in history was the political determination not to give up, and Pitt's strength and dominance of the political scene at this time no doubt played an important role. Time was given to the tax administration to bed the system in and find ways of making it work. It seems likely that the move from objective to subjective assessment was gradual and not a big bang in 1798 or 1799. This seems most likely in the case of trade. Accounts may not have developed far enough to make the taxation of trade an easy matter. Trade had developed substantially from the 1690s, particularly during the wars, and by the turn of the nineteenth century Britain could raise enough revenue from taxing the profits of trade to justify the effort and not give up. There seems little doubt that as long as a substantial tax liability was imposed according to profits of trade there would be a substantial impetus towards developing rules to accurately measure those profits, particularly if the tax administration has powers of inquisition. This development was not complete by the time the income tax expired in 1816 but it seems likely that the income tax assisted in the development of accounting.

The payoff between a quota system and a central direct assessment system is a payoff between regional autonomy and general equity. One trend revealed over the time period covered by this study is the gradual

removal of autonomy in tax matters from the English localities towards the central English government. The 1799 income tax represents a substantial victory for the central government in that struggle. But the 1799 income tax was just part of a long process including the incorporation of Wales into the direct tax field in 1543 and Scotland in 1707. There were further victories with the Poor Rate, particularly when it subsumed the tax bases for the Constables' Rate in 1662 and the County Rate in 1739. Like the 1799 income tax, these measures did not totally remove local autonomy but represent steps in a trend to limit that autonomy. This process is necessarily continuing in the form of globalisation. The movement of the power to impose direct taxation towards the centre in the context of English history seems to provide an indication as to where that power is heading in the context of regional groupings such as the European Union.

Academically, it seems pleasing that equity, in the form of consistent direct assessment, won the day over regional autonomy with all its difficulties. It is easy to make such an assessment where individuals identify themselves more with their central government than with their localities. The American War of Independence underlines the importance of identity in matters of direct taxation. Globalisation of business and trade may naturally point in the direction of further centralisation of taxes, but at this stage it is not clear that that will happen. The main battles that lie ahead in international direct taxation are not economic ones. The main battles are the same as they have been throughout history. They centre on the identification of individuals with particular regions, cultures and social values and, as a result, their willingness to submit to taxation. It is hoped that this study has made a contribution to our ability to 'remember' where our tax systems came from and effectively analyse where they are going.

Appendix

Reigns of English and UK monarchs

Normans

William I	1066–1087
William II	1087–1100
Henry I	1100–1135
Stephen	1135–1154

Plantagenets

Henry II	1154–1189
Richard I	1189–1199
John	1199–1216
Henry III	1216–1272
Edward I	1272–1307
Edward II	1307–1327
Edward III	1327–1377
Richard II	1377–1399

Lancastrians

Henry IV	1399–1413
Henry V	1413–1422
Henry VI	1422–1461

Yorkists

Edward IV	1461–1483
Edward V	1483–1483
Richard III	1483–1485

Tudors

Henry VII	1485–1509
Henry VIII	1509–1547
Edward VI	1547–1553
Mary	1553–1558
Elizabeth I	1558–1603

Stuarts

James I	1603–1625
Charles I	1625–1649

Interegnum

Commonwealth declared	1649
Oliver Cromwell, Protector	1653–1658
Richard Cromwell, Protector	1658–1659

Stuarts (continued)

Charles II	1660–1685
James II	1685–1688
William III and Mary	1689–1702
Anne	1689–1694
	1702–1714

Hanovers

George I	1714–1727
George II	1727–1760
George III	1760–1820

Currency

Penny (d)	Basic currency unit
Shilling (s)	12 pence = 1 shilling
Mark	160 pence = 1 mark
Pound (£)	240 pence = 20 shillings = 1 pound

References

- American Antiquarian Society (1956–) *Early American Imprints, 1639–1800*, Opaque Microcopy, C.K. Shipton (ed.) (New York: Readex Microprint Corporation)
- (1990–) *Early American Imprints, 1801–1819*, Second Series, Opaque Microcopy (New York: Readex Microprint Corporation)
- Anderson, W.G. (1983) *The Price of Liberty: The Public Debt of the American Revolution* (Charlottesville: University Press of Virginia)
- Andrews, C.M. (1929) ‘The Acts of Trade’ and ‘The government of the Empire, 1660–1763’, in Holland Rose *et al.* (eds.), Vol. I, pp. 268–99 and 405–36, respectively
- Andros, E. (1868–74) *The Andros Tracts*, 3 vols. (Boston, MA: Prince Society)
- Ashe, S.A. (1925) *History of North Carolina*, 2 vols. (Greensboro: Van Noppen) reprinted (1971) (Spartanburg: The Reprint Company)
- Avery-Jones, J.F. (2004) ‘Taxing foreign income from Pitt to the tax law rewrite – the decline of the remittance basis’, in Tiley (2004), pp. 15–56
- Baker, J.H. (ed.) (1978) *Legal Records and the Historian*, Royal Historical Society Studies in History (London: Royal Historical Society)
- (2002) *An Introduction to English Legal History*, 4th edition (London: Butterworths)
- Banerjea, P. (1928) *Indian Finance in the Days of the Company* (London: MacMillan and Co)
- Barbados (1654) *Acts and statutes of the island of Barbados made and enacted since the reducement of the same, unto the authority of the Common-wealth of England/and set forth the seventh day of September, in the year of our Lord God 1652, by the Honourable governour of the said island, the worshipfull the council, and gentlemen of the assembly; together with charter of the said island, or articles made on the surrender, and rendition of the same; published for the publick good* (London: William Bentley)
- Baxter, W.T. (1980) ‘The account charge and discharge’, *Accounting Historians Journal*, Spring, p. 69
- Becker, R.A. (1980) *Revolution, Reform, and the Politics of American Taxation, 1763–1783* (Baton Rouge: Louisiana State University Press)

- Beckles, H. (1998) 'The "hub of empire": the Caribbean and Britain in the seventeenth century', in Louis (ed.), pp. 218–40
- Biancalana, J. (1998) 'Medieval uses', in Helmholz and Zimmermann (eds.) (1998), pp. 111–52
- Bourinot, J. G. (1888) *Manuel of the Constitutional History of Canada* (Montreal: Dawson Bros.)
- (1900) *Builders of Nova Scotia: A Historical Review* (Toronto: Copp-Clark Co.)
- Brock, L. V. (1975) *The Currency of the American Colonies 1700–1764: A Study in Colonial Finance and Imperial Relations* (New York: Arno Press)
- British Honduras (1931–35) *Archives of British Honduras*, 3 vols., J. A. Burdon (ed.) (London: Sifton, Praed and Co.)
- Burns, A. (1954) *History of the British West Indies* (London: George Allen & Unwin Ltd)
- Burns, L. and Krever, R. (1998) 'Individual income tax', in Thuronyi (1998), pp. 495–563
- Cannan, E. (1896) *History of Local Rates in England* (London: Longmans, Green, and Co.)
- Cape Colony (1897–1905) *Records of the Cape Colony: from February 1793 to April 1831*, 36 vols., G. M. Theal (ed.) (London: William Clowes and Sons)
- Chalmers, R. (1893) *History of Currency in the British Colonies* (London: HMSO)
- Cobbett, W. (1812–1820) *The Parliamentary History of England, from the Earliest Period to the Year 1803*, Vols. XIII–XXXVI (London: Longman & Co.)
- Coke, E. (1628) *The first part of the Institutes of the lawes of England. Or, A commentarie vpon Littleton* (London: Societie of Stationers)
- Colonial Society of Pennsylvania (1904) *Records of the Court of New Castle on Delaware 1676–1681* (Philadelphia: The Society)
- Connecticut (1826) *The Public Statute Laws of the State of Connecticut, as revised and enacted by the General Assembly, in May, 1821* (Hartford: H. Huntington Jr)
- Connecticut (1850–90) *The Public Records of the Colony of Connecticut*, 15 vols., J. H. Trumbull and C. J. Hoadly (eds.) (Hartford: F. A. Brown)
- Connecticut (1857–58) *Records of the Colony and Plantation of New Haven*, C. J. Hoadly (ed.) (Hartford: Tiffany & Co)
- Coupland, R. (1940) 'The abolition of the slave trade', in Holland Rose *et al.* (eds.), Vol. II, pp. 188–216
- Daugherty, M. M. (1938) *Early Colonial Taxation in Delaware* (Wilmington: Delaware Tercentenary Commission)
- Daunton, M. D. (2001) *Trusting Leviathan: The Politics of Taxation in Britain, 1799–1914* (Cambridge: Cambridge University Press)

- Douglas, C.H. (1892) 'The financial history of Massachusetts: from the organization of the Massachusetts Bay Company to the American Revolution', in *Columbia University: Studies in History, Economics and Public Law*, vol. I, No. 4 (New York: Columbia College)
- Douglas, D. C. and Greenway, G.W. (eds.) (1953) *English Historical Documents 1042–1189* (London: Eyre & Spottiswoode)
- Dowell, S. (1965) *The History of Taxation and Taxes in England: From the Earliest Times to the Present Day*, 3rd edition, Vols. I–IV (London: Frank Cass & Co.)
- Dunn, R. S. (1973) *Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624–1713* (London: Jonathan Cape)
- (1998) 'The Glorious Revolution and America', in Louis (ed.) (1998), pp. 445–66
- Edwards, J.R. (ed.) (2000) *The History of Accounting: Critical Perspectives on Business and Management*, 4 vols. (London: Routledge)
- Edwards, J.R. (2000a) 'Financial accounting practice 1600–1970: continuity and change', in Edwards (ed.) (2000), Vol. II, pp. 342–78
- Edwards, J.R. (2000b) 'The development of industrial cost and management accounting before 1850: a survey of the evidence', in Edwards (ed.) (2000), Vol. III, 48–71
- Edwards, J.R. and Boyns, T. (1992) 'Industrial organization and accounting innovation: Charcoal ironmaking in England 1690–1783', *Management Accounting Research*, 1992, No. 3, p. 151
- Elton, G.R. (1974) 'An early Tudor poor law', in *Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946–1972*, Vol. II, pp. 137–54
- Farnsworth, A. (1951) *Addington: Author of the Modern Income Tax* (London: Stevens & Sons)
- Ferguson, J. (1961) *The Power of the Purse* (Virginia: University of North Carolina Press)
- Finch, H. (1673–82) 'Prolegomena of Chancery and Equity', in Yale (ed.) (1965), Part II, pp. 177–356
- Fisher, I. (1906) *Nature of Capital and Income* (New York: Macmillan)
- Flinn, M.W. (1984) *The History of the British Coal Industry: 1700–1830: The Industrial Revolution*, Vol. II (Oxford: Clarendon Press)
- Frecknall Hughes, J. and Oats, L. (2004) 'John Lackland: a fiscal re-evaluation', in Tiley (2004), pp. 201–26
- Fry, W.H. (1908) *New Hampshire as a Royal Province* (New York: Columbia University)
- Georgia (1904–) *Colonial Records of Georgia*, 39 vols., A.D. Chandler (ed.) (Atlanta: L. L. Knight)

- Glasscock, R. E. (1975) *The Lay Subsidy of 1334*, Records of Social and Economic History, New Series, II (London: Oxford University Press)
- Glynn, J. J. (1994) 'The development of British railway accounting: 1800–1911', in Parker and Yamey (eds.) (1994), pp. 327–42
- Gray, H. L. (1934) 'Incomes from land in England in 1436', *English Historical Review*, Vol. XLIV, pp. 607–39
- Hair, P. E. and Law, R. (1998) 'The English in Western Africa to 1700', in Louis (ed.) (1998), pp. 241–63
- Hall, R. (ed.) (1764) *Acts, Passed in the Island of Barbados. From 1643, to 1762, inclusive* (London: Richard Hall)
- Harlow, V. T. (1926) *A History of Barbados: 1625–1685* (Oxford: Oxford University Press)
- Harlow, V. T. (1940) 'The new imperial system, 1783–1815', in Holland Rose *et al.* (eds.), Vol. II, pp. 129–87
- Harlow, V. T. (1963) 'Cape Colony, 1806–1822', in Holland Rose *et al.* (eds.) 2nd edition, Vol. VIII, pp. 199–238
- Harris, P. A. (1996) *Corporate/Shareholder Income Taxation and Allocating Taxing Rights Between Countries: A Comparison of Imputation Systems* (Amsterdam: IBFD)
- Harris, P. A. (2002) *Metamorphosis of the Australasian Income Tax: 1866–1922*, Australian Tax Research Foundation Research Study No. 37 (Sydney: ATRF)
- 't Hart, M. C. (1993) *The making of a bourgeois state: War, politics and finance during the Dutch revolt* (Manchester: Manchester University Press)
- Harvey, P. D. A. (1994) 'Manorial accounts', in Parker and Yamey (eds.) (1994), pp. 91–115
- Hatcher, J. (1993) *The History of the British Coal Industry Before 1700: Towards the Age of Coal*, Vol. I (Oxford: Clarendon Press)
- Headlam, C. (1929a) 'The development of the colonies under the first Georges, 1714–1755', in Holland Rose *et al.* (eds.), Vol. I, pp. 377–404
- Headlam, C. (1929b) 'The War of the American Revolution, 1775–1782', in Holland Rose *et al.* (eds.), Vol. I, pp. 717–60
- Headlam, C. (1929c) 'The American Revolution and British politics, 1776–1783', in Holland Rose *et al.* (eds.), Vol. I, pp. 761–83
- Helmholz, R. (1998) 'Trusts in the English ecclesiastical courts 1300–1640', in Helmholz and Zimmermann (eds.) (1998), pp. 153–72
- Helmholz, R. and Zimmerman, R. (eds.) (1998) *Itinera Fiducia: Trust and Treuhand in Historical Perspective*, Comparative Studies in Continental and Anglo-American Legal History, No. 19 (Berlin: Duncker & Humblot)
- Herman, S. (1998) 'The canonical conception of the trust', in Helmholz and Zimmerman (eds.) (1998), pp. 85–110

- Holland Rose, J. (1940) 'The conflict with revolutionary France, 1793–1802' and 'The struggle with Napoleon, 1803–1815', in Holland Rose *et al.* (eds.), Vol. II, pp. 36–82 and 83–128, respectively
- Holland Rose, J., Newton, A.P. and Benians, E.A. (eds.), *The Cambridge History of the British Empire*, 8 vols. (Cambridge: Cambridge University Press)
- Hope-Jones, A. (1939) *Income Tax in the Napoleonic Wars* (Cambridge: Cambridge University Press)
- Jones, F.R. (1896) 'History of taxation in Connecticut: 1636–1776', in *Johns Hopkins University Studies in Historical and Political Science*, 14th Series, No. 8
- Jones, N. (1997) 'Uses, trusts, and a path to privity', *Cambridge Law Journal*, Vol. 56, p. 175
- (1998) 'Trusts in England after the Statute of Uses: a view from the 16th century', in Helmholz and Zimmermann (eds.) (1998), pp. 173–206
- Jones, R.H. (1994) 'Accounting in English local government from the middle ages to c.1835', in Parker and Yamey (eds.) (1994), pp. 377–406
- Jurkowski, M., C.L. Smith and D. Crook (1998) *Lay Taxes in England and Wales 1188–1688* (Richmond: PRO Publications)
- Keith, A.B. (1912) *Responsible Government in the Dominions* (Oxford: Clarendon)
- Kennedy, W. (1964) *English Taxation, 1640–1799*, New Impression (London: Frank Cass & Co)
- Kinsman, D.O. (1903) 'The income tax in the Commonwealths of the United States', in *Publications of the American Economic Association*, 3rd Series, Vol. IV, No. 4 (New York: Macmillan Company)
- Kwass, M. (2000) *Privilege and the Politics of Taxation in Eighteenth-Century France* (Cambridge: Cambridge University Press)
- Lee, T.A. (1994) 'The early debate on financial and physical capital', in Parker and Yamey (eds.) (1994), pp. 493–520
- Leonard, E.M. (1965) *The Early History of English Poor Relief* (London: Frank Cass & Co)
- Littleton, A.C. (1966) *Accounting Evolution to 1900*, 2nd edition (New York: Russell & Russell)
- Louis, W.R. (ed.) (1998) *The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century*, Vol. I of *The Oxford History of the British Empire* (Oxford: Oxford University Press)
- McArthur, D.A. (1930) 'British North America under representative government, 1791–1812', in Holland Rose *et al.* (eds.), Vol. VI, pp. 203–17
- McKay, G.L. (1944) *Early American Currency: Some Notes on the Development of Paper Money in the New England Colonies*, Numismatic Notes and Monographs, No. 104 (New York: American Numismatic Society)

- Macnair, M. (1998) 'The conceptual basis of trusts in the 17th and 18th centuries', in Helmholz and Zimmermann (eds.) (1998), pp. 207–36
- Maitland, F. (1900) 'The corporation sole', *Law Quarterly Review*, Vol. XVI, p. 335
- Marshall, P. J. (1998) 'The English in Asia to 1700', in Louis (ed.) (1998), pp. 264–85
- Martin, E. C. (1927) *The British West African Settlements 1750–1821: A Study in Local Administration*, Imperial Studies, No. 2 (London: Longmans, Green and Co.)
- (1929) 'The English slave trade and the African settlements', in Holland Rose *et al.* (eds.), Vol. I, pp. 437–59
- Maryland Historical Society (1883–1972) *Archives of Maryland*, 72 vols. (Baltimore: Maryland Historical Society)
- Massachusetts (1853–54) *Records of the Governor and Company of the Massachusetts Bay in New England (1628–1686)*, 5 vols., N. B. Shurtleff (ed.) (Boston: W. White)
- Massachusetts (1855–61) *Records of the Colony of New Plymouth, in New England*, 12 vols., N. B. Shurtleff and D. Pulsifor (eds.) (Boston: W. White)
- Mendis G. C. (ed.) (1956) *The Colebrooke-Cameron papers: documents on British colonial policy in Ceylon, 1796–1833*, 2 vols. (London: Oxford University Press)
- Miller, H. (1955) 'Subsidy assessments of the peerage in the sixteenth century', *Bulletin of the Institute of Historical Research*, Vol. XXVIII, p. 15
- Mitchell, S. K. (1951) *Taxation in Medieval England* (New Haven: Yale University Press)
- Murray, W. C. (1907) 'Local government in the Maritime Provinces', in Wickett (ed.) (1907), pp. 221–68
- Myers, A. R. (1969) *English Historical Documents 1327–1485*, Vol. IV (London: Eyre & Spottiswoode)
- New Hampshire (1867–1915) *Provincial (State) Papers: Documents and records relating to the Province (State) of New Hampshire from the earliest period of its settlement*, 33 vols. (Concord: State Printer)
- New Jersey (1758) *The Grants, Concessions, and Original Constitutions of the Province of New-Jersey; The Acts Passed during the Proprietary Government, and other Transactions before the Surrender thereof to Queen Anne*, A. Leaming and J. Spicer (eds.) in American Antiquarian Society (1956–), No. 8205
- New York (1856–1861) *Documents relative to the colonial history of the state of New-York*, 15 vols., J. R. Brodhead and E. B. O'Callaghan (eds.) (Albany: Weed, Parsons)
- New York (1894) *The Colonial Laws of New York from the year 1664 to the Revolution*, 5 vols. (Albany: J.B. Lyon)

- Newton, A. P. (1929) 'The great emigration, 1618–1648', in Holland Rose *et al.* (eds.), Vol. I, pp. 136–82
- Noke, C. (2000) 'Accounting for bailiffship in thirteenth century England', in Edwards (ed.) (2000), Vol. II, pp. 98–123
- North Carolina (1886–1905) *The Colonial State Records of North Carolina*, 30 vols., W. L. Saunders (ed.) (Raleigh: Goldsboro)
- Nova Scotia (1908) *Original Minutes of His Majesty's Council at Annapolis Royal, 1720–1739*, Nova Scotia Archives, Series 3, A. M. MacMechan (ed.) (Halifax: Nova Scotia Archives)
- O'Brien, P. K. (1959) 'British incomes and property in the early nineteenth century', *Economic History Review*, Vol. XII, p. 255
- Oschinsky, D. (ed.) (1971) *Walter of Henley, and other treatises on estate management and accounting* (Oxford: Clarendon Press)
- Parker, C. (1928) *The History of Taxation in North Carolina During the Colonial Period: 1663–1776* (New York: Columbia University Press)
- Parker, M. E. E. (ed.) (1968) *North Carolina High-Court Records 1670–1696* (Raleigh: North Carolina State University Print Shop)
- Parker, R. H. and Yamey, B. S. (eds.) (1994) *Accounting History: Some British Contributions* (Oxford: Clarendon Press)
- Parsons, R. W. (1985) *Income Taxation in Australia: Principles of Income, Deductibility and Tax Accounting* (Sydney: The Law Book Company)
- Patterson, G. C. (1920) 'Land settlement in Upper Canada 1783–1840', *16th Report of the Department of Archives for the Province of Ontario* (Toronto: King's Printer)
- Pennsylvania (1879) *Charter to William Penn and Laws of the Province of Pennsylvania passed between 1682 and 1700* (Harrisburg: L. S. Hart)
- Phillips, H. (1972) *Historical Sketches of the Paper Currency of the American Colonies* (Clifton: Augustus M. Kelley)
- Phillips, O. H., Jackson, P. and Leopold, P. (2001) *Constitutional and Administrative Law* (London: Sweet & Maxwell)
- Pitt, W. (1808) *The Speeches of the Right Honourable William Pitt in the House of Commons*, 2nd edition, 3 vols. (London: Longman & Co)
- Plant, A. (1963) 'Economic development, 1795–1921', in Holland Rose *et al.* (eds.) 2nd edition, Vol. VIII, pp. 788–836
- Postles, D. (1994) 'The perception of profit before the leasing of demesnes', in Parker and Yamey (eds.) (1994), pp. 116–38
- Pratt, J. T. (1827) *The Laws relating to the Poor: including the collections originally made by E. Bott and afterwards edited by F. Const*, 6th edition, 2 vols. (London: Butterworth and Son)
- Pugh, T. B. and Ross, C. D. (1953) 'The English baronage and the income tax of 1436', *Bulletin of the Institute of Historical Research*, Vol. XXVI, pp. 1–28

- Raban, S. (1982) *Mortmain Legislation and the English Church 1279–1500*, Cambridge Studies in Medieval Life and Thought (Cambridge: Cambridge University Press)
- Reese, T. R. (1963) *Colonial Georgia: A Study in British Imperial Policy in the Eighteenth Century* (Atlanta: University of Georgia Press)
- Rhode Island (1856–65) *Records of the Colony of Rhode Island and Providence Plantations, in New England*, 10 vols., J. R. Bartlett (ed.) (Providence; State Printer)
- Ripley, W. Z. (1893) 'The financial history of Virginia: 1609–1776', in *Columbia University: Studies in History, Economics and Public Law*, Vol. IV, No. 1 (New York: Columbia College)
- Robinson, M. H. (1902) 'A history of taxation in New Hampshire', in *Publications of the American Economic Association*, 3rd Series, Vol. III, No. 3 (New York: Macmillan Co)
- Rothwell, H. (ed.) (1975) *English Historical Documents 1189–1327*, Vol. III (London: Eyre and Spottiswoode)
- Rushworth, J. (1721) *Historical collections: of private passages of state, weighty matters in law, remarkable proceedings in five Parliaments: beginning the sixteenth year of King James, anno 1618, and ending the fifth year of King Charls, anno 1629/digested in order of time and now published by John Rushworth*, 8 vols. (London: D. Browne, J. Walthoe, J. Knapton *et al.*)
- Sabine, B. E. V. (1966) *A History of Income Tax* (London: George Allen & Unwin)
- Saunders, J. B. (1997) *Mozley & Whiteley's Law Dictionary*, 9th edition (London: Butterworths)
- Schofield, R. (1988) 'Taxation and the political limits of the Tudor state', in C. Cross, D. Loades and J. J. Scarisbrick (eds.) (1998), *Law and Government under the Tudors* (Cambridge: Cambridge University Press), pp. 227–56
- (2004) *Taxation under the early Tudors, 1485–1547* (Oxford: Blackwell)
- Schwab, J. C. (1890) 'History of the New York property tax', in *Publications of the American Economic Association*, 1st Series, Vol. V, No. 5 (Baltimore: American Economic Association)
- Scorgie, M. E. (2000) 'Progenitors of modern management accounting concepts and mensurations in pre-industrial England', in Edwards (ed.) (2000), Vol. III, pp. 1–30
- Seligman, E. R. A. (1895) *Essays in Taxation* (New York: MacMillan and Co)
- (1914) *The Income Tax, A Study of the History, Theory, and Practice of Income Taxation at Home and Abroad* (New York: MacMillan Company)
- Simmons, R. C. (1976) *The American Colonies, From Settlement to Independence* (Harlow: Longman)
- Simons, H. C. (1938) *Personal Income Taxation: The Definition of Income as a Problem of Fiscal Policy* (Chicago: University of Chicago Press)

- Simpson, A. W. B. (1986) *History of the Land Law*, 2nd edition (Oxford: Clarendon Press)
- Slack, P. (1995) *The English Poor Law, 1531–1782* (Cambridge: Cambridge University Press)
- Smith, A. S. (1776) *An Inquiry into the Nature and Causes of the Wealth of Nations*, Vol. XXXVI of M. J. Adler (ed.) (1990), *Great Books of the Western World*, 2nd edition (Chicago: Encyclopedia Britannica Inc.)
- Smith, W. R. (1903) *South Carolina as a Royal Province 1719–1776* (New York: MacMillan Company)
- Soos, P. E. (1997) *The Origins of Taxation at Source in England* (Amsterdam: IBFD)
- South Carolina (1836–41) *The Statutes at Large of South Carolina*, 10 vols., T. Cooper and D. J. McCord (eds.) (Columbia: A. S. Johnston)
- Stablie, D. R. and Cantor, J. A. (1991) *The Public Debt of the United States: An Historical Perspective, 1775–1990* (Connecticut: Greenwood Publishing)
- Stenton, D. M. (ed.) (1927) *The Great Roll of the Pipe for the Fifth Year of the Reign of King Richard the First Michaelmas 1193*, New Series, Vol. III (London: Ruddock & Sons)
- Strachan, W. (1937) *The Law of Trust Accounts*, 2nd edition (London: Sweet & Maxwell)
- Thomason Tracts 1640–1661* (1981) (Ann Arbor: University Microfilm International)
- Thuronyi, V. (ed.) (1998) *Tax Law Design and Drafting*, Vol. II (Washington D.C.: IMF)
- Tiley, J. (ed.) (2004) *Studies in the History of Tax Law* (Oxford: Hart Publishing)
- Trattner, W. I. (1974) *From Poor Law to Welfare State: A History of Social Welfare in America* (New York: Macmillan Publishing Co.)
- United Kingdom (1801–) *Parliamentary Papers* (Blue Books) (London: HMSO)
- United Kingdom (1810–1828) *Statutes of the Realm*, 11 vols. (London: HMSO)
- United Kingdom (1832) *Rotuli Parliamentorum*, 7 vols. (London: HMSO)
- United Kingdom (1843) *Report of the Poor Law Commissioners on Local Taxation*, 8 vols. (London: HMSO)
- United Kingdom (1891–) *Calendar of the Patent Rolls 1334–1338* (London: HMSO)
- United Kingdom (1911) *Acts and Ordinances of the Interregnum, 1642–1660*, Firth, C. H. and Rait, R. S. (eds.), 2 vols. (London: HMSO)
- United Kingdom (1911–1962) *Calendar of Fine Rolls* (London: HMSO)
- United States (1796) ‘Direct taxes’, O. Wolcott in (1832–1861) *Documents, Legislative and Executive, of the Congress of the United States*, Finance, Vol. I, pp. 414–64 (Washington: Gales and Seaton)
- United States (1856–1864) *The Public Statutes at Large of the United States of America*, R. Peters, G. Minot and G. P. Sanger (eds.), 13 vols. (Boston)

- Vermont (1779) *Acts and Laws of the State of Vermont in America* (Vermont: Judah – Padock and Alden Spooner) in American Antiquarian Society (1956–) No. 16649
- Vineberg, S. (1912) ‘Provincial and local taxation in Canada’, in *Columbia University: Studies in History, Economics and Public Law*, Vol. LII, No. 1 (New York: Longmans, Green & Co)
- Virginia (1809–1823) *The Statutes at Large: being a collection of all the Laws of Virginia from the first session of the Legislature in the year 1619*, 18 vols., W. W. Henning (ed.) (Richmond: Samuel Pleasants) and Sheppard, S. (ed.) (1970) reprint, 3 vols. (New York)
- Walker, S. S. (1978) ‘The action of waste in the early common law’, in Baker (ed.) (1978), pp. 185–206
- Ward, W. R. (1953) *The English Land Tax in the Eighteenth Century* (London: Oxford University Press)
- Wickett, S. M. (1907) (ed.), *Municipal Government in Canada*, University of Toronto Studies in History and Economics, Vol. II (Toronto: University of Toronto)
- Williamson, J. A. (1929) ‘The beginnings of an imperial policy, 1649–1660’ and ‘The Colonies After the Restoration, 1660–1713’, in Holland Rose *et al.* (eds.), Vol. I, pp. 207–38 and 239–67, respectively
- Wolcott, O. (1819) *Reflections on the subject of taxation and a Sketch of a Bill*, May 1819, in American Antiquarian Society (1990–) No. 47704
- Wood (1893–94) ‘History of taxation in Vermont’, in *Columbia University: Studies in History, Economics and Public Law*, Vol. IV, No. 3 (New York: Columbia College)
- Yale, D. E. C. (ed.) (1965) *Lord Nottingham’s ‘Manual of Chancery Practice’ and ‘Prolegomena of Chancery and Equity’*, Cambridge Studies in English Legal History (Cambridge: Cambridge University Press)
- Yamey, B. S. (1977) ‘Some topics in the history of financial accounting in England, 1500–1900’, in W. T. Baxter and S. Davidson (eds.), *Studies in Accounting* (London: ICAEW), pp. 11–34
- (2000) ‘Accounting and the rise of capitalism: further notes on a theme by Sombart’, in Edwards (ed.) (2000), Vol. II, pp. 124–44

Online Resources

- Simpson, J., E. Weiner, M. Proffitt *et al.* (eds.) (2004) (online), *Oxford English Dictionary Online* (2004) (Oxford: Oxford University Press), <<http://dictionary.oed.com/>>

UK Public Records Office – Departments

- C – Records created, acquired, and inherited by Chancery, and also of the Wardrobe, Royal Household, Exchequer and various commissions
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 - 78 Chancery and Supreme Court of Judicature, Chancery Division: Six Clerks Office and successors: Decree Rolls 1534–1903
- CO – Records of the Colonial Office, Commonwealth and Foreign and Commonwealth Offices, Empire Marketing Board, and related bodies 1570–1990
- PRO – Domestic Records of the Public Record Office, Gifts, Deposits, Notes and Transcripts 974–2003
 - 30/8 William Pitt, 1st Earl of Chatham: Papers, George II – George III

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