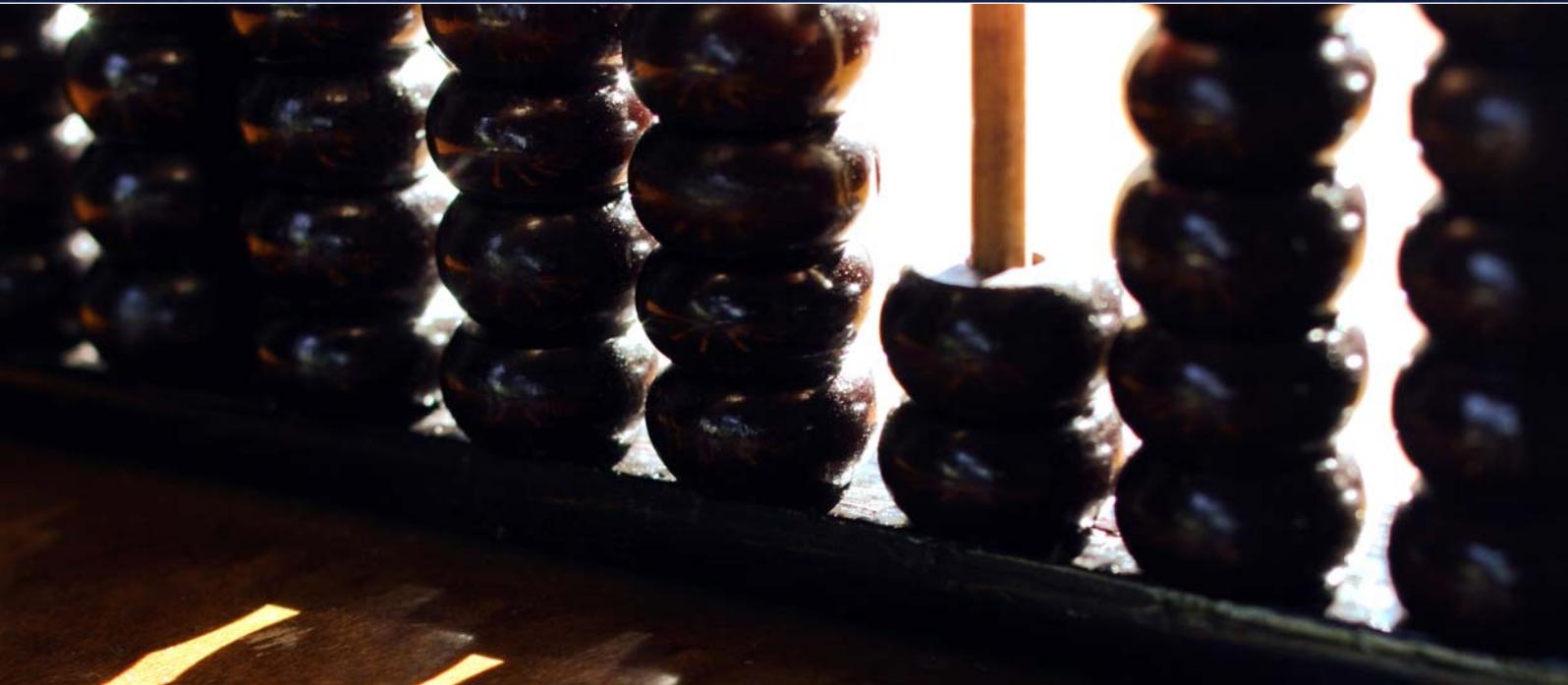




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KEVIN HEAGNEY

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The Property Rate, the Property Rate Amendment
and The Dealers' Licensing Ordinance

Te Kunenga ki Pūrehuroa

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**Tax Law
New Zealand 1844-1845**

**The Property Rate, the Property Rate Amendment
And
The Dealers' Licensing Ordinance**

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ABSTRACT

This discussion paper focuses on early New Zealand tax law, one passed then repealed; *The Property Rate Ordinance*, 1844, and two proposed tax laws; *The Amendment to The Property Rate* and *The Dealers' Licensing Ordinance*. Using the transference argument of Nehring and Schui (2007) as a subordinate method; the three tax laws are extensively investigated. The paper meets its two objectives First, the work reacquaints scholars of New Zealand fiscal history with an indigenous tax law that until now has only had limited coverage in the New Zealand economic history literature. Second, the paper introduces to the tax history literature two proposed New Zealand tax laws that, to date, have had very little coverage.

JEL: N, Economic History

Key Words: Property Rate; Dealers License; Tax Law; Crown Colony; New Zealand

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1. INTRODUCTION

Between 1840 and 1852 there were seven evolutionary steps² in the development of direct taxation in New Zealand. This paper concentrates on three of those evolutionary steps: *The Property Rate Ordinance* (hereafter, referred to as *The Ordinance*); *The Property Rate Amendment* (hereafter, referred to as *The Amendment*), and *The Dealers' License*. *The Ordinance* has not previously been the focus of any systematic economic enquiry. Moon (2000) did give *The Ordinance* consideration, but Moon did not make the tax law a focal point. *The Amendment* and *The Dealers' License*, with the exception of Cowie (1994), have had almost no coverage in the literature. The problem is that little, if anything, is known of these early tax laws (one passed then repealed and two proposed), or of their worth to the economic history of New Zealand. By investigating these interesting moments in early New Zealand tax law this paper makes a pioneering contribution to the New Zealand tax history literature.

Harris, who studied the evolution of income tax legislation in Australasia from 1866 to 1922, begins his narrative in 1866 in Tasmania (Harris, 2002). Choosing 1866 as a starting date omits the transfer and application of Schedule E to the Australasian colonies³. Daunton (quoted in Nehring and Schui 2007) begins his analysis of colonial taxation in 1848. This period is five years after the arrival of Schedule E of the British *Income tax Act*, 1842, (hereafter, referred to as *The Act*) made an impact in the colonies. It is understandable, therefore, that the tax events under the discussion in this paper have been missed. Primarily, these are, *The Ordinance* and the contingent parts of Governor Fitzroy's⁴ tax package⁵, *The Amendment to The Ordinance*; and, *The Dealers' License*; colloquially termed by Goldsmith (2008, p. 31), "Fitzroy's medley of experiments".

In previous work by this author Heagney (2009a), much attention was given to the primary method of analysis being a chronological narrative however, when focus was required a secondary method from New Institutional Economics was also used to decide the analytical approach. This paper follows the same analytical format. Therefore, the subordinate method of analysis is the transference framework of Nehring and Schui (2005 and 2007). The three key methods of the transference framework are observation, direct communication and assimilation. The main features of the transference framework are discussed in the section that follows.

The paper is written according to the following assumption; that the transfer to the colony of Schedule E of *The Act* in 1843 also transferred the accumulated knowledge, up to that time,

² The first three are: (1), the implementation of local fees, fines and charges 1840/41; (2), the UK *Income tax Act*, 1842; (3), the arrival of Schedule E of the UK *Income Tax Act*, 1842 Act in the colony.

³ This event was promulgated in the Government Gazettes of New Zealand and that of New South Wales. This knowledge is obtained from a reading of the Australasian periodical; *The Weekly Register of Politics, Facts, and General Literature* (1843), *Domestic Intelligence*, August 26, I: 60; and the *New Zealand Gazette*, Vol. III, No. 39, (September 27, 1843), pp. 242-243.

⁴ New Zealand began as a colony in 1842 under the direction of its first Governor, William Hobson. Upon Hobson's death in 1842 the administration was controlled by Acting Governor Willoughby Shortland. In 1843 New Zealand's second Governor was appointed, Robert Fitzroy and he remained in office until the end of 1845 when he was replaced by Sir George Grey.

⁵ "Fitzroy's medley of experiments" is the term used by Goldsmith (2008, p. 31).

of British political economy, and this laid the foundation for New Zealand fiscal policy and public attitudes in regard to matters of taxation. Schedule E is the topic of a future discussion paper and is not discussed herein. However, there are three hypotheses for this paper. In essence, these hypotheses follow a development path which is logical and should therefore, have been expected following the establishment of the colony and the arrival of tax law from the Mother country.

Hypothesis (1), on the basis of observation and direct communication, *The Ordinance* represents a full assimilation of the ideas and concepts of taxation from another country. *The Ordinance* is a legitimate and correct representation of the transference process. Hypothesis (2), the attempted assimilation into public policy of *The Amendment*, on the basis of observation and direct communication, and then assimilation, which *The Ordinance* represents, is a legitimate and valid demonstration of the transference process. Hypothesis (3), the attempted assimilation into public policy of *The Dealers' License* on the basis of observation and direct communication, and assimilation is a legitimate demonstration that the transference process did occur.

The paper is organised as follows: Section 2 acquaints the reader with the main features of transference framework. Section 3 discusses *The Property Rate Ordinance*, and Section 4 introduces the progressions in the development of direct taxation: the *Amendment to The Ordinance* and *The Dealer's License*. Section 5 briefly introduces an area of future work, the repeal of *The Ordinance*. The conclusion follows in Section 6.

2. ANALYTICAL FRAMEWORK

Economic and political ideology often play a large part in the development of fiscal policy, and the transference of one nation's ideology to another nation can also provide a ready framework for policy development. In terms of 1844 New Zealand, the new ideology was to be Britain's acceptance of free trade and the application of those free trade policies, in any country whose main source of revenue was customs, required an overhaul of the existing tax system i.e. changes to tax policy.

Tax policy is not just about collecting revenue; tax policy is a representation of the social contract⁶ and the construct of society, both of which are open to influence by either a dominant existing ideology, or a rising ideology. Therefore, when thinking in terms of ideas that are associated with taxation, the development of tax law should be considered as a process. A development process which, according to Nehring and Schui (2007, p. 2), has three interconnected dimensions, and these dimensions influence the development of tax policy.

The first dimension of the transference framework is: Economic thought which is largely, but not exclusively, economic theorising and analysis (Nehring and Schui, 2007, pp. 2-3). The

⁶ This notion began with thinkers such as Hobbes and Locke and continues through to current times. Buchanan is a social contract theorist who uses it when theorising about taxation: (Buchanan, 1998 and Brennan & Buchanan, 1980).

second dimension is: Ethical judgements [which are made by participants] about the legitimacy of taxation (Nehring and Schui, 2007, pp. 2-3). The third dimension is: Administrative knowledge, experience and ability, as applied in the policy process (Nehring and Schui, 2007, pp. 2-3). In respect of the transference of ideas and concept, the process of exchange is between persons, ruling authorities and between countries. Once a person, ruling authority or country accepts these ideas and concepts, a development process begins and eventually, becomes assimilated into local tax policy. To understand this process, it is helpful delve further into the framework of understanding provided by Nehring and Schui (2005 and 2007).

The study of the transmission mechanisms i.e. the transference of ideas and concepts in taxation, evolved from a workshop held in King's College Cambridge in 2004 (Nehring and Schui, 2004). The participants formed a view that current tax histories did not give sufficient attention to an important aspect that precedes tax policy formulation: the international exchange of ideas. This, they thought, was crucial in shaping many national tax histories. From the workshop and from further work of Nehring and Schui (2005 and 2007), a practical framework has being constructed. The transference framework is based on the work of Becker (2005, in Nehring and Schui, 2005, p. 5), and it is Becker's approach which is adopted in the later work of Nehring and Schui (2007). There are three distinct methods by which a conceptual transfer can be seen to occur and these are: observation, direct communication and assimilation.

To understand how Nehring and Schui (2007) define these methods of transference, the original definitions of economic thought, ethical judgements and administrative knowledge, need expansion. First, "observation may take place through the reading of publications, public or non public documents and through direct encounters" (Nehring and Schui, 2007, p. 6) i.e. economic thought. Second, "direct communication entails a conscious bilateral process in which opinions, theories and experiences are verbalised and exchanged", and communication can be a part of observation (Nehring and Schui, 2007, p. 6) i.e. this is where ethical judgements are made. Third, assimilation of the ideas and concepts into the policies of a recipient nation, in this instance New Zealand, and this is the final aspect of the transference framework i.e. this is where the administrative knowledge, experience and ability of the recipient nation comes into play. Therefore, part of the analysis under the heading of assimilation will consider whether "any relationship can be deduced between Crown Colony fiscal policy and the economic and administrative reality of the period in the mother country" (Nehring and Schui, 2005, p. 5).

There is however, a final subordinate aspect of the framework of Nehring and Schui (2007); that a crisis precipitates the transfer of ideas. The need for change is often an insufficient reason for change to occur. Only when faced with a crisis do decision-makers appear open to the influence of new concepts, and to the idea of policy change on the basis of those new ideas. The concept of crisis inducing change is prevalent in the literature on tax reform and the history of taxation and this aspect of how policy change occurs is emphasised in Heagney (2009c) therefore, crisis will not be discussed in any detail in this paper.

The discussion sections that follow adhere to the methodological approach described above. While the three headings of the framework are separate, the authors cited above are of the opinion that all three types of transfer may occur at the same time, and that they will often be inseparably intertwined. Therefore, it is emphasised here that observation, communication and assimilation can be viewed as component parts that are not mutually exclusive, and therefore the structural headings of observation, direct communication and assimilation are common to each discussion section and are not therefore, detailed separately. At the same time, it will be clearly shown in each section when observation, communication and assimilation occur.

3. THE PROPERTY RATE ORDINANCE, 1844

An issue confronting Governor Fitzroy in September 1844 was how to meet the needs of fiscal expenditure. Fitzroy realised that further assistance from home would not be forthcoming unless all avenues to raise revenue within the colony were exhausted (*British Parliamentary Papers*, 4: 170-171). Fitzroy reduced government expenditure by cutting the budgets of his departments and by limiting the scope of their activities. Thereafter, Fitzroy set about the task of raising sufficient revenue to meet the expenditure needs of his Administration. Fitzroy commented that “by direct taxation, after grants of land are issued, and by greater freedom of trade, a sufficient revenue will be raised within the colony – but this will not be during the current year, or the next” (*British Parliamentary Papers*, 4: 167).

Until September of 1844, three quarters of the tax revenue for Crown Colony of New Zealand’s Administration came from customs duties⁷. Customs duty is a form of indirect taxation imposed on imported goods. Therefore, it is logical that Governor Fitzroy’s proposals to overhaul trade policy, in line with the economic policies then current in the United Kingdom (i.e. free trade), were also proposals to overhaul tax policy. Under the Auspices of free trade, revenue would need to come from sources other than imported goods.

Crisis, as always, was the catalyst for change: the window of opportunity for tax reform was opened by northern Maori in 1844 when economic hardship and discontent gave rise to violent conflict between Maori and settler. Blame for the conflict was laid squarely at the feet of the Crown, and specifically at the customs regulations (Fitzroy, 1846). In an attempt to appease northern Maori the customs duties were removed at Kororareka and consequently, the process of fiscal reform began to gather momentum. For taxation, the partial removal of customs was to mean the general repeal of all customs duties (indirect taxation⁸), and the introduction of *The Ordinance* (direct taxation⁹).

This approach to changing public policy, in line with similar policy changes recently occurred implemented in the Mother Country, would mean that in the absence of customs

⁷ See Heagney (2009b) for complete details of successive Administrations revenue, 1840-52.

⁸ An indirect tax is one which is levied on goods and services; it becomes a burden on people only indirectly (Samuelson and Nordhaus, 1998, p. 441).

⁹ A direct tax is one which is imposed directly on an individual or firm (Samuelson and Nordhaus, 1998, p. 441).

duties “something else had to make up the [revenue] shortfall and somebody else had to pay” (Hansen, 1990, p. 547). In New Zealand, *The Ordinance* was the something else, and Hansen’s somebody would be those who owned property, primarily the merchant, the small capitalist and the landowning class, and those in receipt of an income. This application of British public policy, subject to the ideology of free trade, in the emerging colony meets the requirements of the transference framework’s three methods, observation, direct communication and assimilation.

This paper delves deeper into the intricacies of the third transference method, the assimilation of ideas and concepts into the public policies of a recipient country. This discussion hypothesises that *The Ordinance*, while a logical next step is the physical representation of assimilation occurring in Crown Colony New Zealand. The reality of *The Ordinance* becoming New Zealand public policy does indicate that the ideas and concepts in taxation were successfully transferred from one nation to another – the Mother country to New Zealand.

Besides meeting the theoretical requirements of transference, *The Ordinance*, represented a change in tax policy that was no small or incidental matter. *The Ordinance* represented some rather economically significant alterations to the colony’s emerging social contract. Therefore, it is worthwhile to begin by briefly considering that tax law, *The Ordinance*, in some detail.

3. 1. *The Ordinance*

At the 4th Session of the New Zealand Legislative Council, 1844, the foundational revenue gathering legislation for Crown Colony New Zealand (customs duties) was repealed and simultaneously replaced with the *Property Rate Ordinance, 1844*. This brought an end to nearly five years of relying on simple indirect tax to raise ordinary revenue¹⁰. Future revenue requirements would be met from the new direct system of taxation on wealth and income. The revolutionary ordinance – for New Zealand - comprised only four pages, and the pertinent sections of *The Ordinance* are discussed below in Table 1.

The title page of *The Ordinance* is shown below (Table 1). *The Ordinance* marks a change in fiscal stance that was, in large part, the result of a transfer of political economy ideas from the United Kingdom to the colony. The New Zealand tax initiatives that resulted were not exact copies of the original, and neither did they constitute complete tax systems. Daunton (quoted in Nehring and Schui, 2005, p. 5), suggests that the partial transfer of an Act is enough to authenticate transference; he makes these comments, in my view, on the basis that circumstances in the colonies were often quite different to the Mother Country and colonial policies often needed to be adapted to fit to local circumstances.

¹⁰ There are two points from the sentence that I wish to comment on. One, ordinary revenue is distinct from revenue that was raised from the sale of land; ordinary revenue is, quite simply revenue raised by way of either direct or indirect taxation. Second, indirect taxes had begun in 1839 as per the direction and control of the New South Wales Administration.

Table 1: Title Page of the Property Rate, 1844

No. 2.	8 VICTORIÆ.	Session. IV.
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Property Rate

No. II.
An Ordinance for imposing a Rate upon Property, and for repealing “*The Customs Ordinance*”,
Session I., No.3, and “*The Customs Amendment Ordinance*”, Session III., No.6.
[28th September, 1844.]

New Zealand Ordinances, 1841-53, p. 182.

In the context of early New Zealand *The Ordinance* is an unsophisticated version of a small part of the Mother Country’s larger tax system. Aspects of that tax system were individually selected by Governor Fitzroy, and then adapted to local conditions. For example, in accordance with the reality of early New Zealand, *The Ordinance* (a limited form of *the Act*) was, in its unsophisticated form, applicable to both males and females, but Maori who were opposed to taxation and had driven the initial changes to tax policy, were exempted.

The *Preamble* to the ordinance states that “commerce, agriculture and the general prosperity of New Zealand would be greatly promoted by removing all restrictions on the free intercourse of shipping” (*New Zealand Ordinances*, 1841-53, p. 182). This comment relates directly to the overriding ideology of free trade then prevalent in the colony and in the Empire. The *Preamble* closes by stating that “all provisions made for the regulation and protection of the revenue of customs.... be repealed, and in lieu of customs, a revenue shall be raised by rates upon property within the Colony” (*New Zealand Ordinances*, 1841-53, p. 182).

Three points can be made regarding Fitzroy’s approach to developing tax law. First, *The Ordinance* follows in the tradition of Peel (the Prime Minister of the United Kingdom), and this meets the requirements of the transference framework for observation and communication. Second, *The Ordinance* was not fiscally neutral and it did not reflect the fiscal reality of a continuing need to appropriate the revenue required for future growth and prosperity. Fitzroy however, was applying part of a known economic solution to the recognised problem of economic depression in Crown Colony New Zealand. Third, the *Preamble* of *The Ordinance* removes all ambiguity as to how future revenue was going to be raised, and the source of that future revenue.

Section 2 of *The Ordinance* provides more useful information. On the 1st day of Nov (1844).... “there shall be raised, levied and collected and paid.... in respect of all property and net year’s income.... a yearly rate, according to the scale in the Schedule hereunto annexed” (see Table 2, below) (*New Zealand Ordinances*, 1841-53, p. 185). It will, “comprise every description of property whether real or personal; the marketable value at date of return” (*New Zealand Ordinances*, 1841-53, p. 185).

Table 2: Rate Schedule
When the property or income or both taken together of any person shall not exceed

RATE		RATE	
£50	£0	£600	£6
100	1	700	7
200	2	800	8
300	3	900	9
400	4	1,000	10
500	5	Composition	£12

New Zealand Ordinances, 1841-53, p. 185.

Table 2, above records the Rate Schedule attached to *The Ordinance*. The income and property value thresholds are in the left hand column and the applicable tax rate in the right hand column. In addition the rate Schedule indicates the existence of a bottom threshold and an upper threshold i.e. the composition Rate. The rates and thresholds are further discussed below as the work considers the latter sections of *The Ordinance*.

Section 3 of *The Ordinance* details exactly what is liable to taxation and not surprisingly property is the first item discussed. Thereafter, the section defines what constitutes property for the purposes of *The Ordinance*. Further information is provided in Section 4 on what was taxable: “Net yearly profits of trade, business or profession, rent from real property, interest on money and any other description of income, whencesoever or from whatever source it is derived” (*New Zealand Ordinances, 1841-53, p. 185*). Without ambiguity, Section 2, and especially Section 4, indicate that while it was titled a property rate, *The Ordinance* was very clearly also an income tax.

The tax was structured in a manner familiar to the early settlers (see Heagney, 2009a for a description of *The Act*). These familiar aspects of *The Ordinance* indicate the degree to which aspects of *The Act* were assimilated into Crown Colony New Zealand’s tax policy. One familiar aspect of interest was that *The Ordinance* had an initial low threshold (see Table 2, above). The value of property and income, together, needed to be greater than £50¹¹ before any liability to pay the tax existed.

This initial threshold value is an important feature of the tax law; Fitzroy may have constructed the law with an eye to the ability-to-pay principle¹². However, *The Ordinance*

¹¹ The initial low threshold of £50 is important because the average wages of a working man in 1844 were between £30 and £40 (Simkin and Hardie, 1954). In respect of physical property, with most settlers’ recent immigrants, by assumption, they would have brought very few possessions with them and thus had little real property. Further, a raupo house (an inexpensive form of accommodation) cost only £4 and a more substantial weatherboard home would have cost £10 or £12 (Keene, 1972). On this basis, it is quite plausible that the estimated wages and property combined, of the “average working man”, in 1844/45, would equate to less than £50. If that was the case, then Fitzroy’s taxable population was (relative to the previous application of indirect taxation), significantly reduced and this fact would be reflected in lower revenue returns.

¹² “The ability to pay principle refers to the idea that people with greater ability to pay taxes should pay higher taxes.” See Baumol and Blinder (1979, p. 632). See also, Chapter 5 for a contextual understanding of the concept during the nineteenth century.

did, initially uphold an old and important philosophical position¹³ which predated both the ability-to-pay principle and that of the benefit principle¹⁴. That important philosophical position was that the less well off in society are spared the burden of oppressive taxation (Heagney, 2009a). This latter point is an indication of transference; the assimilation into policy of the underlying principles of British taxation from the Tudor period. For the scholar of past taxation, the thresholds attached to *The Ordinance* are not unlike those of Pitt's *Triple Assessment* (1797).

Returning to the discussion of *The Ordinance's* tax thresholds; as stated above, £50 was the lower threshold for taxation however there was also an upper threshold (also shown in Table 2, above), the sum of Composition. The system of composition is covered under Sections 5 and 6 of the legislation. On incomes greater than £1000 the taxpayer was entitled to make a composition payment whereupon, a flat fee of £12 was paid (the maximum sum payable). Few of Fitzroy's taxable population were believed to have a combined worth above that value and in any case all foreign assets and income were subject to taxation at home (Heagney, 2009a). The connection to the tax policies of the Mother Country, mentioned in this paragraph, clearly demonstrates an application of all three methods of transference; observation, direct communication and assimilation.

The bulk of *The Ordinance*, Sections 7 to 23, concerned the compliance, collection, and the administration of the tax law. Following Section 23 were appended the rate schedule (seen above as Table 2), and *The Ordinance's* tax return (the form). The form of return associated with *The Ordinance* is presented below as Table 3.

Table 3: Form of Return: Property Rate

Name _____

Place of abode _____ Date _____

I HEREBY SOLEMNLY DECLARE that the rate payable by me in respect of my property and income under the provisions of "*The Property Rate Ordinance,*" Session IV., No. 2, and according to the scale in the Schedule to the said ordinance annexed, does not exceed the sum of (*the sum in words at length*).

(*or as the case may be*)

I HEREBY GIVE NOTICE that I intend to make a composition in lieu of the rate payable by me in respect of my property and income during the ensuing twelve months.

New Zealand Ordinances, 1841-53, p. 185.

¹³ "The requirement that the burden of taxation should be just is, [a] very old [one], almost as old as the idea that just taxation is taxation according to the ability-to-pay and, it predates the benefit principle" (Musgrave, 1959, pp. 91-95).

¹⁴ "The benefits principle of taxation holds that people who derive the benefits from the service should pay the taxes which finance it." See Baumol and Blinder (1979, p. 633). See also, Chapter 5 for a contextual understanding of the concept during the nineteenth century.

The Ordinance was a tax that used a system of self-assessment to achieve compliance and this is observable in Table 3, above. Modern societies have tended to adopt this voluntary approach as an underlying pseudo philosophy of taxation. While it can correctly be attributed to the payment of indirect taxation voluntary cannot be considered relevant when discussing direct taxation. Nevertheless, returning to the structure of the tax returns declaration; the form contains two parts. The first part was the taxpayer's declaration of liability subject to their combined value of property and income. The second part is the opportunity provided for those in the upper reaches of the rate scale to pay their tax liability by composition. Regardless of which means of payment was chosen liability was required to be paid quarterly however, composition in lieu could also be paid in advance.

Returning now to the idea mentioned above of voluntary taxation, while *The Ordinance* was designated a voluntary system, there were tax collectors, and the tax had a 25% penalty rate on taxes not paid. That penalty compounded every month for arrears of either composition or rate. An inquisitorial statement was also required by the collector and the whole system utilised social pressure to reinforce compliance¹⁵. This approach to applied taxation makes the term voluntary (self assessment) as a concept, rather redundant; in practice the tax application was anything but voluntary.

The Ordinance also invalidated the compliance and administration principles which *The Act* had written into its constitution forty years previously. These are principles which today we take for granted however, British taxpayers in 1844 had only obtained these rights when income tax became a reality in the Mother Country. The taxpayer's right to privacy was one principle that Fitzroy dismissed when all persons who paid tax had their name, address, occupation and amount of tax paid published in the *Gazettes* of 1845. Irrespective of the publication of taxpayers' affairs, *The Ordinance's* flagrant neglect of taxpayer's rights, in my view, demonstrates the adaptation of tax policy in order to resolve the colony's potential compliance problems. Thus, the application of *The Ordinance* does meet the qualified transference requirements of Daunton (Nehring and Schui, 2005, p. 5).

Aside from *The Ordinance* contravening a minor clause of the social contract (perhaps on the grounds of legislative and administrative simplicity), *The Ordinance* was, in effect, an unsophisticated, and proportionally structured, global property and income tax law. *The Ordinance* was constructed subject to the 1844 reality that New Zealand was an emerging colony, and as an example of New Zealand's early tax laws, *The Ordinance* reflects the

¹⁵ The simple structure of the tax system and method of compliance meant that the tax contained many inefficient aspects. There was no provision to depreciate (review) your income; if you had £100 this year then that was deemed your probable income in the following year. This was an application of the old assessment method of calculating taxable income; it was a residue of the triple assessment of 1798 and the previous century's experience with taxation in England. This New Zealand property rate, began as did Pitt's nearly fifty years previously, as an improvement on the old system of property taxes. Fitzroy was following a well-worn policy development path, one which stretched from 1798 to 1844 and had seen the original imposition progress from property taxes and assessments, to the scheduler system and collection at source. This early addition to New Zealand tax law however, was not scheduler in approach, did not contain deduction at source and there was no relief for income or property, earned or otherwise. As an aside, the collectors' costs were to be deducted from the revenue prior to Fitzroy's Treasury receiving the funds. This was a standard approach to inland tax collection which had been written into tax legislation; again, this was a link to an earlier century and the practice of tax farming.

nation's level of economic sophistication at that time. Whatever flaws *The Ordinance* may have had, it was ably constructed and from a perspective of some specialist knowledge.

3. 2. The Performance of the Ordinance

As a single tax law, *The Ordinance* was never going to return all the necessary funds needed to meet the Administration's expenditure requirements, and, *The Ordinance* was never intended to. Furthermore, *The Ordinance* was a success and performed exactly as Fitzroy had expected, and this can be seen in the *British Parliamentary Papers*, and in the *New Zealand Gazettes* of the period. In addition, the performance record (the amount of revenue raised) by *The Ordinance* does show a level of knowledge by its designers that is not readily countenanced by modern scholars of the period.

The performance of *The Ordinance* was, determined by the initial tax rate and the setting of a top and a bottom threshold. Presumably, the threshold was set after discussions among the Executive members of Council and then perhaps informally discussed with the opposition members of the Legislative Council. Thereafter, exemption (bottom threshold) was set at £50, and the upper threshold at £1,000 and a flat rate of at 1% (a lower rate than the 2.9% which applied in the Mother Country) were written into *The Ordinance*. In the unsophisticated economy of early New Zealand, the process of deciding an appropriate rate, determining income bands and threshold settings might have constituted a problem for Fitzroy's officials. However, there is reason to believe that this was not the case, and the subsequent revenue returns clearly show a reasonable degree of fiscal awareness on the part of Governor Fitzroy and his Executive¹⁶.

The total revenue raised by all types of taxation up to the end of December 1844 was £45,697 (including some property rate returns). Ordinary revenue, principally customs, was £16,163; 35% of total revenue¹⁷ (Heagney, 2009a). When the Legislative Council repealed the customs ordinance for the entire colony, at the urgings of the Auckland business community, they passed in its stead *The Ordinance*, and comments: "it was thought that a working man had, up till then, paid, yearly, £4 in indirect taxes; under the new system he would only be paying £1" (*British Parliamentary Papers*, 4: 376).

All else remaining the same, and on the basis of the above quote, ordinary revenue should have fallen by 75% over the course of a calendar year. Accordingly, based on the indirect receipts of 1843, *The Ordinance* might only produce revenue of £3,434. From the official secondary source information, this figure of £3,434 was achieved. Table 4 is found below; the table replicates the published return for *The Ordinance*'s first three months.

¹⁶ These initial policy decisions (direct taxation, a low flat-rate income tax and a high initial threshold) appear to have been determined on the basis of further legislated tax initiatives and the construction of more 'complete' system of taxation for the Crown Colony.

¹⁷ The Total Revenue of Crown Colony New Zealand for the calendar year 1844 is broken down according to: Ordinary Revenue, 35%; Land Revenue, 3%; and Capital Revenue of 62%.

Table 4: Property Rate Return

Appendix (C) to Minutes of Saturday, 8 March 1845

Statement of the Amount of Property rates that have been received at the different Settlements, from 1st November 1844 to 31st January 1845, as far as ascertained.

	£	s	d
Auckland	410	6	3
Wellington and Petre	259	12	3
Russell	120	16	7
Nelson, from 1 st November to 30 th December	121	11	3
New Plymouth, from 1 st to 30 th of November	46	-	-
Total	£ 958	6	4

Note: The amounts for Nelson and New Plymouth are filled in. This information, however, is not derived from the accounts, but is estimated as a fourth of the yearly returns.

Property rate Office, Auckland
7th March 1845.

(signed) *P. D. Hogg*, Chief Collector.

(signed)

*Andrew Sinclair*¹⁸, Colonial Secretary.

(*British Parliamentary Papers*, 5: 205)

The figures (nominal values) shown above in Table 4, represent a quarter, and by summing, a total yearly figure of £3,832 is arrived at (a figure £402 greater than Legislative Council's provisional estimates). Thus, the first quarter's return supports the theory that the property rate was successful. Large numbers of Fitzroy's taxable population had obviously not avoided or evaded the tax, and this fact is contrary to the New Zealand economic history literature.

Nonetheless, in the new Zealand literature there are still statements that suggest that apparently, "Nelson settlers refused to pay tax" (Cowie, 1994, p. 26), and "the southern settlers refused to pay Fitzroy's income [and] property tax" (Cowie, 1994, p. 89). There is also a recent addition to this widely held opinion: "The first quarterly return yielded a pittance, £958 6s 4d, mainly because evasion, by failing to report income, was so easy and so enthusiastically adopted by the majority of settlers. People simply didn't send in a return", Goldsmith (2008, pp. 24-25).

¹⁸ See Molloy, B (2005). Andrew Sinclair (1794-1861) was a medical doctor by training. He was encountered by Fitzroy in Sydney on his way to New Zealand and hired by the Governor. He is also credited with recruiting and training the nucleus of an efficient Public service.

The work of this paper suggests that Fitzroy's taxable population do appear to have responded positively, and most, if not all, of those who were liable under the new tax law did pay their taxes. In fact, the *New Zealand Gazettes* of the period list their names, occupations and how much tax they each paid (*New Zealand Gazette*, 1844, p. 174-6, and 1845, p. 6-10). Furthermore the findings of this paper are opposed to the statements of Goldsmith (2008, pp. 22-26) with respect to whether or not the tax was successful and whether or not it was paid by anyone. The record clearly shows that the tax was paid. In addition, the discussion of this subsection does suggest that the early legislators/public officials had a better understanding of their economy than others may previously have credited them with. In addition, even after the tax was repealed arrears were still recoverable and the receipt of this belated revenue is recorded in the 1846 revenue and expenditure data (Heagney, 2009a).

3. 3. Raising a Sufficient Revenue

The property rate return seen above, entitled Table 4, represents the tax system in March 1845. With Fitzroy fully expecting the financial amounts that Table 4 contains, he had already proposed further tax measures to augment the revenue. In December 1844 Fitzroy proposed two new initiatives: (1), an increase in the rate of *The Ordinance* (the *Property Rate Amendment*); and (2), a new tax (the *Dealers' License*). By early 1845, action had been taken on both of these proposals and subsequently, in April, *The Ordinance* as well. *The Ordinance* and the proposed tax laws, in combination, are the means by which Fitzroy would attempt to raise a sufficient revenue.

Raising sufficient revenue however, involves more than just compliance and collection and therefore, the discussion moves on to the changes in taxation principles which underpin *The Ordinance*. First, Fitzroy disposed of a tax system which worked according to the inherited benefit principle, and in late 1844, Fitzroy enacted the beginnings of a tax system which had more in common with the ability-to-pay principle¹⁹. This change in principle had occurred in England the previous century, and the conceptual understanding of this change can be found in each nation's degree of economic sophistication. The level of fiscal ability is apparent when a ruling authority has the will, and the facility to effectively implement direct taxation. Prior to the end of the eighteenth-century Britain did not have that level of economic sophistication and the triple assessment of 1797 was the result: Likewise, *The Ordinance* can be considered Fitzroy's triple assessment (albeit, less complex).

Second, there was also a change in the balance of taxation from indirect to direct taxation. Third, there was a change to the tax base. Previously, by way of indirect consumption taxes, all were potential taxpayers and the tax base effectively targeted imported necessities and luxuries. From September 1844, subject to the criteria of the tax law however, only the settler population was liable to taxation (further, a percentage only of the settlers) as the tax base moved to impact wealth and income. Fourth, there was clearly a change in the means of taxation (property and income taxes instead of customs duties). Furthermore, compliance, collection and administration had altered dramatically: real voluntary taxation was gone. Thus, Fitzroy's tax law constituted a tax reform of some significance, and further, did constitute a fundamental tax reform (Heagney, 2009c).

¹⁹ "The requirement that the distribution of tax payments should be just is very old, almost as old as the idea that just taxation is taxation according to the ability to pay and it predates the benefit principle...To make ability to pay work requires an index of such i.e. how much can each person pay. In the seventeenth century the index was property. Fundamental to the ability to pay principle is that of horizontal equity (like treated alike) and vertical equity (unlike treated differently)" (Musgrave, 1959, p. 91-95).

Why did Fitzroy choose to implement a tax law which represented such an extreme change in policy? The answer is related to two very complicated things. First, *The Ordinance* reflected the transference of political and economic thinking from the Mother country. This is the reality of the transference process, and the resultant development of local tax laws is the subject of this paper. Second, economic depression, the consistently poor performance of previous Administrations, in combination with the colony's unhelpful settler population, had resulted in successive financial crises and potential conflict with Maori: the colony was failing. The idea contained in point two is not the focus of this paper however, Heagney (2009c) does continue the discussion of derived economic change.

Returning to the transference framework, it is now appropriate to extend our understanding of transference and the development of tax law during the study period. If *The Ordinance* was the logical next step in the process of tax policy development, subject to transference, then it would be legitimate to expect that the next two steps in the evolution of direct taxation during the study period would also follow. Those steps were *The Amendment* and *The Dealers' License*, and these are discussed below.

4. THE AMENDMENT AND THE DEALERS' LICENSE, 1845

Previously hypothesised in this paper; the evolution of direct taxation in New Zealand, *The Ordinance*, was not going to be a complete tax system. *The Ordinance*, as a single tax law, was only the first part of a larger restructuring of fiscal policy. There were two proposed tax laws which were intended to bolster the revenue, to augment the new tax policy and to assist in forming a more comprehensive tax system for the colony. Each of these proposed tax laws are logical steps in fiscal development, initiatives which flow from the transmission of ideas and concepts in taxation; a process which gathered momentum with the arrival in the colony of Schedule E in 1843 and the implementation of *The Ordinance*.

Those proposed tax laws which followed Schedule E and *The Ordinance* were: *The Property Rate Amendment*; and, the *Dealers' License*. The first requires little explanation; *The Amendment* was an increase in the rates which applied to the imposition of the property and income tax. The second of the "proposed" tax laws was a new addition to the tax system. Fitzroy's new tax, *The Dealers' License*, was intended to impact those previously granted relief when *The Ordinance* was enacted. With the successful implementation of both the rate rise and the new tax, Fitzroy hoped (in time) to raise a sufficient revenue. These ideas are expanded on below.

As mentioned above, Fitzroy's first initiative requires little explanation, however, his second initiative, *The Dealers' License*, is rather more interesting. This tax, he acknowledged, had been implemented previously in Norway as the dealers' rate (*New Zealand Spectator and Cook's Strait Guardian*, May 31, 1845)²⁰. Therefore, from the outset, there is evidence of further observation and communication occurring in the New Zealand context. Thus, there is clear evidence of the transmission of an idea that was derived from a northern European

²⁰ *The Amendment* and the *Dealers' License* while mentioned extensively in the local media were also promulgated in the *New Zealand Government Gazette*, June 3, 1845.

nation, interestingly, a nation other than the Mother Country. In addition, the final act of the transference of the Norwegian concept of taxation to New Zealand policy development also meets the requirements of the third method of transference, assimilation into local policy or fiscal development.

The Dealers' License is recognisable today as a sales tax²¹. The idea, of course, was not new and dealers' licenses were not confined to Norway. The simple version of a dealers' license is foundational indirect taxation and in Britain they had existed in such a form since the seventeenth century. From 1684 to 1789, Dowell (1885) records ten instances of their imposition. Taxes of this type were mainly used as a licensing fee for retailers and manufacturers, and in fact, one already existed in Crown Colony New Zealand, in a limited form, prior to Fitzroy's proposal. The tax was known as *The Auctioneer's Licensing Ordinance*; first implemented in 1842, (an addition to the established Fees, Fines, and Other Charges) and thereafter, the auctioneers' license was amended in June 1844 by Governor Fitzroy.

In Britain, policy makers with some knowledge of the economics of taxation (such as Peel), understood *The Dealers' License* to be a form of indirect taxation with the end consumer ultimately paying the tax. In reality, by the manner in which such taxes were applied in the nineteenth century they were perceived as burdensome direct taxation by retailers and manufacturers (Dowell, 1985)²² and were very unpopular. This line of reasoning suggests that *The Auctioneer's Licensing Amendment Ordinance, 1844* can be connected to the public's awareness and dislike of this form of taxation. Thereby, the public and political pressure which drove the auctioneer's amendment in 1844 can also be seen to meet the requirements of the three methods of the transference framework, observation, direct communication and assimilation.

4. 1. Property Rate Amendment

The nominal values of the first property rate return were fully expected by Governor Fitzroy. Fitzroy well knew that more revenue was going to be needed, and as indicated above, Fitzroy had a plan to achieve this. In December of 1844 Fitzroy proposed an amendment to *the Ordinance*; the beginning of the end for what was to be called "free trade with a vengeance" (*New Zealand Spectator and Cook's Strait Guardian*, March 8, 1845, p. 2).

From this point in the discussion the strong link to the ideology of free trade and to the ideas and concepts of taxation that Governor Fitzroy was promoting becomes clear. This paper demonstrates however, that the policy development process for Fitzroy's tax laws was influenced by other nation's experience with tax law development. Schedule E of *The Act* transferred much more to New Zealand than just a method of taxation, also included in that transfer were the periods dominant ideology of free trade and the then prevalent ideas and concepts associated with fiscal policy, namely tax policy.

²¹ Technically, this is not a correct explanation however; from the perspective of 2008 it does make sense. In reality the *Dealers' License* was a lump sum tax (from which is derived the direct tax connection) and an ad valorem tax on the value of goods sold (which is the connection to indirect taxation, namely, a sales tax).

²² This conceptual understanding of incidence was common even at the end of the nineteenth century (Musgrave, 1959, Note. 1, p. 227).

Returning to the planned *Amendment to The Ordinance*, an enactment, which was not due to become effective until November 1846. However, the proposed *Amendment*, from inception, began the journey towards *The Ordinance's* legislative repeal. To explain why, a simple comparative illustration showing the two ordinances different rate structures and threshold provisions is appended below, entitled Table 5.

When the two tax laws are compared, as they are in Table 5, it can be seen that *The Amendment* contained three key matters of interest for taxpayers. First, there was the rate increase from 1% to 2% on all property and income. Second, the bottom threshold was halved; down from £50 to £25²³. Third, the top threshold (Composition) was increased upwards from £1000 to £1500. In combination, these three initiatives would not only have increased the effective tax burden of all taxpayers, but would also have extended the effective tax base in both a regressive and a progressive manner²⁴. However unpleasant for taxpayers these intended changes to Fitzroy's key tax law may have appeared, they do represent the logical development of a tax system constructed according to the augmented benefit and ability-to-pay principles, as per *The Act*.

Reference above to *The Act* leads us to recall that income tax legislation in Britain had undergone extensive changes over the course of forty seven years, as indicated in Heagney, (2009a). Also shown in previous work was that Fitzroy was reasonably well acquainted with the 1842 passage of *The Act* and on that basis, the proposed rate changes to *The Ordinance* were an expected result of observation and communication: two of the three headings of the transference framework. Thereafter, the ideas and concepts of taxation were about to be assimilated into tax policy in the colony (the third heading of the transference framework).

In the Crown Colony New Zealand the potential effect of Fitzroy's policy changes were well understood. The editorial of the newspaper which printed the proposed new schedule of rates, noted the following comment by Sir Roger Cloverly. "Much may be said on both sides; but an appeal to the pocket comes home to everyone" (*New Zealand Spectator and the Cook's Strait Guardian*, March 22, 1845, p. 2). Sir Roger Cloverly was right, and the public response to Fitzroy's tax proposal was received in a less than positive way and the response was immediate. The taxpaying public sensed a need for urgency, and by assertion that debate was most definitely not about optimal taxation. Why? Because, besides *The Amendment to The Ordinance*, taxpayers were also aware that the tax base was about to be extended by way of a new addition to the tax system, a new tax that was designed to further empty their pockets.

²³ For information pertaining to the income levels for the years 1843 to 1846, the reader is directed to Simkin and Hardie (1954, p. 98).

²⁴ I have used the technical terms regressive and its counterpart progressive, in this instance, in a very flexible way. Extending the tax base to impinge on the less well off, those previously exempted, I term regressive. Further, increasing the upper limit to taxation (and the composition) I have loosely termed progressive.

Table 5: Property Rate Amendment: Schedule of Rates

<u>1844 Ordinance</u>		<u>Proposed 1845 Amendment</u>			
	RATE			RATE	
£50	£0	£25		£0	
£100	£1	£50		£1	
£200	£2	£100		£2	
£300	£3	£200		£4	
£400	£4	£300		£6	
£500	£5	£400		£8	
£600	£6	£500		£10	
£700	£7	£600		£12	
£800	£8	£700		£14	
£900	£9	£800		£16	
£1,000	£10	£900		£18	
		£1,000		£20	
		£1,100		£22	
		£1,200		£24	
		£1,300		£26	
		£1,400		£28	
		£1,500		£30	
		And	Upwards	At	2%
			Compositior		£20

Sources: the 1844 Ordinance: *New Zealand Ordinances*, (1871)
 Amendment rates: *New Zealand Spectator and Cook's Strait Guardian* (March 22, 1845)

The property rate *Amendment* was only part of the ongoing tax initiatives of Governor Fitzroy's. His intention was "to form such a direct taxation as should lead more to future than present revenue. He was perfectly aware that now the amount of revenue was small, but five years hence he trusted the result would be widely different" (*New Zealand Spectator and Cook's Strait Guardian*, April 5, 1845, p. 2). Fitzroy's next proposal would be even more unpopular than his first; a consumption tax that was applied in a direct manner.

4. 2. The Dealers' License

As previously mentioned, *The Dealers' License* was not a new idea; it had been in use in Britain for many years as a charge for licensing of retailers and manufacturers. In the context of this discussion, in New Zealand however, this proposed tax law demonstrates the further partial transference of another tax system across geographic boundaries (i.e. the transmission of ideas and concepts of taxation). Attached below is the information pertaining to *The Dealers' License*, the illustration is entitled Table 6.

Table 6: Dealers' License Rate Schedule

**When the amount for which goods shall have been sold during the last quarter,
shall not exceed**

	RATE		RATE
0 - £50	£1 10 _s	> £350	£12
> £50	£3	> £400	£13 10 _s
> £100	£4 10 _s	> £450	£15
> £150	£6	> £500	£16 10 _s
> £200	£7 10 _s	> £550	£18
> £250	£9	> £600	£20
> £300	£10 10 _s	And upwards	

By Command of
Andrew Sinclair
Colonial Secretary

Supplement to *The New Zealand Spectator and Cook's Strait Guardian*, Wellington, January 11,
Saturday Morning, 1845, Vol. 1, No. 14, p. 6.

Table 6, above, sets out the schedule attached to the proposed *Dealers' Licensing Ordinance*. Its initial impact was a £2 payment (a lump sum tax); thereafter it was determined by way of a variable-rate schedule. Full liability was dependent on the quantity of goods the merchant sold. In this manner, Governor Fitzroy was about to attempt to augment his revenue and shift incidence back onto those previously relieved from the burden of indirect taxation when he repealed Customs Duties, viz. the general merchant and the general consumer.

Returning to the New Zealand context, the general public, via the popular newspapers, were initially informed that the tax rate was to be set at 3% on all sales. At that level, 3% of every transaction, the tax was considered by the editor of a local newspaper to seriously impact upon the profit rate of the general merchant (also estimated, it is assumed, by the editor, to be about 7.5% of gross sales). The tax was therefore, expected to diminish their profits by nearly fifty percent (*The New Zealand Spectator and Cook's Strait Guardian*, March 8, 1845, p. 2). Clearly the mechanics of demand and supply were not well understood at the time. In the case of *The Dealers' License*, some of the merchants' tax burden would have been passed on to the consumer, depending on the elasticities of demand and supply.

Nonetheless, it is plausible that Fitzroy's licensing proposal would have raised prices and negatively impacted trade. The potential effect on demand, in an economically depressed and struggling economy, may also have simply compounded the social discontent then prevalent in both cultural groups (Maori and settler). However, some specific concerns were about to be expressed by some of those who would have to bear the incidence of *The Dealers' License*.

Discord over the impending implementation of *The Dealers' License* was reinforced by the fact that it was due to be paid quarterly. Furthermore, payment was to be made in advance; this made it even more unpopular. In Britain this type of taxation (for want of a better term, a combined lump sum and sales tax) had not been acceptable in the eighteenth century and was

still unpopular in the nineteenth century. A dealers' license would be no more acceptable in the context of nineteenth-century New Zealand. Those who would have to pay the tax in New Zealand would not see *The Dealers' License* as either optimal taxation, or fair. Rather, they would see *The Dealers' License* as simply, a bad idea.

In the public media there were many unfavourable comments on the proposed *Dealers' Licensing Ordinance*. "A more unjust, a more arbitrary, unequal and despotic measure has never before been concocted in any British Colony" (*New Zealand Spectator and Cook's Strait Guardian*, Wellington, March 8, Saturday Morning, 1845, p. 2). The reason for the editor's point of view was that the trading classes of the community were again about to come under the pressure of what was perceived to be, iniquitous and unjustifiable taxation. "A more iniquitous tax can hardly be imagined, it strikes at the root of all trade, it attempts to throw the whole weight of taxation on one portion and that an inconsiderable portion in point of numbers of the community" (*New Zealand Spectator and Cook's Strait Guardian*, March 8, 1845, p. 2).

5. THE REPEAL OF THE ORDINANCE, 1845

Fitzroy's inherited initiatives in tax law have all the hallmarks of a tax policy that, in 1844 Britain, and even in contemporary terminology, can be described as a comprehensive tax reform package. For Fitzroy and his Administration, all that the implementation of the full package required was the stamp of the Legislative Council – a forum controlled by Fitzroy. This was to be the meeting ground for discussion and dissent, otherwise known as policy debate. Aside from Fitzroy's Legislative Council much debate would also be undertaken in the popular mass-media (as seen above). The mass-media would be the forum for public discussion and dissent. Irrespective of any ideology, free trade or otherwise, or even the need in the colony for pragmatic applied economic policy, the colony's taxpayers clearly did not want a comprehensive tax reform package, (fair, optimal, or otherwise) and as noted previously their response to its possible implementation was immediate.

The anti-tax response to the two proposed changes to tax policy arose because Fitzroy's intention was, to implement a comprehensive tax system that would impact upon all sectors of his colonial economy. Thus, in the very short term, the weight of taxation would have increased in two ways: first, there was Fitzroy's *Amendment*; this tax was intended to increase the burden associated with *The Ordinance* and to widen the tax base. Besides the rate increase, those in receipt of an especially low income would have been exposed by the new bottom threshold of the rate system; and those at the top by the new top threshold and the composition rate. Second, there was Fitzroy's *Dealers' License* to contend with. The new tax would have dramatically extended the tax base a second time and effectively recaptured those previously exempted by the repeal of indirect taxation (customs duties) including some Maori.

The public opposition to the new tax measure was reported in a popular newspaper of the period, *New Zealand Spectator and Cook's Strait Guardian*. Therein, was an asserted that the new tax impositions would have been "downright robbery"; even Auckland's *Southern*

Cross, formerly a supporter of direct taxation was “aghast at his [Fitzroy’s] actions” (*New Zealand Spectator and Cook’s Strait Guardian*, May 3, 1845, p. 2). The opposition in the Legislative Council was also reported to be strongly against further changes to taxation, and given their strenuous deliberation over appropriations in preference to the Revenue Bill of 1845 (*British Parliamentary Papers*, 5: 191-193), new or increased taxation was not a preferred option. Consequently, Fitzroy’s entire package of fiscal reform was undermined. In short, Fitzroy was left with little choice but to repeal *The Ordinance*, and to re-instate the customs duty. “Six months’ trial have shown that a revenue nearly sufficient for the most economical expenditure on the public account could not, under the peculiar circumstances of the colony, be raised by direct taxation” (*New Zealand Spectator and Cook’s Strait Guardian*, March 8, 1845, p. 3).

On account of the Executive’s inability, or unwillingness to pass *The Property Rate Amendment Ordinance* and *The Dealer’s Licensing Ordinance*, in the short-term²⁵, the original mainstay of fiscal reform (*The Ordinance*) was limited in its ability to assist in raising sufficient revenue. Thus, *The Ordinance* was deemed to have failed and therefore, after only seven months trial it was repealed. Tabled at the 5th Session of the Legislative Council, on 8 April 1845 was *The Customs Ordinance*. In effect, the repeal and re-enactment of customs was the end of stage one, and the beginning of stage two in the development of direct taxation in New Zealand.

Section 1 of the proposed customs ordinance repealed *The Ordinance* and re-instated the Customs Duties. Section 2 made the arrears of the property rate recoverable; and Section 3 provided for the commencement of *The Customs Ordinance 1845* at Fitzroy’s increased rates of June 20, 1844. Unable to fully implement all of the planned tax policy changes, a sufficiency of revenue was never going to be achievable and the colony returned to exactly where it was before Fitzroy arrived in the colony. In accordance with Daunton in Nehring and Schui, (2007), the reversal of a policy implementation is not unusual. They do not undermine the fact that transference did occur and in all of the three headings of the papers subordinate framework.

The transmission of: “economic thought which is largely, but not exclusively, economic theorising and analysis” (Nehring and Schui, 2007, pp. 2-3). The second dimension is: “ethical judgements [which are made by participants] about the legitimacy of taxation” (Nehring and Schui, 2007, pp. 2-3). The third dimension is: “Administrative knowledge, experience and ability” as applied in the policy process (Nehring and Schui, 2007, pp. 2-3).

²⁵ In respect of an unwillingness of Fitzroy’s executive to assist in the passage of the ordinances in question, it is quite plausible to suggest that there was widespread knowledge in the colony of the New Zealand Company’s recent political success at home – to the detriment of Fitzroy and the Peel Government. In short Fitzroy’s security of tenure was in doubt and once again it is quite plausible to suggest that this was well known in the colony.

6. CONCLUSION

This paper has concentrated on the hypothesised fourth, fifth and sixth foundational steps in the development of direct taxation in New Zealand between 1840 and 1852. Those steps were: *The Ordinance*; the proposed *Amendment to The Ordinance*; and *The Dealers' License*. All three legislative changes occurred between September 1844 and April 1845, and followed closely the arrival in the colony in 1843 of Schedule E, of *The Act* from Britain. Pursuant to the transference framework, the subjects of the paper are seen as the expected developments which would logically follow the arrival of Schedule E. *The Ordinance* and the two contingent proposals clearly represent the assimilation of ideas and concepts in taxation into the policies of another, recipient, nation.

The Administration's English inheritance (see Heagney, 2009a) provided the guidelines for fiscal policy. From the inception of *The Act* in Britain, the Mother country had begun to scale down its reliance on indirect taxation, and to redirect their focus toward direct taxation (see Heagney, 2009a). The physical presence of Schedule E, the partial transfer of tax law from one country to another was: (1), the advance guard of political economy, and the then prevalent idea for fiscal policy; and (2), the precursor of colonial fiscal policy. This is evident in *The Ordinance* and in the next two developmental steps in the evolution of direct taxation in New Zealand, *The Amendment* and the *Dealers' License*. The two proposed tax laws should have been expected and were the necessary additions required, in time, to raise a sufficient revenue. The Administration's chosen method was similar to that of the Mother Country, viz. the variation of a more comprehensive tax system based on the direct taxation of property and income. This was seen in the enactment of *The Ordinance*.

The Ordinance (an unsophisticated derivation from *The Act*), was clearly an adaptation of British tax policy to the needs of the colony. Further, unsophisticated or not, *The Ordinance* performed remarkably well in a short space of time and the amount of revenue it raised was as to be expected. In short, as a proportionally structured global property and income tax law, with compliance and collection issues, *The Ordinance* worked well. The material discussed in this paper however, indicates that *The Ordinance* was never designed to be the tax system, and on its own, was never expected to raise sufficient revenue.

The Administration's proposal to amend *The Ordinance's* i.e. to raise the effective rate and to introduce a new tax (*The Dealers' License*). These were seen as the way to meet expenditure needs and establish a sufficient revenue for the colony. Governor Fitzroy's additions and changes to tax law in the midst of fiscal crisis fully reflect the Mother Country's approach to fiscal policy in time of economic crises. This is transference in action, and it highlights the development process which both initiates and follows as part of the process of transmission and assimilation, as per the paper's transference framework.

When considering that the transfer to the colony of Schedule E of *The Act* also implied the transfer of the accumulated knowledge, up to that time, of British political economy, then by assumption this laid the foundation for New Zealand fiscal policy and the public attitudes in regard to matters of taxation. For this paper, a study in transference, there were three hypotheses. For each of those hypotheses (and they are repeated below) the work of has

reinforced the importance of transference in the development and implementation tax policies between nations and within a developing colony.

Thus, the work has found the three following hypotheses to be valid. First, on the basis of observation and direct communication, *The Ordinance* represents a full assimilation of the ideas and concepts of taxation from another country into New Zealand. *The Ordinance* is a legitimate representation of the transference process. Second, the attempted alteration to the property rate via the Amendment was on the basis of Economic thought, ethical judgment and administrative ability i.e. as per the framework of observation, direct communication and assimilation. *The Ordinance* is the manifestation of tax law development, and is logical and a further demonstration of the transference process. Third, the attempted assimilation into public policy of *The Dealers' License* on the same basis as *The Ordinance* and *The Amendment* is also logical and a further demonstration of the transference process.

In closing, the work has reacquainted scholars of fiscal history with past (and largely forgotten) New Zealand tax law, and by way of the applied method, transference, explained their connection to the story of New Zealand tax law. From the pool of accumulated knowledge that was the source of early New Zealand's ideas, concepts, and applications in taxation (New Zealand's English inheritance), came also the ideas and concepts of political and economic thought. This transmission of ideas and concepts of political economy is manifest in Schedule E, and Governor Fitzroy's subsequent development of *The Ordinance* and its contingent parts *The Amendment* and, *The Dealer's license*.

It is worthwhile to repeat therefore, that the paper has clearly demonstrated that transference did occur and that there was an *assimilation* of extant British tax policy in early New Zealand tax law development. Furthermore, also seen is that the rejection of another nation's ideas and concepts in taxation; for example, the repeal of *The Ordinance* and the passing of *The Customs Ordinance*, 1845, can result in a tax policy reversal, which is also quite possible according to the transference framework (Daunton, in Nehring and Schui, 2007). This negative (anti-tax) response is hypothesised as being associated with the transmission of politically – in New Zealand – unacceptable ideas and concepts of fiscal policy and political economy from the mother country. For example, in the economic climate of 1845, Fitzroy's Administration had found the politics of taxation an insurmountable problem. In the end, the collective action of localised interests determined the path of New Zealand tax policy development for the next forty-five years. This matter, the New Zealand politics of tax 1843-45, is a focus of further research.

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