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**AUSTRALASIAN TAXATION SCHEDULE E:
A Precursor of New Zealand's Institutional
Framework?**

Te Kunenga ki Pūrehuroa

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Australasian Taxation

Schedule E

A Precursor of New Zealand's Institutional Framework?

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ABSTRACT

This paper examines Schedule E of the British *Income tax Act, 1842* and, its relevance to early New Zealand. To enhance the hypothesis that Schedule E assisting in the creating the foundations for New Zealand's development of tax law the paper adopts a relatively new analytical method from New Institutional Economics: the transference framework of Becker (2005, in Nehring and Schui, 2005, p. 5) and Nehring and Schui, (2007, p. 2). The paper finds that Schedule E was transferred to New Zealand via Crown fiscal policy and also considers that its arrival and application represents a building block in the ideational process that was the establishment of fiscal and public philosophy – developing a policy structure to accompany emergent institutional frameworks in Australasia.

JEL: N, Economic History

Key Words: Institutional change; innovation; Tax history; Tax law; Schedule E; British Income Tax Act, 1842; New Zealand; Australasia.

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1. INTRODUCTION

From April 5, 1842 Schedule E of Britain's *Income Tax Act, 1842* (hereafter, *The Act*), was, in my view, applicable throughout the colonies of the British Empire. In New Zealand, this early, and until now, quiet step in the development of tax law has been little commented upon in the literature and therefore, there is little known about it. This paper will make a pioneering contribution to the New Zealand tax history literature by attempting to answer the following two questions (1), What was Schedule E; and, (2), why is Schedule E's arrival in New Zealand important?

Harris (2002), who studied the evolution of income tax legislation in Australasia from 1866 to 1922, determined that *The Act* was foundational legislation concerning the taxing of incomes in modern economies (Harris, 2002, p. 37). Strangely, Harris's Australasian history begins in 1866 in Tasmania, and therefore, he omits information pertaining to the early development of Australasian tax law; for example, the transfer and application of Schedule E to the Australasian colonies². Furthermore, an acknowledged authority, Martin Daunton (quoted in Nehring and Schui 2007), begins his more recent analysis of colonial taxation in 1848, five years later than the implementation of Schedule E of *The Act* in the colonies.

On the surface, there appears to be sufficient reason for ignoring the arrival of Schedule E in the colonies. For New Zealand, four such reasons can be identified. (1), the arrival of Schedule E of *The Act* in the Crown Colony of New Zealand appears to be a very minor affair and a peripheral event in the development British tax law, and it is easy to dismiss it as not having any influence in New Zealand. (2), Schedule E was only a small part of a much larger British taxation system, and one which was not wholly applied in New Zealand. (3), Schedule E was not part of an indigenous New Zealand tax law; and, (4), Schedule E was extremely limited in its New Zealand application.

However, Daunton (quoted in Nehring and Schui, 2005, p. 5), comments that even "a partial transfer of a section of an Act is enough to suggest that key concepts and initiatives [*The Act* contains] had also been imported". *The Act* itself is considered fundamental to how economies tax today; *The Act* contained, at the very least, "the framework of the income tax that was to continue for the remainder of the century and beyond" (Soos, 1997, p. 2). By extension, therefore, Schedule E of *The Act*, by its mere presence and its application; however limited, also transferred the ideas and concepts associated with *The Act*'s income tax framework to the British Colonies. Herein, the argument is therefore, that Schedule E acted not only as a proxy for the transference of British economic thinking and public policy, but the physical presence of Schedule E, via transference, is also be seen as a plausible catalyst for economic change in the context of Crown Colony New Zealand³.

As little is known of Schedule E, the discussion begins by introducing the British *Act* to which it applies and then addresses the issue of Schedule E. Aside from the historical

² To my knowledge, this event was promulgated in the Government Gazettes of New Zealand and that of New South Wales. This information is obtained from a reading of the following sources: 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).

³ See Heagney (2009b) for an overview of tax law and economic change during the period.

narrative, the analytical subordinate method of the paper is the transference framework of Becker (2005, in Nehring and Schui, 2005, p.5) and Nehring and Schui, (2007, p. 2). The hypothesis of the paper is the following: the transfer to the colony of Schedule E of *The Act* also transferred the accumulated knowledge, up to that time, of British political economy and this – in the short to medium term - assisted in creating fiscal policy and determining public attitudes in regard to matters of taxation. Further – in the long-term – Schedule E cannot be dismissed as having played a part in establishing the foundations for New Zealand's emerging institutional framework.

The structure for the rest of the chapter is laid out as follows. Section 2 discusses the analytical framework. In Section 3 *The Act* is discussed. Section 4 focuses on Schedule E. Thereafter, in Section 4 is found the conclusion.

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 ideological framework to another nation can provide a readymade structure for policy development. In terms of 1844 New Zealand, the new framework was Britain's acceptance of free trade, and the application of policies which promoted the new ideology. Thereafter, policy reform, according to free trade, 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 contract⁴ 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 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, the policy applications associated with the new ideology become assimilated into local tax law. To understand this process, it is helpful delve further into the framework of understanding provided by Nehring and Schui (2005 and 2007).

⁴ 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).

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 been 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).

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 not detailed separately. At the same time, analysis section (Section 4) will clearly indicate when observation, communication and assimilation occur.

There is however, a final aspect of the framework of Nehring and Schui (2007); 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 of Tax law begins below with an overview of the development of the British *Income Tax Act, 1842*, the tax law to which Schedule E is attached.

3. BACKGROUND

The Act forms the basis of current direct taxation in Britain and also in many former colonies of the Empire. New Zealand is an example of one of those former colonies. This section of the paper details the evolution of the *The Act*. As such, the section does not adopt the transference framework; using instead, the chronological narrative and a review approach. Within the narrative however, there is much discussion of the ideas, concepts and applications in taxation that *The Act* contained. By assumption, those ideas, concepts and methods were, in 1843, transferred to New Zealand via the application of Schedule E of *The Act*. However, the purpose of Section 3 is to provide the background information needed to answer the papers first question; what was Schedule E?

3.1. *The Evolution of The Act*⁵

The Act had a long history of development, having emerged as a result of incremental changes which occurred over many centuries (Heagney, 2009a, 2010b, 2010c) In fact, in the seventeenth century there were repeated experiments with direct taxes, and while the will was there, the ability to gather revenue from such as income was decidedly lacking. Thus, the best that can be said is; the period 1601-1797 was a development period for the modern foundations of this important Act; first legislated as tax law in 1798⁶. However, while the modern foundations of income taxation maybe 1798; there were in fact two initial steps which derived the version that current taxpayers are familiar with.

Step one: In 1798, there was an unsuccessful trebling of the existing assessed taxes (Kozub, 2003), which Steinmo suggests only impacted on a small number of the wealthy (Steinmo, 1993, p. 54). *The Triple Assessment* failed for many reasons; complexity of structure, multiplicity of rate applications (that is why it was called the triple assessment), and graduation (progressive taxation). These three reasons could well be top of anyone's list however, that is not the commonly held view. The literature suggests that there were real difficulties in the assessment of income and in ascertaining everyone's property, and these difficulties provided ample opportunity for avoidance and evasion. For taxpayers, it didn't differentiate between wealth, otherwise known as capital, and income sources. Furthermore, another major reason for public opposition was its alleged, inquisitorial approach (Douglas, 1999, p. 40)⁷. Ultimately, the tax was unproductive (meaning the revenue return was lower than expected/needed) and therefore it was repealed. Introduced in its place was the *Income Tax Act, 1798* which became law in 1799. This is the second step in the direct taxation of British incomes.

⁵ A discussion of the development of the British *Income Tax Act, 1842*, can be found in (Heagney, 2010e); much of Section 3, above, is a repeat of the English Heritage series: Part IV. However, for the purposes of this paper background was required and therefore I repeat the information herein.

⁶ The comments herein do not align themselves with the construction of a single-event theory of tax development; nonetheless, the passing of the 1798 Act was still a defining moment in the history of direct taxation and for income tax.

⁷ These complaints gave rise to the constitutional rights that are now part of the modern compliance and collection procedures. Thus, taxpayers have an avenue of appeal, a right of redress and some degree of privacy.

The second step (the *Income Tax Act, 1798*), introduced a new system of direct taxation, one that was adopted from the French. In 1710, Louis XIV (1643-1715), the King of France, imposed a tax on all incomes under four schedules (Sabine, 1980, p. 114). England's revised income tax of 1798/99 was a quasi flat tax of 10%, with exemptions and marginal graduation), would find its success in adopting this scheduler approach and in its use of other new initiatives in taxation. The 1799 Act, as a revised method of direct taxation "took the easy step from being a tax based on the presumption of one's income, to a general tax upon all [forms of] income" (Hartwell, 1981, p. 146, in Daunton, 2001, p. 184). The next development in the evolution of *The Act*, step three, would have to wait until the nineteenth century.

3.2. The Act of 1803

1799 Act was still unpopular after 1800 and thus the 1799 Act was repealed in 1802. The consequent fall in revenue led to predictable increases in other taxes, namely the Excise and Stamps. When war with France re-ignited again in 1803, the requirements for increased revenue meant that the income tax returned as well. However, there were two important changes in the new Act and they consisted of (1), a rate reduction, from ten per cent to five per cent; and (2), a revised schedule⁸ is presented below as Table 1.

Table 1
Income Tax Schedules: 1803 Act (Codified in the Act of 1842)

Schedule A: rents of real estate and houses.

Schedule B: profits from the occupation of land i.e. farming.

Schedule C: profits from government stock and bonds.

Schedule D: profits from trade, commerce and the professions.

Schedule E: salaries and pensions from office.

Hope-Jones, 1939, pp. 20-21 (in Daunton, 2001, Table 7.1. p. 185)

The new schedule, seen above in Table 1, begins the story of Schedule E. The focus of this paper is emboldened; the last of five schedules is Schedule E. The schedule did apply taxation to the salaries and pensions from office; in other words, Schedule E, in a limited application only impacted past and present government employees, and from the future perspective of colonists, was only applicable to government employees who received their salaries/wages from the Mother country. This is the means by which the *The Act* made its presence felt in the Australasian colonies in 1843. Nevertheless, the 1803 Act contained several other important innovations for the development of tax law and these are commented on below.

⁸ The income tax was based on the French imposition of a tax of one tenth on all property and income. The tax laws differentiated these sources by way of the five 5 schedules seen above. In modern terms, this is deemed the attachment of tax handles.

Prior to *the Act* of 1803, income tax was applied on a global basis and *The Act* did not differentiate between wealth (capital) or income sources, and was subject to widespread avoidance (Douglas, 1999). This had led to public opposition and low revenue returns. From the 1803 Act onwards, the new Scheduler system, shown above in Table 1, differentiated between income sources and types of income. *The Act* was a system of taxes on separate revenue flows and it modified the old system of property taxes. These provisions, with the addition of deduction at source, another fiscal innovation which underpins the effective functioning of income taxation today, made the targeting and capture of the revenue flows associated with wages and salaries, feasible. These structural changes to the tax law underpinned the British income tax for the next thirteen years and made the tax a successful revenue raiser.

Nonetheless, in 1815, “political opponents to the income tax had the justification needed to demand its repeal”: the war with France had ended (Steinmo, 1993, p. 54). “Opposition to the tax argued that the emergency had passed and [therefore] an income tax was no longer justified” (Douglas, 1999, p. 44). Thus, in 1816, it was repealed “on the grounds of injustice, fraud and the ability of those, with any liability, to seek recourse by way of submitting false returns” (Coffield, 1970, p. 104); this repeal is the fourth step. The income tax would not be seen again in Britain for twenty six years and not end until 1842 (the key turning point for the direct taxation of incomes) would *The Act* make a return. The reinstated income tax of 1842 comprised the fifth step in the evolution of British income tax.

3.3. 1842, Crisis and The Act

The tax changes of 1842 would include a restructuring of the indirect tax system and base-broadening measures aimed at maintaining the British Government’s revenue. The quote below is taken from the Budget Speech of the incoming Government of 1842, and provides a brief history of the income tax from 1798 until that date.

In 1798, when the prospects of this country were gloomy, the Minister had the courage to propose, and the people had the fortitude to adopt, an income tax of 10 per cent. The income tax continued till the close of war in 1802; and in 1803, after the rupture of the peace of Amiens, a duty of 5 per cent was placed upon property. It was raised in 1805 to 6^{1/4} per cent and in 1806 again to 10 per cent; and so it continued to the end of the war⁹. I propose that the duty to be laid on property shall not exceed 3 per cent.... Under the former duty, all incomes below £60 were exempt from taxation, and on incomes between £60 and £150, the tax was on a reduced rate. I shall propose that from the income tax I recommend all incomes under £150 shall be exempt.

(Sir Robert Peel, Prime Minister’s Speech in the House, 1842, in Phillips. 1959, p. 313-322)

Internal crises were the circumstances under which the income tax began in 1798 and under which it was re-introduced. External crisis led to the internal crisis of 1803 and there were successive budget deficits in the eighteen thirties (Horstman, 2003). There was also a prolonged economic depression which was well entrenched by 1840. In 1841 Great Britain held an election, and the vote was cast in relation to the state of the economy in general, and

⁹ The British Income Tax Act of 1803 was repealed in 1816, and then reintroduced in 1842.

fiscal policy and taxation in particular. The result of the 1841 poll was the election of a new Government and a new Chancellor of the Exchequer. It was the Chancellor/Prime Minister who considered that “the laissez-faire theories of Adam Smith and the politically popular views on taxation had produced a policy of fiscal expediency leading to national bankruptcy” (Sabine, 1980. p. 121).

3.4. The Political Economy of The Act

Whatever the belief was about laissez-faire or social needs, as a result of industrialisation Britain required an expanded Government. That government would, we have been told, need to be more responsive to the needs of the general public (Steinmo, 1993). Irrespective of the ideological or political pressures of the day, the new government of 1842 believed that it had a mandate for change. To rectify the economic depression, the new government proposed an income tax, coupled with the restructuring of customs duties. The common assertion is that the income tax was “to fight the evil deficit and act as a buffer until free trade reigned growth” Steinmo (1993, p. 54).

The fresh approach of Peel’s new government would supposedly stimulate demand in the depressed economy and provide, for many, the needed financial relief (lower prices and perhaps even jobs). The reduction in indirect duties was to be the trade-off for the income tax however, lesser reductions than the free traders asked for in general indirect duties were implemented because there was general acceptance of there being a financial emergency. The closing statement of the Budget Speech which preceded the vote in the House is found below:

If you do not take this course which is now opened before you, if you do permit this evil to continue, you must expect the severe but just judgment of a reflective and retrospective condemnation – your conduct will be contrasted with that of your fathers when under difficulties infinitely less pressing than the present, and you will be told of the mutiny at Nore, and of the rebellion in Ireland, and of foreign disasters, under all of which with a buoyant vigour your fathers willingly and cheerfully submitted to a property tax of 10 per cent to relieve the country from its embarrassments. But no, I believe that you will not shrink from the contrast; that you will not act in a manner unworthy of your sires. My firm belief is that you will feel the absolute necessity of preserving inviolate the public faith, that you will not throw away the means of preserving the public credit, and that you will in the most legitimate manner reduce the public burdens. My hope and firm belief is, that when I devolve that responsibility upon you, you will prove yourselves worthy of your mission with which you are entrusted – of your mission and functions as representatives of a mighty and intelligent people – and that you will not tarnish that character, which is your duty to cherish as your most glorious inheritance, that you will not impair your character for fortitude and good faith, which, in proportion as the empire of opinion supersedes and predominates over the empire of physical force, constitutes for every people, but above all for the people of England – I speak of reputation and character – the main instrument with which your people can repel hostile aggression and maintain extended empires.

(Sir Robert Peel, Prime Minister; Speech in the House, 1842. In Phillips, 1959, p. 321)

While the emphasis of Peel's speech may have been on maintaining the creditworthiness of the government, there was another key element to consider: How to maintain a system of economic organisation in the face of serious social and financial crises. The answer, in large part, was the income tax. "It was thought a most affordable purchase of future security" for the reason that it would "integrate social classes, defuse potential social unrest and ultimately stimulate economic growth" (Jennings, 1885, p. 359, in Daunton, 2001, p. 81). The result of the tax change was expected to be prosperity and political stability in the longer term.

3.5. The Act After 1842

"The immediate results of the new tax obligation [were] from a revenue perspective dismal; with the yield being less than expected" (Sabine, 1980, p. 123). Yet, the government persisted with the tax and by 1844 the revenue had increased significantly. In 1845 it was renewed as, supposedly, it had helped turn fiscal deficits into surpluses. In part, and perhaps even because of surpluses rather than deficits, from 1849 onwards, the application of the ideology of the free trade movement was in the ascendency (the movement was certainly helped by the reduction in indirect taxes, the repeal of the Corn laws, and the instigation of direct taxation to bolster the revenue). Taken together, these results meant there was not going to be a repeal of property and income tax legislation in the future as successive British governments continued to reduce indirect taxation and even some of the assessed taxes. Future expenditure needs would be met from a much larger tax base, and an enlarged government with an increased tax gathering ability, all made possible by the *Income Tax Act* of 1842.

4. SCHEDULE E OF THE ACT

Schedule E of *The Act*, is the only one of the five schedules, seen above in Table 1, which has a direct application to the British Colonies. This section will, in conjunction with the framework of transference, present the material which discusses how Schedule E came to be in New Zealand. The purpose of the section is to answer a single question; why is Schedule E important to the story of tax policy development in New Zealand? The answer is; the presence of Schedule E in Crown Colony New Zealand represents the transmission of ideas, concepts and applications in taxation across geographic boundaries according to the transference framework.

4.1. The 1843 Transmission of Tax Policy to New Zealand

From 1843 onwards, Schedule E was applicable to New Zealand recipients of income that was derived from English public funds. While it was announced that the tax would commence from September 27, 1843, Schedule E was retroactively applied from April 5, 1842. In the colonies subject to *The Act*, and this paper has thus far only identified New South Wales and New Zealand, Schedule E was implemented according to the despatch sent to the Colonial Administration of Crown Colony New Zealand. That despatch was from the Colonial Office, no doubt, on the instructions of the British Treasury. This is a direct communication of ideas and concepts, of taxation, and as such, does fit the requirements of the structural framework set out earlier in Section 2 and clearly demonstrates transference occurring.

Table 2, as shown on the following two pages, describes the physical transference of part of a tax system to New Zealand i.e. Schedule E. This partial transfer is in accordance with the thoughts of Daunton (quoted in Nehring and Schui, 2005, p. 5). This transference of Schedule E is also a direct link from the British *Income Tax Act 1842*, to Crown Colony New Zealand Schedule E is also the connection to ideas and concepts of British taxation and fiscal ideology. Therefore, as per the transference framework's first heading of observation, the public document that is Table 2, is strong evidence of a direct encounter with another nation's tax policy and systems of political economy having occurred. The same document also facilitated an exchange of fiscal experience from Britain to New Zealand and thus, also meets the requirements of the transference framework's second method; communication.

The link to the transference framework's third method, assimilation, is the material found in the second page of Table 2. Page two of the promulgation of Schedule E contains structural concepts which relate to application of direct taxation. Easily ascertainable from the table are: the form of a tax return; the concepts of tax exemptions; the payment thresholds; and the concept of deductions at source is highlighted. These applications are discussed further below the Table.

Table 2
Official Promulgation of Schedule E in New Zealand

PROPERTY AND INCOME TAX

*Colonial Secretary's office
Auckland, 25th September, 1843*

His Excellency the Officer Administering the Government is pleased to direct your attention to the following Circular Despatch dated 19th December, 1842, from the Right Honourable the Secretary of State for the Colonies, on the subject of the liability of persons residing in the Colonies to pay the Property Tax, in retrospect of that portion of their income which may be derived from English Funds.

By His Excellency's Command,
(For the Colonial Secretary)
WILLIAM CONNELL

(circular.)

*Downing Street
19th December, 1842.*

Sir –

I have the honour to acquaint you that the Lords Commissioner of the Treasury have drawn my attention to the liability of persons residing in the Colonies to pay the Property Tax in respect of that portion of their Income which may be derived from the funds of the Country, and at their Lordships' request, I have to convey to you the following Instructions on the subject for your own guidance: ---

All Salaries and personal Allowances and all Pensions and Superannuations, Retired or Compassionate Allowances from Funds derived from the Revenues of Great Britain, whether provided by special Parliamentary Grant or otherwise, are liable to this tax from the 5th of April last, at the rate of 2d in the pound, except in cases in which the party can shew that his whole annual income does not amount to £150. It will, therefore, be your duty on all occasions to make the proper deductions accordingly (retrospectively from the 5th of April last, when the deductions may and have already been made) from the amount of the Bills which you may have occasion in future to draw on the Treasury, whether on your own account, or for the Salaries or Allowances of other parties; and I have to request you to convey an intimation to the same effect to any Officers

or Functionaries within your Government, who may be authorised to draw Bills on the Treasury for any such Payments.

In cases where exemptions may be claimed from the tax, an affidavit must be taken by the party and transmitted with the Bill, to the effect that his income, including that on account of which the Bill is drawn, is less than £150 per annum, and such affidavit must have reference to the whole income of the party from whatever source derived, for, although Emoluments derived from Colonial Revenues are not Taxable, unless the recipients reside in Great Britain, they must be taken into account in considering a claim to exemption from the Tax on Income derived from this Country.

When Bills are drawn on account of Expenses or Disbursements to other parties, a statement of the proportion of the amount applicable to Salaries and Allowances must accompany them, and the proper deductions be made therefrom, unless the parties should claim exemption, when their affidavits ought to accompany the Bills.

You will strictly understand, and cause it to be made generally known within your Government, that on the presentation at the Treasury of any Bill drawn for Salary or other Allowances becoming due on or after the 31st of March; 1843, upon which the Income Tax has not been paid or claimed for remission in conformity with the foregoing directions; such deductions will be made, including any arrears of the Tax from the 5th of April last, not previously retained or allowed for, and the parties by whom, or in whom favour the Bill may have been drawn, will be alone responsible for any loss or inconvenience arising from the non-payment of the full amount drawn for.

I enclose herewith the form of Bill to be used when deductions are to be made, and of the Affidavit to enable parties to claim exemption from the Tax.

I have the honor to be,
Sir,
Your most obedient Servant
(Signed) STANLEY
To Governor William Hobson, &c, &c, &c.

Amount of Bill. . £
Income tax

(Place and Date)

£

At thirty days after sight of this my first of exchange, (second and third of the same tenor and date unpaid), pay to

which with £ or order the sum of

of £ Income Tax, makes the sum
being the amount of salary due to

from to

as

To William Sargent, Esq,
Paymaster of Civil Services,
Treasury Chambers, London.

Form applicable to Claimants residing out of Great Britain

PROPERTY AND INCOME TAX

Claim of Exemption,

Affidavit to be made, and notice to be given, by a person resident abroad, in Ireland, or elsewhere out of Great Britain – claiming to be discharged from Assessment, in a case where the *whole* of the Income of the Claimant is under £150 a year and arises *partly* from an office or employment of profit, or from salary, fees, or wages, or from an annuity, pension, stipend, or other allowance whatsoever, payable out of the Public Revenue, and *partly* from other sources of Income of any description whatsoever, arising in or out of Great Britain.

In pursuance of the Act 5 and 6 Victoria, c. 35, I do make Oath and say, that the whole of my Income from every source whatever, does not amount to £150 a year, and that the following is true and a just account thereof, viz.:*

*Here state the
Amount and particulars
Of each source of income
And where it arises

Claimants Signature
Address
Sworn before me this day of 184 ,
Signature of a Magistrate Consul,
Or Notary Public

Description of his Office

I therefore give notice, that I am entitled to, and do hereby claim exemption from assessment in respect of the whole of such Income.

Given under my hand this day of 184 ,

Having examined the above claim, we do hereby allow the same

} Commissioners for
Her Majesty's Treasury, &c.

N. B. – Persons resident abroad, in Ireland or elsewhere out of Great Britain, are liable to the Tax on the particular amount they may receive from the public revenue, although such amount may be less than £150 a year, if the Income they derive from other sources of property, either Abroad, in Ireland, or elsewhere out of Great Britain, shall, together with their public allowance, amount to or exceed £150 per annum

From the information contained above in Table 2 (the *New Zealand Gazette* promulgation), is derived Table 3 (see below). This table highlights the provisions of the tax. The rate was set at 7d (2.9%) in the pound (£); the first £150 was exempted; and a single rate applied to all income above that threshold. These are applications in taxation policy which would be seen again in Governor Fitzroy's *Property Rate Ordinance, 1844*; further evidence of assimilation, the third heading of the transference framework. Furthermore the *Property Rate Ordinance, 1844*, is a logical next step in the development of local tax law subject to the assimilation of ideas and concepts in taxation from another country i.e. as per the transference framework.

Table 3
The Application of Taxation under Schedule E of the Act

Tax rate	Income £
0.0%	< 150
2.9%	> 150

New Zealand Gazette, Vol. III, No. 39, (September 27, 1843), p. 242.

Returning to the above table; what is not immediately obvious from an inspection of the above Table 2, or Table 3, is the New Zealand experience of the tax. Familiarity with, and knowledge of the tax does provide an interesting connection to the transference framework. The discussion begins below by considering the more general case, one which provides an interesting connection to the structural headings of observation and communication. Thereafter, the discussion will move on to a more specific example of observation, communication and finally of how assimilation occurs.

4.2. The New Zealand Experience

After 1843 (in fact as of April 5, 1842), Schedule E's existence would have meant that any official tasked with administering tax policy in New Zealand would have directly encountered the public document seen above, Table 2. Further, this encounter would also have entailed the second method of the transference framework: direct communication. Schedule E was promulgated in the *Gazette*, and as it contained much that was important to early settlers, for example, the Administration's land sales and the decisions of the Land Commission, the *Gazette* would have been widely read in the colony. In addition, publication of new legislation from the Mother country, or colonial ordinances was seen as an important part of the legal enactment process. In this manner the requirements of observation - the first method of the structural framework - would be met, and therefore, transference accepted. Furthermore, the information the *Gazette* itself can be considered a direct communication of ideas and thus, the second method of the transference framework, direct communication, is achieved.

A further part of the colonial settlers' ongoing experience with Schedule E in is recorded in official despatches of the period. Compliance and collection in New Zealand were

determined by the method of assessment. In early New Zealand, this can easily be observed in the salaries of the officials of the British Civil Administration. As the civil servants directly applied to the Crown for their wages by drawing bills, the tax was, in accordance with the second fiscal innovation of the 1803 Act, deducted at source. Once again here is the transference of an idea, concept and application in taxation seamlessly transferred across geographic boundaries; as per the transference framework.

This act of drawing wages, subject to Schedule E, and the paying of the tax liability, can be seen in record of past Crown Colony Administrations, viz. the *British Parliamentary Papers*. First, there is Correspondence No. 1 and enclosure No. 1 dated 1843 (*British Parliamentary Papers*, 4: 157). Second, the process is found repeated again, on October 5, 1844, Despatch No. 3 (*British Parliamentary Papers*, 4: 400). Third, the change to this method of drawing salaries is recorded in the *Appropriations Bill*. No. 2. Session V dated 1845 (*British Parliamentary Papers*, 4: 225). With the passing of that ordinance, provision was made for the six senior members of the Administration and nineteen other officials to draw their salaries from the annual Parliamentary Grant rather than drawing bills against the Crown for their salaries. Research has not found any archival material which might have indicated a corresponding tax liability existing elsewhere, and this paper does not explore the reasons for the Administration's change in the method of payment for its officials. Nevertheless, it appears that the change in method of payment to the twenty five officials indicates that tax payments (subject to Schedule E) stopped at that point.

4.3. Post 1845

The applicability of Schedule E to other persons resident in New Zealand, those whose incomes were derived from English funds, did not end in the year 1845. Schedule E continued to impact upon the general population who were in receipt of a British government pension of *any* type. Therefore, Schedule E was still actively gathering revenue, in New Zealand, for the British Crown after 1845. Discussion of Schedule E resurfaces in the *New Zealand Parliamentary Debates* (1858, p. 72); recorded under the title 'Income Tax on Pensioners'. The Colonial Treasurer of New Zealand was asked whether he could explain why war pensioners were paying income tax. The answer he gave was: "The Government were not in possession of any information on the subject" and he directed enquiries to those officials charged with the responsibility for collecting revenue. While the Treasurer's response is not helpful, the fact that the complaint was made, strongly suggests that the tax was being paid. This information meets the criteria of the transference framework under both headings; observation, and communication, and to some degree, assimilation.

4.4. Transference

The presence of Schedule E, in 1843 New Zealand, *per se*; meets the criteria of the tax conference's framework for transmission, as discussed earlier - a small transference of a much larger tax Act. In this manner the mechanics of transmission are achieved and geographic boundaries are crossed. This method of transference has support from Daunton (2005, in Nehring and Schui, 2005, p. 3). Daunton suggested that "the colonies of the British Empire imported their tax systems from home", sometimes in partial forms. It follows that incorporation of even part of a tax system into early colonial society or a system or method of taxation, is the initial stage of assimilation into local tax law. In my view, this occurred with

the next logical step in the development of New Zealand tax law; Governor Fitzroy's *Property Rate Ordinance, 1844*. Overall, we have seen in this section support for all three types of transference having occurred in relation to Schedule E. Thus the section finds for the importance of Schedule E to the development of not just income tax but applied fiscal policy in general.

5. Conclusion

From April 5, 1842 Schedule E of Britain's *Income Tax Act, 1842* (hereafter, *The Act*), was, in my view, applicable throughout the colonies of the British Empire. In New Zealand, this early, and until now, quiet step in the development of tax law had been little commented upon in the literature and therefore, little was known about it. This paper has made a pioneering contribution to the New Zealand tax history literature by answering the following two questions (1), What was Schedule E; and, (2), why is Schedule E's arrival in New Zealand important? This paper has achieved both of its objectives.

Harris (2002) determined that *The Act* was foundational legislation concerning the taxing of incomes in modern economies, and implicitly Australasia (Harris, 2002, p. 37). However, Harris's began his Australasian history in 1866 in Tasmania, and omits information pertaining to the transfer and application of Schedule E to the Australasian colonies. Furthermore, an acknowledged authority, Martin Daunton (quoted in Nehring and Schui 2007), began his more recent analysis of colonial taxation in 1848, five years later than the implementation of Schedule E of *The Act* in the colonies. On the surface, there appears to be sufficient reason for ignoring the arrival of Schedule E in the colonies. However, if *The Act* is foundational legislation, and especially so to the development of tax law the colonies, then Schedule E, of the Act – a partial transfer - must also have some implicit worth.

Daunton (quoted in Nehring and Schui, 2005, p. 5), commented that even “a partial transfer of a section of an Act is enough to suggest that key concepts and initiatives [*The Act* contains] had also been imported”. *The Act* itself being considered fundamental to how economies tax today; *The Act* contained, at the very least “the framework of the income tax that was to continue for the remainder of the century and beyond” (Soos, 1997, p. 2). By extension, therefore, Schedule E of *The Act*, by its mere presence and its application; however limited, also transferred the ideas and concepts associated with *The Act*'s income tax framework to the British Colonies. Herein, the argument has being that Schedule E acted not only as a proxy for the transference of British economic thinking and public policy, but the physical presence of Schedule E, via transference, is also be seen as a plausible catalyst for economic change in the context of Crown Colony New Zealand.

The structure of the completed work was the chronological narrative. Thereafter, to shed light on the importance of Schedule E to the story of New Zealand tax law and as little was known of Schedule E, the discussion began by introducing the British *Act* to which it applies. Following this, the work then addressed the issue of Schedule E by way of applying a subordinate analytical method from New Institutional Economics; the transference

framework of Becker (2005, in Nehring and Schui, 2005, p.5) and Nehring and Schui, (2007, p. 2).

Findings are that Schedule E did arrive in New Zealand, and its arrival in New Zealand was primarily the result of the home country's public policy. The partial transfer of a tax system i.e. Schedule E of *The Act*, represented the transference of ideas, concepts in tax policy and the methodological framework of our shared English Fiscal Heritage. Hundreds of years of economic thought (and of directed public policy) were transferred with Schedule E of *The Act* during the tenure of Governor Fitzroy (1843-46). Therefore Schedule E can be seen as an important fiscal event. This line of reasoning implies that Schedule E was more than a contributing factor in the brief appearance of *The Ordinance – the Property Rate, 1844*¹⁰. Furthermore, as the prevalent ideology of nineteenth-century political economy was also to be found within *The Act* and its constituent parts, the three next steps in the evolution of direct taxation in New Zealand; those which followed the arrival of Schedule E, were logical and should have been expected.

Therefore, the hypothesis of the paper: that the transfer to the colony of Schedule E of *the Act* also transferred the accumulated knowledge, up to that time, of British political economy and this – in the short to medium term - assisted in creating fiscal policy and determining public attitudes in regard to matters of taxation. Furthermore, the paper supports a view that Schedule E cannot be dismissed as having played a part in establishing the foundations for New Zealand's emerging institutional framework. This conclusion is important, because it was by observation, direct communication and assimilation of Britain's ideas of tax policy that the New Zealand tax policy evolved. In the 1840's, the nucleus for future domestic tax policies are to be found. It is the view of this author that the direct tax policies of nineteenth-century New Zealand, owe a great deal to the arrival of Schedule E of *The Act* and also to Governor Fitzroy, the legislator responsible for the development of tax law thereafter: the *Property Rate Ordinance, 1844*; the *proposed Property Rate Amendment, 1845*; and the *proposed Dealers' license, 1845*; and, the *Customs Ordinance, 1845*.

¹⁰ This early New Zealand tax law was not the focus of any attention in this paper however, interested readers may should refer to Heagney (2010a).

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