

1920-21.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

TAXATION:**COMMONWEALTH AND STATE LAND AND INCOME TAXES.—
COLLECTION BY ONE AUTHORITY AND UNIFORM
FORM OF RETURN.**

REPORT OF BOARD OF INQUIRY; ALSO MINORITY REPORT.

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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

STATISTICS

REPORT ON THE PROGRESS OF THE COMMONWEALTH AND THE STATES
AND TERRITORIES IN 1931

REPORT OF BOARD OF STATISTICS

Printed and Published by the Government Printer, Melbourne, 1931

Parliament House, Melbourne,
23rd February, 1921.

*The Right Honorable W. M. Hughes, P.C., M.P.,
Prime Minister, Commonwealth of Australia.*

DEAR SIR.

COMMONWEALTH AND STATE LAND AND INCOME TAXES.—COLLECTION BY
ONE AUTHORITY AND UNIFORM FORM OF RETURN.

Early in September, 1920, we were notified by you that we had been appointed as a Board of Inquiry in accordance with a resolution by the Conference of State Premiers and Treasurers with yourself and the Commonwealth Treasurer to inquire into and report upon the best means of giving effect to the principle of—

- (a) one tax-gathering authority for the Commonwealth and States ; and
- (b) one form of return ;

and also to make a recommendation as to the *personnel* and functions of the proposed tax-gathering authority.

In accordance with the request accompanying that notification, arrangements were made for an early commencement of our inquiry.

The first meeting was held on Tuesday, 21st September, 1920.

The Commonwealth Commissioner of Taxation submitted a proposal involving an amalgamation of the staffs of the Commonwealth and State Taxation Departments by transfer of permanent State officers to the Commonwealth Service under the Commonwealth Public Service Act, except in the case of the State Commissioner of Taxes. The scheme provided that the latter officer should remain an officer of the State Service and should have the free administration of the State law without interference from any Commonwealth authority. On the other hand, the Commonwealth Commissioner of Taxation would have the free administration of the Commonwealth laws without interference from any State authority.

The Commissioner of Taxes for the State of Victoria (Mr. R. M. Weldon), as representing all the States except the State of Western Australia, submitted that the control of administration of both Commonwealth and State taxation laws should be vested in a body representing the Commonwealth and State Governments.

Discussion ensued on the respective proposals, and at the request of the Commissioner of Taxes for Victoria, the inquiry on that part of the items of reference was adjourned to enable him to further consider the proposals.

On the following day the Board reassembled to consider the draft forms of Income Tax return which might be used in each State for purposes of Commonwealth and State Income taxation within that State.

It was arranged that the Commissioner of Taxation for the Commonwealth should communicate with his Deputy Commissioners in the respective States and that the Commissioner of Taxes for Victoria should communicate with the respective State Commissioners of Taxation to arrange that the State Commissioners and the Commonwealth Deputy Commissioners in the respective States should confer with each other on the best form of return for the combined taxes to be used in their respective States.

It will be seen from a latter paragraph in this report that there has been no practical outcome from these communications.

From a variety of causes, the Board was unable to hold any further meeting until Tuesday, 1st February, 1921.

The Commissioner of Taxes for Victoria then put forward the proposal that the body to control Commonwealth and State taxation should be a Board consisting of five members ; two representing the Commonwealth and two representing the whole of the States. The fifth member, who would be Chairman, would, it was proposed, be selected from outside the Commonwealth and State Services. The scheme is fully outlined in the minority report.

The Commonwealth Commissioner of Taxation tendered a copy of the Agreement recently entered into between the Commonwealth Government and the Government of the State of Western Australia giving effect to the suggestion which he had submitted to the Board at its first meeting.

Considerable discussion ensued on the respective merits of the two proposals.

The Chairman took the view that the scheme proposed by the Commissioner of Taxes for the State of Victoria meant additional expense by the creation of a new and distinct body to control the present work, and that it also meant leaving to a Board still to be constituted the task of devising changes in the methods of administration.

The Commissioner of Taxes for Victoria stated that he was convinced that the adoption of a scheme on the lines outlined by him would reduce the administrative cost and improve the efficiency, and make for smoother working. He added that the Governments of the various States represented by him had intimated, both in Parliament and at various Premiers' Conferences, that the States were not prepared to hand over the work of assessment and collection of State taxes to the Commonwealth. The Western Australian Agreement might not theoretically do this, but in his opinion that would be the practical effect of it, and he therefore could not agree to recommend it.

The Commonwealth Commissioner of Taxation was of the opinion that the scheme submitted by the Commissioner of Taxes for Victoria would involve considerable additional expense, and pointed out that no additional expense is involved by the scheme entered into between the Commonwealth and Western Australia.

There was no possibility of securing unanimity of opinion on the merits of the respective proposals, and it was therefore arranged that separate reports should be submitted in respect of them.

The majority report favours the adoption by all States of a scheme on the lines of the arrangement entered into between the Commonwealth and Western Australia, whilst the minority report favours the scheme submitted by the Commissioner of Taxes for the State of Victoria.

On the question of one form of return the Board came to the conclusion that while the State taxation machinery laws remain in their present respective forms and while existing conditions of administration continue, no practical advantage would accrue to taxpayers by the use of a combined form of return.

The State Commissioner of Taxes for Victoria pointed out that if the Amending Income Tax Bill introduced to the Victorian Parliament last session be re-introduced in July next, as the Government has agreed to do, and the Bill becomes law, the forms issued by the Commonwealth and the State of Victoria to Victorian taxpayers would be practically identical.

It was considered that all State Taxation Departments should follow the course recently decided upon by the Commonwealth and the Victorian Taxation Departments, viz., to issue a single sheet form of return for use by taxpayers who derive the whole or practically the whole of their income from salaries or wages. These forms of return would meet the requirements of 75 per cent. of the taxpayers.

The meetings of the Board were held at Parliament House, Melbourne, in the Senate Committee Room, which had been kindly placed at the disposal of the Board by the President of the Senate.

Yours faithfully,

JAMES ASHTON, Chairman.
R. EWING,

Representing the Commonwealth Government.

R. M. WELDON,

Representing the Governments of all the States except Western Australia.

MAJORITY REPORT.

RECOMMENDING THE SCHEME OF AMALGAMATION PROPOSED BY THE COMMONWEALTH COMMISSIONER OF TAXATION.

1. In considering the subject of one collecting authority for Commonwealth and State Land and Income Taxes, we consider the following points are fundamental :—

(i) To be acceptable to both State and Commonwealth Governments, any scheme for the collection of the taxes by one authority should preserve to the respective Governments, inviolate and without surrender to any body, all their existing rights in regard to administration and control. All other rights, such as legislation as to the character of Taxation Acts, and rates of tax, are already preserved fully by Constitutional enactment.

(ii) The object sought should be capable of achievement with considerable reduction in the present combined expenditure by Commonwealth and States.

2. Two schemes have been discussed by the Board of Inquiry, viz. :—

(a) That proposed by the Commonwealth Commissioner of Taxation, and fully described in the Agreement entered into between the Commonwealth and Western Australia (a copy is annexed hereto) ; and

(b) That proposed by the Commissioner of Taxes for the State of Victoria, which is fully described in the annexure to the minority report.

4. Both of these schemes must be measured by the two fundamental rules laid down in paragraph (1) of this memorandum.

4. In the scheme submitted by the Commonwealth Commissioner of Taxation, we find that there has been an amalgamation of permanent staffs employed by the Commonwealth and State Taxation Departments in Western Australia, exclusive, however, of the State Commissioner of Taxation, who remains in the service of the State Government to administer the State laws with the assistance of the amalgamated staff.

5. The Western Australian scheme thus clearly preserves the independence of administration of Commonwealth and State laws, not only by the respective Commissioners but by the respective Governments through those Commissioners. Each Government is thus free to make any special arrangements it may desire in connexion with the administration of its laws or the collection of its taxes, by consultation with and direction of one person only. There is no possibility of any opposition to these directions by persons representing any other authority, and there is thus no duality of control by Governments of any corporate body having united supervision over both Commonwealth and State taxation laws.

6. It is clear that the scheme avoids the possibility of any Government having indirect control through its representative over the administration of Taxing Acts with which it is not politically concerned.

7. On the point of reduction in cost, the Commonwealth Commissioner of Taxation is satisfied from his investigations to date into the facts arising under the Western Australian Agreement that the reduction in the present combined expenditure by the Commonwealth and that State will be two-thirds of the present State expenditure.

8. The agreement under consideration does not involve any additions to be made to the existing Central administrative body for the Commonwealth Taxes, nor does it involve any additional appointments to the common staff which will make the Commonwealth and State assessments within the State.

9. We consider that that Agreement adequately provides for all essentials in the scheme for the collection of Commonwealth and State Land and Income Taxes by one agency.

10. On the other hand, the scheme proposed by the Commissioner of Taxes for the State of Victoria involves the abdication of authority by the Commonwealth and State Governments in favour of a mixed tribunal. If it be contended that the respective Governments should, under the scheme, retain their present powers of control over the administration of their own laws, it follows that both the Commonwealth and all the State Governments might exert their control in such a manner as to interfere with smooth administration or harmonious relations both between themselves and between the members of the suggested administrative body.

11. The scheme would introduce into the administrative control a person without experience in the administration of taxation laws, and would give him, as Chairman of that body, a commanding position in comparison with the positions to be occupied by his trained and expert colleagues. We doubt the wisdom of the experiment of placing above all the Taxation Commissioners in Australia a person from outside who would necessarily have to spend a great deal of time in familiarizing himself with the details of administration all over Australia.

12. In measuring the scheme by the essential which requires that additional expense shall not be incurred, but rather that there should be considerable reduction in expense, it is the opinion of the Commonwealth Commissioner of Taxation that, by the union of the two permanent staffs of the Commonwealth and State Taxation Departments, there would be the same reduction of expenditure as under the Western Australian Agreement, so far as regards the number of permanent officers who would then be employed by the one authority. That is to say, the sum of the present combined expenditure would be reduced by an amount representing two-thirds of the present State expenditure. It is upon this basis that the Commonwealth offer to collect the State taxes for one-third of the present cost is founded. This, obviously, is a very vital point so far as the States are concerned. Under the scheme recommended by the minority report the question of cost remains at large, and while certain additional expenditure is definitely foreshadowed, a guarantee of saving to the State such as is involved in the Commonwealth undertaking is entirely lacking.

13. Under the scheme proposed by the Commissioner of Taxes for Victoria, there is to be one Chief Taxation Officer controlling the administration of both sets of taxes within the State. There is also to be in the State one particular officer specially representing the State Government, and charged with the duty of collecting information which will enable him to advise that Government on matters relating to the State taxation law. Although these functions may be performed by the Chief Taxation Officer in the State, the scheme provides for some other person, if desired, to fulfil them. In the latter event this officer will require to be equal to the Chief Taxation Officer in status and general powers of administration and control, because it will not be reasonably possible for him to otherwise obtain effectively all the experience necessary to enable him fully to discuss taxation problems with the State Government and to advise that authority as to desirable legislation.

If, however, the Chief Taxation Officer should undertake the duties, his total burden will then be extremely heavy.

Experience of the administration of the Commonwealth taxes has shown that there is more work arising out of them than can be dealt with by the Commonwealth Deputy Commissioner, and that additional assistance became necessary and has been provided. Considerable additional assistance to one administrator would be more than ever necessary to cope with the added administration of State law, which necessarily contains some material differences from the Commonwealth law.

Under the Western Australian Agreement, the State Commissioner and the Commonwealth Deputy Commissioner will be the administering officers in the State in respect of the State and Commonwealth laws respectively.

14. In regard to the Western Australian position, the Commonwealth and State officials are in complete agreement as to the desirableness of the continued presence of the State Commissioner and the Federal Deputy Commissioner for the administration of the laws in that State, in view of the volume of work to be handled expeditiously and efficiently. They will interchange duties every twelve months, but in such manner that the State Commissioner will continue to control the administration of all the State laws and the Deputy Federal Commissioner will continue to supervise the administration of the Commonwealth laws under the direction of the Commonwealth Commissioner of Taxation. None of the officials has any doubt as to the practicability and efficiency of this arrangement.

It is inevitable that a similar arrangement would be necessary under the scheme outlined in the minority report. In that event it seems clear that the proper representatives in the States of the respective State Governments for all purposes are the State Commissioners of Taxation.

15. The scheme in the minority report involves the creation of a large and costly central administrative body which will concern itself in the administration of all Commonwealth taxation laws and of State Land and Income Taxes.

The composition of the Board of Control is equal to :—

- (1) the present officials controlling Commonwealth taxation (the Commissioner and the Assistant Commissioner), plus
- (2) two of the present State Commissioners of Taxation, plus
- (3) a person from outside the Commonwealth and State Services to act as Chairman.

The inclusion of the present Commonwealth Commissioner and Assistant Commissioner of Taxation on the Board therefore represents no additional cost,

The inclusion of two of the present State Commissioners of Taxation should necessitate their replacement in their respective States by officers equally qualified to administer the State laws and advise the State Governments regarding legislation, &c. This would involve additional expenditure to the extent of the salaries of the additional State officers. The inclusion of the fifth member as Chairman will involve payment of a substantial salary to that official.

16. The additional expenditure that would be involved is not confined to the additional salaries mentioned. It is proposed that the Board shall spend a certain amount of time in each State commensurate with the relative importance from a taxation point of view of the particular State. Although the object of these visits is not expressed in the scheme, it is inferred that it is to enable taxpayers personally to discuss their cases with the Board, and to enable the Board as a body to inquire into various phases of administration and management; heavy travelling expenses are thus involved by the proposed scheme.

17. The Board would be an authority of record in view of the many rulings it would be called upon to give, and convenience and economical administration would require either that the records of the administering authority should be located at the seat of Commonwealth Government, or should be duplicated in detail in each State for the purpose of reference by the authority during its visits to the States. The alternative to the duplication of records would be the transportation of the original records from place to place in Australia.

It would also probably be necessary for portion of the Board's own particular staff to accompany it on its travels, since the local staff in the States would probably not suffice to provide an emergency staff for the Board's use while in the State.

18. It seems obvious also that while the Board is on its travels the Commonwealth Government might be embarrassed through lack of prompt advice on Commonwealth legislation from its representatives. The necessity for the presence of some responsible adviser at the seat of Government has been amply demonstrated in the administration of the Commonwealth laws, so that it would seem to follow that the Board as a whole could not visit each State, and it would therefore appear to be impossible for the Board to consider finally any subjects dealt with by it in the State, since the Commonwealth could not be adequately represented at the discussions.

19. In actual practice the work of such a Board would probably become distributed amongst the respective members in order that some reasonable degree of expedition in rulings might be secured. The alternative is for the Board to sit as a Court in respect of each question raised by the State administrators so as to arrive at a united decision upon it. Any taxpayer who desired to discuss his case with the head authority would also require to come before the full Board, and the Board would then have to discuss the case amongst themselves, either in the presence of the taxpayer or after his departure.

These features of the scheme indicate to our minds that it would speedily become unwieldy and provocative of great expense and delays. Delegation of authority to separate members of the Board to deal with specified subjects would probably be found to be inevitable, in which event the result would be precisely that now attained by the existing Commonwealth Administration, but with the additional expenditure for the salaries of the additional officers involved by the scheme.

20. This also further illustrates the practical impossibility of the Board as a whole visiting each State as suggested.

21. The scheme in the minority report makes no provision for meeting its cost, but it is understood that the idea is that the Commonwealth and State Governments should share the cost between them *pro rata* to the work performed on behalf of each of them. This will necessitate the installation of a special costing system involving much work and expense to operate.

The Western Australian Agreement does not require any costing system. The Commonwealth Government provides the common staff, and charges the State Government one-third of its present expenditure.

22. We have no hesitation in strongly recommending the adoption by each State Government of an Agreement with the Commonwealth Government similar in general terms and principles to that entered into with the Commonwealth by the Government of the State of Western Australia.

JAMES ASHTON.
R. EWING,

23rd February, 1921,

AGREEMENT made the _____ day of December, One thousand nine hundred and twenty BETWEEN THE COMMONWEALTH OF AUSTRALIA (hereinafter called the "Commonwealth") of the one part and the STATE OF WESTERN AUSTRALIA (hereinafter called the "State") of the other part.

WHEREAS it is desirable in the public interest and to avoid duplication of services that the Land Tax, Income Tax, Totalisator Duty and Dividend Duty payable from time to time to the State (hereinafter called "the State taxes") and the Land Tax, Income Tax, War-time Profits Tax, Estate Duty and Entertainments Tax payable from time to time to the Commonwealth (hereinafter called "the Commonwealth taxes") should so far as practicable be assessed and collected by the one agency.

AND WHEREAS it is necessary that any arrangement for that purpose should preserve inviolate the respective sovereign powers and rights of the Commonwealth and the State.

AND WHEREAS the Commonwealth has offered to collect the State taxes under the conditions hereinafter contained for one-third of the expenditure required for the assessment and collection of the State taxes as set forth in the Estimates for the financial year of the State ending the thirtieth day of June, 1921, submitted by the State Government to the Parliament of the State.

AND WHEREAS the State has accepted the said offer.

NOW IT IS AGREED as follows :—

- (a) The State may from time to time appoint any person to be State Commissioner of Taxation (hereinafter called "the State Commissioner") and may remove any person so appointed :
- (b) The State shall fix and pay the salary of the State Commissioner.

2. If the State appoints a State Commissioner the person for the time being holding the position of Deputy Federal Commissioner of Taxation for the State of Western Australia :—

- (a) the State shall pay to the Commonwealth an amount equal to the salary of the State Commissioner determined in manner provided by clause 7 (b) hereof for the period of such appointment ;
- (b) the Commonwealth shall out of the said amount pay the salary of any assistant officer to the Deputy Federal Commissioner deemed necessary by the Commonwealth Commissioner of Taxation (hereinafter called "the Commonwealth Commissioner") ;
- (c) the Commonwealth shall pay to the Deputy Federal Commissioner while State Commissioner an additional salary such portion of the residue (if any) of the said amount as the State approves ; and
- (d) the Commonwealth shall provide at its own cost all increments of salary granted to the said Assistant Officer.

3. If the Commonwealth appoints the State Commissioner a Deputy Federal Commissioner of Taxation for the State of Western Australia :—

- (a) the State shall pay the salary of the State Commissioner determined in manner provided by clause 7 (b) hereof ; and
- (b) the Commonwealth shall appoint and pay any Assistant Officer to the Deputy Federal Commissioner deemed necessary by the Commonwealth Commissioner,

4. (a) The State Commissioner shall be responsible to the State for the due assessment and collection of the State taxes and the administration of the laws of the State relating thereto and shall be free from interference or control by the Commonwealth or the Commonwealth Commissioner.

(b) All matters arising in connexion with the exercise by the State Commissioner of his powers and functions under the laws of the State shall be determined by him in accordance with those laws.

5. (a) The Commonwealth Commissioner shall be responsible to the Commonwealth for the due assessment and collection of the Commonwealth taxes and the administration of the laws of the Commonwealth relating thereto and shall be free from interference or control by the State or the State Commissioner :

(b) All matters arising in connexion with the exercise by the Commonwealth Commissioner of his powers and functions under the laws of the Commonwealth shall be determined by him in accordance with those laws.

6. (a) The Commonwealth shall transfer to positions on the permanent service of the Commonwealth all officers who on the first day of July, 1920, were and at the date when this Agreement comes into operation are permanent or probationary permanent officers in the service of the State in the State Taxation Office and who consent to being so transferred.

(b) Each officer so transferred—

- (i) shall be subject in all respects to the laws of the Commonwealth regulating the Public Service ;
- (ii) shall preserve all his existing and accruing rights and shall be entitled to retire from office at the time and on the pension or retiring allowance which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State ; and
- (iii) shall so far as practicable be employed on duties of status equal to those now performed by him.

7. (a) The State shall pay to the Commonwealth in each year during the continuance of this Agreement an amount equal to one-third of the total estimated cost (less the salary of the State Commissioner) to the State of the assessment and collection of the State taxes during the financial year ending the thirtieth day of June, 1921.

(b) For the purpose of such estimated cost officers of the State shall be deemed to be in receipt of salaries at rates determined in accordance with the classification made by the State Public Service Commissioner in October, 1920.

(c) The said estimated cost shall include—

- (i) salaries of officers other than the State Commissioner ;
- (ii) all relevant contingent expenditure included in Parliamentary estimates of the State for the year 1920-1921 ;
- (iii) all other expenditure properly referable to the assessment and collection of the State taxes including rent of and interest payable by the State on the cost of premises occupied by the State for taxation purposes.

(d) The said estimated cost shall be determined by agreement between the Commonwealth Commissioner and the State Commissioner or in default of agreement by the State Auditor-General.

(e) The amount payable by the State shall be paid to the Commonwealth on or before the thirtieth day of June in each year.

8. The Commonwealth shall provide all officers (other than the State Commissioner) and office accommodation and equipment and do all things necessary or convenient for the purposes of the assessment and collection of the State taxes.

9. The Commonwealth Commissioner shall have full control of all officers (other than the State Commissioner) employed in the assessment and collection of the State taxes and may make such arrangements for the conduct of the work as in his opinion are best calculated to secure efficiency and economy.

10. The Commonwealth Commissioner shall delegate to the State Commissioner such of his powers and functions (including authority over officers) as may be necessary or convenient to enable the State Commissioner—

- (a) to administer in the manner required by the State the laws of the State relating to the State taxes ; and
- (b) to assist the Commonwealth Commissioner to administer within Western Australia the laws of the Commonwealth relating to the Commonwealth taxes.

11. (a) The State Commissioner shall delegate to the Deputy Federal Commissioner of Taxation for the State of Western Australia such of his powers and functions under the laws of the State as may be necessary or convenient to enable the Deputy Federal Commissioner to assist the State Commissioner to administer the said laws.

(b) The State Commissioner shall delegate to an officer or officers nominated for that purpose by the Commonwealth Commissioner such of his powers and functions under the laws of the State as may be necessary or convenient to enable such officer or officers to assist the State Commissioner to administer the said laws in connexion with matters dealt with at the Central Office of the Commonwealth Commissioner pursuant to any arrangement made between the State Commissioner and the Commonwealth Commissioner.

12. Where a law of the State is in terms identical with or substantially similar to a law of the Commonwealth the State Commissioner shall in the administration of the law of the State adopt and act upon the interpretation for the time being given to the law of the Commonwealth by the Commonwealth Commissioner unless and until the law of the State is otherwise interpreted by a competent Court.

13. Nothing in this Agreement shall be deemed to restrict or impede the State in the exercise of its rights and powers under the Constitution of the State and the laws of the State now or hereafter in force.

14. The State Commissioner shall from time to time supply to the State and to its Ministers—

- (a) information, advice and assistance in connexion with the taxation laws of the State ; and
- (b) information necessary or convenient for the more efficient administration of other laws of the State such as the Stamp Act, the Administration Act and the Mining Act

required by the State or its Ministers and which the State Commissioner is able and legally empowered to supply.

15. In order that the work of assessment and collection of taxes may proceed expeditiously and economically the Government of the State and the Commonwealth respectively will submit to Parliament before the thirtieth day of September in each year or as early as practicable thereafter proposed laws fixing respectively the rates of the State and Commonwealth taxes for that year and endeavour to have those proposed laws dealt with by Parliament without delay.

16. The State Commissioner shall in the manner from time to time required by the State Treasurer deal with and account for all State taxes collected pursuant to this Agreement and the Commonwealth Commissioner shall make any arrangements necessary or convenient to enable the State Commissioner to do so the intention being and it is hereby agreed that all State taxes shall as and when collected be paid to the State Treasury daily as heretofore.

17. The Commonwealth hereby authorizes the Commonwealth Commissioner to make such provision as he deems necessary for the compilation of all reasonable statistics concerning the State taxes as the State may require.

18. (a) In addition to or in lieu of the forms of return respectively from time to time prescribed for State and Commonwealth Land and Income Tax purposes there shall be prepared—

- (i) a joint form of Land Tax return suitable for both State and Commonwealth Land Tax purposes in Western Australia ;
- (ii) a joint form of Income Tax return suitable for both State and Commonwealth Income Tax purposes in Western Australia ;

(b) Returns furnished in the joint form by taxpayers owning land in or deriving income from sources in Western Australia only shall be accepted as sufficient so far as form is concerned.

(c) Taxpayers owning land in or deriving income from sources in Western Australia and elsewhere in Australia shall be given the option of furnishing—

- (i) returns in the Commonwealth prescribed form only at the Commonwealth Central Office ; or
- (ii) returns in the Commonwealth prescribed form at the Commonwealth Central Office and in addition returns in the State prescribed form at the office in Western Australia.

(d) Assessments of land or income for the purpose of State Tax may be made at the Commonwealth Central Office when returns have been furnished only at that office. Any assessment for State Tax made at the Central Office shall be notified to the State Commissioner and any State Tax collected by the Commonwealth shall be accounted for and dealt with as the State Commissioner shall require.

19. So far as practicable one form of receipt shall be issued when both State Tax and Commonwealth Tax are paid at the same time by the same taxpayer unless the circumstances of the case make separate forms of receipt advisable.

20. (a) Prosecutions for offences against the laws of the State relating to the State taxes shall be conducted by and at the expense of the Commonwealth.

(b) When an act or omission constitutes an offence under both the law of the State and the law of the Commonwealth—

- (1) a prosecution may in the discretion of the Commonwealth Commissioner be instituted under either law ;
- (2) as a general rule the prosecution shall be instituted under the law which provides the greater penalty.
- (3) any monetary penalty recovered shall be paid into the consolidated revenue of the party under whose law the prosecution is instituted ; and
- (4) the party into whose revenue the penalty is paid shall pay or credit to the other party one-half of the amount of the penalty.

(c) When an act or omission constitutes an offence under one law only any monetary penalty recovered shall be paid into the consolidated revenue of the party under whose law the prosecution is instituted and be retained wholly by that party.

21. Where by reason of an act, default, or omission of a taxpayer a sum has been collected as penalty or additional tax by way of penalty (not being a penalty imposed by a Court) such sum shall be applied as follows :—

- (a) if the sum is recoverable under one law only it shall be retained wholly by the party under whose law it is recovered ; or
- (b) if the sum is recoverable under both the law of the State and the law of the Commonwealth it shall be divided equally between the State and the Commonwealth.

22. If a taxpayer at any time pays less than the full amount then due and payable by him for State and Commonwealth taxes the amount paid shall (unless the taxpayer otherwise directs) be credited to the State and to the Commonwealth respectively *pro ratâ* to the full amount then due and payable by the taxpayer to the State and the Commonwealth.

23. The State shall arrange for the State Commissioner to receive from time to time from the State Attorney-General's Department free of charge all legal advice which the State Commissioner may desire in connexion with the administration of the laws of the State relating to the State taxes.

24. The State Commissioner shall not take any action to defend in the Courts an appeal instituted by a taxpayer against an assessment for State tax unless and until the Commonwealth Commissioner has obtained the advice of the Commonwealth law officers on the matter in issue, and the State Commissioner shall deal with such appeal in the manner advised by the Commonwealth law officers.

25. (a) The State will by its Government take any action within its power to obtain such amendments (if any) of the laws of the State as may be necessary or advisable to enable this Agreement to be fully and effectively performed on its part.

(b) The Commonwealth will by its Government take any action within its power to obtain such amendments (if any) of the laws of the Commonwealth as may be necessary or advisable to enable this Agreement to be fully and effectively performed on its part.

(c) Such amendments shall, *inter alia*, include any amendments deemed necessary or advisable by the Commonwealth Commissioner to provide for the custody of documents and records relating to the assessment and collection of State and Commonwealth taxes and the effective discipline and control of officers employed on such assessment and collection.

26. Any notice to be given by either party to the other under this Agreement shall be deemed to have been duly given if signed by the Treasurer of the party giving it and sent by prepaid post addressed to the Treasurer of the other party.

27. This Agreement shall come into operation on the first day of July, One thousand nine hundred and twenty-one, and shall continue in force until the expiration of not less than six calendar months' notice in writing by either party of intention to determine it, which notice may be given at any time.

MINORITY REPORT.

ASSESSMENT AND COLLECTION OF COMMONWEALTH AND STATE INCOME AND LAND TAXES BY ONE AUTHORITY.

The Board appointed to inquire into and make a recommendation in connexion with the above matter has, by a majority decision, recommended the adoption by all the States of a scheme on the lines of the arrangement recently entered into by the Commonwealth Government and the State of Western Australia.

I do not agree with that recommendation because I am of opinion that an arrangement on the lines of the Western Australian agreement will not properly safeguard and maintain the existing rights and interests of the States for the following reasons :—

THE AGREEMENT WITH WESTERN AUSTRALIA.

Broadly, the agreement with Western Australia provides that the Commonwealth agrees to collect the Land Tax, Income Tax, and Totalisator Duty of the State of Western Australia.

The arrangement is to come into effect on the 1st July, 1921, and is to continue in force until the expiration of not less than six months' notice in writing by either party, which notice may be given at any time.

The consideration is an annual fixed payment equal to one-third of the State's estimated cost of assessment and collection of the Land Tax, Income Tax, and Totalisator Duty for the year ended 30th June, 1921, less the salary of the State Commissioner.

Amongst other matters, "All the State Officers are to be transferred to the Commonwealth Public Service from the date of the agreement, except the State Commissioner who remains a State officer and is to be paid by the State."

The agreement provides that the State Commissioner is to be independent with respect to the work in connexion with the State Taxes concerned, and for which he is responsible.

He has also to have delegated to him any powers the Commonwealth Commissioner considers necessary for the performance of the work he is required to do with respect to Commonwealth Taxes.

REASONS WHY THE AGREEMENT IS NOT A DESIRABLE ONE FROM THE POINT OF VIEW OF THE STATES.

The agreement is unequal in its incidence, inasmuch as it practically places the control of the assessment and collection of the State Taxes in the hands of the Commonwealth authorities, notwithstanding that the States and the Commonwealth have equal rights and interests in this matter and notwithstanding the fact that the States have indicated at various times through their Governments that they are not prepared to hand the assessment and collection of State Taxes to the Commonwealth.

HOW THE RIGHTS OF THE STATES ARE AFFECTED IN THE AGREEMENT.

The sovereign rights of the States appear to be subordinated in the following ways :—

- (1) Where the law of the State is identical with or substantially similar to the law of the Commonwealth, the Commonwealth Commissioner determines the interpretation. (Clause 12.)

This limits the present powers of the State Commissioner in this connexion almost entirely.

- (2) Bills fixing the rate of State Taxes for the year are to be submitted by the Government of Western Australia to Parliament before the 30th September in each year. (Clause 15.)

This is a dangerous clause as it may, possibly, restrict the Government's discretion as to when it shall bring in the Budget, as it is a constitutional practice that Tax Bills should be introduced after the Budget.

- (3) The Commonwealth Commissioner appears to have the power to decide what are reasonable statistics concerning State Taxes that the States may require to be kept. (Clause 17.)
- (4) Certain State taxpayers are given power to lodge their returns outside State jurisdiction, and on returns in the Commonwealth prescribed form. (Clause 18c (1).)
- (5) Prosecutions for offences against State laws are to be conducted by the Commonwealth. (Clause 20A.)
- (6) When the offence is against both the laws of the Commonwealth and the State, the Commonwealth Commissioner decides under which law the prosecution is to take place. (Clause 20B (1).)
- (7) As a general rule the prosecution shall be instituted under the law which provides the greater penalty. This, in effect, means the Commonwealth law. (Clause 20B (2).)
- (8) The State Commissioner cannot defend an appeal to the courts until the Commonwealth law officers approve. (Clause 24.)

This is a distinct giving up of necessary State rights.

POSITION OF STATE COMMISSIONER.

The agreement provides for the State Commissioner's independence with regard to his State duties, but since he will be required to carry out Commonwealth duties as a subordinate to the Commonwealth Commissioner, his independence is more imaginary than real.

In a very little time the State Commissioner will become, in effect, a Commonwealth officer.

The transfer of the State officers to the Commonwealth Public Service will materially interfere with and lessen his real authority over them for their dominating interests will, necessarily, be more and more with the Commonwealth. They will be Commonwealth officers doing State work and he will be a State officer in control of them. (Clause 6.)

In the case of any difference in a Commonwealth matter, he is a mere subordinate.

With regard to any difference that may arise in a purely State matter, how is he to give effect to his decision if his staff does not agree with him and the Commonwealth Commissioner does not support him?

In the event of his position becoming vacant at any time, a Commonwealth officer will probably be appointed to succeed him as there will probably be no trained State officer available to take his place.

FURTHER STATE DISADVANTAGES.

The agreement may be terminated by six months' notice. This might result in a serious dislocation of a State's finances by making it impossible for the taxes to be got in during the particular financial year, as the only Taxation Officer the particular State will have will be the State Commissioner; the other State Officers will have been absorbed by their becoming Commonwealth Public Servants.

The arrangement does not take into consideration the probable growth and expansion of the Commonwealth and the States.

The effect of the Western Australian arrangement will mean that in a short time that State will lose its identity with respect to its management of the Direct Taxation concerned. It certainly has power to terminate in six months the agreement, but should it do so at any time it will find itself without staff or records (which are indispensable to the proper working of a Taxation Office), as the records will be so interwoven with the Commonwealth records that the Commonwealth may point out that it is impossible to separate them into what is State and what is Commonwealth.

RECOMMENDATION BY MR. R. M. WELDON, COMMISSIONER OF TAXES, STATE OF VICTORIA, FOR JOINT BOARD OF CONTROL.

The following scheme for a Board of Control is recommended by me for adoption by the Commonwealth and the States :—

ONE TAX-GATHERING AUTHORITY FOR THE WHOLE OF THE COMMONWEALTH.

Both the States and the Commonwealth are apparently in unison with regard to the principle of "one authority," but have not been able to arrive at an agreement as to the constitution of the controlling authority.

The rights and privileges of the various authorities in this matter are admittedly equal within their respective ambits, and only a form of control which preserves those rights and privileges intact will be acceptable to all parties.

In my opinion the only satisfactory solution of the "control difficulty" which will preserve all the rights of the respective parties, and which I feel sure the States—at all events—will be prepared to accept, is the establishment of a semi-independent tribunal or Board to be constituted in the following manner.

PERSONNEL OF THE BOARD.

The Board to consist of five members—two members to be appointed by the States as their representatives and to be selected from the present State Taxation officials. Two members to be appointed by the Commonwealth as their representatives, and to be selected from the present Commonwealth Taxation officials. The fifth member to be an outsider with wide business experience, preferably a practising accountant with a full knowledge of commercial law and practice, to be appointed by the Commonwealth and the States jointly and to be Chairman of the Board.

The constitution of the suggested Board of Taxation complies with all the requirements.

It provides equality of representation on the Board to both Commonwealth and States, and the Chairman being jointly appointed by all the authorities and being a man outside the official ranks would, to all intents and purposes, represent the general taxpayer.

CONTROL OF THE BOARD.

The Board should be appointed for a minimum period of five years and all the authorities should enter into a binding agreement for that period. At the termination of the period the several authorities should have the right to renew the agreement for a further period, or to make other arrangements if they so think fit.

FUNCTIONS OF THE BOARD.

To be responsible for and carry out the administration of the Income Tax and Land Tax Acts of Australia and the work of assessment, and collection of tax, and to have full control of the appointment, promotion, transfer, dismissal, &c., of the taxation staffs concerned. The Board would take over the present taxation staffs of the Commonwealth and the States.

The salaries and classification of the Board's staff to be fixed by Act of Parliament—the Commonwealth Public Service Act to be a basis to work on.

The Board to be represented in each State by a Chief Taxation Officer who would, under the Board, deal with and carry out the assessment and collection of tax.

LOCATION OF THE BOARD.

The Board would not be permanently located in any one State, but would in the execution of its duties spend a certain amount of time in each State commensurate with the relative importance from a taxation point of view of the particular State, and in addition to the ordinary duties of management would deal with cases submitted for guidance by the various Chief Taxation Officers, and would also act as a Board of Appeal to go into cases where a taxpayer objected to the decision of a Chief Taxation Officer and declined to accept same.

In order to avoid vexatious and trifling objections by taxpayers, they should be required in such cases to deposit a sum of Two pounds (£2)—such deposit to be forfeited in the event of the appeal to the Board being unsuccessful. The right of a taxpayer to appeal to the Court, if he thought fit, must of course be preserved.

BOARD VACANCIES.

Any Board vacancies that may arise from time to time during the period fixed, to be filled in the same manner as the original appointment by the States or Commonwealth, as the case may be.

The appointing authority to have the right to terminate the services of a Board Member appointed by it at any time, should the circumstances warrant this being done.

INDEPENDENT AUDITOR.

Each authority, State or Commonwealth, to have the right to appoint an independent auditor, when considered necessary, to inquire into the administrative cost of the Board with respect to any particular State, or (for Commonwealth purposes) all the States. It must be mandatory on the part of the Board to render him all assistance necessary.

PROVISION TO ENABLE THE RESPECTIVE AUTHORITIES TO OBTAIN CERTAIN REPORTS AND INFORMATION.

Each State to have placed at its disposal in the particular State a member of the Board's staff whose principal duty will be to keep any data that the particular authority may deem necessary with respect to its Income Tax and Land Tax operations. He must furnish, without delay, any information required from time to time to the authority concerned, and when required by it shall attend personally on Ministers.

The Commonwealth representatives on the Board to carry out any similar requirements of the Commonwealth Government, and to have power to make any arrangements necessary to do this.

REMARKS.

I know of no substantial reason why a controlling authority on the lines proposed by me should not be constituted as soon as the parties can come into agreement. Doubtless it might be urged that the Acts of the States and the Commonwealth should be brought closer into line first, but I do not regard this as a serious objection from an administrative point of view. The proposed Board could, without much difficulty, carry on the administration of the particular Acts as they now stand.

As a matter of fact, if at any time a system of "joint control" is established, an important part of the work for some years afterwards would be to clear up the arrears of work—so to speak—still to be done under the old Act.

Each year in a taxation office a considerable portion of the work done relates to prior years—such as cases of investigation of the accounts of taxpayers, prosecutions for false returns, the getting in of returns not lodged at the prescribed dates, dealing with objections to assessments lodged by taxpayers, the collection of arrears of tax, &c.

REASONS WHY THE JOINT BOARD OF CONTROL SCHEME IS RECOMMENDED BY ME.

- (1) All the authorities would have representation in accordance with their respective interests.
- (2) The States would not subordinate themselves to the Commonwealth and the Commonwealth would not subordinate itself to the States.
- (3) The State taxpayers, who trade in more than one State, would have their profits allocated to the respective States in a more satisfactory manner than at present—as they now have to come into agreement with the Commissioner in each State, and there will consequently be less possibility of overcharge through a possibly unfair division of profits; and from the States' point of view the arrangement would prevent a possible leakage of revenue.
- (4) Briefly, the Board would manage the whole work of assessment and collection of the two taxes for all the authorities.
- (5) It would not be a body superimposed on the present existing management, but would be in lieu of it, and would take over the responsibilities of the work of administration of the Income and Land Tax Acts of Australia, which are now vested in seven existing Commissioners.
- (6) The arrangement is, in effect, a partnership carried on by the representatives of all the partners who are parties to the proposal.

I have not gone into the question of the constitutional difficulties that may possibly arise under either scheme, but am convinced that the adoption of the scheme recommended by me would reduce the administrative cost and improve the efficiency, and make for smoother working.

R. M. WELDON,
Commissioner of Taxes for State of Victoria.

23rd March, 1921.

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APPENDIX

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