The conditions I should tentatively put forward would be some such as the following:

The expenditure should be out of general taxes.

1. For some special Irish purpose.
2. Not common to, or shared by Great Britain.
3. Either directly relieving taxpayers in Ireland, or indirectly benefiting them.
4. Not spent in mere administration, but reproductive.
5. Not a mere increase of recognised Imperial expenditure in Ireland (e.g., at Haulbowline).
6. Accepted by Irish representatives as an equivalent.
7. Finally, no money already applied by Parliament to satisfy an obligation of an admittedly different kind (e.g., support of Constabulary, as compensation for the Corn Laws), can now be credited to another and different purpose.

The Liability of Married Women to Income Tax.

By WILLLIAM LAWSON, Esq., LL.D., Barrister-at-Law.

[Read, Tuesday, March 14th, 1899.]

I DESIRE to call attention to the anomalous state of the law as regards the liability of married women to Income Tax. The statute which regulates this liability is Section 45 of the Income Tax Act of 1842 (5 & 6 Vict., c. 35). This statute, which applied to Great Britain only, was extended to Ireland by the Act of 1853, which imposed Income Tax on Ireland for the first time. Section 45 provides that—"Any married woman acting as a sole trader by the custom of any city or place, or otherwise (or having, or being entitled to, any property or profits to her sole or separate use) shall be chargeable to such or the like duties, and in the like manner except as hereinafter is mentioned, as if she was actually sole and unmarried. Provided always that (the profits of) any married woman living with her husband (shall be deemed the profits of the husband, and the same) shall be charged in the name of the husband, and not in her name or of her trustee. Provided also that any married woman living in Great Britain separate from her husband, whether such husband shall be temporarily absent from her or from Great Britain, or otherwise, who shall receive any allowance
or remittance from property out of Great Britain, shall be charged as a *feme sole* if entitled thereto in her own right, and as agent of the husband if she receive the same from or through him, or from his property or on his credit." This section was taken from the Act of 1803 (43 Geo. III, c. 122 Section 91), in which, however, the words in brackets did not occur, the section having reference only to married women, sole traders, who, if living with their husbands, were to be charged in their names. This Act of 1803, I may observe, imposed a shilling Income Tax in England and Scotland, which was a war tax (see preamble); it exempted incomes under £60, and gave an abatement to incomes over £60 and under £150 (sec. 103). It also conferred an abatement on a person having more than two children on a scale varying with the amount of the income of the person; if the income was over £60 and under £400 there was allowed for each child above two an abatement after the rate of 4 per cent. on the amount of the income; if the income was between £400 and £1,000, 3 per cent.; if between £1,000 and £5,000, 2 per cent.; and if over £5,000 1 per cent. (sec. 115). The Act of 1805 (45 Geo. III., c. 49), which amended the Act of 1803 as to the mode of assessment, &c., contained in sec. 101 the proviso that "the profits of any married woman living with her husband shall be deemed to be the profits of her husband," and also the second proviso above mentioned relating to allowances and remittances from property out of Great Britain. In the Act of 1806 (46 Geo. III., c. 65), by which the rate of duty was raised to two shillings in the case of Schedules A, C, D, and E, and to one shilling and sixpence in England, and one shilling in Scotland, in the case of Schedule B, a further insertion was made of the words "or having or being entitled to any property or profits for her sole and separate use" between the words "otherwise" and "shall" in the second line of the section above set out.

The important part of this section is the first proviso, the effect of which is, that for the purposes of Income Tax the income of a married woman is to be treated as if it was her husband's. The result is that although a married woman may have a separate income, over which her husband has no control, she cannot claim the benefit of the exemption or abatements conferred upon the possessors of small incomes by the Income Tax Acts, which she would be able to claim if she were not married; and, further, that according to the literal construction of the statute a man who, if not married, would be entitled to claim either exemption or abatement, as the case may be, would, by marrying a woman with a separate income, be deprived of that exemption or abatement, if the joint income of himself and his wife, added together, made the total over the exemption or abatement limit.

At the time of the passing of the Act of 1842, and down to
January 1st, 1883, when the Married Women's Property Act, 1882, came into operation, the income of a woman passed to her husband on her marriage, unless it was settled to her separate use, and she could not hold any property during marriage unless it was settled in like manner. There was, therefore, perhaps, some reason in providing that the wife's property should be deemed her husband's, although this nullified (except in the case she was not living with her husband) the effect of the previous provision. The Act of 1882, however, removed the disability of a married woman to hold property, and enabled her to hold it as if she were unmarried, and deprived her husband of any right or control over it. Notwithstanding the revolution, as it may be termed, in the position of married women effected by this Act, no change was made in the law as to Income Tax until the year 1894, when a provision was inserted in the Finance Act of that year that where the total joint income of a husband and wife did not exceed £500, and included profits of the wife derived from any profession, employment, or vocation chargeable under Schedule D, or from any office or employment of profit chargeable under Schedule E, the Commissioners for general purposes should deal with a claim for relief on the ground of the smallness of income as if it were a claim in respect of such profits of the wife, and a separate claim on the part of the husband in respect of the rest of the total income. This provision conferred some benefit on a married woman earning a separate income from a profession, trade, or employment which would be assessable under Schedule D or E, and enabled her to get exemption if her income from these sources was under the statutory limit, or abatement if it was over that amount, provided the income of husband and wife together did not exceed £500. It conferred no benefit, however, on married women whose income was derived from other sources, e.g., from land or personal property, such as stocks or the like, and assessable under Schedules A, B, or C. The reason why £500 was mentioned in this section was because the limit of abatement for small incomes had become raised from time to time until by this Act of 1894 the limit of total exemption was raised to £160, and the limit of incomes entitled to an abatement was raised to £500, and the amount of abatement was fixed at £160 for incomes not exceeding £400, and £100 for incomes over £400 and not exceeding £500. The Finance Act of 1897 repealed this provision of the Act of 1894, and re-enacted it in similar terms with this exception, that the income of the wife was to be derived from a business carried on or exercised by means of her own personal labour ("business" being defined as profession, trade, employment, vocation, or office, under Schedules D or E), and that the rest of the total income, or any part thereof, arose from the profits of a business carried on or exercised by means of the husband's personal labour. This would appear to prevent relief being granted if the husband's
income was derived from other sources than his own personal labour. The Finance Act of 1898 raised the limit of abatement to incomes not exceeding £700, and gave an abatement of £160 on an income of £400; £150 on an income of £500; £120 on an income of £600, and £70 on an income of £700. The effect of raising the limits for exemption and abatement has been to increase the grievance of married women in this matter, which was, perhaps, not felt at the time of passing of the Act of 1842, when there was no exemption or abatement except in the case of incomes, under £150, which was lowered to £100 in 1853.

As the law stands, if I am trustee for two women, one married, the other a spinster or a widow, and the dividends or income of the trust funds, which do not exceed, say, £160 a year, are received by me, Income Tax being first deducted, the spinster or widow can get back the Income Tax so deducted on showing that her income does not exceed £160, whereas, if the married woman makes such a claim, or I make it for her, the question is asked: does she live with her husband, and if she does she can get no relief, although no portion of her income goes to the support of her husband and family. Similarly, if she has no trustee, but receives the income herself, she can get no relief. It is hard to see why she should be treated differently from a single woman in this respect. It may be said that there is a presumption that her income will go to the support of her husband and family, and that, therefore, the income of husband and wife should be treated as one. But if there is any such presumption it is frequently rebutted by the facts of the case, the wife spending her income on herself, or as she pleases. If she chooses to club her income with that of her husband, why should this make any difference any more than in the common case of a brother and sister, or two sisters living together, and keeping up the one establishment out of their joint incomes?

I have stated that, according to the literal construction of the Act, a man may, by marrying, lose the benefit of the abatement which he enjoyed before marriage. Although, however, the Act says that the wife’s profits are to be deemed the husband’s, I am not aware that in practice a husband is required to, or does in fact, return his wife’s income along with his own when filling up the form required by the Inland Revenue. He might or might not have the materials to do so. Even if he has, in the majority of cases the Income Tax has been deducted from the wife’s income before it reaches her, and, therefore, it is not very material. If she gets her income without deduction, as in the case of her own personal earnings, such income is generally not large enough for the authorities to trouble about.

I hope that I have made a case for the removal of this grievance. The provision in the Act of 1842 appears to have been due to the view taken by the English common law of the relation of husband and wife, that husband and wife were one
The Proposal for the Abolition of the Income Tax in Ireland Considered.

By William Lawson, LL.D., Barrister-at-Law.

[Read Tuesday, March 14th, 1899.]

Sundry remedies have been suggested to relieve the over-taxation of Ireland. I desire to consider one which has lately been advocated in the Press, namely, the abolition of the Income Tax in Ireland, whether it is practicable, and, if so, to what extent. In order to see what loss there would be to the Revenue, were this proposal carried out, I give the figures as they appear in the Report of the Commissioners of Inland Revenue for the year ending March 31st, 1898. The net receipts of duty for that year in Ireland was £670,742, as against £14,898,851 in England, and £1,601,784 in Scotland. The rate of duty, which was 6d. in 1889, continued at that rate till 1894, when it was raised to 7d., and in 1895 to 8d., at which figure it has since stood, the only alteration being that in 1894 further benefits were conferred upon small incomes, the limit of total exemption being raised from £150 to £160, and the limit of incomes entitled to abatement from £400 to £500, £100 only being allowed if the income was over £400. The Finance Act of 1898 gave further re-