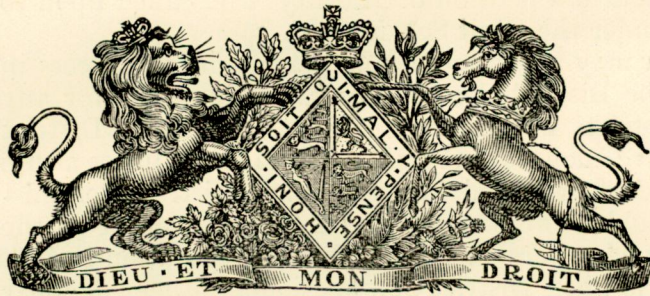


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber,  
Sydney, 21 March, 1895, A.M. }

F. W. WEBB,  
Clerk of the Legislative Assembly.

## New South Wales.



ANNO QUINQUAGESIMO OCTAVO

# VICTORIÆ REGINÆ.

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No. .

An Act to provide for the establishment of a system of direct taxation by means of a Tax on Land and a Tax on Income ; to provide for the creation of Taxation Districts ; for the appointment of officers for the levying, assessment, and collection of such taxes ; to provide for appeals from assessments, and for purposes in connection with the aforesaid objects.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

### PART I.

#### *Districts and Officers.*

1. This Act may be cited for all purposes as the " Land and Short title. Income Tax Assessment Act of 1895."

2. For the purposes of this Act the Governor shall, by pro- The Colony to be  
10 clamation in the *Gazette*, cause New South Wales to be divided into so divided into  
many Taxation Districts as he may think fit, including a Metropolitan Taxation Districts.  
Taxation District, and may, in like manner, from time to time, sub-  
divide any such district into several Taxation Districts, and may  
abolish any one or more of such Districts, and create new Districts ; or,  
15 if deemed desirable, include the whole Colony under one such District.



*Land and Income Tax Assessment.*

3. For the administration of this Act, the Governor may, as soon as conveniently practicable after the passing thereof, appoint one person to be "Commissioner of Taxes," on whom shall devolve and be imposed all the powers, duties, and functions by this Act conferred and imposed upon "The Commissioner," and who shall have such other powers and perform such other duties as may from time to time be conferred or imposed on him under such designation by or under any regulations hereafter made in pursuance of this Act or by any Amending Act, and the salary for such Commissioner of Taxes shall be such sum as Parliament may vote not exceeding eight hundred pounds per annum, and such Commissioner upon his retirement from office shall not be entitled to a pension or gratuity or be called upon to pay any contribution under the Civil Service Act.

Commissioners of Taxation.

4. The Governor may also appoint any persons being officers in the public service to be District Commissioners of Taxation for any district or group of districts as he may think fit, and such District Commissioners shall have such powers and perform such duties as are by this Act expressly conferred and imposed upon District Commissioners, as well as all such powers and duties as the Governor on the recommendation of the Commissioner shall, by any regulation in that behalf, confer and impose upon District Commissioners either generally or specially.

District Commissioners of Taxation.

(I) Any power conferred upon a District Commissioner by this Act or the regulations thereunder may be exercised by the Commissioners or any one of them.

(II) The Commissioner of Taxation shall be the District Commissioner for the Metropolitan Taxation District.

(III) The office of Commissioner for Taxation or District Commissioner, and all other offices may, with the sanction of the Governor, be held in conjunction with any other office in the public service.

And in case of the absence or illness of any Commissioner or District Commissioner, the Governor may appoint a person to act in the place of such Commissioner or District Commissioner during such absence or illness.

5. The Governor may appoint so many assessors, receivers, clerks, and other officers as may be deemed necessary for the purposes of this Act, and such persons may be appointed to act within any district, or any division of any district, as may be considered expedient.

Appointment of other officers.

6. A notification in the *Gazette* that any person therein named has been appointed Commissioner, District Commissioner, assessor, receiver, clerk, or other officer for the purposes of this Act, shall be conclusive evidence of such appointment.

*Gazette* notice of appointments sufficient.

7. Every person appointed under this Act shall preserve, and aid in preserving secrecy with regard to all matters that may come to his knowledge in his official capacity, and shall not communicate any such matter to any other person except in the performance of his duties under this Act,

Secrecy to be maintained.

8. (I) Every Commissioner and every District Commissioner shall, before acting in the execution of his office, take and subscribe, before a Stipendiary or a Police Magistrate, such oath of fidelity and secrecy as may be prescribed; and such oath also shall be taken and subscribed by every other person appointed or employed under this Act before so acting, which may be administered to him by any Commissioner or a District Commissioner.

Oath of fidelity and secrecy.

(II) Every person who, in contravention of the true intent of such oath, and without lawful excuse, reveals any matter or thing which has come to his knowledge in his official capacity, shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding two years, with or without hard labour.

(III)



*Land and Income Tax Assessment.*

(III) If any person acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty of not less than ten and of not more than one hundred pounds.

9. The Governor may, for the purpose of the hearing and  
5 determination of appeals under Part VI of this Act, from time to time  
appoint two or more fit and proper persons to constitute a Board of  
Review, or in lieu thereof he may, as may be deemed expedient,  
appoint any Judge of any District Court to perform the duties and  
functions, and exercise the jurisdiction of such Board of Review  
10 within the Metropolitan Taxation District, and every Judge so appointed  
shall have the same powers and jurisdiction as are by this Act con-  
ferred upon such Board, and his decisions shall have the same force  
and effect for all purposes. Board of review.

## PART II.

*Land Tax.*

15

10. Subject to the provisions of this Act, there shall be levied Land tax.  
and paid to the Commissioner, for the use of Her Majesty, at the  
times and in the manner hereinafter directed, a land tax, at such rate  
as Parliament shall from time to time declare and enact, per pound  
20 sterling of the assessed value of all lands situate in New South Wales,  
and not included in the exemptions specified in section fourteen.  
And such land tax shall be levied and paid as in the next succeeding  
subsections specified:—

25 (I) By every owner of land in respect of all land of which he is  
such owner for every pound of the unimproved value thereof  
as assessed under the provisions of this Act, after deducting  
the sum of four hundred and seventy-five pounds. Such  
deduction shall not apply to the case of a person being the  
owner of several estates or interests, the unimproved value  
30 of which, taken separately, shall be less than four hundred  
and seventy-five pounds, and taken collectively shall exceed  
that sum; but in every such case the aggregate of such  
values shall be dealt with as if such aggregate represented  
the unimproved value of a single estate or interest: Provided  
35 with regard to any such lands as are subject to any registered  
mortgage, that there shall be deducted from such unimproved  
value for the purpose of taxation such proportion of the  
amount secured and owing upon such mortgage as may be  
determined by assessment under the provisions of this Act to  
40 be the taxable proportion of such mortgage for the purposes  
of the next succeeding subsection.

45 (II) By every mortgagee of lands under registered mortgage in Mortgagees.  
respect of each mortgage owned or held by him, which shall  
be assessed for the purpose of taxation at a sum which shall  
bear the same proportion to the total amount secured and  
owing upon such mortgage as the unimproved value of the  
land, subject to such mortgage, bears to the actual or improved  
value thereof: Provided that no mortgagee shall be entitled  
to exemption from taxation by reason only that the land  
50 included in such mortgage is exempt from land tax.



*Land and Income Tax Assessment.*

11. The lands and classes of lands hereinafter specified are exempted from assessment for taxation under this Act, viz. :— Exemption from land tax.

- 5 (I) Lands being Crown lands within the meaning of the "Crown Lands Act of 1884," or of any Act regulating the alienation or disposition of Crown lands, and not subject to any right of purchase; also lands held by way of conditional lease under any such Act.
- 10 (II) Lands (not being Crown lands as aforesaid) vested in Her Majesty, or in any person for or on behalf of Her Majesty, by virtue of any Act authorising the resumption of land by or on behalf of Her Majesty, or otherwise in any way whatsoever vested in or belonging to Her Majesty.
- 15 (III) Lands vested in the Railway Commissioners of New South Wales.
- (IV) Public roads and thoroughfares; public reserves for health, recreation, or enjoyment; public parks; cemeteries; commons under the operation of any Act in force for the time being regulating commons.
- 20 (V) Lands occupied or used exclusively for, or in connection with, public pounds, public hospitals, benevolent institutions, public charitable purposes, churches, chapels for public worship, universities, affiliated colleges, mechanics' institutes, and schools of arts; and lands on which are erected public markets, town halls, or municipal council chambers, or any
- 25 lands the property of, or vested in, any council or municipality.

12. Any owner of land in New South Wales who shall not have resided within the Colony for a period equal to four years in every period of six years immediately preceding the year of assessment shall pay tax on an additional twenty per centum over and above any tax upon land to which residents shall be liable, notwithstanding the fact that such owner may be represented here by an agent or agents, who shall, however, be liable for the tax payable by such owner, as hereinafter provided. Absentee land owners.

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## PART III.

*Burden of Land Tax.—Provisions as to Agents and Trustees.*

13. If any owner of land shall be required, under this Act, to pay land tax in respect of land which may be subject to any unregistered mortgage or unregistered lease, such owner may, by written notice to the mortgagee of such land, require that such mortgage shall be registered; and if such mortgage, after the expiration of thirty days from the date of service of such notice upon the mortgagee, shall be unregistered, such owner, if he shall have paid the land tax upon the land subject to such unregistered mortgage, shall be entitled to recover from such mortgagee as money paid to the use of such mortgagee, at his request, a sum equal to the sum which such mortgagee would be liable to pay as land tax under subsection (II) of section ten if such mortgage were registered: Provided that the sum to be so recovered by any such owner as aforesaid shall not in any case exceed the amount of the tax which such owner shall have paid in respect of such land as aforesaid. Mortgages and leases—how taxed.

14.



*Land and Income Tax Assessment.*

14. Every taxpayer or person who, pursuant to the provisions of this Act, shall have paid any money, by way of land tax or contribution thereto, in respect of any land or mortgage, in which other persons shall possess an interest, legal or equitable, shall be entitled  
 5 to contribution thereto from such other persons, the amount of such contribution to be a sum which shall bear the same proportion to the whole amount of the land tax so paid as aforesaid, as the value of the interest possessed by the contributory bears to the unimproved value of such land, or the taxable proportion of the sum secured by such  
 10 mortgage respectively, in respect of which such land tax shall have been so paid as aforesaid.

Provisions as to contribution.

15. The value of any interest or estate subject or liable to contribution to land tax under this Act shall be determined so far as practicable by reference to the "Tables for calculation of values"  
 15 provided by the regulations hereunder.

Rules, &c., for calculation of values.

16. Every sum which any person is liable to pay as a contributory, pursuant to the provisions of this Act, shall be a debt, payable  
 on demand by such contributory, to the person (hereinafter termed  
 15 contributee) entitled to contribution.

Contribution payable a debt on demand.

20 17. Every remedy exercisable by a contributee in case of non-payment of rent or of interest (as the case may be) by a contributory shall be exercisable by him, in case of the non-payment of the amount of contribution, and such amount or any part thereof may be added to such rent or to such interest.

Remedy in case of non-payment of contribution.

25 18. If more persons than one are owners of land or mortgages, subject to assessment under this Act, whether jointly or severally, or otherwise, the land tax payable in respect of such land or mortgages shall be the same as if one person owned the same in  
 30 severalty. As between themselves, such persons shall be liable to pay pay such land tax ratably, in proportion to their participation in the rents and profits of or to their interest in such land or mortgages, to be ascertained, if necessary, in the prescribed manner; and such persons shall have the same remedies for enforcing such payments as ordinarily obtain for the recovery of debts, or are provided under this  
 35 Act in respect of contributions, but every such person shall be liable to Her Majesty for the whole of such land tax.

Provision for co-ownership and other interests.

19. (I) Every agent for any owner of any land or mortgage subject to land tax under this Act who may be permanently or temporarily absent from New South Wales, and every trustee of any land  
 40 or mortgage, subject to land tax under this Act, shall be assessed respectively in respect of such land or mortgage, the owner of which is represented by such agent, or in respect of such land or mortgage, the legal estate in which is vested in such trustee, whether solely or jointly with other trustees. And every such agent and trustee shall,  
 45 subject to the provisions of subsection (v), be chargeable with the land tax payable in respect of such land or mortgage in the same manner as if such land or mortgage were his own; but he shall be assessed in respect thereof in a representative character only [which term for the purposes of this Part includes any fiduciary character],  
 50 and each such assessment shall be kept separate and distinct from the individual assessment (if any) of such agent or trustee.

Agents, trustees, &c. how chargeable.

(II) Every such agent or trustee shall be answerable for the doing of all such acts, matters, or things as would be required to be done by the owner, or mortgagee.

55 (III) Every such agent or trustee shall be subject to the same penalties or liability for any neglect, refusal, or default in respect of the obligations and requirements of this Act, as the persons whom such agent or trustee represents would be subject to.

(IV)



*Land and Income Tax Assessment.*

(iv) Every such agent or trustee is hereby authorised to recover from any person for whom, or on whose behalf, he is compelled to pay land tax, the amount of the land tax so paid by him, or to retain out of any money which shall come to him in his representative character so much, from time to time, as shall be sufficient to pay such land tax.

(v) Such agent or trustee shall not be personally liable for land tax to any further or greater extent than to the amount of such funds or securities for money as are or may be in his hands, in his representative character or as trustee, or of which he shall have the controlling power, after receiving notice of such assessment as hereinbefore provided.

20. Subject as aforesaid, the remedies for enforcing payment of land tax in respect of land or mortgages under the control or management of any agent, or vested in any trustee, shall be the same as in respect of land the subject of beneficial or absolute ownership.

21. Any person liable to tax in respect of land under this Act who shall have borrowed money on the security of any registered mortgage of such land, or his interest therein, from a person not resident in New South Wales, nor represented by an agent, authorised to make a return and pay the tax, which may become payable in respect of such mortgage, shall be deemed to be an agent of the mortgagee, and shall be liable accordingly.

Enforcing payment by agents, &c.

Money borrowed on mortgage from a person not resident in New South Wales liable to be taxed.

## PART IV.

25

*Income Tax.*

22. Subject to the provisions of this Act, and the regulations thereunder, there shall be charged, levied, collected, and paid to the Commissioner for the use of Her Majesty, an Income Tax at such rate per pound as Parliament shall from time to time declare and enact in respect of the annual amount of—

Incomes liable to taxation.

(I) Income arising or accruing to any person, wheresoever residing, from any profession, trade, employment, or vocation, carried on in New South Wales, whether the same be carried on by such person or by any other person, except income derived from land, mortgages, and leases assessed for land tax under this Act.

(II) Income arising or accruing to any person wheresoever residing from any salary or allowance (except travelling or forage allowances) attached to or derived from any office or employment of profit in the public service of New South Wales, and upon every pension and allowance payable from the Consolidated Revenue Fund or the Civil Service Superannuation Account, or any other public account.

(III) Income from pastoral lands of the Crown held under lease or license issued by or on behalf of the Crown.

(IV) Income arising or accruing to any person wheresoever residing from any kind of property (land, mortgages, and leases held in New South Wales and assessed for land tax under this Act excepted), or any other source of income whatsoever in New South Wales not included in the preceding subsections.

Income shall be deemed to have accrued to a person within the meaning of this section, although the same be not actually paid over to such person but be credited in account, or reinvested, or accumulated, or capitalised, or otherwise dealt with in his name or interest or on his behalf.



*Land and Income Tax Assessment.*

23. No tax shall be payable in respect of incomes not exceeding three hundred pounds : Provided that except in the case of a company the person liable to taxation in respect of an income exceeding three hundred pounds shall be entitled to a deduction of three hundred pounds in the assessment of such income under this Act for the purpose of such taxation. Money exemptions.

24. The following incomes, revenues, and funds shall be exempt from income tax— Exemption of certain incomes.

- (I) The revenues of Municipal Corporations or other local authority,—  
 10 (II) The incomes of companies or societies not carrying on business for purposes of profit or gain,—  
 (III) The dividends and profits of the Savings Bank of New South Wales, and of the Post Office Savings Bank,—  
 15 (IV) The funds and incomes of societies registered under Part III of the "Friendly Societies Act of 1873," or under any Act relating to Trade Unions,—  
 (V) The incomes and revenues of all ecclesiastical, charitable, and educational institutions of a public character, whether supported, wholly or partly, by grants from the Consolidated Revenue Fund or not,—  
 20 (VI) Income arising or accruing to any person not resident in New South Wales from Government debentures,—  
 25 (VII) Income derived from the ownership, use, or occupancy of land, and income derived from the taxable proportion of moneys secured and owing upon mortgages of land in New South Wales subject to taxation under Parts II and III of this Act, except where otherwise specially provided.

The exemptions declared by this section shall not extend to the salaries and wages of persons employed by any such corporation, company, society, or institution, although the same be paid wholly or in part out of the income, revenues, or funds thereof.

25. Subject to the provisions of this Act income tax shall be payable— Persons by whom income tax is payable.

- 35 (I) In respect of the income of a company, by the public officer thereof,—  
 (II) In respect of the income of every person permanently or temporarily absent from or resident out of New South Wales, by the attorney or agent of such person; and, for  
 40 the purposes of this Act, every person in New South Wales having the receipt, management, disposal, or control of income on behalf of any person absent or resident as aforesaid, or remitting or paying income to such person shall be deemed to be the agent of such person. The Commissioner may, if  
 45 he think necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act,—  
 (III) In respect of the income of *cestuis que trust*, infants, lunatics, and persons under any legal disability, by the trustee,  
 50 guardian, committee, or other person entitled, for the time being, to the receipt, management, disposal, or control of such income, or remitting or paying the same,—  
 (IV) In respect of income paid under the decree or order of any  
 55 Court or Judge to any receiver or other person, by such receiver or person, and independently of the title to such income, or any contingency, or uncertainty in respect of such title,—

(v)



*Land and Income Tax Assessment.*

(v) In respect of every other income, and in all other cases, by the person to whom the income arises or accrues, or who is legally or equitably entitled to the receipt thereof.

And the persons by whom income tax is payable under subsections (i) to (iv) of this section inclusive shall be deemed to be "representative taxpayers" within the meaning of this Act. Nothing in this section shall be taken to relieve the person receiving the income from the representative taxpayer from any tax due or payable in respect thereof.

26. Every representative taxpayer, as regards the income to which he is entitled in his representative capacity, or of which, in such capacity, he has the management, receipt, disposal, remittance, payment, or control, shall be chargeable with the same income tax, and be subject in all respects to the same liabilities, as if the same were income arising or accruing to him beneficially, except that no such taxpayer (not being the public officer of a company) shall be personally liable for the payment of income tax beyond the amount or value of the income of which he has, in such capacity as aforesaid, the management, receipt, disposal, or control.

27. Every representative taxpayer who, as such, pays any income tax or any sums imposed or incurred by way of fine under section fifty-nine of this Act shall be entitled to recover from the persons entitled to the income taxed, in the proportions in which they are so entitled, or to retain out of any moneys that come to him in his representative capacity so much as shall indemnify him against such payments; and all representative taxpayers are hereby indemnified to the extent of such payments against the persons respectively entitled to such moneys: Provided that where any sum by way of fine under section fifty-nine has been imposed or incurred through the neglect or default of the representative taxpayer, the amount retained or paid in respect thereof may be recovered from the representative taxpayer by the persons so entitled as aforesaid.

28. No trustee who has authorised the receipt of the profits arising from trust property by the person entitled thereto or his agent, where such person or agent has actually received the same under such authority, and is resident in New South Wales; and no receiver of any person being of full age, and resident in New South Wales (other than a married woman, lunatic, idiot, or insane person), who makes the returns prescribed by this Act and the regulations specifying the name and residence of such person, shall be required to do any other act for the purpose of assessing the income of such person, unless the Commissioner require the testimony of such trustee or receiver in pursuance of this Act or the regulations.

29. In any case where a company has at any time heretofore, or shall at any time hereafter borrow money on debentures, such company shall be deemed to be the agent of every holder of such debentures: Provided that where a company has borrowed money in the manner above-mentioned upon debentures, neither the company nor the debenture-holders shall be liable to be assessed for income tax in respect of so much of the money so borrowed as the company proves to the satisfaction of the Commissioner at the date of making the annual or other return of income was invested by such company on mortgage of land in New South Wales duly registered, and also that such mortgages had been assessed for land tax under this Act, and that the holder of such debentures was resident beyond New South Wales: Provided also that where a company has borrowed or may hereafter borrow money on debentures, and the land in New South Wales owned by such company is in any way charged as security for the money payable under such debentures, the amount so charged shall be deemed to be a mortgage of land, and may be deducted in any annual

Liability of representative taxpayer.

Indemnity to representative taxpayer.

Trustees and receiver in certain cases need only give the name and residence of persons entitled to trust property.

Income tax on debentures of companies.



*Land and Income Tax Assessment.*

annual or other returns to be made by the company, and such amount shall be returned by the company as a mortgage on behalf of the debenture-holders by the company, and the company shall be liable to be assessed and pay tax accordingly as agent for the holders of such 5 debentures.

The interest accruing due upon debentures so deducted shall not be assessed as liable to income tax, either by the company or debenture-holders. No deductions shall be allowed under this provision unless and until the company proves to the satisfaction of the 10 Commissioner that the amount claimed to be deducted as aforesaid was a charge upon the land of the company.

30. (I) Where a person or company outside the Colony (herein termed "the principal"), who, by means of a company registered in the Colony, or carrying on business therein, or by means of a person 15 in the Colony (herein termed "the agent"), sells or disposes of goods in the Colony for the principal (whether the moneys arising therefrom are paid or received by the principal directly or otherwise), then all income resulting or expected to result therefrom to the principal shall for the purposes of income tax be deemed to be income derived by 20 the agent, and the following provisions shall apply:—

(a) The agent shall, as regards such income, make the returns, be assessed, be liable to income tax, and otherwise be subject to the provisions of this Act, to do all acts and things thereunder as if such income was actually the income of the agent, 25 provided that nothing herein contained shall exempt or discharge the principal from liability to pay income tax on such income.

(II) Regulations may be prescribed for the purpose of making, obtaining, adjusting, and settling returns by or with any 30 agent in such manner and form with such particulars and proof as may be thought fit, and for the purpose of making, completing, and enforcing assessments under this section and otherwise generally for the purpose of giving effect to the provisions hereof.

31. Every person engaged in business as owner or charterer of 35 ships shall be assessed for taxation upon his income on such terms and conditions as may be prescribed by regulations, and such assessment shall be subject to all rights of objection and review as provided by this Act. Income of shipowners, &c.

32. (I) In the case of Insurance Companies regulations may 40 prescribe means of determining what portion of the income of such companies shall be deemed to be the income of such companies in New South Wales, and such income only shall be liable to be assessed for income tax under this Act, Insurance companies.

(II) In the cases of all other companies whose business 45 extends to any other countries the income for taxation shall be in the proportion to the whole profits which the assets in New South Wales bear to the total assets of the company, the deductions to be in the same proportion and those only allowed by this Act: Provided that where the Commissioners deem such method of estimating the income 50 for taxation to be inequitable or inexpedient they may require any such company to furnish information as to the actual profits earned or income received in New South Wales, and may assess such earnings and income for taxation. Other companies.

33. The income of a married woman shall be liable to assess- 55 ment and taxation in like manner as if she were unmarried: Provided that the income of any married woman living with her husband shall be deemed the income of her husband. Married women—how liable. Founded on 5 and 6 Vic. c. 35, s. 45.

34. For the purpose of ascertaining the sum, hereinafter termed the "taxable amount," on which (subject to the deductions 60 hereinafter Taxable amount—how ascertained.



*Land and Income Tax Assessment.*

hereinafter mentioned) income tax is payable, the following directions and provisions shall be observed, and carried out—

- 5 (I) The amount of taxable income from all sources for the year immediately preceding the year of assessment shall be taken as the basis of calculation.
- 10 (II) In any case in which profits or moneys derived from any profession, trade, employment, or vocation have been converted into stock-in-trade, or added to the capital of, or in any way invested in, such profession, trade, employment, or vocation, a complete statement of the amount of such profits or moneys so converted, or added, or invested, shall be made by such person in the prescribed form in his returns.
- 15 (III) No tax shall be payable in respect of income earned outside the Colony of New South Wales.
- (IV) The taxable amount of any income under subsection (II) of section twenty-two shall be the net amount paid to or on behalf of the taxpayer less all payments by way of deduction or otherwise to the Civil Service Superannuation Account, or any other public account.
- 20 (V) Income received by a taxpayer in respect of a share in a company liable to pay income tax shall be deducted from the taxable amount, but such income shall be specified by the taxpayer in the returns made by him in the prescribed manner.
- 25 (VI) In all other cases the taxable amount shall be the total amount of income arising or accruing to any person from all sources except land or mortgages to the extent of the exemptions provided by subsection (VII) of section twenty-four.
- (VII) Shillings and pence, and fractions thereof, shall not be included in the taxable amount.
- 30 35. From the taxable amount so ascertained as aforesaid every taxpayer shall be entitled to deductions in respect of the annual amount of:— Deductions from taxable amount.
- 35 (I) Losses, outgoings, and expenses actually incurred in New South Wales by the taxpayer in the production of his income.
- 40 (II) Every premium or sum paid by the taxpayer on the insurance of his own life, or that of his wife, or for a deferred annuity, or other provision for his wife or children, or in respect of any fidelity guarantee, or bond, which such taxpayer is required to provide for the exercise of his profession, trade, employment, or vocation: Provided that, in no case, shall any deduction be allowed under this subsection beyond the sum of seventy-five pounds in the aggregate.
- 45 (III) Any sums paid by the taxpayer by way of interest, in respect of any mortgage of, or charge or encumbrance secured upon the premises in and from which the income is derived, but not further or otherwise.
- 50 (IV) Sums expended for the repair or alteration of machinery, implements, utensils, and articles employed by the taxpayer for the purposes of his trade; such sums shall be estimated on the annual average of the sums expended for such purposes during the two years preceding the year of assessment, or if such average cannot be struck, the amount to be deducted shall be the sum expended for such purposes during
- 55 the year immediately preceding the year of assessment, provided that where in any trade income is set apart by the taxpayer by way of a fund to cover the depreciation of such machinery, implements, utensils, and articles, the amount so set apart for the year immediately preceding the year of
- 60 assessment, may, subject to the approval of the Commissioner, be



*Land and Income Tax Assessment.*

be deducted instead of the sums so expended as aforesaid, but not in addition thereto unless under such exceptional circumstances as shall seem to justify some additional allowance for depreciation: Provided that in no case shall any

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(v) Notwithstanding the limitation in subsection (i) hereof the Commissioner shall, in cases where it may seem to him just, allow losses, outgoings, and expenses, even if incurred beyond the Colony.

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(vi) When any taxpayer occupies, for the purpose of business or employment, any land in respect of which land tax is payable by him under this Act for the same period, such person shall be entitled, in any return of income derived or received from such business or employment for such period, to deduct a

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sum equal to five per centum on the amount on which such person is liable to pay tax on such land.

(vii) Where a taxpayer, either alone, or with other persons, carries on, or is interested as a partner in, more than one trade, and makes a profit in one or more of such trades, and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits.

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36. No deduction shall, in any case, be made in respect of any of the following matters:— What deductions not allowed.

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(I) The cost incurred in the maintenance of any taxpayer, his family, or establishment,—

(II) Domestic or private expenses,—

(III) Any loss or expense which is recoverable under any insurance or contract of indemnity.

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(IV) Income tax and land tax,—

(V) Income earned in New South Wales and carried to any reserve fund, or capitalised in any way.

Nor, as regards income derived from any trade, in respect of any of the following matters, viz:—

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(VI) Any moneys not wholly and exclusively laid out or expended for the purposes of the trade,—

(VII) The rent or value of or cost of repairs or alterations of any premises not occupied for the purposes of the trade, or of any dwelling-house, or domestic premises, except such part thereof as may be occupied for the purposes of the trade,—

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(VIII) Interest which might have been made on any capital employed in the trade, if lent out at interest,—

45

(IX) Any debts owed to the taxpayer, except such as shall be proved to the satisfaction of the Commissioner to be bad or doubtful; and deductions for doubtful debts shall be made according to the value at which the Commissioner shall estimate them.

For the purposes of this and the preceding section the word "trade" shall be taken to include any profession, employment, or vocation; but shall not include ownership, use, or occupation of land or interest in

50 mortgages.



*Land and Income Tax Assessment.*

## PART V.

*Assessments, Returns, &c.*

37. (i) The Commissioner shall, in the prescribed manner, give, or cause to be given, not less than thirty clear days' public notice  
 5 in every district, of the time and place at which all persons liable to taxation personally, or in any representative capacity under the provisions of this Act, residing or having their usual place of business in such district, shall furnish returns for the purpose of the assessment of Land and Income Tax; such notice shall state the place at which the  
 10 prescribed forms of return may be applied for and obtained, and it shall be the duty of all such persons, and of all persons required by this Act or any regulation thereunder to furnish any such returns, to apply for the prescribed forms of returns, and any person failing to  
 15 furnish any such return shall not be relieved from any penalty by reason only of his having received no notice to furnish the same, or of the prescribed form of return not having been delivered to him; but the Commissioner may, if he deem it so advisable, cause forms to be delivered by the assessors or sent by post.

Commissioner to give notice of returns.

Persons to provide themselves with forms of returns.

(ii) Every such person shall, upon the publication of such  
 20 notice, prepare and deliver, in the prescribed manner, within the period to be mentioned in such notice, to the person appointed to receive the same, a return in the form prescribed, of the description, situation, and value of all land and mortgages, and of all leases having a term of not less than seven years to run, of which such person is  
 25 owner or holder, or in respect of which he may be liable under this Act to taxation in any representative capacity, and of the particulars of his income, and of all other details in relation thereto which may be prescribed; such return shall be signed by the taxpayer, or by his agent duly authorised in that behalf.

Taxpayers to furnish returns.

(iii) Any return made or purporting to be made or signed  
 30 by or on behalf of any person, or by the public officer of any company for the purposes of this Act shall be taken and deemed to be duly made and signed by the person or by the public officer of the company affected, as the case may be, unless such person or public officer  
 35 shall prove that such return was not made or signed as aforesaid.

(iv) If any person fails to make such return to the Commissioner he may appoint a person to make a return on behalf of such person, and the return made by the person so appointed shall be, for all the purposes of this Act, the return of the person liable to make  
 40 the same.

(v) The returns furnished by or on behalf of every person  
 required to furnish returns under this Act shall contain such  
 particulars, be in such form, and be furnished to the Commissioner  
 at such time, as may respectively be prescribed or publicly notified.

Returns of Companies.

(vi) The Commissioner may, when and so often as he  
 45 thinks necessary, require any person to make further or fuller returns respecting any matter of which a return is authorised or prescribed by this Act or by the regulations.

Commissioner may require further returns.

(vii) All returns required to be furnished under this Act  
 50 shall be delivered at or sent by registered letter to the prescribed address, and any returns so posted shall be carried and registered free of charge.

(viii) No person shall be released from the obligations and penalties by this Act or the regulations imposed in respect to the  
 55 making of the returns herein mentioned by reason only that such person may be within the exemptions as to value of lands or amount of income taxable hereinbefore declared.



*Land and Income Tax Assessment.*

38. (I) From the returns furnished to the Commissioner, or from any other available sources the Commissioner shall on or before the first day of July, in the year one thousand eight hundred and ninety-five, or on such other date within the same year as the Governor shall determine, cause separate assessment books to be prepared, as hereinafter provided in respect of land tax, and of income tax, within each district, and like assessment books shall thereafter be prepared in respect of land tax in every fifth year after the year one thousand eight hundred and ninety-five, and in respect of income tax in each and every successive year after such last mentioned year.

(II) Every such assessment-book in respect of land tax shall contain particulars arranged in the prescribed manner of all lands, mortgages, and leases liable to land tax within the district to which such assessment-book relates, and shall remain in force until a new assessment-book shall be completed, and notice thereof given to the persons concerned.

(III) Every such assessment-book in respect of income tax shall be so prepared as to show the gross and taxable amounts of the income of every taxpayer, the income chargeable, and the amount of the tax to be paid by each taxpayer, the name and occupation of such taxpayer, together with such other particulars as may be prescribed :

Provided that any alteration or correction in any assessment-book authorised to be made on appeal from assessments, or on order of a Court as hereinafter provided, shall be made forthwith : Provided further that if, upon completion of the assessment by the assessors, and after the sittings of the Board of Review, it is at any time found that the assessed value or amount of any land, mortgage, or lease, or income respectively is higher than is declared in the return or returns relating thereto, such excess shall be liable to taxation, and the tax levied in respect thereof shall be paid by the person chargeable, or if such person is deceased shall be recoverable from his personal representatives, notwithstanding that the year for which the tax was originally assessed and paid has closed, or that such person, or his representatives, may hold a receipt in full for the tax paid for the said year.

39. During the time that any assessment-book is in force the Commissioner may, from time to time,

(I) Place thereon the name of any person of whose liability to taxation he is satisfied, and erase therefrom the name of any person not so liable,—

(II) In his discretion, whether notice of appeal has been given or not, alter or reduce any assessment or class of assessments and order a refund of any excess of tax that may have been paid in respect thereof.

(III) Place thereon any lands, mortgages, or leases which may have become vested in or owned by any person since the making of the last assessment which he is satisfied are liable to taxation, or erase therefrom any lands, mortgages, or leases no longer so liable.

The prescribed notice shall be given to the persons affected (if any) of any addition to, or amendment of, the assessment-book, or any assessment, unless such addition or amendment has been made with the consent of the person affected.

(IV) Every person affected by any such addition or amendment shall be entitled to appeal therefrom in the same manner as from an original assessment. All notices and other proceedings prescribed with respect to original assessments, and appeals therefrom, and the hearing thereof, shall, so far as possible, apply with respect to such additions or amendments and appeals therefrom.

(v)



*Land and Income Tax Assessment.*

- (v) Subject to such right of appeal as aforesaid every assessment so added to, reduced, or amended shall have the same effect, and be accompanied by the same consequences, as an original assessment, and the assessment-book so added to or amended shall be the assessment-book for the district to which it relates.
- 5 (vi) If the Commissioner thinks that any assessment made by an assessor is unfair or incorrect, they may direct another assessment to be made. If assessment wrong new one may be ordered.
- 10 40. In the preparation of any assessment-book in respect of land tax the Commissioner may, if he think proper, use or adopt so much of any assessment then in force which shall have been made by, or by the authority of, the Municipal Council of the City of Sydney, or the Council of any Municipality, or any other authority empowered
- 15 by law to make assessments of land, as may be applicable to or useful for the purpose of making any assessment under this Act. Power to use other assessments.
- 20 41. The Commissioner, or any person authorised in writing by him, may at all reasonable times, inspect, free of charge, all rate-books, assessment-books, and valuations relating to any land, and all other books and documents relating to any assessment or valuation in the custody of the town clerk, or any other officer of the City of Sydney, or the council clerk, or other officer of any Municipality, and all deeds, certificates, and other evidences of title, books, returns, accounts, and documents in the Land Titles Office, or the General
- 25 Registry Office for the Registration of Deeds, or in any other public office; and may require and take copies thereof, or extracts therefrom. Any person obstructing or hindering the Commissioner or any person so authorised by him shall be liable to a penalty of fifty pounds. Power to inspect rate-books, &c.
- 30 42. Any assessor may enter at any reasonable hour, during the daytime, upon land or premises, for the purpose of assessing the same, and may put to the occupier or owner thereof any questions touching any of the particulars thereof which he is required to furnish under this Act or the regulations. Assessor may enter and ask questions.
- 35 43. Joint trustees of land mortgages or leases in respect to which such trustees are liable under this Act to be assessed and taxed shall be assessed jointly, but shall be jointly and severally responsible for the due furnishing of returns, and be in like manner liable in respect of any default in connection therewith. Trustees assessed jointly, but jointly and severally responsible for returns.
- 40 44. Copartners shall be assessed jointly in the name of the firm or style of the copartnership, in respect of land mortgages or leases belonging to such copartners, and shall be chargeable jointly with the land tax payable in respect thereof; and such assessment shall be kept separate and distinct from the individual assessment of any such partner. Every copartner shall be separately responsible for
- 45 the due furnishing of returns relating to such land mortgages or leases, and be liable in respect of any default in connection therewith. Partners assessed jointly as to land of firm.
- 50 45. Where the name of an owner of any land cannot, after due inquiry, be found, such land shall be entered in the assessment-book by the name of "the owner," and he shall be liable to taxation by that designation. Provision when name of owner unknown.
46. Where any portion of land is, or is alleged to be, situate partly in one district and partly in another, or where it is uncertain in what district any portion of land is situate, the Commissioner or a District Commissioner may enter such portion in the assessment-book of such district, as he considers most convenient for purposes of assessment, or until he shall have ascertained the district in which such portion is actually situate, in which case they shall transfer the entry to the proper assessment-book, and deal with the portion of land and the owner thereof accordingly. Lands situate partly in one district and partly in another.



*Land and Income Tax Assessment.*

47. (I) If any person makes default in furnishing any return of lands, mortgages, leases, or income, or if the Commissioner is not satisfied with the return made by any person, he may make an assessment of the value or amount on which, in his judgment, tax ought to be charged, and the tax shall be payable accordingly. Default assessment.
- (II) Every such assessment shall be subject to appeal.
48. The assessment-book in respect of land tax, or a copy thereof, shall be open to inspection at such place or places and subject to such conditions and the payment of such fee as the Commissioner shall appoint. Assessment-book in respect of land tax open to inspection.
49. Upon completion of every assessment-book in respect of income tax, such book, or a copy thereof, shall be deposited in the office of the Commissioner or District Commissioners. Such book or copy shall not be open to public inspection, but every taxpayer shall be entitled to a copy of the entries therein relating to the assessment of his income certified by or on behalf of the Commissioner. Assessment-book in respect of Income Tax not open to inspection.
50. Upon the completion of every assessment-book the Commissioner shall give notice every year to every taxpayer whose name appears in such book, with such particulars of the assessment, as shall be considered necessary, and the amount of the tax which is payable. Such notice shall be designated the "Notice of Assessment of Land and Income Tax." Notice to taxpayers.
51. If the Commissioner is of opinion that any land included in any return has not been returned at its fair value, and notwithstanding any appeal and decision upon the assessment based on such return— Fair value of land in returns.
- (I) He may report the facts to the Governor and recommend that such land shall be acquired on behalf of Her Majesty for the sum at which such land was entered in the return of such owner with ten pounds for every one hundred pounds of such value added, together with such further sum as compensation for improvements thereon as may on reference to arbitration, as prescribed in the regulations, be determined to be fair and reasonable, and the Governor may, within six months of the receipt of such return, declare that such land is vested in Her Majesty, and the effect of such notice shall be to vest the land in Her Majesty for the same estate or interest therein as the owner was entitled. Power to acquire land.
- (II) If the Governor exercises the power aforesaid then the money payable to the owner may be paid to such owner, or if he refuses or neglects to receive the same or is absent from the Colony or is under legal disability, or if the Commissioner is in doubt as to who is entitled to such money, then it shall be paid into a Trust Account at the Treasury, and the owner or persons entitled thereto may upon petition to the Supreme Court or a Judge thereof, and upon his establishing his title thereto, obtain the payment of such money. Procedure thereon.
52. The Colonial Treasurer shall upon the Governor's warrant pay out of the Consolidated Revenue Fund, all moneys required to be expended under section fifty-one of this Act: Provided always, that all recommendations made under the previous section shall be laid on the table of each House of Parliament within thirty days, if Parliament be then in session, and if not, then within seven days after Parliament shall meet. Colonial Treasurer to pay under Governor's warrant.
53. Whenever land shall become vested in Her Majesty under the powers conferred by this Act then the possession of such land shall be deemed to be in Her Majesty, and every person on such land shall be deemed an intruder thereon, unless such person proves a title to such possession as against Her Majesty. Any land acquired under this Act may be sold and disposed of in such manner as the Governor may
- Persons on land vested in Her Majesty deemed intruders.



*Land and Income Tax Assessment.*

may direct, and the Governor may in the name of Her Majesty convey, transfer, or otherwise assure such land in pursuance of any such sale or disposition.

*Provisions as to Companies.*

- 5 54. (I) Every company liable to land or income tax shall, at all times, be represented by a person residing in New South Wales, nominated for that purpose; and a place within the said Colony shall be appointed, from time to time, by such company, at which any notices or other instruments under this Act affecting the company  
10 may be served or delivered, and the Commissioner shall be notified within one month of such nomination and appointment.
- (II) Such person shall for the purposes of this Act be called the public officer of the company and shall be nominated—
- 15 (a) In the case of a company having a board of directors or managers in New South Wales, within one month after the passing of this Act:
- (b) In the case of a company not having such board as aforesaid, within three months after the passing of this Act:
- 20 Provided that, in default of such nomination for the purposes of the first assessment under this Act, the public officer of any company shall be such managing director, director, secretary, or other officer as the Commissioner shall nominate for that purpose.
- (III) The office of public officer shall be kept constantly filled by every company.
- 25 (IV) Every company failing or neglecting, within the time required by this Act, to nominate its public officer, or failing or neglecting to fill any vacancy in that office as prescribed, or to appoint a place at which notices or other instruments may be served or delivered, shall be liable to a penalty not exceeding fifty pounds for  
30 every day during which such neglect shall continue.
- (v) Every notice, process, or proceeding which, under this Act, or the regulations, may be given to, served upon, or taken against any company may be given to, served upon, or taken against its public officer; and if, at any time, there be no public officer, then  
35 any such notice, process, or proceeding may be given to, served upon, or taken against any officer or person acting or appearing to act in the management of the business or affairs of such company, or as agent for such company.
- (VI) Every public officer shall be answerable for the doing  
40 of all such acts, matters, or things as are required to be done under this Act or the regulations by a taxpayer, and in case of default shall be liable to the same penalties.
- (VII) Any act, return, or representation done or made by a public officer in respect of any matter or thing required to be done or  
45 performed under this Act or the regulations relating to the business of the company of which he is such public officer shall be deemed the act, return, or representation of such company, and shall be of the same force and effect and be accompanied by the same consequences as if done or made by such company.
- 50 (VIII) Every company established or beginning to carry on business in the Colony after the passing of this Act shall, within one month after its establishment or beginning to carry on business nominate a person to be its public officer, and appoint a place for delivery of notices and other instruments as aforesaid.
- 55 (IX) The absence or non-appointment of a public officer shall not exonerate any company from the necessity of complying with the provisions of this Act or the regulations thereunder, or from the penalties consequent on the failure to comply therewith.



*Land and Income Tax Assessment.*

## PART VI.

*Appeals, Collection of Taxes, &c., Regulations, Penalties, &c.*

55. (I) Any taxpayer may, within thirty days after the notice of assessment for land or income tax or of any altered, corrected, or additional assessment has been given, appeal therefrom upon the ground that he is not liable for the tax, or for any part thereof, or that the amount of tax to be paid on the basis of such assessment is excessive. If the taxpayer appealing resides, or has his usual place of business within the Metropolitan Taxation District, the appeal shall be to the Board of Review for such district, and if in any other Taxation District, the appeal shall be to the District Court Judge or Stipendiary or Police Magistrate sitting for the purposes of appeals under this Act nearest to the residence of such taxpayer, or to his place of business. Every appeal shall be commenced by such notices and in such manner as may be prescribed.

(II) Public notice shall be given of the time and place appointed for the hearing of appeals, and such hearing may be adjourned from time to time to any time and place that may seem convenient.

(III) The meetings of the Board shall not be deemed to be public, and the Board may at any time exclude from any such meeting, or require to withdraw therefrom, all or any persons whomsoever. The Board shall, in respect of the examination of witnesses, the production of papers and documents, and the payment of expenses (to be fixed by regulation under this Act), have all the powers and authorities conferred by the Act forty-fourth Victoria number one, subject as hereinafter provided.

(IV) The Commissioner, or any person authorised by him may appear before the Board in support of the assessment; and any person objecting thereto may appear in person, or by his counsel, solicitor, or agent.

(V) All appeals shall be heard and dealt with in alphabetical order; but where two or more appeals in any list of appeals relate to the same matter, they may be heard together.

(VI) The Board may alter or order the alteration of the assessment-book in accordance with the decision given on any appeal, but may only make an order as to costs when objections or the defence thereto are held to be frivolous.

(VII) The assessment-book, so altered or corrected, shall be the assessment-book for the district to which it relates.

(VIII) The decision of the Board shall be final and conclusive.

(IX) All these provisions shall apply equally to appeals to a Board, District Court Judge, or Magistrate as aforesaid; but in no case shall the jurisdiction extend beyond deciding questions of values, amounts, ownership, or interest.

(X) No member of any Board of Review, District Court Judge, or Magistrate as aforesaid shall, solely on account of his liability to be assessed under this Act, or of his liability to tax under any Act for the time being in force, be deemed to be interested in any matter upon which he may be called upon to adjudicate or determine as such member, District Court Judge, or Magistrate as aforesaid.

56. (I) Every appeal to a District Court Judge or Magistrate shall be commenced by written notices, in such form and containing such particulars as shall be prescribed, or as near thereto as circumstances will permit, to be delivered to the Registrar of the Court, and to the Commissioner or the District Commissioner, within the period allowed for appealing.

Appeal to District Court.



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(II) Every such appeal shall be heard and determined at the earliest convenient sittings of the District Court or Magistrate Court next after fourteen days from the expiration of the time allowed for appealing, and the Judge or Magistrate as aforesaid may at any time during the hearing of such appeal exclude from Court or require to withdraw therefrom all or any persons whomsoever.

(III) The Judge or Magistrate as aforesaid may make such order touching the matter in dispute, and the costs in connection therewith, as shall be just; provided that costs shall be allowed only when objections or the defence thereto are held to be frivolous, and shall order any alteration required by the decision to be made in the assessment-book; and the assessment-book so altered or ordered to be altered as aforesaid shall be the assessment-book for the District to which it relates.

57. The obligation to pay, and the right to receive and recover, land or income tax shall not be suspended by any appeal, but if the appellant succeeds on such appeal, the amount (if any) of the tax received by the Commissioner or District Commissioner in excess of the amount which, according to the decision on such appeal, was properly payable by him, shall forthwith be repaid to him by the Commissioner.

Right to recover tax not suspended by appeal.

*Provisions as to collecting and enforcing payment taxes, &c.*

58. On completion of the assessment-books in respect of land and income tax respectively under the provisions of this Act, a day or days shall be appointed from time to time in every year by notice in the *Gazette* on which such land and income tax respectively shall be due and payable.

Notice published in *Gazette* when tax is due and payable.

59. Every person who fails to pay the amount payable by him in respect of land tax or income tax respectively before the expiration of thirty clear days after the same has become due shall, in addition to the amount of such land or income tax, pay, by way of fine, a sum equal to ten pounds per centum thereof.

Fine, on defaulting taxpayer.

60. Land tax and income tax, and every sum imposed or incurred by way of fine in addition to such tax, shall be deemed, when the same becomes due or is payable, to be a debt due to Her Majesty, and payable to the Commissioner in the manner and at the places prescribed.

Income tax, &c., to be a debt due to Her Majesty.

61. The Commissioner shall make out a list of the persons who shall be in arrear for income tax, and on the expiration of thirty days after the tax is payable he shall proceed to recover the amounts shown in the said list as hereinafter provided.

Persons in arrear for income tax may be proceeded against after the expiration of thirty days.

62. Any land or income tax, together with the fine of ten per centum accrued, shall be recoverable by action in any Court of competent jurisdiction by the Commissioner suing on behalf of Her Majesty.

Land and income tax with fine added shall be recoverable by the Commissioner.

63. With respect to suits and proceedings in a District Court, or in a Petty Debts Court for the recovery of tax and fines, the following provisions shall have effect:—

Mode of recovery of tax and fines.

(I) When a summons for the recovery of tax is issued and served, then unless, eight days before the day appointed for hearing, a statement in writing by, or on behalf of the defendant, showing a defence on the merits, shall be made to the clerk of the Court in which such summons was issued, judgment shall be given for the amount claimed, without allowing any defence, and without the necessity of the Commissioner, or District Commissioners, or any of them, or any one on their behalf, appearing in Court, or proving the liability of the defendant and the non-payment of the tax.

(II)



*Land and Income Tax Assessment.*

(II) In all cases the summons shall be served upon the defendant at least thirty days before the day appointed for hearing.

5 (III) It shall be sufficient in any such suit or proceeding if the particulars of demand state the amount sought to be recovered, the date on which the same was payable, with such further and other particulars as the Commissioner may think necessary.

64. If it is proved to the satisfaction of the Commissioner that the amount paid by any taxpayer as income tax is in excess of the amount properly chargeable under this Act, or that the amount charged as land tax is in excess of the amount properly chargeable thereunder, the Commissioner shall give a certificate to that effect, on production whereof the Colonial Treasurer shall refund the proper amount in each case to the taxpayer or person entitled to receive the same; and if any taxpayer proves to the satisfaction of the Commissioner that his income during any year fell short of the sum in respect of which the tax for that year was paid, the Commissioner shall cause the assessment to be amended accordingly, and the overcharge to be refunded as aforesaid; and if it be proved to the satisfaction of the Commissioner that income tax has been paid in respect of any income which by reason of the smallness of the income of the person finally beneficially entitled thereto would have been exempt from taxation if it had been included in a return made by such person of his income, the Commissioner shall cause the amount of such income tax to be refunded as aforesaid: Provided that the claim is made within twelve months of the date when the over payment was made.

*Recovery of Land Tax by Letting and Sale of Land.*

65. (I) The land tax shall, until payment, be a first charge upon the land taxed, in priority to all sales, conveyances, mortgages, charges, liens, rates, and encumbrances whatsoever.

(II) Whenever any land tax payable in respect of any land shall be unpaid for the space of two years, it shall be lawful for the Commissioner notwithstanding any judgment in respect of such tax recovered against the person chargeable with the same so long as such judgment remains unsatisfied, to cause to be published for three consecutive weeks in the *Gazette* and in a local newspaper, a notice specifying such land, and the amount of tax and fines due in respect thereof, and stating that if such amount be not paid within one year from the first publication of such notice, the Commissioner will let the land for a term not exceeding three years with tenant right to improvement reasonable and necessary in the case of a tenancy for a term of three years pursuant to the provisions of this Act, or will apply to the Supreme Court for an order for the sale thereof.

(III) If, after one year from the first publication of such notice, the tax and fines due at the time of such first publication are still unpaid, the Commissioner may let such land, or any part thereof, as above provided, and may receive the rents and profits thereof, and apply the same towards the payment of the said tax, or part thereof, and of costs and expenses, and hold any surplus in trust for the rightful owners of such land.

(IV) The Commissioner, instead of letting such lands may, in like case, by petition to the Supreme Court or any Judge thereof, apply for a sale of so much of the land described in such notice as may be necessary, and if such land be not subject to any *bonâ fide* mortgage or lease the Court or Judge, on being satisfied by affidavit or otherwise that the arrears are lawfully due, and were in arrear at the time of the first publication of such notice, and that all things required by this Act



*Land and Income Tax Assessment.*

Act to be done by the Commissioner have been done, shall order the sale of the said land, or so much thereof as shall be sufficient to pay all arrears due up to the time of sale, together with any sum payable by way of fine, and all costs of and attending the application, and of  
5 and attending the sale of such land; and that the proceeds be paid into Court.

(v) If such land is subject to any *bonâ fide* mortgage or lease, registered or unregistered, the Court or Judge may, on such application, order the sale of the whole or portion of such land subject  
10 to such mortgage or lease.

66. Whenever the land tax payable in respect of any mortgage shall have been in arrear for the space of three years, the Commissioner may apply to the Supreme Court or a Judge thereof for a sale of the estate or interest of the mortgagee in such mortgage in  
15 the manner provided for the sale of land under subsection four of section sixty-five, and the Court or Judge on being satisfied of the matters specified in the said subsection shall order a sale of such estate or interest, and that the proceeds thereof be paid into Court.

67. Whenever any sale of any land, estate, or interest shall  
20 have been ordered and effected under the last preceding sections of this Act, the Court or a Judge shall order payment of the said tax, costs, and expenses to be first made out of the proceeds of sale, and the conveyance or transfer, as the case may be, shall be executed by the officer of the Court nominated by such Court or Judge for such  
25 purpose to the purchaser, his heirs and assigns, in such form as shall be approved by the Court or Judge; and such conveyance or transfer shall vest the land, estate, or interest sold in the purchaser as completely and effectually as if such conveyance or transfer had been executed by the owner of such land, estate, or interest; and in cases  
30 where the land is under the "Real Property Acts," the purchaser shall be entitled to receive a certificate of title to the land purchased; and the balance arising from the proceeds of such sale shall be applied as the Court or Judge may think proper for the benefit of the parties interested therein.

35

*Regulations, Penalties, &c.*

68. The Governor may by regulation prescribe and regulate—

(I) The duties of all persons engaged or employed under or in the administration of this Act.

40 (II) The security to be given by any such persons, the limits of districts and places within which any such persons are to act;

(III) The returns to be furnished to the Commissioner, and the form and contents thereof, and the time and mode of furnishing the same;

45 (IV) The mode of payment of any tax or fine;  
and may make regulations for carrying out the objects of this Act, and generally for carrying out all matters of detail in connection with the said Act.

69. The Governor may make all such other regulations, either applicable generally or to meet particular cases, as may be necessary  
50 or desirable to carry out the objects and purposes of this Act, or as may be convenient for the administration thereof.

70. All such regulations shall be published in the *Gazette* and shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then sitting, and if  
55 Parliament be not then sitting, then within fourteen days after the beginning of the next Session, and upon publication in the *Gazette* all such regulations shall have the force of law.



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71. If the occupier or person in possession of any land when requested by the Commissioner, or by any officer appointed by them or under this Act, refuses to disclose the name of the owner of such land, or of the person entitled to receive the rents and profits thereof, or wilfully misstates the same or neglects or refuses to give any information in his possession, which is lawfully required by the Commissioner or any such officer for the purposes of this Act, he shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

Occupier or person in possession refusing to give the name of owner liable to a penalty.

72. If any person

10 (I) Fails or neglects to furnish any returns within the prescribed time ;

Penalty for making false returns, &c.

(II) Knowingly and wilfully makes any false statement in any returns, or makes any false answer for the purpose of evading or enabling any other person to evade assessment or taxation ;

15 or

(III) By any falsehood, wilful neglect, fraud, art, or contrivance whatsoever, evades or attempts to evade assessment or taxation ;—

he shall be liable to pay for each offence a penalty not exceeding one hundred pounds ; and in any case where the offence was an evasion of assessment or taxation, or an attempt to evade assessment or taxation, the person offending shall be liable to be assessed and charged treble the amount of the tax to which such person would otherwise be liable.

73. Any person who obstructs or hinders any officer acting in the discharge of his duties under this Act or the regulations thereunder, or refuses or wilfully neglects to answer or gives any false or evasive answer to any lawful question put by any such officer relating to any land, property, or income belonging to such person, shall be liable to a penalty not exceeding fifty pounds.

Penalty for obstructing officers, &c.

74. Any person who in any declaration authorised or prescribed by this Act, or the regulations thereunder, knowingly and wilfully states any matter or thing which is untrue, shall be guilty of perjury, and shall be dealt with accordingly.

Persons making false declaration, &c., guilty of perjury.

75. Every contract, agreement, or understanding, whether arrived at or evidenced by matter of record under seal or by writing or by parol, having or purporting to have or which might have the effect of removing, qualifying, or altering the operation of any assessment, return, exemption, or deduction, or of in any way affecting the incidence of any assessment, exemption, or deduction authorised by or consequent upon any provision of this Act shall be and is hereby declared to be wholly and absolutely null and void, whether such contract, agreement, or understanding shall have been or be made before or after the passing of this Act.

Contracts, &c., affecting assessment, incidence of assessment, &c., null and void.

76. The Governor may by regulation impose a penalty not exceeding fifty pounds for the breach of any provision of this Act or of the regulations thereunder.

Penalties may be imposed by regulation.

77. All penalties imposed by this Act or by the regulations thereunder may be recovered summarily before a Stipendiary or a Police Magistrate ; and if the amount of such penalty be not paid within the time mentioned in the order, payment thereof may be enforced by distress and sale of the offender's goods and chattels, and in default of sufficient distress the offender shall be liable to imprisonment for any term not exceeding three calendar months, unless such penalty be sooner paid.

Proceedings to be heard summarily, &c.

78. In any action against any officer or person for anything done in pursuance of this Act, or in the execution of the powers or authorities conferred thereby, or by the regulations, the defendant in such action may plead the general issue, and give the special matter in evidence at the trial.

Action against officers, &c.



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79. The production of the *Gazette* containing any regulations <sup>Evidence.</sup> purporting to be regulations under this Act, or any notice purporting to be published in pursuance of this Act or the regulations thereunder, shall be conclusive evidence that such regulation or publication was  
 5 duly made or published, and the production of any assessment-book, or of any document under the hand of the Commissioner purporting to be a copy of, or extract from, any assessment-book, shall be conclusive evidence of the making of the assessment, and except in the case of  
 10 proceedings on appeal against the assessment (when the same shall be *prima facie* evidence only) shall be conclusive evidence that the amount, and all the particulars of such assessment appearing in such book or document, are absolutely correct.

80. In this Act, unless the context otherwise requires,— <sup>Interpretation.</sup>

15 “Board” means the Board of Review constituted under this Act, or a Judge of the District Court or a magistrate appointed and sitting as such Board of Review.

“Commissioner” means the Commissioner of Taxation.

“Company” includes all bodies or associations corporate or unincorporate.

20 “District” means a taxation district constituted by or under this Act, and includes any group or combination of districts, and any division or part of a district.

“District Commissioner” means District Commissioner of Taxation.

“Governor” means the Governor with the advice of the Executive  
 25 Council.

“Income” includes profits, gains, rents, interest, salaries, wages, allowances, pensions, stipends, charges, and annuities.

“Income tax” means the tax or duty imposed or charged in respect of income by any Act in force for the time being as  
 30 assessed under this Act or any Act amending the same.

“Income chargeable” means the taxable amount less the deductions allowed under this Act.

“Insurance Companies” includes companies carrying on business as fire, marine, accident, fidelity, or guarantee insurance  
 35 companies.

“Land tax” means the land tax imposed as such by any Act in force for the time being as assessed under this Act or any Act amending the same.

40 “Mortgage” means and includes any charge whatsoever upon land or interest therein, and whether created by deed, will, or other instrument, or in any other manner.

“Mortgagee” means and includes the person entitled at law or in equity to a mortgage or any part thereof.

45 “Owner” includes every person who is, jointly or severally, whether at law or in equity.

(a) Entitled to land for any estate of freehold in possession; or

(b) Entitled to land for any such estate of freehold as aforesaid as a married woman, to her separate use, otherwise than through one or more trustees; or

50 (c) Entitled to appoint to, or to dispose immediately and absolutely of, the fee-simple of any land; or

(d) Who is a settlor, grantor, assignor, or transferor of land comprised in any settlement, grant, assignment, transfer, conveyance, or other instrument, not made *bona fide* for  
 55 valuable consideration; or

(e) Entitled to land partly in one, and partly in another or others of the aforesaid ways

(f) Entitled to receive or in actual receipt or if the land were let to a tenant, would be entitled to receive the rents and  
 60 profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise. “Person”



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- “Person” includes “Company” as defined by this Act.
- 5 “Prescribed” means prescribed by this Act or the regulations thereunder: provided that where, under this Act, anything is required to be done in the “prescribed form,” it shall be sufficient if such thing be done substantially in the form so prescribed, or to the effect thereof.
- “Public notice” means a notice inserted in the *Gazette* or published in any newspaper circulating in a district.
- 10 “Registered” means registered in the office of the Registrar-General or the Lands Titles Office under the provisions of any Act in force in New South Wales for the registration of titles to land deeds and other instruments.
- “Ship” means every description of vessel used in navigation not propelled by oars.
- 15 “Taxpayer” means any person chargeable with land or income tax.
- “This Act” means this Act and the regulations thereunder.
- 20 “Trustee,” in addition to every person appointed or constituted such by act of parties, order or declaration of a Court, or by operation of law, includes an executor or administrator, and every person having or taking upon himself the administration or control of real or personal property affected by a trust, or acting in any fiduciary capacity, or having the direction, control, or management of the real or personal property of any person under legal disability.
- 25 “Unimproved value” means, in respect to land, the capital sum for which the fee-simple estate in such land would sell, under such reasonable conditions of sale as a *bond fide* seller would require, assuming the actual improvements (if any) were not upon it, and, in case of conditionally-purchased land, of which no grant shall have been issued, after deducting also the balances or amount of purchase money due to the Crown in respect of the same: Provided that the unimproved value of lands reclaimed from the sea, or from any harbour or river, or made fit for building purposes by levelling or quarrying, or by the erection of retaining-walls, or by any similar operations or works, shall be the capital sum for which the said land would sell under reasonable conditions, after deducting from such sum the cost of the reclamation or making, as well as all other improvements.
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