

LAND AND INCOME TAX (AMENDMENT) BILL.

*SCHEDULE of the Amendments referred to in Message of 1st October, 1903.*

- Page 2, clause 3, line 3. *Omit* "be compellable to"  
Page 2, clause 3, line 3. *After* "return" *insert* "relating to income"  
Page 2, clause 3, line 4. *After* "document" *insert* "relating thereto"  
Page 2, clause 3, line 6. *After* "whatsoever" *insert* "except in proceedings under  
" section sixty of the Principal Act "  
Page 2, clause 3, line 10. *After* "of" *insert* "the"  
Page 2, clause 3. At end of clause *add* "or require the production of the originals"  
Page 2, clause 4, line 20. *After* "proportion" *omit* remainder of clause *insert* "Where  
" the whole area in the original assessment has not been resumed, the  
Commissioners may cause such valuations to be made as may be necessary  
for the purpose of apportioning the amount of the land tax which was  
payable in respect of the area resumed."  
Pages 2 and 3, clause 5. *Omit* clause 5.  
Page 3, clause ~~7~~ 6, line 16. *After* "cover" *omit* remainder of clause *insert* "the cost  
" of any improvements effected on the land, and any bonus paid in respect  
" of the lease by him or by any person under whom he claims by virtue  
" of a grant of probate or letters of administration."  
Page 3, clause ~~8~~ 7, line 25. *Omit* "twenty-one days" *insert* "three months"  
Page 3, clause ~~8~~ 7. At end of clause *add* "or instead of so refusing may impose a  
" fine not exceeding ten per cent. of the amount of such deduction"  
Pages 3 and 4, clauses 9, 10, and 11. *Omit* clauses 9, 10, and 11 *insert* new clause 8.  
Page 5, clause ~~13~~ 10, line 34. *Omit* "five" *insert* "two and a half"  
Page 5, clause ~~13~~ 10, line 35. *After* "agent" *insert* "in respect of a contract entered  
" into within the said State"  
Page 5, clause 14. *Omit* clause 14.  
Page 6, clause ~~15~~ 11, line 1. *Omit* "subsection one" *insert* "Direction and provision  
" one "  
Page 6, clause ~~15~~ 11, line 3. *Omit* "three" *insert* "four"  
Page 6, clause ~~15~~ 11, line 5. *Omit* "three" *insert* "four"  
Page 6, clause ~~15~~ 11, line 7. *Omit* "this section" *insert* "section twenty-seven  
" of the Principal Act "  
Page 6, clause ~~16~~ 12, lines 12 and 13. *Omit* "it is proved to the satisfaction of the  
" Commissioners that"  
Page 6, clause ~~16~~ 12, line 19. *Omit* "two" *insert* "three"  
Page 6, clause ~~16~~ 12, line 21. *Omit* "The last preceding subsection" *insert* "This  
" section "  
Page 6, clause ~~16~~ 12, line 23. *Omit* "three" *insert* "four"  
Page 6, clause ~~18~~ 14, line 30. *Omit* "twelve" *insert* "ten"  
Page 6, clause ~~19~~ 15, lines 32 and 33. *Omit* "to have meant and"  
Page 6, clause ~~19~~ 15, lines 33 and 34. *Omit* "by the person receiving the income"  
Pages 6 and 7, clause 20. *Omit* clause 20.  
Page 7, clause 23. *omit* clause 23.  
Pages 7 and 8, clause 26. *Omit* clause 26.  
Page 8, clause ~~27~~ 20, line 12. *After* "time" *insert* "or at the request of the taxpayer  
" shall "  
Page 8, clause ~~28~~ 21, line 17. *Omit* "three" *insert* "two"  
Page 8, clause ~~31~~ 24, line 40. *Omit* "six" *insert* "ten"  
Page 8, clause ~~31~~ 24, line 43. *Omit* "six" *insert* "ten"  
Page 9, clause ~~33~~ 26, line 28. *Omit* "Amendment" *insert* "Assessment"  
Page 9, clause ~~35~~ 28, lines 45 and 46. *Omit* "or of a seminary or college for the educa-  
" tion or training of ministers of religion "  
Page 9, clause ~~35~~ 28, line 47. *Omit* "carried on as" *insert* "being"  
Page 9. *After* clause ~~35~~ 28, *insert* new clauses 29 and 30.

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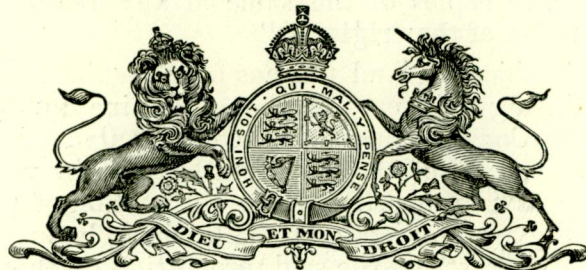
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,* } **RICHD. A. ARNOLD,**  
*Sydney, 6 August, 1903.* } *Acting Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,* } **JOHN J. CALVERT,**  
*Sydney, 1st October, 1903.* } *Clerk of the Parliaments.*

## New South Wales.



ANNO TERTIO

# EDWARDI VII REGIS.

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Act No.           , 1903.

An Act to amend the Land and Income Tax Assessment Act of 1895, the Land and Income Tax (Amendment) Act, 1897, the Land and Income Tax (Declaratory) Act, 1898, and the Land Tax (Assessment Books) Act, 1900; and to provide for the remission and refunding of fines under the first-mentioned Act or any Act amending it.

**B**E it enacted by the King'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       1. This Act may be cited as the "Land and Income Tax Short title.  
(Amendment) Act, 1903."

2. In this Act—

Interpretation.

"Principal Act" means the Land and Income Tax Assessment Act of 1895.

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3.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

*Land and Income Tax (Amendment).*

3. Section seven of the Principal Act is amended by the addition at the end thereof of the following provision:—"The Commissioners shall not ~~be compellable to~~ produce any return relating to income made to them or any other document relating thereto in their possession by virtue of their office in any proceeding in any court or at any inquiry of any kind or nature whatsoever **except in proceedings under section sixty of the Principal Act :**"

Commissioners not compellable to produce returns, &c., in any proceeding or at any inquiry.

"Provided that every person who has furnished any return under the Principal Act or any Act amending the same shall be entitled to inspect such return and take copies of the same at any reasonable time or require the production of the originals."

4. Where any land subject to land tax has been resumed by or on behalf of the Crown during the year one thousand nine hundred, or any subsequent year, the Commissioners shall collect only so much of the land tax payable in respect of the land for the year in which the resumption was made as is proportionate to the portion of such year up to the date of the resumption, and shall, where before the commencement of this Act more than the said proportion of the tax has been collected for any such year, refund the amount collected in excess of such proportion.

Apportionment of land tax in respect of land resumed.

For the purposes of this section, the Commissioners, where the whole area in the original assessment has not been resumed, may cause separate valuations and assessments to be made in respect of any land resumed as aforesaid. Where the whole area in the original assessment has not been resumed, the Commissioners may cause such valuations to be made as may be necessary for the purpose of apportioning the amount of the land tax which was payable in respect of the area resumed.

5. (1) Where any person liable under the provisions of the Principal Act or any Act amending the same to pay any land tax makes default in the payment thereof, then, without in any way releasing him from his liability therefor, where such land tax is payable in respect of any land which is subject to any mortgage, the mortgagee shall be liable to pay the same: Provided that such mortgagee shall not be liable to pay such tax until after the expiration of thirty days' notice given to him by the Commissioners of such default; that he shall have the right during such thirty days to furnish returns of any mortgages, and to object to or appeal from any assessment; and that such objection or appeal shall have the same effect in his case as due objection or appeal on the part of the principal taxpayer would have had.

On default of mortgagor in payment of land tax, mortgagee to be liable to pay the same.

(2) Where any mortgagee has paid any land tax under the provisions of this section, he shall be deemed to have made such payment for and on behalf of the person making default as aforesaid, and may recover the amount thereof, with the costs attending the recovery thereof, from such person, or may retain or deduct the same out of any money in his hand belonging to or payable to such person.

On such payment, amount may be recovered by person paying same.

*Land and Income Tax (Amendment).*

- (3) Where any mortgagee has paid any land tax as aforesaid, the amount thereof shall, until and unless the same is repaid, be deemed to be covered by the mortgage in addition to all other amounts secured thereby, and shall bear interest at the same rate as such other amounts. Where a mortgagee has so paid, amount to be added to mortgage debt.
- 5 ~~6.~~ 5. Notwithstanding section fifteen of the Principal Act, income tax for the year one thousand nine hundred and four or any subsequent year shall be charged, levied, collected, and paid in respect of the annual amount of the income of any company not exempt under section seventeen of the Principal Act, whether such income does or does not
- 10 exceed two hundred pounds per annum. Exemption of £200 from income tax not to apply in case of companies.
7. 6. From the taxable amount of income derived or received from any business, every taxpayer shall, in addition to the deductions set forth in section twenty-eight of the Principal Act, be entitled to make a deduction in respect of leasehold land occupied by him for the
- 15 purpose of such business to provide a sinking fund calculated on a four per centum basis to cover ~~capital expended by him in respect of improvements effected by him on the said land, and or to cover any bonus paid in relation to such lease.~~ the cost of any improvements effected on the land and any bonus paid in respect of the lease by him or by any
- 20 person under whom he claims by virtue of a grant of probate or letters of administration. Deductions in respect of leases.
8. 7. A return showing particulars of any mortgage of land subject to land tax, shall be furnished to the Commissioners each year on a form to be prescribed for the purpose; and if such return be not
- 25 furnished before the expiration of ~~twenty-one days~~ **three months** after a notice in writing has been sent by ordinary post to the last known address of the owner of the land the Commissioners may refuse to make any deduction from land tax on account of the interest derivable from such mortgage in accordance with the provisions of section ten of the
- 30 Principal Act, or instead of so refusing may impose a fine not exceeding ten per cent. of the amount of such deduction. In default of particulars of mortgage Commissioners may refuse to allow deduction under s. 10 of the Principal Act.
9. (1) There shall be charged, levied, collected, and paid to the Commissioners for the use of His Majesty an income tax, at the same rate per pound as is declared and enacted by any Act in force in respect
- 35 of the income tax payable under the Principal Act, in respect of the amount exceeding two hundred pounds of any sum or sums of money, being income arising, accruing, or derived by any person from any of the sources mentioned in section fifteen of the said Act during part only of a year: Income tax to be payable on sums arising, &c., though not the annual amount of the income within s. 15 of the Principal Act.
- 40 Provided that in the case of a company not exempt under section seventeen of the Principal Act from taxation under that Act, income tax shall be payable under this section whether the amount therein mentioned does or does not exceed two hundred pounds.
- (2) The Commissioners may require returns, and further or
- 45 fuller returns, from any such person at any time, and such returns shall be made and delivered to the Commissioners within the time, and in the manner, and shall set forth the particulars required by or under any notice given by the Commissioners in that behalf.

*Land and Income Tax (Amendment).*

(3) From the returns so furnished, or from any other available source, the Commissioners shall cause assessments to be made.

(4) Thereupon, and upon notice of the amount of tax or of any additional or amended tax payable by any such person being served upon such person or his agent, the said amount shall become due, and may be sued for and recovered from such person or his agent by the Commissioners on behalf of His Majesty forthwith by action of debt in any Court of competent jurisdiction.

(5) All the provisions of the Principal Act, and of this or any other Act extending or amending the said Act, and of any regulation made under any of the said Acts, so far as they are not inconsistent with the provisions of this section, shall apply to such returns, and to the persons liable to make the same, and to such assessments as if such returns and assessments were returns and assessments under the Principal Act, and all proceedings may be had and taken and all things done for the purpose of giving effect to the provisions of this section which may be had, taken, or done for the purpose of giving effect to the provisions of the Principal Act in the like case.

10 20 10. Any interest arising or accruing to a mortgagee from a mortgage of land situate in New South Wales shall, whether the mortgagee is resident, or the mortgage-deed is located, or the interest on the mortgage is paid or payable within or without New South Wales, be deemed to have been as from the first day of January, one thousand  
25 eight hundred and ninety-eight, and to be income arising or accruing to the mortgagee within the meaning of section fifteen of the Principal Act on which income tax is leviable.

Income tax payable on interest on foreign mortgage.

30 11. (1) Where income tax is payable by a mortgagee in respect of his mortgage and the commissioners have reason to believe that the mortgagee is resident out of New South Wales, they may assess the mortgagor for the tax, and thereupon, without releasing the mortgagee from his liability therefor, the mortgagor shall be liable to pay the tax, and the tax shall, until payment, be a first charge upon the land mortgaged, in priority to all sales, conveyances, mortgages, charges,  
35 liens, rates, and encumbrances; but the mortgagor, on paying the tax, may deduct the amount of the same from any principal or interest due under the mortgage or may recover it and all costs attending the recovery thereof from the mortgagee in any court of competent jurisdiction.

Income tax payable by mortgagee to be a charge on mortgaged land.

40 (2) The provisions of section fifty-four (except the first paragraph) of the Principal Act relating to land in respect of which land tax is unpaid for the space of two years shall apply to land upon which income tax is charged by this section.

45 8. (1) Income tax shall be deemed to have been and shall be payable under the Principal Act and in accordance with this section on any interest becoming due and paid after the first day of

January,

*Land and Income Tax (Amendment).*

January, one thousand eight hundred and ninety-eight, to a mortgagee in respect of the mortgage or covenant in the mortgage of any land in New South Wales, whether the interest was payable or paid, or the mortgagee was resident, or the mortgage-deed was located within or  
5 without New South Wales.

(2) Except where an adjustment of liabilities with regard to land and income tax has already been made between the mortgagor and mortgagee, the amount of such income tax shall be paid by the mortgagee, and deduction in respect of any such payment may be made in  
10 pursuance of section ten of the Principal Act from the amount of the land tax payable by the mortgagor: Provided that if the mortgagee is resident out of New South Wales the mortgagor shall on demand by the Commissioners pay such amount on behalf of the mortgagee out of any moneys due by him to the mortgagee in respect of interest on  
15 the mortgage.

(3) Where, after the first day of January, one thousand eight hundred and ninety-eight, and before the commencement of this Act, a mortgagor has paid land tax without any deduction in respect of the income tax on the interest on the mortgage, and the mortgagee  
20 has paid such income tax as aforesaid, the Commissioners may refund to the mortgagor land tax to the amount of the income tax so paid, notwithstanding the proviso to section twelve of this Act.

~~12.~~ 9. Where a company is liable under subsection two of section twenty-five of the Principal Act, and its mortgagor has under the next  
25 preceding section of this Act paid income tax in respect of the mortgage, the amount for which the company is so liable shall be diminished by the income tax so paid.

~~13.~~ 10. (1) Section twenty-four of the Principal Act is hereby repealed.

30 (2) When any person out of the State of New South Wales, or whose chief office is out of the said State, carries on business in the State as owner or charterer of any ship, his agent in the State shall be assessed and be liable to pay income tax, and the taxable amount shall be ~~five~~ **two and a half** per centum of the amount of outward freight and  
35 passage money payable to such person or agent in respect of a contract entered into within the said State, whether such amount be payable in or out of the said State:

14. The following provision shall be read as a direction to be  
40 observed under section twenty-seven of the Principal Act:—  
“The estimated annual value of any residence, quarters, or board and residence receivable by way of extra salary, shall be deemed to be part of such taxable amount.”

*Land and Income Tax (Amendment).*

15. **11.** (1) ~~Subsection one~~ **Direction and provision one** of section twenty-seven of the Principal Act is repealed as from the first day of January, one thousand nine hundred and ~~three~~ **four**. Taxable income for year preceding year of assessment to be taxable amount.
- (2) In assessing the income tax for the year one thousand nine hundred and ~~three~~ **four** or any subsequent year the amount of taxable income from all sources for the year immediately preceding the year of assessment shall, subject to the provisions of ~~this section~~ **section twenty-seven of the Principal Act**, be the taxable amount for the year of assessment.
- 10 ~~16.~~ **12.** (1) Section fifty-three of the Principal Act is hereby Refunds. repealed.
- (2) If it is ~~proved to the satisfaction of the Commissioners~~ that the amount paid by any taxpayer as land tax or income tax is in excess of the amount properly chargeable (under the Principal Act or 15 any Act amending the same) the Commissioners 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: Provided that the Commissioners shall not certify for any refund under this section unless the claim is made within ~~two~~ 20 **three** years of the date when the tax was due.
- (3) ~~The last preceding subsection~~ **This section** shall take effect in respect of the tax payable for the year one thousand nine hundred and ~~three~~ **four** and for every subsequent year.
- 25 ~~17.~~ **13.** Subsection seven of section twenty-eight of the Principal Act is amended so that the last sentence thereof shall read and be deemed to have read, "but shall not include ownership, use, or cultivation of land subject to land tax." "Land" in subsec. 7 of sec. 28 to be "land subject to land tax."
- 30 ~~18.~~ **14.** No deduction under section twenty-eight of the Principal Act shall be allowed or made in the assessment of income tax under section twenty-three of that Act or section ~~twelve~~ **ten** of this Act. No deductions on assessments under sec. 23 of Principal Act or sec. 12 10 of this Act.
- 35 ~~19.~~ **15.** (1) In subsection one of section twenty-eight of the Principal Act, the word "income" shall be deemed ~~to have meant~~ and to mean income in respect of which income tax is payable by the person ~~receiving the income~~ under the provisions of the Principal Act other than the provisions of section twenty-three of that Act, and "interest" shall include interest on money borrowed for the purpose of carrying on any business. Meaning of "income" in sec. 28 of Principal Act.
- (2) Section three of the Land and Income Tax (Declaratory) Act, 1898, is repealed.
- 40 **20.** If the Commissioners are not satisfied with any return of land or income furnished by any person, or if they at any time desire further information in respect of any such return, they may by notice in writing require such person to produce for the examination of the Commissioners, or any person appointed by them for that purpose, at such place and time as may be appointed by them in that behalf, any Commissioners to have power to require production of books, &c. **book.**



*Land and Income Tax (Amendment).*

book, account, paper, document, writing, instrument or plan that they consider desirable or necessary to enable the true value of the land or the true amount of the income to be ascertained.

21. 16. In subsection (II) of section thirty of the Principal Act, the 5 words "or by his agent duly authorised in that behalf" are repealed, and the following substituted in their place,—"or, if he be absent from or non-resident in the State, by his agent duly authorised in that behalf." Return to be signed by taxpayer, or, if he be absent, by agent.

22. 17. (1) The proviso to subsection (II) of section forty-three of 10 the Principal Act is repealed. If company neglects to nominate, public officer may be nominated by Commissioners.

(2) Subsection (IV) of the said section is repealed, and the following substituted in place thereof:—

15 (IV) "If any company fails or neglects within the time required by this Act to nominate its public officer or to fill any vacancy in that office as prescribed, or to appoint a place at which notices or other instruments affecting the company may be served or delivered, such managing director, secretary, or other officer or member of the company as the Commissioners 20 nominate shall be such public officer; and such place as the Commissioners appoint shall be such place as aforesaid for all purposes of this Act until the company has duly nominated another person and place as such public officer and place as aforesaid."

25 "Any company failing or neglecting to nominate its public officer, fill any vacancy in that office, or appoint a place where notices or other instruments affecting the company may be served or delivered, within the time and in the manner prescribed, shall be liable to a penalty not exceeding 30 fifty pounds for every day during which such failure or neglect continues." Penalty for not nominating public officer, &c.

23. A taxpayer appealing under section forty-four of the Principal Act shall appeal on specific matters of law or fact, which shall be stated in his notice of appeal. Taxpayer appealing to state grounds of appeal.

35 24. 18. Where, in pursuance of the Principal Act, any addition to or amendment of the assessment-book in respect of the income tax for any year has been made, the due date in respect of any amount payable by reason of such addition or amendment shall be the date of the giving of the notice of such addition or amendment to the person affected thereby. Due date of income tax when assessment-book amended.

40 25. 19. The Commissioners shall be deemed to have had and shall have power to remit any fine incurred and refund the amount of any fine paid under the Principal Act or any Act amending the same. Commissioners may remit fines.

26. (1) Subsection (i) of section sixty of the Principal Act is repealed. Penalty for not furnishing return or not producing books, &c.

*Land and Income Tax (Amendment).*

- (2) If any person fails or neglects when required under the Principal Act or any Act amending the same or under this Act or any regulation to furnish any return, or to produce to the Commissioners or to any person appointed by them in that behalf, any book, account, document, writing, instrument, or plan required by them to enable the true value of the land or the true amount of the income to be ascertained, he shall be liable to pay the penalty and to be assessed and charged the amount in the said section of the Principal Act provided in respect of the offence mentioned in subsection (i) thereof.
- 10 27. 20. Whenever any question of law arises in any way under any Act relating to income or land taxation, the Commissioners may at any time or at the request of the taxpayer shall state any such question in a special case for the opinion of the Supreme Court, and the said Court shall give judgment thereon. Special case may be stated for opinion of Supreme Court.
- 15 28. 21. Any information in respect of any offence under the Principal Act, or under this or any other Act extending or amending the said Act, may be laid at any time within three two years after the date on which such offence was committed. Information for offences may be laid at any time within three two years.
- 20 29. 22. Section sixty-seven of the Principal Act is amended by the addition thereto of the following words:—"And a copy of or extract from any other book or document in the possession or control of the Commissioners shall, if certified under the hand of the Commissioners to have been examined with the original and to be correct, be evidence of the matters, transactions, and accounts therein recorded." Amendment of s. 67 of Principal Act.
- 25 30. 23. (1) In subsection (II) of section eighteen of the Principal Act, all words after the words "by the attorney or agent of such person" are repealed. Definition of "agent."
- (2) Section sixty-eight of the Principal Act is amended by the addition thereto of the following words—
- 30 "agent" includes every person in New South Wales having the receipt, management, disposal or control of income on behalf of any person absent from or resident out of New South Wales, or remitting or paying income to any such person, and any person declared by the Commissioners to be the agent of
- 35 any other person.
31. 24. The definitions of the words "company" and "person" in section sixty-eight of the Principal Act are repealed, and the following substituted in their place— Definitions of "company" and "person."
- 40 "company" includes every corporate body and every association of more than six ten persons carrying on any trade, business, or profession for profit or gain;
- "person" includes a company as defined by this Act and every association of six ten or any less number of persons carrying on any trade, business, or profession for profit or gain.

*Land and Income Tax (Amendment).*

32- 25. (1) Every executor and administrator to whom probate or administration is granted, and every new trustee howsoever appointed, shall upon such grant or appointment give notice thereof to the Commissioners in the form and setting out the particulars prescribed, and such executor, administrator, or trustee shall thereupon be registered in the assessment-books as the owner in his representative capacity of all land vested in him under or by virtue of such grant or appointment.

Notice to be given on every change of ownership of land.

10 (2) Every owner of any land, and every such owner in a representative capacity, as aforesaid, of any land shall, upon any sale, conveyance, assurance, or acknowledgment of, or in respect of, the whole, or of any part, of any land vested in him, give notice thereof to the Commissioners in the form and setting out the particulars prescribed.

15 (3) For all purposes of the Principal Act and of any Act amending the same, and of this Act, the person whose name appears in the assessment books, or, if he is dead, his legal representative, shall, if he fails to give notice as hereinbefore provided on or before the thirty-first day of March in the year succeeding the year of change of ownership, be deemed to be the owner of all the land standing in such person's name in the said books unless and until a notice has been given prior to the thirty-first day of March in any succeeding year, in which event his ownership shall be deemed to have ceased upon the thirty-first day of December in the year preceding the date of such notice.

25 33- 26. (1) Section six of the Land and Income Tax (Amendment) Act, 1897, the Land Tax (Collection) Act, 1899, and section five of the Land Tax (Amendment Assessment Books) Act, 1900, are hereby repealed.

Assessment-books not to be invalid by reason of errors.

30 (2) No assessment-book in respect of land tax or income tax shall be deemed to have been or to be incomplete, and no notice given before or after the commencement of this Act in respect of land tax or income tax, shall be deemed to have been or to be invalid by reason of any error or omission in any such book or in any such notice; but the Commissioners may add to such book the assessment and other prescribed particulars in respect of any land or income which may be ascertained to be liable to such land tax or income tax.

35 34- 27. Nothing in this Act shall affect the rights of the parties in any appeal or action now pending.

Saving clause.

40 35- 28. Paragraph (a) of section eight of the Land Tax (Assessment Books) Act, 1900, is repealed, as from the first day of October, one thousand nine hundred, and the following substituted in its place:—

Certain lands vested in religious bodies exempt from taxation.

45 (a) "any land vested in any religious body and used exclusively for the site of a residence of a minister of religion ministering at some place of public worship, or of a seminary or college for the education or training of ministers of religion and not carried on as being a source of profit."

29.

*Land and Income Tax (Amendment).*

29. Where any person manufactures goods within New South Wales and sells certain of such goods in New South Wales, and exports certain other of such goods to and sells them in other States of the Commonwealth, such person shall not be liable to pay income tax upon the profits of such sale of the goods so exported, if he has paid or is liable to pay income tax upon such profits in the State in which such sale was made.

Exemption in respect of manufactured goods exported to States of Commonwealth.

In such case the Commissioners may, in respect of such sales, charge such person with income tax upon a sum which bears the same proportion to the total profit of such person from such sales as the gross proceeds of such sales within New South Wales bear to the gross proceeds of such sales in all the States of the Commonwealth, or the Commissioners may assess the tax on the actual profits earned or income received by such person from such sales made within New South Wales.

Section one of the Land and Income Tax (Declaratory) Act, 1898, shall not apply to goods so manufactured and exported.

30. Where any person in any year incurs losses in any transaction outside his ordinary profession, trade, or occupation in respect of which he would, if he had made any profit, have been liable to pay income tax he may deduct such losses when they are ascertained from the taxable amount of his income for that year.

Declaration in respect of losses.

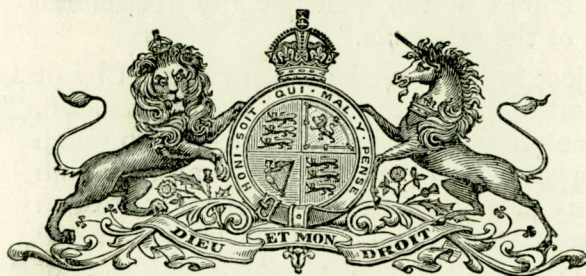
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber, } RICHD. A. ARNOLD,  
Sydney, 6 August, 1903. } Acting Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber, }  
Sydney, September, 1903. } Clerk of the Parliaments.*

## New South Wales.



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Act No. , 1903.

An Act to amend the Land and Income Tax Assessment Act of 1895, the Land and Income Tax (Amendment) Act, 1897, the Land and Income Tax (Declaratory) Act, 1898, and the Land Tax (Assessment Books) Act, 1900; and to provide for the remission and refunding of fines under the first-mentioned Act or any Act amending it.

**B**E it enacted by the King'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 1. This Act may be cited as the "Land and Income Tax Short title.  
(Amendment) Act, 1903."

2. In this Act—

"Principal Act" means the Land and Income Tax Assessment Act of 1895.

Interpretation.

21637

89—A

3.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

*Land and Income Tax (Amendment).*

3. Section seven of the Principal Act is amended by the addition at the end thereof of the following provision:—"The Commissioners shall not be compellable to produce any return relating to income made to them or any other document relating thereto in their possession by virtue of their office in any proceeding in any court or at any inquiry of any kind or nature whatsoever except in proceedings under section sixty of the Principal Act:"

Commissioners not compellable to produce returns, &c., in any proceeding or at any inquiry.

"Provided that every person who has furnished any return under the Principal Act or any Act amending the same shall be entitled to inspect such return and take copies of the same at any reasonable time or require the production of the originals."

4. Where any land subject to land tax has been resumed by or on behalf of the Crown during the year one thousand nine hundred, or any subsequent year, the Commissioners shall collect only so much of the land tax payable in respect of the land for the year in which the resumption was made as is proportionate to the portion of such year up to the date of the resumption, and shall, where before the commencement of this Act more than the said proportion of the tax has been collected for any such year, refund the amount collected in excess of such proportion.

Apportionment of land tax in respect of land resumed.

For the purposes of this section, the Commissioners, where the whole area in the original assessment has not been resumed, may cause separate valuations and assessments to be made in respect of any land resumed as aforesaid. Where the whole area in the original assessment has not been resumed, the Commissioners may cause such valuations to be made as may be necessary for the purpose of apportioning the amount of the land tax which was payable in respect of the area resumed.

5. (1) Where any person liable under the provisions of the Principal Act or any Act amending the same to pay any land tax makes default in the payment thereof, then, without in any way releasing him from his liability therefor, where such land tax is payable in respect of any land which is subject to any mortgage, the mortgagee shall be liable to pay the same: Provided that such mortgagee shall not be liable to pay such tax until after the expiration of thirty days' notice given to him by the Commissioners of such default; that he shall have the right during such thirty days to furnish returns of any mortgages, and to object to or appeal from any assessment; and that such objection or appeal shall have the same effect in his case as due objection or appeal on the part of the principal taxpayer would have had.

On default of mortgagor in payment of land tax, mortgagee to be liable to pay the same.

(2) Where any mortgagee has paid any land tax under the provisions of this section, he shall be deemed to have made such payment for and on behalf of the person making default as aforesaid, and may recover the amount thereof, with the costs attending the recovery thereof, from such person, or may retain or deduct the same out of any money in his hand belonging to or payable to such person.

On such payment, amount may be recovered by person paying same.

*Land and Income Tax (Amendment).*

(3) Where any mortgagee has paid any land tax as aforesaid, the amount thereof shall, until and unless the same is repaid, be deemed to be covered by the mortgage in addition to all other amounts secured thereby, and shall bear interest at the same rate as such other amounts.

Where a mortgagee has so paid, amount to be added to mortgage debt.

5 6. 5. Notwithstanding section fifteen of the Principal Act, income tax for the year one thousand nine hundred and four or any subsequent year shall be charged, levied, collected, and paid in respect of the annual amount of the income of any company not exempt under section seventeen of the Principal Act, whether such income does or does not

Exemption of £200 from income tax not to apply in case of companies.

10 exceed two hundred pounds per annum.

7. 6. From the taxable amount of income derived or received from any business, every taxpayer shall, in addition to the deductions set forth in section twenty-eight of the Principal Act, be entitled to make a deduction in respect of leasehold land occupied by him for the purpose of such business to provide a sinking fund calculated on a four per centum basis to cover capital expended by him in respect of improvements effected by him on the said land, and or to cover any bonus paid in relation to such lease: the cost of any improvements effected on the land and any bonus paid in respect of the lease by him or by any

Deductions in respect of leases.

20 person under whom he claims by virtue of a grant of probate or letters of administration.

8. 7. A return showing particulars of any mortgage of land subject to land tax, shall be furnished to the Commissioners each year on a form to be prescribed for the purpose; and if such return be not furnished before the expiration of ~~twenty-one days~~ **three months** after a notice in writing has been sent by ordinary post to the last known address of the owner of the land the Commissioners may refuse to make any deduction from land tax on account of the interest derivable from such mortgage in accordance with the provisions of section ten of the

In default of particulars of mortgage Commissioners may refuse to allow deduction under s. 10 of the Principal Act.

30 Principal Act, or instead of so refusing may impose a fine not exceeding ten per cent. of the amount of such deduction.

9. (1) There shall be charged, levied, collected, and paid to the Commissioners for the use of His Majesty an income tax, at the same rate per pound as is declared and enacted by any Act in force in respect of the income tax payable under the Principal Act, in respect of the amount exceeding two hundred pounds of any sum or sums of money, being income arising, accruing, or derived by any person from any of the sources mentioned in section fifteen of the said Act during part only of a year:

Income tax to be payable on sums arising, &c., though not the annual amount of the income within s. 15 of the Principal Act.

40 Provided that in the case of a company not exempt under section seventeen of the Principal Act from taxation under that Act, income tax shall be payable under this section whether the amount therein mentioned does or does not exceed two hundred pounds.

45 (2) The Commissioners may require returns, and further or fuller returns, from any such person at any time, and such returns shall be made and delivered to the Commissioners within the time, and in the manner, and shall set forth the particulars required by or under any notice given by the Commissioners in that behalf.

*Land and Income Tax (Amendment).*

(3) From the returns so furnished, or from any other available source, the Commissioners shall cause assessments to be made.

(4) Thereupon, and upon notice of the amount of tax or of any additional or amended tax payable by any such person being served upon such person or his agent, the said amount shall become due, and may be sued for and recovered from such person or his agent by the Commissioners on behalf of His Majesty forthwith by action of debt in any Court of competent jurisdiction.

(5) All the provisions of the Principal Act, and of this or any other Act extending or amending the said Act, and of any regulation made under any of the said Acts, so far as they are not inconsistent with the provisions of this section, shall apply to such returns, and to the persons liable to make the same, and to such assessments as if such returns and assessments were returns and assessments under the Principal Act, and all proceedings may be had and taken and all things done for the purpose of giving effect to the provisions of this section which may be had, taken, or done for the purpose of giving effect to the provisions of the Principal Act in the like case.

20 **10.** Any interest arising or accruing to a mortgagee from a mortgage of land situate in New South Wales shall, whether the mortgagee is resident, or the mortgage-deed is located, or the interest on the mortgage is paid or payable within or without New South Wales, be deemed to have been as from the first day of January, one thousand  
25 eight hundred and ninety-eight, and to be income arising or accruing to the mortgagee within the meaning of section fifteen of the Principal Act on which income tax is leviable.

Income tax payable on interest on foreign mortgage.

30 **11.** (1) Where income tax is payable by a mortgagee in respect of his mortgage and the commissioners have reason to believe that the mortgagee is resident out of New South Wales, they may assess the mortgagor for the tax, and thereupon, without releasing the mortgagee from his liability therefor, the mortgagor shall be liable to pay the tax, and the tax shall, until payment, be a first charge upon the land mortgaged, in priority to all sales, conveyances, mortgages, charges,  
35 liens, rates, and encumbrances; but the mortgagor, on paying the tax, may deduct the amount of the same from any principal or interest due under the mortgage or may recover it and all costs attending the recovery thereof from the mortgagee in any court of competent jurisdiction.

Income tax payable by mortgagee to be a charge on mortgaged land.

(2) The provisions of section fifty-four (except the first  
40 paragraph) of the Principal Act relating to land in respect of which land tax is unpaid for the space of two years shall apply to land upon which income tax is charged by this section.

**8.** (1) Income tax shall be deemed to have been and shall be payable under the Principal Act and in accordance with this  
45 section on any interest becoming due and paid after the first day of

Taxation between mortgagor and mortgagee.

January,



*Land and Income Tax (Amendment).*

January, one thousand eight hundred and ninety-eight, to a mortgagee in respect of the mortgage or covenant in the mortgage of any land in New South Wales, whether the interest was payable or paid, or the mortgagee was resident, or the mortgage-deed was located within or without New South Wales.

(2) Except where an adjustment of liabilities with regard to land and income tax has already been made between the mortgagor and mortgagee, the amount of such income tax shall be paid by the mortgagee, and deduction in respect of any such payment may be made in pursuance of section ten of the Principal Act from the amount of the land tax payable by the mortgagor: Provided that if the mortgagee is resident out of New South Wales the mortgagor shall on demand by the Commissioners pay such amount on behalf of the mortgagee out of any moneys due by him to the mortgagee in respect of interest on the mortgage.

(3) Where, after the first day of January, one thousand eight hundred and ninety-eight, and before the commencement of this Act, a mortgagor has paid land tax without any deduction in respect of the income tax on the interest on the mortgage, and the mortgagee has paid such income tax as aforesaid, the Commissioners may refund to the mortgagor land tax to the amount of the income tax so paid, notwithstanding the proviso to section twelve of this Act.

9. Where a company is liable under subsection two of section twenty-five of the Principal Act, and its mortgagor has under the next preceding section of this Act paid income tax in respect of the mortgage, the amount for which the company is so liable shall be diminished by the income tax so paid.

Deductions from tax payable under section 25 (2) of Principal Act.

10. (1) Section twenty-four of the Principal Act is hereby repealed.

Income tax payable by shipowners out of N.S.W.

(2) When any person out of the State of New South Wales, or whose chief office is out of the said State, carries on business in the State as owner or charterer of any ship, his agent in the State shall be assessed and be liable to pay income tax, and the taxable amount shall be ~~five~~ two and a half per centum of the amount of outward freight and passage money payable to such person or agent in respect of a contract entered into within the said State, whether such amount be payable in or out of the said State:

14. The following provision shall be read as a direction to be observed under section twenty-seven of the Principal Act:—  
 “The estimated annual value of any residence, quarters, or board and residence receivable by way of extra salary, shall be deemed to be part of such taxable amount.”

Further direction for ascertaining taxable amount.

*Land and Income Tax (Amendment).*

15- 11. (1) ~~Subsection one~~ **Direction and provision one** of section twenty-seven of the Principal Act is repealed as from the first day of January, one thousand nine hundred and ~~three~~ **four**. Taxable income for year preceding year of assessment to be taxable amount.

(2) In assessing the income tax for the year one thousand five hundred and ~~three~~ **four** or any subsequent year the amount of taxable income from all sources for the year immediately preceding the year of assessment shall, subject to the provisions of ~~this section~~ **section twenty-seven of the Principal Act**, be the taxable amount for the year of assessment.

10 16- 12. (1) Section fifty-three of the Principal Act is hereby Refunds. repealed.

(2) ~~If it is proved to the satisfaction of the Commissioners that the amount paid by any taxpayer as land tax or income tax is in excess of the amount properly chargeable (under the Principal Act or~~ 15 ~~any Act amending the same) the Commissioners 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 : Provided that the Commissioners shall not certify for any refund under this section unless the claim is made within ~~two~~ 20 **three** years of the date when the tax was due.~~

(3) ~~The last preceding subsection~~ **This section** shall take effect in respect of the tax payable for the year one thousand nine hundred and ~~three~~ **four** and for every subsequent year.

17- 13. Subsection seven of section twenty-eight of the Principal "Land" in subsec. 7 of sec. 28 to be "land subject to land tax." Act is amended so that the last sentence thereof shall read and be deemed to have read, "but shall not include ownership, use, or cultivation of land subject to land tax."

18- 14. No deduction under section twenty-eight of the Principal No deductions on assessments under sec. 23 of Principal Act or sec. 129 of this Act. Act shall be allowed or made in the assessment of income tax under section twenty-three of that Act or section ~~twelve~~ **ten** of this Act.

19- 15. (1) In subsection one of section twenty-eight of the Meaning of "income" in sec. 28 of Principal Act. Principal Act, the word "income" shall be deemed ~~to have meant~~ and to mean income in respect of which income tax is payable by the person ~~receiving the income~~ under the provisions of the Principal Act other than the provisions of section twenty-three of that Act, and "interest" shall include interest on money borrowed for the purpose of carrying on any business.

(2) Section three of the Land and Income Tax (Declaratory) Act, 1898, is repealed.

20. If the Commissioners to have power to require production of books, &c. Commissioners are not satisfied with any return of land or income furnished by any person, or if they at any time desire further information in respect of any such return, they may by notice in writing require such person to produce for the examination of the Commissioners, or any person appointed by them for that purpose, at 45 such place and time as may be appointed by them in that behalf, any **book,**

*Land and Income Tax (Amendment).*

book, account, paper, document, writing, instrument or plan that they consider desirable or necessary to enable the true value of the land or the true amount of the income to be ascertained.

21. 16. In subsection (II) of section thirty of the Principal Act, the 5 words "or by his agent duly authorised in that behalf" are repealed, and the following substituted in their place,—“or, if he be absent from or non-resident in the State, by his agent duly authorised in that behalf.”

Return to be signed by taxpayer, or, if he be absent, by agent.

22. 17. (1) The proviso to subsection (II) of section forty-three of the Principal Act is repealed.

If company neglects to nominate, public officer may be nominated by Commissioners.

(2) Subsection (IV) of the said section is repealed, and the following substituted in place thereof:—

15 (IV) “If any company fails or neglects within the time required by this Act to nominate its public officer or to fill any vacancy in that office as prescribed, or to appoint a place at which notices or other instruments affecting the company may be served or delivered, such managing director, secretary, or other officer or member of the company as the Commissioners nominate shall be such public officer; and such place as the 20 Commissioners appoint shall be such place as aforesaid for all purposes of this Act until the company has duly nominated another person and place as such public officer and place as aforesaid.”

25 “Any company failing or neglecting to nominate its public officer, fill any vacancy in that office, or appoint a place where notices or other instruments affecting the company may be served or delivered, within the time and in the manner prescribed, shall be liable to a penalty not exceeding 30 fifty pounds for every day during which such failure or neglect continues.”

Penalty for not nominating public officer, &c.

23. A taxpayer appealing under section forty-four of the Principal Act shall appeal on specific matters of law or fact, which shall be stated in his notice of appeal.

Taxpayer appealing to state grounds of appeal.

35 24. 18. Where, in pursuance of the Principal Act, any addition to or amendment of the assessment-book in respect of the income tax for any year has been made, the due date in respect of any amount payable by reason of such addition or amendment shall be the date of the giving of the notice of such addition or amendment to the person affected thereby.

Due date of income tax when assessment-book amended.

40 25. 19. The Commissioners shall be deemed to have had and shall have power to remit any fine incurred and refund the amount of any fine paid under the Principal Act or any Act amending the same.

Commissioners may remit fines.

26. (1) Subsection (i) of section sixty of the Principal Act is repealed.

Penalty for not furnishing return or not producing books, &c.

(2)

*Land and Income Tax (Amendment).*

(2) If any person fails or neglects when required under the Principal Act or any Act amending the same or under this Act or any regulation to furnish any return, or to produce to the Commissioners or to any person appointed by them in that behalf, any book, account, document, writing, instrument, or plan required by them to enable the true value of the land or the true amount of the income to be ascertained, he shall be liable to pay the penalty and to be assessed and charged the amount in the said section of the Principal Act provided in respect of the offence mentioned in subsection (i) thereof.

10 ~~27.~~ 20. Whenever any question of law arises in any way under any Act relating to income or land taxation, the Commissioners may at any time or at the request of the taxpayer shall state any such question in a special case for the opinion of the Supreme Court, and the said Court shall give judgment thereon. Special case may be stated for opinion of Supreme Court.

15 ~~28.~~ 21. Any information in respect of any offence under the Principal Act, or under this or any other Act extending or amending the said Act, may be laid at any time within three two years after the date on which such offence was committed. Information for offences may be laid at any time within three two years.

20 ~~29.~~ 22. Section sixty-seven of the Principal Act is amended by the addition thereto of the following words:—"And a copy of or extract from any other book or document in the possession or control of the Commissioners shall, if certified under the hand of the Commissioners to have been examined with the original and to be correct, be evidence of the matters, transactions, and accounts therein recorded." Amendment of s. 67 of Principal Act.

25 ~~30.~~ 23. (1) In subsection (II) of section eighteen of the Principal Act, all words after the words "by the attorney or agent of such person" are repealed. Definition of "agent."

(2) Section sixty-eight of the Principal Act is amended by the addition thereto of the following words—

30 "agent" includes every person in New South Wales having the receipt, management, disposal or control of income on behalf of any person absent from or resident out of New South Wales, or remitting or paying income to any such person, and any person declared by the Commissioners to be the agent of any other person.

35 ~~31.~~ 24. The definitions of the words "company" and "person" in section sixty-eight of the Principal Act are repealed, and the following substituted in their place— Definitions of "company" and "person."

40 "company" includes every corporate body and every association of more than six ten persons carrying on any trade, business, or profession for profit or gain;

"person" includes a company as defined by this Act and every association of six ten or any less number of persons carrying on any trade, business, or profession for profit or gain.

*Land and Income Tax (Amendment).*

32. 25. (1) Every executor and administrator to whom probate or administration is granted, and every new trustee howsoever appointed, shall upon such grant or appointment give notice thereof to the Commissioners in the form and setting out the particulars prescribed, and such executor, administrator, or trustee shall thereupon be registered in the assessment-books as the owner in his representative capacity of all land vested in him under or by virtue of such grant or appointment.

Notice to be given on every change of ownership of land.

(2) Every owner of any land, and every such owner in a representative capacity, as aforesaid, of any land shall, upon any sale, conveyance, assurance, or acknowledgment of, or in respect of, the whole, or of any part, of any land vested in him, give notice thereof to the Commissioners in the form and setting out the particulars prescribed.

(3) For all purposes of the Principal Act and of any Act amending the same, and of this Act, the person whose name appears in the assessment books, or, if he is dead, his legal representative, shall, if he fails to give notice as hereinbefore provided on or before the thirty-first day of March in the year succeeding the year of change of ownership, be deemed to be the owner of all the land standing in such person's name in the said books unless and until a notice has been given prior to the thirty-first day of March in any succeeding year, in which event his ownership shall be deemed to have ceased upon the thirty-first day of December in the year preceding the date of such notice.

33. 26. (1) Section six of the Land and Income Tax (Amendment) Act, 1897, the Land Tax (Collection) Act, 1899, and section five of the Land Tax (Amendment Assessment Books) Act, 1900, are hereby repealed.

Assessment-books not to be invalid by reason of errors.

(2) No assessment-book in respect of land tax or income tax shall be deemed to have been or to be incomplete, and no notice given before or after the commencement of this Act in respect of land tax or income tax, shall be deemed to have been or to be invalid by reason of any error or omission in any such book or in any such notice; but the Commissioners may add to such book the assessment and other prescribed particulars in respect of any land or income which may be ascertained to be liable to such land tax or income tax.

34. 27. Nothing in this Act shall affect the rights of the parties in any appeal or action now pending.

Saving clause.

35. 28. Paragraph (a) of section eight of the Land Tax (Assessment Books) Act, 1900, is repealed, as from the first day of October, one thousand nine hundred, and the following substituted in its place:—

Certain lands vested in religious bodies exempt from taxation.

(a) "any land vested in any religious body and used exclusively for the site of a residence of a minister of religion ministering at some place of public worship, or of a seminary or college for the education or training of ministers of religion and not carried on as being a source of profit."

29.

*Land and Income Tax (Amendment).*

29. Where any person manufactures goods within New South Wales and sells certain of such goods in New South Wales, and exports certain other of such goods to and sells them in other States of the Commonwealth, such person shall not be liable to pay income tax upon the profits of such sale of the goods so exported, if he has paid or is liable to pay income tax upon such profits in the State in which such sale was made. Exemption in respect of manufactured goods exported to States of Commonwealth.

In such case the Commissioners may, in respect of such sales, charge such person with income tax upon a sum which bears the same proportion to the total profit of such person from such sales as the gross proceeds of such sales within New South Wales bear to the gross proceeds of such sales in all the States of the Commonwealth, or the Commissioners may assess the tax on the actual profits earned or income received by such person from such sales made within New South Wales.

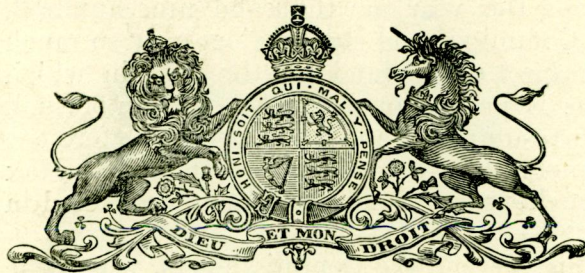
Section one of the Land and Income Tax (Declaratory) Act, 1898, shall not apply to goods so manufactured and exported.

30. Where any person in any year incurs losses in any transaction outside his ordinary profession, trade, or occupation in respect of which he would, if he had made any profit, have been liable to pay income tax he may deduct such losses when they are ascertained from the taxable amount of his income for that year. Declaration in respect of losses.

*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, } RICHD. A. ARNOLD,  
Sydney, 6 August, 1903. } Acting Clerk of the Legislative Assembly.*

## New South Wales.



ANNO TERTIO

## EDWARDI VII REGIS.

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Act No. , 1903.

An Act to amend the Land and Income Tax Assessment Act of 1895, the Land and Income Tax (Amendment) Act, 1897, the Land and Income Tax (Declaratory) Act, 1898, and the Land Tax (Assessment Books) Act, 1900; and to provide for the remission and refunding of fines under the first-mentioned Act or any Act amending it.

**B**E it enacted by the King'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 1. This Act may be cited as the "Land and Income Tax Short title.  
(Amendment) Act, 1903."

2. In this Act—

"Principal Act" means the Land and Income Tax Assessment Act of 1895.

Interpretation.

89—A

3.

*Land and Income Tax (Amendment).*

3. Section seven of the Principal Act is amended by the addition at the end thereof of the following provision:—"The Commissioners shall not be compellable to produce any return made to them or any other document in their possession by virtue of their office in any proceeding in any court or at any inquiry of any kind or nature whatsoever:"

Commissioners not compellable to produce returns, &c., in any proceeding or at any inquiry.

"Provided that every person who has furnished any return under the Principal Act or any Act amending the same shall be entitled to inspect such return and take copies of same at any reasonable time."

4. Where any land subject to land tax has been resumed by or on behalf of the Crown during the year one thousand nine hundred, or any subsequent year, the Commissioners shall collect only so much of the land tax payable in respect of the land for the year in which the resumption was made as is proportionate to the portion of such year up to the date of the resumption, and shall, where before the commencement of this Act more than the said proportion of the tax has been collected for any such year, refund the amount collected in excess of such proportion.

Apportionment of land tax in respect of land resumed.

For the purposes of this section, the Commissioners, where the whole area in the original assessment has not been resumed, may cause separate valuations and assessments to be made in respect of any land resumed as aforesaid.

5. (1) Where any person liable under the provisions of the Principal Act or any Act amending the same to pay any land tax makes default in the payment thereof, then, without in any way releasing him from his liability therefor, where such land tax is payable in respect of any land which is subject to any mortgage, the mortgagee shall be liable to pay the same: Provided that such mortgagee shall not be liable to pay such tax until after the expiration of thirty days' notice given to him by the Commissioners of such default; that he shall have the right during such thirty days to furnish returns of any mortgages, and to object to or appeal from any assessment; and that such objection or appeal shall have the same effect in his case as due objection or appeal on the part of the principal taxpayer would have had.

On default of mortgagor in payment of land tax, mortgagee to be liable to pay the same.

(2) Where any mortgagee has paid any land tax under the provisions of this section, he shall be deemed to have made such payment for and on behalf of the person making default as aforesaid, and may recover the amount thereof, with the costs attending the recovery thereof, from such person, or may retain or deduct the same out of any money in his hand belonging to or payable to such person.

On such payment, amount may be recovered by person paying same.

(3) Where any mortgagee has paid any land tax as aforesaid, the amount thereof shall, until and unless the same is repaid, be deemed to be covered by the mortgage in addition to all other amounts secured thereby, and shall bear interest at the same rate as such other amounts.

Where a mortgagee has so paid, amount to be added to mortgage debt.



*Land and Income Tax (Amendment).*

6. Notwithstanding section fifteen of the Principal Act, income tax for the year one thousand nine hundred and four or any subsequent year shall be charged, levied, collected, and paid in respect of the annual amount of the income of any company not exempt under section 5 seventeen of the Principal Act, whether such income does or does not exceed two hundred pounds per annum.

Exemption of £200 from income tax not to apply in case of companies.

7. From the taxable amount of income derived or received from any business, every taxpayer shall, in addition to the deductions set forth in section twenty-eight of the Principal Act, be entitled to 10 make a deduction in respect of leasehold land occupied by him for the purpose of such business to provide a sinking fund calculated on a four per centum basis to cover capital expended by him in respect of improvements effected by him on the said land, and to cover any bonus paid in relation to such lease.

Deductions in respect of leases.

15 8. A return showing particulars of any mortgage of land subject to land tax, shall be furnished to the Commissioners each year on a form to be prescribed for the purpose; and if such return be not furnished before the expiration of twenty-one days after a notice in writing has been sent by ordinary post to the last known address of 20 the owner of the land the Commissioners may refuse to make any deduction from land tax on account of the interest derivable from such mortgage in accordance with the provisions of section ten of the Principal Act.

In default of particulars of mortgage Commissioners may refuse to allow deduction under s. 10 of the Principal Act.

25 9. (1) There shall be charged, levied, collected, and paid to the Commissioners for the use of His Majesty an income tax, at the same rate per pound as is declared and enacted by any Act in force in respect of the income tax payable under the Principal Act, in respect of the amount exceeding two hundred pounds of any sum or sums of money, being income arising, accruing, or derived by any person from any of 30 the sources mentioned in section fifteen of the said Act during part only of a year:

Income tax to be payable on sums arising, &c., though not the annual amount of the income within s. 15 of the Principal Act.

Provided that in the case of a company not exempt under section seventeen of the Principal Act from taxation under that Act, income tax shall be payable under this section whether the amount 35 therein mentioned does or does not exceed two hundred pounds.

(2) The Commissioners may require returns, and further or fuller returns, from any such person at any time, and such returns shall be made and delivered to the Commissioners within the time, and in the manner, and shall set forth the particulars required by or 40 under any notice given by the Commissioners in that behalf.

(3) From the returns so furnished, or from any other available source, the Commissioners shall cause assessments to be made.

(4) Thereupon, and upon notice of the amount of tax or of any additional or amended tax payable by any such person being 45 served upon such person or his agent, the said amount shall become due

due

*Land and Income Tax (Amendment).*

due, and may be sued for and recovered from such person or his agent by the Commissioners on behalf of His Majesty forthwith by action of debt in any Court of competent jurisdiction.

(5) All the provisions of the Principal Act, and of this or  
5 any other Act extending or amending the said Act, and of any  
regulation made under any of the said Acts, so far as they are not  
inconsistent with the provisions of this section, shall apply to such  
returns, and to the persons liable to make the same, and to such  
10 assessments as if such returns and assessments were returns and  
assessments under the Principal Act, and all proceedings may be had  
and taken and all things done for the purpose of giving effect to the  
provisions of this section which may be had, taken, or done for the  
purpose of giving effect to the provisions of the Principal Act in the  
like case.

15 **10.** Any interest arising or accruing to a mortgagee from a  
mortgage of land situate in New South Wales shall, whether the  
mortgagee is resident, or the mortgage-deed is located, or the interest  
on the mortgage is paid or payable within or without New South Wales,  
be deemed to have been as from the first day of January, one thousand  
20 eight hundred and ninety-eight, and to be income arising or accruing to  
the mortgagee within the meaning of section fifteen of the Principal  
Act on which income tax is leviable.

Income tax payable  
on interest on foreign  
mortgage.

**11.** (1) Where income tax is payable by a mortgagee in respect  
of his mortgage and the commissioners have reason to believe that the  
25 mortgagee is resident out of New South Wales, they may assess the  
mortgagor for the tax, and thereupon, without releasing the mortgagee  
from his liability therefor, the mortgagor shall be liable to pay the  
tax, and the tax shall, until payment, be a first charge upon the land  
mortgaged, in priority to all sales, conveyances, mortgages, charges,  
30 liens, rates, and encumbrances; but the mortgagor, on paying the tax,  
may deduct the amount of the same from any principal or interest due  
under the mortgage or may recover it and all costs attending the recovery  
thereof from the mortgagee in any court of competent jurisdiction.

Income tax payable  
by mortgagee to be a  
charge on mortgaged  
land.

(2) The provisions of section fifty-four (except the first  
35 paragraph) of the Principal Act relating to land in respect of which  
land tax is unpaid for the space of two years shall apply to land upon  
which income tax is charged by this section.

**12.** Where a company is liable under subsection two of section  
twenty-five of the Principal Act, and its mortgagor has under the next  
40 preceding section of this Act paid income tax in respect of the  
mortgage, the amount for which the company is so liable shall be  
diminished by the income tax so paid.

Deductions from tax  
payable under  
section 25 (2) of  
Principal Act.

**13.** (1) Section twenty-four of the Principal Act is hereby  
repealed.

Income tax payable  
by shipowners out of  
N.S.W.

(2)

*Land and Income Tax (Amendment).*

(2) When any person out of the State of New South Wales, or whose chief office is out of the said State, carries on business in the State as owner or charterer of any ship, his agent in the State shall be assessed and be liable to pay income tax, and the taxable amount shall be five per centum of the amount of outward freight and passage money payable to such person or agent, whether such amount be payable in or out of the said State.

14. The following provision shall be read as a direction to be observed under section twenty-seven of the Principal Act:—

10 "The estimated annual value of any residence, quarters, or board and residence receivable by way of extra salary, shall be deemed to be part of such taxable amount."

15. (1) Subsection one of section twenty-seven of the Principal Act is repealed as from the first day of January, one thousand nine hundred and three.

(2) In assessing the income tax for the year one thousand nine hundred and three or any subsequent year the amount of taxable income from all sources for the year immediately preceding the year of assessment shall, subject to the provisions of this section, be the taxable amount for the year of assessment.

16. (1) Section fifty-three of the Principal Act is hereby repealed.

(2) If it is proved to the satisfaction of the Commissioners that the amount paid by any taxpayer as land tax or income tax is in excess of the amount properly chargeable (under the Principal Act or any Act amending the same) the Commissioners 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: Provided that the Commissioners shall not certify for any refund under this section unless the claim is made within two years of the date when the tax was due.

(3) The last preceding subsection shall take effect in respect of the tax payable for the year one thousand nine hundred and three and for every subsequent year.

35 17. Subsection seven of section twenty-eight of the Principal Act is amended so that the last sentence thereof shall read and be deemed to have read, "but shall not include ownership, use, or cultivation of land subject to land tax."

40 18. No deduction under section twenty-eight of the Principal Act shall be allowed or made in the assessment of income tax under section twenty-three of that Act or section twelve of this Act.

45 19. (1) In subsection one of section twenty-eight of the Principal Act, the word "income" shall be deemed to have meant and to mean income in respect of which income tax is payable by the person receiving the income under the provisions of the Principal Act other

Further direction for ascertaining taxable amount.

Taxable income for year preceding year of assessment to be taxable amount.

Refunds.

"Land" in subsec. 7 of sec. 28 to be "land subject to land tax."

No deductions on assessments under sec. 23 of Principal Act or sec. 12 of this Act.

Meaning of "income" in sec. 28 of Principal Act.

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other than the provisions of section twenty-three of that Act, and "interest" shall include interest on money borrowed for the purpose of carrying on any business.

(2) Section three of the Land and Income Tax (Declaratory) 5 Act, 1898, is repealed.

20. If the Commissioners are not satisfied with any return of land or income furnished by any person, or if they at any time desire further information in respect of any such return, they may by notice in writing require such person to produce for the examination of the Commissioners, or any person appointed by them for that purpose, at such place and time as may be appointed by them in that behalf, any book, account, paper, document, writing, instrument or plan that they consider desirable or necessary to enable the true value of the land or the true amount of the income to be ascertained.

Commissioners to have power to require production of books, &c.

21. In subsection (II) of section thirty of the Principal Act, the words "or by his agent duly authorised in that behalf" are repealed, and the following substituted in their place,— "or, if he be absent from or non-resident in the State, by his agent duly authorised in that behalf."

Return to be signed by taxpayer, or, if he be absent, by agent.

22. (1) The proviso to subsection (II) of section forty-three of the Principal Act is repealed.

If company neglects to nominate, public officer may be nominated by Commissioners.

(2) Subsection (IV) of the said section is repealed, and the following substituted in place thereof:—

(IV) "If any company fails or neglects within the time required by this Act to nominate its public officer or to fill any vacancy in that office as prescribed, or to appoint a place at which notices or other instruments affecting the company may be served or delivered, such managing director, secretary, or other officer or member of the company as the Commissioners nominate shall be such public officer; and such place as the Commissioners appoint shall be such place as aforesaid for all purposes of this Act until the company has duly nominated another person and place as such public officer and place as aforesaid."

"Any company failing or neglecting to nominate its public officer, fill any vacancy in that office, or appoint a place where notices or other instruments affecting the company may be served or delivered, within the time and in the manner prescribed, shall be liable to a penalty not exceeding fifty pounds for every day during which such failure or neglect continues."

Penalty for not nominating public officer, &c

23. A taxpayer appealing under section forty-four of the Principal Act shall appeal on specific matters of law or fact, which shall be stated in his notice of appeal.

Taxpayer appealing to state grounds of appeal.

24.

*Land and Income Tax (Amendment).*

24. Where, in pursuance of the Principal Act, any addition to or amendment of the assessment-book in respect of the income tax for any year has been made, the due date in respect of any amount payable by reason of such addition or amendment shall be the date of the giving of the notice of such addition or amendment to the person affected thereby.

Due date of income tax when assessment-book amended.

25. The Commissioners shall be deemed to have had and shall have power to remit any fine incurred and refund the amount of any fine paid under the Principal Act or any Act amending the same.

Commissioners may remit fines.

26. (1) Subsection (i) of section sixty of the Principal Act is repealed.

Penalty for not furnishing return or not producing books &c.

(2) If any person fails or neglects when required under the Principal Act or any Act amending the same or under this Act or any regulation to furnish any return, or to produce to the Commissioners or to any person appointed by them in that behalf, any book, account, document, writing, instrument, or plan required by them to enable the true value of the land or the true amount of the income to be ascertained, he shall be liable to pay the penalty and to be assessed and charged the amount in the said section of the Principal Act provided in respect of the offence mentioned in subsection (i) thereof.

27. Whenever any question of law arises in any way under any Act relating to income or land taxation, the Commissioners may at any time state any such question in a special case for the opinion of the Supreme Court, and the said Court shall give judgment thereon.

Special case may be stated for opinion of Supreme Court.

28. Any information in respect of any offence under the Principal Act, or under this or any other Act extending or amending the said Act, may be laid at any time within three years after the date on which such offence was committed.

Information for offences may be laid at any time within three years.

29. Section sixty-seven of the Principal Act is amended by the addition thereto of the following words:—"And a copy of or extract from any other book or document in the possession or control of the Commissioners shall, if certified under the hand of the Commissioners to have been examined with the original and to be correct, be evidence of the matters, transactions, and accounts therein recorded."

Amendment of s. 67 of Principal Act.

30. (1) In subsection (II) of section eighteen of the Principal Act, all words after the words "by the attorney or agent of such person" are repealed.

Definition of "agent."

(2) Section sixty-eight of the Principal Act is amended by the addition thereto of the following words—

"agent" includes every person in New South Wales having the receipt, management, disposal or control of income on behalf of any person absent from or resident out of New South Wales, or remitting or paying income to any such person, and any person declared by the Commissioners to be the agent of any other person.

31.

*Land and Income Tax (Amendment).*

31. The definitions of the words "company" and "person" in section sixty-eight of the Principal Act are repealed, and the following substituted in their place—

Definitions of  
"company" and  
"person."

5 "company" includes every corporate body and every association of more than six persons carrying on any trade, business, or profession for profit or gain;

"person" includes a company as defined by this Act and every association of six or any less number of persons carrying on any trade, business, or profession for profit or gain.

10 32. (1) Every executor and administrator to whom probate or administration is granted, and every new trustee howsoever appointed, shall upon such grant or appointment give notice thereof to the Commissioners in the form and setting out the particulars prescribed, and such executor, administrator, or trustee shall thereupon be

Notice to be given  
on every change of  
ownership of land.

15 registered in the assessment-books as the owner in his representative capacity of all land vested in him under or by virtue of such grant or appointment.

(2) Every owner of any land, and every such owner in a representative capacity, as aforesaid, of any land shall, upon any sale,

20 conveyance, assurance, or acknowledgment of, or in respect of, the whole, or of any part, of any land vested in him, give notice thereof to the Commissioners in the form and setting out the particulars prescribed.

(3) For all purposes of the Principal Act and of any Act

25 amending the same, and of this Act, the person whose name appears in the assessment books, or, if he is dead, his legal representative, shall, if he fails to give notice as hereinbefore provided on or before the thirty-first day of March in the year succeeding the year of change of ownership, be deemed to be the owner of all the land standing in such

30 person's name in the said books unless and until a notice has been given prior to the thirty-first day of March in any succeeding year, in which event his ownership shall be deemed to have ceased upon the thirty-first day of December in the year preceding the date of such notice.

35 33. (1) Section six of the Land and Income Tax (Amendment) Act, 1897, the Land Tax (Collection) Act, 1899, and section five of the Land Tax (Amendment Books) Act, 1900, are hereby repealed.

Assessment-books  
not to be invalid by  
reason of errors.

(2) No assessment-book in respect of land tax or income tax shall be deemed to have been or to be incomplete, and no notice

40 given before or after the commencement of this Act in respect of land tax or income tax, shall be deemed to have been or to be invalid by reason of any error or omission in any such book or in any such notice; but the Commissioners may add to such book the assessment and other prescribed particulars in respect of any land or income which may be

45 ascertained to be liable to such land tax or income tax.

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*Land and Income Tax (Amendment).*

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34. Nothing in this Act shall affect the rights of the parties in any appeal or action now pending. Saving clause.

35. Paragraph (a) of section eight of the Land Tax (Assessment Books) Act, 1900, is repealed, as from the first day of October, one thousand nine hundred, and the following substituted in its place:— Certain lands vested in religious bodies exempt from taxation.

(a) “any land vested in any religious body and used exclusively for the site of a residence of a minister of religion ministering at some place of public worship, or of a seminary or college for the education or training of ministers of religion and not carried on as a source of profit.”

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