

Certificate to accompany the Land and Income
Tax Assessment Bill.

I CERTIFY that this Bill solely consolidates, and in no way alters, adds to, or amends
the law as contained in the Acts therein consolidated.

CHAS. G. HEYDON,

Commissioner for the Consolidation of the Statute Law.

Calculate to accompany the Land and Income
Tax Assessment Bill

I hereby certify that the above is a true and correct copy of the original as the same is on file in the office of the Auditor General.

THOMAS C. HENRY
Auditor General of the State of Iowa

1894-95

Land and Income Tax Assessment Bill, 1901.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
59 VICTORIA No. 15.		
1	Omitted	... Short title.
2	4	
3	5	
4	6	
5	7	
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41	44	
42	45	
43	46	

Section of Repealed Act.	Section of Consolidated Act.	Remarks.
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59 VICTORIA No 15—continued.

44	47
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60 VICTORIA No. 35.

1	Omitted	...	...	Spent.
2	Omitted	...	...	Short title.

No. 21, 1897.

1	}	Omitted	...	...	Spent.
2					
3					
4					
5					
6		34			Superseded as
7		34			
8	Omitted	...	...	Unnecessary.	
9	Omitted	...	...	Short title.	

No. 37, 1898.

Preamble	...	Omitted.		
1		18		
2		13		
3		31		
4	Omitted	...	...	Spent.
5	Omitted	...	...	Short title.

No. 36, 1899.

1	Omitted	...	...	Spent.
2	Omitted	...	...	Short title.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
No. 28, 1900.		
1	Omitted ...	Short title.
2	}	
3		
4		
5		
6		
7		
8		
No. 46, 1900.		
1	Omitted 15	Short title.
2	Omitted ...	Short title.

Legislative Council.

No. , 1901.

A BILL

To consolidate the Acts relating to the levying assessment and collection of Taxes on Land and on Incomes.

[MR. WISE ;—21 *August*, 1901.]

BE 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:—

PART I.

REPEAL, SAVINGS, AND INTERPRETATION.

1. This Act may be cited as the "Land and Income Tax Assessment Act, 1901," and is divided into parts, as follows:—

PART I.—REPEAL, SAVINGS, AND INTERPRETATION—*ss.* 1-3.

PART II.—OFFICERS—*ss.* 4-11.

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PART III.—LAND TAX—

DIVISION 1.—*Mode of levying tax, exemptions*—ss. 12-14.DIVISION 2.—*Burden of land tax, contribution, and provisions as to agents and trustees*—ss. 15-17.

PART IV.—INCOME TAX—ss. 18-32.

PART V.—ASSESSMENTS, RETURNS, &C.—

DIVISION 1.—*General provisions*—ss. 33-45.DIVISION 2.—*Provisions as to companies*—s. 46.

PART VI.—APPEALS, COLLECTION OF TAXES, REFUNDS, REGULATIONS, PENALTIES, &C.—

DIVISION 1.—*Appeals*—ss. 47-49.DIVISION 2.—*Collection of and enforcing payment of taxes*—ss. 50-55.DIVISION 3.—*Refunds*—s. 56.DIVISION 4.—*Recovery of land tax by letting or sale of land*—ss. 57, 58.DIVISION 5.—*Regulations, penalties, &c.*—ss. 59-70.

Repeal—Savings.

2. (1) The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed.

Officers under repealed Acts.

(2) All persons appointed under any Act hereby repealed, and holding office at the time of the passing of this Act, shall be deemed to have been appointed under this Act.

Regulations.

(3) All regulations made under the authority of any Act hereby repealed, and in force at the time of the passing of this Act, shall be deemed to have been made under the authority of this Act.

Assessments, &c.

(4) All assessments, assessment-books, valuations, notices, returns, payments, refunds, nominations, and appointments made, and all appeals lodged, and all actions and proceedings taken, and all rights and liabilities given or imposed under or by any of the Acts hereby repealed, shall be deemed to have been made, lodged, taken, given, or imposed under or by this Act.

Interpretation.

58 Vic. No. 15, s. 68.

3. In this Act, unless the context otherwise requires,—

“Commissioners” means the Commissioners of Taxation.

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

“Improved value” means the capital sum for which the fee-simple estate in land, with all improvements thereon, would sell under such reasonable conditions of sale as a bonâ fide seller would require.

“Improvements” includes houses and buildings, fencing, planting, excavations for holding water, wells, ringbarking, clearing from timber, or scrub, or sweet briar, or noxious weeds, or laying

laying down in grass or pasture, and any other improvements whatsoever, the benefit of which is unexhausted at the time of valuation.

“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 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 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.

“Mortgage” means and includes any charge whatsoever upon land or interest therein for the securing of money, and whether created by deed, or other instrument, or in any other manner, but does not include a charge of debts or legacies created by will.

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

“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 trustees; or

(c) who is a settlor, grantor, assignor, or transferor of land comprised in any settlement, grant, assignment, transfer, conveyance, or other instrument, not made *bonâ fide*; or

(d) entitled to land partly in one, and partly in another or others of the aforesaid ways; or

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

“Person” includes “company” as defined by this Act.

“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 town or district.

“Registered”

"Registered" means registered in the office of the Registrar-General or the Land 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.

"Taxpayer" means any person chargeable with land or income tax.

"This Act" means this Act and the regulations thereunder.

"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.

"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 bonâ fide seller would require, assuming the actual improvements (if any) had not been made, 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.

PART II.

OFFICERS.

Commissioners of
Taxation.
59 Vic. No. 15, s. 2.

4. For the administration of this Act, the Governor may appoint three "Commissioners of Taxation," to be called the First, Second and Third Commissioners respectively, on whom shall devolve and be imposed all the powers, duties, and functions by this Act conferred and imposed upon "The Commissioners."

Salary of Second
Commissioner.
Ibid. s. 3.

5. (1) The salary of the Second Commissioner shall be such sum as Parliament may vote, not exceeding eight hundred pounds per annum,

(2)

(2) Any two of the Commissioners shall, subject to the next following provision, have all the powers and authority by this Act conferred upon the Commissioners.

(3) If at any meeting of the Commissioners, at which two Commissioners only are present, such Commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present.

(4) In case of the illness, suspension, or absence of any Commissioner, the Governor may appoint a deputy to act for such Commissioner during his illness, suspension, or absence; and every such deputy shall, during the time he shall act as deputy, have all the powers and authority of such Commissioner.

6. The Governor may appoint such assessors and other officers as may be deemed necessary for carrying out the provisions of this Act. Assessors and officers may be appointed. 59 Vic. No. 15, s. 4.

7. The Commissioners may, with the approval of the Governor, delegate to any public officer such powers, duties, and functions by this Act or the regulations hereunder conferred or imposed upon them as it may be considered expedient by the Commissioners so to delegate. Delegation of duties. Ibid. s. 5.

8. A notification in the Gazette that any person therein named has been appointed a Commissioner, or other officer for the purposes of this Act, shall be conclusive evidence of such appointment. Gazette notice of appointments sufficient. Ibid. s. 6.

9. Every person appointed or employed 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. Ibid. s. 7.

10. (1) The Commissioners shall, before acting in the execution of their office, take and subscribe, before a police magistrate or justice of the peace, 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 a Commissioner or any justice of the peace. Oath of fidelity and secrecy. Ibid. s. 8.

(2) 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.

(3) 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 not more than one hundred pounds.

11. The Governor may, by notice in the Gazette, declare that the Land Appeal Court or any Judge of a District Court or any police magistrate shall be a Court of Review within the meaning of this Act; and Court of Review. Ibid. s. 9.

and thereupon every Court of Review, constituted as aforesaid, shall have jurisdiction within such limits and in such cases as the Governor may prescribe in the said notice, to hear and determine subject to the provisions of this Act appeals from assessments made under this Act.

PART III.

LAND TAX.

DIVISION 1.—*Mode of levying tax—Exemptions.*

Land tax.

59 Vic. No. 15, s. 10.

59 Vic. No. 16, s. 1.

12. Subject to the provisions of this Act, there shall be levied and paid to the Commissioners, for the use of His 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 sterling of the assessed value of all lands situate in New South Wales, and not included in the exemptions specified in section fourteen.

Tax, how to be
levied and paid.

59 Vic. No. 15, s. 10.

13. Such land tax shall be levied and paid as follows :—

- (1) 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 two hundred and forty pounds. Such deduction shall not be made more than once in the case of an owner of several estates or parcels of land (not being a bare trustee of different estates for the benefit of different *cestuis que trust*), but in every such case the aggregate of the values of such several estates or parcels shall be regarded for the purpose of taxation as if such aggregate represented the unimproved value of a single estate or parcel : Provided with regard to any such lands as are subject to any mortgage (except where the mortgagee is owner within the meaning of the Act), that there shall be deducted each year from the tax upon such unimproved value a sum equal in amount to the income tax leviable for that year upon the interest derivable from the whole mortgage of the land, including improvements thereon ; and this annual deduction shall not be diminished by reason of any exemptions or deductions from payment of income tax provided for in sections eighteen, nineteen, and twenty : Provided always that no such deduction from land tax shall be deemed to extend beyond the amount of land tax due for such year upon the land included in such mortgage.

(2)

(2) The person who, on the thirty-first day of December in any year, is the owner of any land, shall in respect of the land tax for the next following year be deemed to be the owner of such land, and be liable to pay such tax on such land; and any deduction in pursuance of this section from such tax in respect of any mortgage of such land shall be based on the income tax leviable upon the interest derivable from such mortgage for the year ending on the said thirty-first day of December.

Owners on 31st December liable for land tax for next succeeding year.
No. 23, 1900, s. 7.

(3) No deduction for land tax under this section shall be allowed in respect of the mortgage of lands not situate in New South Wales.

No deduction for mortgage of lands not situate in New South Wales.
No. 37, 1898, s. 2.

14. The lands and classes of lands hereinafter specified are exempted from assessment for taxation under this Act, namely:—

Exemption from land tax.
59 Vic. No. 15, s. 11.

(1) 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 or special lease and homestead selections under any such Act.

(2) Lands (not being Crown lands as aforesaid) vested in His Majesty, or in any person for or on behalf of His Majesty, by virtue of any Act authorising the resumption of land by or on behalf of His Majesty.

(3) Lands vested in the Railway Commissioners of New South Wales.

(4) 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.

(5) Lands occupied or used exclusively for, or in connection with, public pounds, public hospitals, whether supported wholly or partly by grants from the Consolidated Revenue Fund or not, and which are not a source of profit or gain to the users or owners thereof, benevolent institutions, public charitable purposes, churches, chapels for public worship, universities, affiliated colleges, the Sydney Grammar School, mechanics' institutes, and schools of arts; and lands on which are erected public markets, town halls, or municipal council chambers, or any lands the property of, or vested in, any council or municipality, public hospital, university, or affiliated college.

(6) Any land used exclusively for the site of a residence of a minister of religion ministering at some place of public worship.

No. 28, 1900, s. 8.

No. 23, 1900, s. 8.

(7) Any land used as a site of, or occupied for the purposes of, a school attached to or connected with any place of public worship.

59 Vic. No. 15, s. 11
(vi.)

(8) Lands dedicated or vested in trustees and used for zoological, agricultural, pastoral, or horticultural show purposes, or other public or scientific purposes.

Refund under
sub-secs. 6 and 7.
No. 28, 1903, s. 8.

Where land tax has, before the first day of October, one thousand nine hundred, been paid in respect of any land exempted by subsections six and seven of this section, a certificate may be given and a refund made under section fifty-six in respect of such payment, although the claim for such refund was not made within two years of the date of such payment.

DIVISION 2.—Burden of land tax—Contribution, and provisions as to agents and trustees.

Liability of
co-owners.

59 Vic. No. 15, s. 12.

15. (1) If two or more persons are owners, whether jointly or severally or otherwise, of land subject to taxation under this Act, they shall each be liable to His Majesty for the whole tax on such land, but any owner who has paid the tax may recover contribution as hereinafter provided—

Contribution in
respect of tax paid
before 1 00.

59 Vic. No. 15, s. 12.

(a) A person who has paid the tax for any year prior to the year one thousand nine hundred in respect of any land, may recover, by way of contribution, from any other person having an estate therein, a sum which bears the same proportion to the tax as the value of the estate of such other person bears to the improved value of the land.

Contribution
between lessor and
lessee in respect of
tax for 1 00 and
subsequent years.
No. 46, 1900, s. 1.

(b) A person who has paid land tax for the year one thousand nine hundred or any subsequent year in respect of any land, may recover by way of contribution from any other person having an estate in such land a sum which bears the same proportion to the tax as the value of the estate of such other person in the unimproved value of the land bears to the whole unimproved value of the land.

59 Vic. No. 15, s. 12.

(c) A person who has paid the contribution payable in respect of an estate in land may recover as aforesaid from any person interested in such estate, a sum which bears the same proportion to the amount of the contribution so paid as aforesaid as the value of the interest of such other person bears to the value of such estate.

(d) For the purposes of this section, the word "estate" shall include any interest in land whatsoever, but nothing herein contained shall be taken to authorise any contribution between mortgagor and mortgagee, and no person shall be liable to contribution who is not entitled to an estate or interest in possession.

(2)

(2) Every person entitled to contribution in respect of land tax under this section may— Contribution Low recovered.

- (a) sue for the same as money paid to the use of the person liable to contribute at his request in any court of competent jurisdiction; or
- (b) retain the amount of such contribution out of any moneys in his hands belonging or payable to the person liable to contribute, or deduct the same from any moneys payable to the person liable to contribute in respect of interest or debt, or other obligation.

16. 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" provided by the regulations hereunder. Rules, &c., for calculation of values. 59 Vic. No. 15 s. 13.

17. (1) Every agent for any owner of any land subject to land tax under this Act, who may be permanently or temporarily absent from New South Wales, and every trustee of any land subject to land tax under this Act, shall be assessed respectively in respect of such land the owner of which is represented by such agent, or in respect of such land the legal estate in which is vested in such trustee, whether solely or jointly with other trustees. And every such agent and trustee shall, subject to the provisions of subsection (5), be chargeable with the land tax payable in respect of such land in the same manner as if such land were his own; but he shall be assessed in respect thereof in a representative character only, 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. Ibid. s. 11.

(2) 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.

(3) 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.

(4) Every such agent or trustee is hereby authorised to recover from any person for whom, or on whose behalf, he is compellable to pay and has paid 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.

(5) 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 herein-before provided.

PART IV.

INCOME TAX.

Incomes liable to
taxation.

59 Vic. No. 15, s. 15.

59 Vic. No. 17, s. 1.

18. (1) Subject to the provisions of this Act, there shall be charged, levied, collected, and paid to the Commissioners for the use of His 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 all incomes exceeding two hundred pounds per annum :—

- (a) 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 on his behalf wholly or in part by any other person ; or
- (b) 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 ; or
- (c) derived from lands of the Crown held under lease or license issued by or on behalf of the Crown ; or
- (d) arising or accruing to any person wheresoever residing from any kind of property, except from land subject to land tax as hereinafter specifically excepted, or from any other source whatsoever in New South Wales not included in the preceding subsections.

(2) 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.

Exporters deemed to
carry on trade in
New South Wales.
No. 37, 1898, s. 1.

(3) Any person, wheresoever residing or domiciled, who, either before or after the commencement of this Act, extracts from the soil, wins, produces, or manufactures in New South Wales any product, commodity, or substance, and exports the same shall be deemed to carry on in New South Wales the trade of extracting from the soil, winning, producing, or manufacturing such product, commodity, or substance ; and the value of such product, commodity, or substance when exported shall be deemed to be the amount on which income tax shall be payable after reduction by the exemptions allowed by section twenty and by an allowance for such losses and outgoings, including interest and expenses, as shall have been incurred in New South Wales by the taxpayer in the production of such product, commodity,

commodity, or substance so exported, and by such other deductions as are allowed by section thirty-one.

The Governor shall, in order to adjust the incidence of the tax so that it shall not exceed the rate of tax payable on profits only by regulations published in the Gazette, fix rules for the calculation of income tax and deductions and exemptions therefrom in respect of any product, commodity, or substance within the provisions of this subsection, and such regulations shall have the force of law; and in fixing such rules, income derived from the ownership, use, and cultivation of land subject to land tax shall be held to be exempted.

19. Except in the case of a company the person liable to taxation in respect of an income exceeding two hundred pounds shall be entitled to a deduction of two hundred pounds in the assessment of such income under this Act for the purpose of such taxation. Deduction equal to exemption.
59 Vic. No. 15, s. 16.

20. The following incomes, revenues, and funds shall be exempt from income tax— Exemption of certain incomes.
Ibid. s. 17.

- (1) the revenues of municipal corporations or other local authority;
- (2) the incomes of mutual life assurance societies and of other companies or societies not carrying on business for purposes of profit or gain, except income derived from mortgages;
- (3) the dividends and profits of the Savings Bank of New South Wales, and of the Post Office Savings Bank;
- (4) the funds and incomes of societies registered under the Friendly Societies Act, 1899, or under any Act relating to Trade Unions;
- (5) 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;
- (6) income arising or accruing to any person not resident in New South Wales from Government debentures, inscribed stock, and Treasury Bills;
- (7) income derived from the ownership of land subject to land tax under Part III of this Act.
- (8) income derived directly from the use or cultivation of land subject to land tax under Part III of this Act.

The exemptions declared by subsections (1) to (5) hereof 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.

21. Subject to the provisions of this Act income tax shall be payable— Persons by whom income tax is payable.
Ibid. s. 18.

- (1) in respect of the income of a company, by the public officer thereof;

(2)

- (2) 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 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 Commissioners may, if they 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;
- (3) in respect of the income of cestuis que trust, infants, lunatics, and persons under any legal disability, by the trustee, 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;
- (4) in respect of income paid under the decree or order of any 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;
- (5) 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 (1) to (4) 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.

Liability of
representative
taxpayer.

59 Vic. No. 15, s. 19.

22. 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: Provided that nothing herein contained shall in cases where the representative taxpayer acts as agent or trustee for several persons prevent such representative taxpayer from claiming that each agency or trust shall be treated separately for the purpose of claiming the exemption or deduction provided for in sections fifteen and sixteen of this Act.

23.

23. Every representative taxpayer who, as such, pays any tax or any sums imposed or incurred by way of fine under section fifty-one of this Act shall be entitled to recover from the person on whose behalf such tax or sums shall be paid, or to retain out of any moneys that may come to him in his representative capacity, so much as shall be required to indemnify him in respect of such payments: Provided that where any sum by way of fine under section fifty-one has been imposed or incurred through the neglect or default of the representative taxpayer, the amount of such fine shall not be chargeable against the person on whose behalf the tax shall be paid, and if deducted or retained by the representative taxpayer shall be recoverable from him by the person so entitled as aforesaid as money received to the use of such person.

Indemnity to
representative
taxpayer.

59 Vic. No. 15, s. 20.

24. 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 prescribed returns 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 Commissioners require the testimony of such trustee or receiver in pursuance of this Act.

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

Ibid. s. 21.

25. 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.

Income tax on
debentures of
companies.

Ibid. s. 22.

26. (1) Where a person or company outside New South Wales (herein termed "the principal"), by means of a company registered in New South Wales, or carrying on business therein, or by means of a person in New South Wales (herein termed "the agent"), sells or disposes of goods in New South Wales for the principal (whether the moneys arising therefrom are paid to or received by the principal directly or otherwise), the taxable amount of the income derived therefrom by the principal shall be assessed at an amount equal to five pounds per centum upon the total amount received for such goods and the amount so assessed shall for the purposes of income tax be deemed to be income derived by the agent, and the following provisions shall apply:—

Provision as to
profits on imported
goods.

Ibid. s. 23.

- (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, and in the case of such agent being a company as aforesaid the provisions of section forty-six hereof shall apply, provided that nothing herein contained shall exempt or discharge the principal

principal from liability to pay income tax on such income ; and that the agent shall have the same right to indemnity against the principal in respect of the tax paid by him as is conferred upon the representative taxpayer by section twenty-three.

(2) The Governor may by regulations prescribe for the making, obtaining, adjusting, and settling returns by or with any 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.

Income of
shipowners, &c.
59 Vic. No. 15, s. 24.

27. Every person engaged in business as owner or charterer of 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.

Insurance companies.
Ibid. s. 25.

28. (1) In the case of insurance companies, regulations to be made under this Act may 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.

Other companies.

(2) In the cases of all other companies whose business extends to any other countries, the income for taxation shall be a sum which shall bear the same proportion to the whole net profits of the company as the assets in New South Wales bear to the total assets of the company, the deductions to be such as are allowed by this Act: Provided that where either the Commissioners or the company may deem such method of estimating the income for taxation to be inequitable or inexpedient, either the Commissioners or the company may claim the right to an assessment on the actual profits earned or income received in New South Wales.

Married women—
how liable.
Ibid. s. 26.

29. The income of a married woman shall be liable to assessment and taxation in like manner as if she were unmarried.

Taxable amount—
how ascertained.
Ibid. s. 27.

30. For the purpose of ascertaining the sum, hereinafter termed the "taxable amount," on which (subject to the deductions hereinafter mentioned) income tax is payable, the following directions and provisions shall be observed and carried out:—

- (1) 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.
- (2) In any case in which profits or moneys derived from any business have been converted into stock-in-trade, or added to the capital of, or in any way invested in, such business, 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.

(3)

- (3) No tax shall be payable in respect of income earned outside New South Wales.
- (4) The taxable amount of any income under subsection (b) of section eighteen shall be the net amount paid to or on account of the taxpayer, less all payments by way of deduction or otherwise to the Civil Service Superannuation Account, or any other public account.
- (5) 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.
- (6) In all other cases the taxable amount shall be the total amount of taxable income arising or accruing to any person from all sources except to the extent of the exemptions provided by section twenty.
- (7) Shillings and pence and fractions thereof shall not be included in the taxable amount.

31. From the taxable amount so ascertained as aforesaid every taxpayer shall be entitled to deductions in respect of the annual amount of—

- (1) Losses, outgoings, including interest and expenses actually incurred in New South Wales by the taxpayer in the production of his income not exempt from the payment of income tax under section twenty.
- (2) 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 fifty pounds in the aggregate.
- (3) Sums expended for repairs of premises occupied for the purpose of business, and for the repair or alteration of machinery, implements, utensils, and articles employed by the taxpayer for the purposes of his business; 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 the year immediately preceding the year of assessment.
- (4) Such sum as the Commissioners may think just and reasonable as representing the diminished value by reason of wear and tear during the year of any machinery, implements, utensils,

Deductions from
taxable amount.
59 Vic. No. 15, s. 28.
No. 37, 1898, s. 3.

utensils, and articles used by the taxpayer for the purposes of his business: Provided that where in any business 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 assessment, shall, subject to the approval of the Commissioners, be the sum to be deducted for depreciation: Provided that in no case shall any allowance be made for the depreciation of buildings.

- (5) Notwithstanding the limitation in subsection (1) hereof the Commissioners shall, in cases where it may seem to them just, allow losses, outgoings, and expenses, even if incurred beyond New South Wales.
- (6) When any taxpayer occupies, for the purpose of business, 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 taxable income derived or received from such business for such period, to deduct a sum equal to five per centum on the amount of the unimproved value of such land, plus five per centum of the amount of the value of the improvements thereon which are used and required for the purposes of such business.
- (7) Where a taxpayer, either alone, or with other persons, carries on, or is interested as a partner in, more than one business, and makes a profit in one or more of such businesses, and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits.

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

What deductions
not allowed.
59 Vic. No. 15, s. 23.

32. No deduction shall, in any case, be made in respect of any of the following matters:—

- (1) the cost incurred in the maintenance of any taxpayer, his family, or establishment;
- (2) domestic or private expenses;
- (3) any loss or expense which is recoverable under any insurance or contract of indemnity;
- (4) income tax and land tax;
- (5) income earned in New South Wales and carried to any reserve fund, or capitalised in any way.

Nor as regards income derived from any profession, trade, employment, or vocation, in respect of any of the following matters, viz.:—

- (6) any moneys not wholly and exclusively laid out or expended for the purposes of the profession, trade, employment, or vocation;
- (7)

- (7) the rent or value of or cost of repairs or alterations of any premises not occupied for the purposes of the profession, trade, employment, or vocation, or of any dwelling-house, or domestic premises, except such part thereof as may be occupied for the said purposes;
- (8) interest which might have been made on any capital employed in the profession, trade, employment, or vocation, if lent out at interest;
- (9) any debts owed to the taxpayer, except such as shall be proved to the satisfaction of the Commissioners to be bad or doubtful; and deductions for doubtful debts shall be made according to the value at which the Commissioners shall estimate them.

PART V.

ASSESSMENTS, RETURNS, &C.

DIVISION 1.—*General provisions.*

33. (1) The Commissioners shall, in the prescribed manner, give, or cause to be given, not less than thirty clear days' public notice, of the time and place at which all persons liable to taxation personally, or in any representative capacity under the provisions of this Act, shall furnish returns for the purpose of the assessment of land and income tax; such notice shall state the place at which the 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 to furnish any such returns, to apply for the prescribed forms of returns, and any person failing to 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 Commissioners may, if they deem it so advisable, cause forms to be delivered by the assessors or sent by post.

Commissioners to give notice of returns.
59 Vic. No. 15, s. 30.

Persons to provide themselves with forms of returns.

(2) Every such person shall, upon the publication of such 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 of which such person is 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 the 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.

(3) Any return made or purporting to be made or signed 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 shall prove that such return was not made or signed as aforesaid.

(4) If any person fails to make such return to the Commissioners they 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 the same.

(5) 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 Commissioners, at such time, as may respectively be prescribed or publicly notified.

Commissioners may
require further
returns.

(6) The Commissioners may, when and so often as they think 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.

(7) All returns required to be furnished under this Act 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.

(8) No person shall be released from the obligations and penalties by this Act or the regulations imposed in respect to the 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.

Assessment-books
when to be made.
59 Vic. No. 15, s. 31.
No. 28, 1900, s. 2.

24. (1) From the returns furnished to the Commissioners, or from any other available sources the Commissioners shall cause separate assessment-books to be prepared, as hereinafter provided in respect of land tax and of income tax. A like assessment-book shall be prepared in respect of income tax in each and every successive year.

59 Vic. No. 15, s. 31.
No. 21, 1897, s. 7.

(2) The assessment-book in respect of land tax shall contain particulars arranged in the prescribed manner of all lands therein described.

Assessment-books to
be in force.
No. 28, 1900, s. 3.

(3) The assessment-book in respect of land tax now in force, with such alterations and additions in the same as may be made in pursuance of this Act or any Act amending the same, shall continue to be in force and shall be deemed to be the assessment-book under this Act.

New assessments.
Ibid. s. 4.

(4) The Commissioners may from time to time make new assessments of all or any lands liable to land tax, and shall, on any such assessment being made, insert the same with the prescribed particulars in the assessment-book in respect of land tax:

Provided

Provided that no land shall be assessed under this subsection more than once in any period of five years.

(5) No assessment-book in respect of land tax shall be deemed incomplete, and no notice given before or after the commencement of this Act in respect of land 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.

For collection of land tax assessment-books not deemed incomplete by reason of errors.
No. 28, 1900, s. 5.

But the Commissioners may add to the book the assessment and other prescribed particulars in respect of any land which may be ascertained to be liable to such land tax.

(6) Where, in pursuance of the Land and Income Tax Assessment Act of 1895 or this Act, any addition to or amendment of the assessment-book in respect of the land 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 where assessment-book is amended.
Ibid. s. 6.

(7) No assessment-book in respect of income tax shall be deemed incomplete, and no notice given in respect of income tax shall be deemed invalid, by reason of any error or omission in any such book or in any such notice: Provided that the Commissioners have certified under their hands that such book is complete, so far as the information at their disposal will permit.

Income tax assessment-books not to be deemed incomplete by reason of any errors.
No. 21, 1897, s. 6.

But the Commissioners may, after certifying as aforesaid, add to the book the assessment and other prescribed particulars in respect of any income which may after so certifying be ascertained to be liable to income tax.

(8) The 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:

5) Vic. No. 15, s. 31.

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 Court of Review, it is at any time found that the assessed value or amount of any land 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.

Assessment-book
may be added to and
amended whilst in
force.

59 Vic. No. 15, s. 32.

35. During the time that any assessment-book is in force the Commissioners may, from time to time—

- (1) Place thereon the name of any person of whose liability to taxation they are satisfied, and erase therefrom the name of any person not so liable.
- (2) In their 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.
- (3) Place thereon any lands which may have become vested in or owned by any person since the making of the last assessment which they are satisfied are liable to taxation, or erase therefrom any lands no longer so liable.

The prescribed notice shall be given to the persons affected 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.

- (4) 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.
- (5) 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.
- (6) If the Commissioners think 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.

Power to use other
assessments.
Ibid. s. 33.

36. In the preparation of any assessment-book in respect of land tax the Commissioners may, if they 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 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 inspect
rate-books, &c.
Ibid. s. 34.

37. The Commissioners, or any person authorised in writing by them, 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,

accounts, and documents in the Land Titles Office, or the General 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 Commissioners or any person so authorised by them shall be liable to a penalty of fifty pounds.

38. Any assessor may enter at any reasonable hour, during the day-time, 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.

Assessor may enter jointly, but jointly and severally responsible for returns. 59 Vic. No. 15, s. 35.

39. Joint owners or trustees of land in respect to which such owners or 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 the payment of the tax.

Trustees assessed jointly, but jointly and severally responsible for returns. Ibid. s. 36.

40. Co-partners shall be assessed jointly in the name of the firm or style of the co-partnership, in respect of land belonging to or held by such co-partners, and shall be chargeable jointly and severally 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 co-partner shall be separately responsible for the due furnishing of returns relating to such land, and liable in respect of any default in connection therewith.

Partners assessed jointly as to land of firm. Ibid. s. 37.

41. 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. Ibid. s. 38.

42. (1) If any person makes default in furnishing any return of lands or income, or if the Commissioners are not satisfied with the return made by any person, they may make an assessment of the value or amount on which, in their judgment, tax ought to be charged, and the tax shall be payable accordingly.

Default assessment. Ibid. s. 39.

(2) Every such assessment shall be subject to appeal.

43. 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 shall be prescribed.

Assessment-book in respect of land tax open to inspection. Ibid. s. 40.

44. 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 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 Commissioners.

Assessment-book in respect of income tax not open to inspection. Ibid. s. 41.

45. Upon the completion of the assessment-books the Commissioners shall give notice every year to every taxpayer whose name appears therein, with such particulars of the assessment as shall be considered

Notice to taxpayers. Ibid. s. 42.

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."

DIVISION 2.—*Provisions as to companies.*

Public officer of a
company—duties
and liabilities.

59 Vic. No. 15, s. 43.

46. (1) 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 New South Wales shall be appointed, from time to time, by such company, at which any notices or other instruments under this Act affecting the company may be served or delivered, and the Commissioners shall be notified within one month of such nomination and appointment.

(2) Such person shall for the purposes of this Act be called the public officer of the company.

(3) The office of public officer shall be kept constantly filled by every company.

(4) Every company failing or neglecting, within the prescribed time 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 every day during which such neglect shall continue.

(5) Every notice, process, or proceeding which, under this Act, 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 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.

(6) Every public officer shall be answerable for the doing of all such acts, matters, or things as are required to be done under this Act by a taxpayer, and in case of default shall be liable to the same penalties.

(7) Any act, return, or representation done or made by a public officer in respect of any matter or thing required to be done or performed under this Act 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.

(8) Every company established or beginning to carry on business in New South Wales 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.

(9)

(9) 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 from the penalties consequent on the failure to comply therewith.

PART VI.

APPEALS—COLLECTION OF TAXES—REFUNDS—REGULATIONS— PENALTIES, &C.

DIVISION 1.—*Appeals.*

47. (1) 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 to the Court of Review, upon the ground that he is not liable for the tax, or for any part thereof, or that the amount of such assessment is excessive. Every appeal shall be commenced by such notices and in such manner as may be prescribed. Appeals.
59 Vic. No. 15, s. 44

(2) 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.

(3) The sittings of the Court of Review for the hearing of appeals shall not be deemed to be public, and the said Court shall at any time on the application of the appellant exclude from any such sitting, or require to withdraw therefrom, all or any persons whomsoever.

(4) The Commissioners, or any person authorised by them, may appear in support of the assessment on the hearing of any appeal; and the appellant and any person who is interested in such appeal may appear in person, or by his counsel, solicitor, or agent.

(5) 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.

(6) The Court of Review 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 the claim of the Commissioners shall be held to be unreasonable, or the grounds of appeal therefrom to be frivolous.

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

(8)

(8) No member of any Court of Review 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.

(9) The said Court shall be a Court of Record, and shall have and possess for the hearing and determination of appeals within the limits of the jurisdiction hereinbefore defined the same authority, rights, powers, privileges, and status as are by the provisions of subsections (VII), (VIII), and (IX), of section eight, and by section nine of the Crown Lands Act of 1889, conferred upon the Land Court, as fully and effectually as if such provisions were re-enacted herein *mutatis mutandis* with reference to the said Court of Review and the constitution thereof.

(10) The provisions with regard to matters of procedure of the Crown Lands Act of 1889 and the regulations made thereunder, and of the Acts and rules in force relating to procedure in District Courts and petty sessions respectively, shall, so far as they may be declared by regulations hereunder to be applicable, regulate the practice and procedure in connection with such appeals before the Land Appeal Court or the District Court Judge or the police magistrate appointed to be a Court of Review respectively.

Appeal to
Supreme Court.
59 Vic. No. 15, s. 45.

48. Whenever any question of law shall arise in a case before the Court of Review, the said Court shall, if required in writing by any of the parties within the prescribed time and upon the prescribed conditions, or may of its own motion state and submit a case for decision by the Supreme Court thereon, which decision shall be conclusive; and the procedure with reference to a case submitted under this section shall be the same as that provided by subsection (VI) of section eight of the Crown Lands Act of 1889, with reference to cases submitted by the Land Court. The Supreme Court, for the purposes of this section, may consist of two Judges only, and shall have power to deal with the costs of, and incidental to, any case submitted under this section as it may think fit.

Right to recover tax
not suspended by
appeal.
Ibid. s. 46.

49. 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 Commissioners 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 Commissioners.

DIVISION 2.—*Collection of and enforcing payment of taxes.*

Notice published in
Gazette when tax is
due and payable.
Ibid. s. 47.

50. On completion of the assessment-books in respect of land and income tax respectively under the provisions of this Act, a day or days

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.

51. Every person who fails to pay the amount payable by him in respect of land tax or income tax respectively before the expiration of sixty 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.
59 Vic. No. 15, s. 48.

52. 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 His Majesty, and payable to the Commissioners in the manner and at the places prescribed.

Land and income tax, &c., to be a debt due to His Majesty.
Ibid. s. 49.

53. The Commissioners shall make out a list of the persons who shall be in arrear, and on the expiration of sixty days after the tax is payable they may 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 sixty days.
Ibid. s. 50.

54. Any land or income tax, together with any fines accrued, may be sued for and recovered by action in any Court of competent jurisdiction by the Commissioners suing on behalf of His Majesty.

Land and income tax with fine added shall be recoverable by the Commissioners.
Ibid. s. 51.

55. 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.
Ibid. s. 52

- (1) 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 the necessity of the Commissioners, or any one on their behalf, appearing in Court, or proving the liability of the defendant and the non-payment of the tax.
- (2) In all cases the summons shall be served upon the defendant at least thirty days before the day appointed for hearing.
- (3) 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 Commissioners may think necessary.

DIVISION 3.—*Refunds.*

56. If it is proved to the satisfaction of the Commissioners 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

Refund in certain cases.
Ibid. s. 53.

charged as land tax is in excess of the amount properly chargeable thereunder, 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; and if any taxpayer proves to the satisfaction of the Commissioners that his income during any year fell short of the sum in respect of which the tax for that year was paid, the Commissioners 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 Commissioners that income tax has been claimed or paid in respect of any income which by reason of the smallness of the income of the person finally beneficially entitled thereto would be exempt from taxation if it had been included in a return made by such person of his income, the Commissioners may exempt such income from payment of the tax, or if already paid shall cause the amount of such tax to be refunded as aforesaid: 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 over-payment was made.

DIVISION 4.—Recovery of land tax by letting or sale of land.

Land tax to be a first charge upon the land.
59 Vic. No. 15, s. 54.
Notice of intention to let or sell.

57. (1) 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.

(2) 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 Commissioners, 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 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 Commissioners 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, or will apply to the Supreme Court for an order for the sale thereof.

Commissioners may let land.

(3) 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 Commissioners 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; or

(4)

(4) The Commissioners, 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, 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 to be done by the Commissioners 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 and attending the sale of such land ; and that the proceeds be paid into Court.

Commissioners may apply to Supreme Court for sale.

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

58. Whenever any sale of any land, estate, or interest shall have been ordered and effected under the last preceding section, the Court or a Judge shall order payment of the said tax, fines, costs, and expenses to be first made out of the proceeds of sale, and the balance of the proceeds of such sale shall be applied as the Court or Judge may think proper for the benefit of the parties interested therein ; and the conveyance or transfer, as the case may be, shall be executed by the officer of the Court nominated by the Court or Judge for such 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 where the land is or has been brought under the provisions of the Real Property Act, the purchaser shall be entitled to receive a certificate of title to the land purchased.

Application of proceeds of sale.
59 Vic. No. 15, s. 55.

DIVISION 5.—*Regulations, penalties, &c.*

59. The Governor may by regulation prescribe and regulate—

Governor may make regulations.
Ibid. s. 56.

- (1) the duties of all persons engaged or employed under or in the administration of this Act ;
 - (2) the security to be given by any such persons, the limits of districts and places within which any such persons are to act ;
 - (3) the returns to be furnished to the Commissioners, and the form and contents thereof, and the time and mode of furnishing the same ; the form, time, and manner of giving notices of appeal ;
 - (4) 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.

Further power as
regulations.
59 Vic. No. 15, s. 57.

Publication of
regulations.
Ibid. s. 58.

Occupier or person
in possession refusing
to give the name of
owner liable to a
penalty.
Ibid. s. 59.

Penalty for making
false returns, &c.
Ibid. s. 60.

Penalty for
obstructing officers,
&c.
Ibid. s. 61.

Persons making
false declaration, &c.,
guilty of perjury.
Ibid. s. 62.

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

61. 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 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.

62. If the occupier or person in possession of any land, when requested by the Commissioners, or by any authorised officer, 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 Commissioners 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.

63. If any person—

- (1) fails or neglects to furnish any returns within the prescribed time;
 - (2) 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; or
 - (3) 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 under subsection (1) a penalty not exceeding twenty pounds, and for each offence under subsections (2) or (3) 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.

64. Any person who obstructs or hinders any officer acting in the discharge of his duties under this Act, 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, mortgage, property, or income belonging to such person, shall be liable to a penalty not exceeding fifty pounds.

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

66. 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, or tax, or displacing the benefit of any exemption, or deduction authorised by or consequent upon any provision of this Act shall (whether such contract, agreement, or understanding shall have been or be made before or after the passing of this Act) be wholly void and inoperative so far as such contract, agreement, or understanding purports or is intended to have or might have the effect aforesaid, but without prejudice to the validity of such contract, agreement, or understanding in any other respect or for any other purpose: Provided that the interest of the lessor in any lands subject to any such agreement made before the twelfth day of December, one thousand eight hundred and ninety-five, by a lessee to pay the land tax shall, for the purposes of contribution under section fifteen, be calculated upon a basis excluding the value of the reversionary interest.

Contracts, &c.,
affecting assessment,
incidence of assess-
ment, &c., void.
59 Vic. No. 15, s. 63.

67. Any person guilty of a breach of the provisions of this Act shall be liable to a penalty not exceeding twenty pounds, and the Governor may by regulation impose a penalty not exceeding ten pounds for the breach of any of the regulations under this Act.

Penalties may be
imposed by
regulation.
Ibid. s. 64.

68. All penalties imposed by this Act, or by the regulations thereunder, may be recovered before a Stipendiary or Police Magistrate in a summary manner according to the Act or Acts for the time being regulating proceedings before Justices.

Proceedings to
be heard
summarily, &c.
Ibid. s. 65.

69. 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.
Ibid. s. 66.

70. The production of the Gazette containing any regulations purporting to be regulations under this Act or any Act hereby repealed, or any notice purporting to be published in pursuance of this Act or any such Act or regulations, shall be conclusive evidence that such regulation or publication was duly made or published, and the production of any assessment-book, or of any document under the hand of the Commissioners 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 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.

Evidence.
Ibid. s. 67.

SCHEDULE.

Repeal of Acts.

Reference to Act.	Title or Short Title.	Extent of Repeal.
59 Vic. No. 15 ...	The "Land and Income Tax Assessment Act of 1895."	The whole Act.
60 Vic. No. 35 ...	The "Land and Income Tax (Amendment) Act, 1896" ...	The whole Act.
No. 21, 1897 ...	The "Land and Income Tax (Amendment) Act, 1897."	The whole Act.
No. 37, 1898 ...	The "Land and Income Tax (Declaratory), Act, 1898."	The whole Act.
No. 36, 1899 ...	The "Land Tax (Collection) Act, 1899" ...	The whole Act.
No. 28, 1900 ...	The "Land Tax (Assessment Books) Act, 1900."	The whole Act.
No. 46, 1900 ...	The "Land Tax (Contribution) Act, 1900" ..	The whole Act.

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