

Rt. Hon. R. J. Seddon.

LAND AND INCOME ASSESSMENT.

ANALYSIS.

- Title.
  - 1. Short Title.
  - 2. Act divided into Parts.
- PART I.  
ADMINISTRATION OF ACT.  
*Interpretation.*
- 3. Interpretation.  
*Appointments, &c.*
  - 4. Power to appoint Commissioner and Deputy Commissioner. Persons continued in office. Statutory powers of Property-tax Commissioner vested in Commissioner.
  - 5. Powers of Deputy Commissioner.
  - 6. Power to appoint other officers.
  - 7. Persons now in office continued therein.
  - 8. Officers to maintain secrecy. Oath of office. Penalty for contravening intent of oath.
  - 9. Rolls or assessments may be made for purposes of other Acts.  
*Public Officers of Companies.—Agents and Trustees.*
  - 10. Every company to be represented by a public officer.
  - 11. Duties, liabilities, and powers of agents and trustees.
- PART II.  
NATURE OF THE TAXATION AND GENERAL EXEMPTIONS.  
*Taxation.*
- 12. Nature of the taxation.
  - 13. Date at which ownership determined for land-tax purposes.
  - 14. Income upon which income-tax to be charged.
  - 15. Taxpayers to furnish returns.  
*General Exemptions from Tax.*
  - 16. Exemptions from tax. Land and income. Land. Native Land. Income.
  - 17. Only owners of land specified in preceding section entitled to exemption. Assessment of owners of other estates therein.
- PART III.  
RETURNS, ASSESSMENTS, AND APPEALS.  
*Returns.*
- 18. Form and time of making returns of land and income.  
*Assessments and Assessment-rolls.*
  - 19. Valuations of land to be made when required.
  - 20. Commissioner to prepare assessments.

- 21. Assessment in case of default or unsatisfactory return.
  - 22. Assessment-rolls. Form. Alterations. Validity. Proof thereof. Evidence.
  - 23. Notice of assessment to be given.  
*Appeal.*
  - 24. Objections to be by way of appeal. Hearing. Procedure. Decision. Costs.
- PART IV.  
ASSESSMENT OF LAND.  
*Ordinary Land-tax.*
- 25. Ordinary land-tax, on what to be assessed. Special exemption.
  - 26. Further exemption in certain cases on account of age, or ill-health.
  - 27. Assessment of joint tenants, co-partners, co-trustees, &c.
  - 28. Purchaser of land on credit or deferred payment liable to tax.
  - 29. Mortgage not exempt because land exempt.
  - 30. How interest on mortgage to be dealt with.
  - 31. Mortgages of banking, or loan, building, and investment companies exempt from land-tax.
  - 32. Mortgagor liable to assessment on behalf of absent mortgagee.  
*The Graduated Land-tax on Land other than Mortgages.*
  - 33. What lands to be liable to graduated land-tax. Increased rate in case of absentee owner.  
*Land-tax in respect of Native Land, and of Mortgages held by or for Natives.*
  - 34. Tax on Native land held by other than Native owner.
  - 35. Taxation of mortgages held by Natives.
  - 36. Occupier deemed agent of Native owner.
- PART V.  
ASSESSMENT OF INCOME.  
*Income of Companies.*
- 37. Income of company. Income-tax to be assessed thereon.
  - 38. Income of banking company.
  - 39. Income of loan, building, and investment company.
  - 40. Income of insurance company, other than life.
  - 41. Income of life insurance company.
  - 42. No exemption to company.

*Debentures issued by Companies.*

43. Company deemed agent of debenture-holders.  
44. Procedure where debenture money invested on mortgage or charged on land.

*Income of Taxpayers other than Companies.*

45. Income-tax, on what to be assessed.  
46. Income derived from business.  
47. Income derived from employment or emolument  
48. Deduction by way of special exemption. Non-resident not entitled thereto.  
49. Certain life insurance premiums deductible.  
50. When premium may be deducted from partnership income.

*Income of all Taxpayers engaged in Shipping.*

51. How income of owner or charterer of shipping to be assessed.

*General Provisions as to Income of all Taxpayers.*

52. When taxpayer deemed to have derived income.  
53. Items not deductible when ascertaining income.  
54. Partners to make joint return. Jointly and severally liable for tax.  
55. Deduction in respect of land owned and occupied for business.

## PART VI.

## PAYMENT OF TAXATION, AND PROCEDURE TO ENFORCE SAME.

*Due Date of Tax.*

56. Dates for payment of tax to be appointed by Governor in Council.  
57. If tax unpaid fourteen days after due date 10 per centum to be added. Proviso.

*Recovery of Tax in Arrear.*

58. Tax recoverable by Commissioner.  
59. Procedure in Courts for recovery of tax.  
60. Mode of service when defendant absent, or cannot be found.  
61. Commissioner or officers may appear in proceedings.

*Special Provisions.*

62. Procedure when name of owner of land cannot be ascertained.  
63. Provisions when full taxation not paid during lifetime.  
64. Tax to be a first charge on land.

65. Statutes of limitation not to bar remedy.  
66. Act not to limit operation of "The Crown Suits Act, 1881."  
67. Remedy against lessee, mortgagee, mortgagor, &c., if taxpayer makes default.  
68. Contracts to evade tax void.  
69. Administrative powers. Salary and wage lists to be furnished. Access to buildings, books, &c. Evidence of any person may be required. Oath may be administered.  
70. Regulations as to scale of expenses of persons giving evidence.

*Penalties.*

71. Penalty for neglect generally, refusing to give evidence, making false return, or evading tax.  
72. Procedure to recover penalty for evading tax.  
73. Penalty for obstructing officer, or breach of Act.  
74. Penalties recoverable in summary way. Not prejudiced by irregularity. Power to remit or compound for penalties and reward informer. Offences may be prosecuted within three years.

## PART VII.

## MISCELLANEOUS.

75. Owner to make return of land acquired during first year of biennial period.  
76. Provision where taxpayer ceases to own land or charges same by mortgage.  
77. Procedure to enforce registration of mortgages.  
78. Person paying tax may recover from person liable.  
79. Contribution from taxpayers jointly liable.  
80. Married woman liable to tax.  
81. If too little tax paid, deficiency to be made up.  
82. If too much tax paid, excess to be refunded.  
83. In case of bankruptcy or serious hardship, taxpayer may be released from liability.  
84. Application of Act in respect to stamp and deceased persons' estates duties.  
85. Validation of regulations made and things done under repealed Acts.  
86. "The Government Valuation of Land Act, 1896," not affected.

*Regulations.*

87. Regulations.  
88. To be gazetted and laid before each House.  
89. Power to extend time for doing act.  
90. Repeal. Saving. Schedules.

## A BILL INTITULED

Title.

AN ACT to consolidate and amend the Law regulating the Assessment of Land and Income for the Purposes of Taxation.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Land and Income Assessment Act, 1897."

Act divided into Parts.

2. This Act is divided into the following Parts:—

PART I.—Administration of Act. (Sections *three to eleven.*) 10

PART II.—Nature of the Taxation, and General Exemptions. (Sections *twelve to seventeen.*)

PART III.—Returns, Assessments, and Appeals. (Sections *eighteen to twenty-four.*)

PART IV.—Assessment of Land. (Sections *twenty-five to thirty-six.*) 15

- PART V.—Assessment of Income. (Sections *thirty-seven to fifty-five.*)
- PART VI.—Payment of Taxation, and Procedure to enforce same. (Sections *fifty-six to seventy-four.*)
- PART VII.—Miscellaneous. (Sections *seventy-five to ninety.*)

PART I.

ADMINISTRATION OF ACT.

*Interpretation.*

- 3. In this Act, if not inconsistent with the context,—
  - “Agent” includes every person who, in New Zealand, for or on behalf of any other person outside New Zealand (hereinafter called “the principal”),—
    - (1.) Has the control or disposal of any real or personal property belonging to the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such property; or
    - (2.) Has the control, receipt, or disposal of any income belonging to the principal, or directly or indirectly remits the same to the principal; or
    - (3.) Directly or indirectly sells or disposes of any personal property, or offers or exposes such property for sale or disposition, or solicits or procures the sale or disposition thereof:
  - “Assessment” means an estimate of the value of any land, either with or without improvements, or of the value of such improvements alone, or of any mortgage, or of any income, and includes the amount of tax imposed on such land, mortgage, and income respectively, and also all matters comprised in any return required under this Act:
  - “Business” includes trade, manufacture, adventure, and concern:
  - “Capital value” of land, other than mortgages, means the sum for which the owner’s estate and interest therein could, if unencumbered by any mortgage or other charge thereon, be purchased for cash under such reasonable conditions of sale as a *bona fide* seller might be expected to require:
  - “Capital value” of a mortgage means the full amount thereof, being in no case more than the capital value of the land which forms the security:
  - “Company” includes every corporate body and also every association of more than ten persons carrying on any business for pecuniary profit; but does not include a local authority, nor any other local governing or statutory public body:
  - “Friendly society” includes every society registered under any Act relating to friendly societies, industrial and provident societies, unclassified societies, industrial unions, industrial associations, or trade-unions:
  - “Improvements” includes buildings, fencing, planting, draining, laying down in grass, clearing from timber, scrub, or fern, and all other works done upon the land the effect whereof is to increase its value:

Interpretation.  
 1891, s. 3 extended.  
 1892, s. 19 altered.  
 1891, s. 3.  
 1894, s. 3.  
 1891, s. 3 altered.  
 1892, s. 11 (1).  
 1891, s. 3 extended.  
 Ib., Sch. A (1).

	Provided that the improvements shall only be deemed to exist in so far as the benefit thereof is unexhausted at the time of valuation:	
1891, s. 3.	“Income,” when used alone, means any profits derived or received by any person in any year or by any means or from any source which is made the subject of taxation under this Act:	5
Ib., s. 3.	“Land” includes all lands, tenements, and hereditaments, whether corporeal or incorporeal, in New Zealand, and also includes all mortgages thereof and all chattel and other interests therein; but (except in the case of mortgages) does not include—	10
Ib., Sch. A (4).	(1.) Crown land held as small grazing-runs or for pastoral purposes under Parts V. or VI. of “The Land Act, 1892,” or the corresponding provisions of any former Land Act; nor	15
	(2.) The interest of the lessee or licensee in land held under lease or license for any of the purposes specified in subsection <i>six</i> of section <i>forty-six</i> hereof:	
1892, s. 17 (2).	“Mortgage” includes every charge whatsoever upon land, howsoever created, if such charge is registered under any Act relating to the registration of deeds or instruments affecting title to land, and includes all unpaid purchase-money in respect of land purchased, although no registered charge exists in respect thereof, but (except as aforesaid) does not include any charge not so registered:	20
1894, s. 16.		25
1892, s. 17 (2) altered.	“Mortgagee” includes every person entitled at law or in equity to a mortgage or any part thereof, or to the interest or any part of the interest payable thereunder:	
1891, s. 3. “Maori.”	“Native” means an aboriginal inhabitant of New Zealand living as a member of a Native tribe according to Native customs and usages, and includes half-castes living as aforesaid:	30
1895, s. 2 altered.	“Native land” means land owned by or held in trust for any Native:	35
	“Occupier,” in respect of Native land, includes every person having or enjoying in any way or for any purpose whatsoever the use thereof:	
1891, s. 3.	“Owner,” in respect of land, means the person who, whether beneficially or as trustee or mortgagee or otherwise, and whether jointly or separately,—	40
1892, s. 11 (2).	(1.) Is seised or entitled to land for any estate, whether freehold, leasehold, or otherwise, in possession; or	
	(2.) Actually receives or is entitled to receive, or, if the land were let, would be entitled to receive, the rents or profits thereof; or	45
	(3.) Actually receives or is entitled to the whole or any part of the principal or interest moneys covered by a mortgage, or to the benefit of the security:	
	Provided that where any rate of tax, or any exemption or deduction hereinafter provided for, is in question, “owner” means the beneficial owner as distinguished from the trustee or agent:	50

- “ Person ” includes “ firm ” and “ company ” : 1894, s. 2, and 1895, s. 2.  
 “ Prescribed ” means prescribed by this Act or by regulations under this Act : 1891, s. 3.  
 “ Profit ” includes gain :  
 5 “ Tax, ” or “ taxation, ” means the duty upon land or income, and includes any additional charge in respect thereof to be assessed, collected, or enforced under this Act : 1891, s. 3.  
 “ Taxpayer ” means any person who is the owner of land, or who derives or receives income, and includes every person who, whether liable to taxation or not, is by this Act required to make any return relating to land or income or to the assessment thereof :  
 10 “ Trustee ” means and includes trustee, executor, administrator, guardian, committee, receiver, liquidator, the Public Trustee, and any person having or taking upon himself the possession, administration, or control of land, income, or other property of any description affected by any express or implied trust, or having the possession, control, or management of the land, income, or other property of any description of a person under any legal or other disability : 1891, s. 14 (6). 1892, s. 11 (3).  
 15 “ Unimproved value ” of land, other than mortgages, means the capital value thereof less the value of the improvements thereon.  
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*Appointments, &c.*

4. (1.) For the due administration of this Act the Governor may from time to time appoint a fit person to be the Commissioner of Taxes, (hereinafter referred to as “ the Commissioner, ”) and a like person to be the Deputy Commissioner of Taxes, (hereinafter referred to as “ the Deputy Commissioner, ”) both of whom shall hold office during the Governor’s pleasure. Power to appoint Commissioner and Deputy Commissioner. 1891, s. 4.

(2.) The persons who, at the commencement of this Act, hold the respective offices of Commissioner and Deputy Commissioner under any Act hereby repealed, shall be deemed, without further appointment, to have been duly appointed by the Governor to hold those respective offices under this Act. Persons continued in office.

(3.) All powers, functions, and duties as Property-Tax Commissioner vested in and imposed upon the Commissioner under any Act hereby repealed are, *mutatis mutandis*, hereby vested in and imposed upon the Commissioner under this Act. Statutory powers of Property-tax Commissioner vested in Commissioner. *Ib.*, s. 6.

5. (1.) The Deputy Commissioner shall, under the control of the Commissioner, perform such general official duties as he is called upon to perform under this Act or by the Commissioner. Powers of Deputy Commissioner. *Ib.*, s. 5.

(2.) In case of the illness, absence, or other temporary incapacity of the Commissioner, the Deputy Commissioner shall act in his name and on his behalf, and while so acting shall have and may exercise all the powers, duties, and functions of the Commissioner.

6. The Governor may from time to time appoint such Assessors, Clerks, Receivers, and other officers as he deems necessary for the purpose of carrying out the provisions of this Act. Power to appoint other officers. *Ib.*, s. 7.

7. Every person who, at the commencement of this Act, holds any office in the Land and Income Tax Department under any Act Persons now in office continued therein. *Ib.*, s. 7.

hereby repealed, shall, without further appointment, be deemed to hold such office under this Act.

Officers to maintain  
secrecy.  
1891, s. 8 extended.

8. (1.) Every person appointed or employed under this Act—

(a.) Shall maintain, and aid in maintaining, the secrecy of all matters relating to this Act, or any Act hereby repealed, which come to his knowledge, and shall not communicate any such matter to any person whomsoever, except for the purpose of carrying into effect the provisions of this Act; and also 5

Oath of office.

(b.) Shall, before he begins to perform any official duty under this Act, take and subscribe such oath of fidelity and secrecy as is prescribed, which oath may be administered by the Commissioner or Deputy Commissioner, or by any Justice of the Peace. 10

Penalty for  
contravening intent  
of oath.  
Ib., s. 9.

(2.) Every person who wilfully acts in contravention of the true intent of such oath is liable, on summary conviction before a Stipendiary Magistrate, if he elects to be tried before him, or, if he does not so elect, then, upon conviction before the Supreme Court or District Court, to imprisonment for any term not exceeding *twelve* months, with or without hard labour. 15 20

(3.) Every person who, being appointed or employed under this Act, performs any official duty before he has taken such oath is liable to a penalty of not less than *ten* nor more than *one hundred* pounds.

Rolls or assessments  
may be made for  
purposes of other  
Acts.  
Ib., s. 6.

9. For the purposes of "The Rating Act, 1894," or of any other Act under which it may be necessary to make any assessment-roll or any assessment, the Commissioner may, from the assessments and rolls made under this Act, make such rolls or assessments as may be necessary in order to comply with any such Act. 25

*Public Officers of Companies.—Agents and Trustees.*

Every company to  
be represented by a  
public officer.  
Ib., s. 13.

10. Every company carrying on business in New Zealand shall at all times be represented by a person residing in New Zealand, who shall be duly appointed by either the company, or its duly authorised agent or attorney, and with respect to every such company and person the following provisions shall apply:— 30 35

(1.) The person so appointed shall be called the "public officer" of the company for the purposes of this Act.

(2.) Every person who, at the commencement of this Act, holds the office of public officer of any company for the purposes of any Act hereby repealed, shall, without further appointment, be deemed to hold the same office for the purposes of this Act. 40

(3.) The office of public officer shall be kept constantly filled by making fresh appointments thereto from time to time as may be necessary, and no appointment shall be deemed duly made until after notice thereof in writing specifying the name of the officer, and an address for service, has been given to the Commissioner. 45

(4.) Service of any document at the address for service or on the public officer of a company, or on any person acting or appearing to act in the business of a company, shall be sufficient for all the purposes of this Act. 50

(5.) It shall not in any case be necessary to prove that any such officer or person is or was the public officer of such company or acting in its business.

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(6.) Every company failing or neglecting to duly make an appointment to the office of public officer when and as often as such appointment becomes necessary is liable to a penalty not exceeding *fifty* pounds a day for every day during which such failure or neglect continues.

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(7.) Every public officer of a company shall be answerable for the doing of all such things as are required to be done by virtue of this Act in order to the assessment of such company, and the payment of the tax in respect thereof.

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(8.) Everything done by any such public officer, which he is required to do in his representative capacity, shall be deemed to have been done by such company.

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(9.) The absence or non-appointment of a public officer shall not exonerate any company from the necessity of complying with any of the provisions of this Act; but every company shall be liable to the provisions of this Act as if there were no requirement to appoint such officer.

11. With respect to every agent, and with respect also to every trustee, the following provisions shall apply:—

Duties, liabilities, and powers of agents and trustees. 1891, s. 14. 1892, s. 19.

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(1.) He shall be answerable for the doing of all such things as are required to be done by virtue of this Act in order to the assessment of the land and income held or controlled by him in his representative capacity, and the payment of the tax in respect thereof.

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(2.) He shall in respect of such land and income make the returns and be assessed thereon as hereinafter provided, and he shall make such returns and be assessed thereon in his representative capacity only, and each such return and assessment shall be separate and distinct from any other.

1891, s. 17 (3).

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(3.) In any case where as such agent or trustee he pays any tax, he is hereby authorised to recover the amount so paid from the person in whose behalf he paid it, or to deduct the same from any moneys in his hands belonging to such person.

40

(4.) He is hereby authorised and required, from and after the commencement of this Act, to retain, from time to time, out of any money which comes to him in his representative character, so much as is sufficient to pay the tax for the then current year in respect of any such land or income subject to tax, estimating the tax at the previous year's rate, if the rate for such current year has not been fixed.

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(5.) He is hereby made personally liable for the tax payable in respect of any such land or income if, while such tax remains unpaid, he alienates, charges, or disposes of any real or personal property which is held by him in his representative character: But he shall not be otherwise personally liable for any such tax.

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- 1891, s. 14. (6.) If he is a trustee, he may from time to time raise whatever moneys are necessary in order to pay any such tax by mortgage or charge, with or without power of sale, of any real or personal property held by him as such trustee, and may apply the moneys so raised, or any other moneys in his possession as such trustee, in paying such tax: 5
- 1892, s. 19. (7.) He is hereby indemnified for all payments which he makes in pursuance of this Act or by requirement of the Commissioner.
- 1891, s. 14. (8.) Nothing in this section or elsewhere in this Act contained relating to an agent shall be construed to release his principal from liability to make returns and pay tax. 10
- (9.) For the purpose of insuring the payment of every such tax, the Commissioner shall have such and the same remedies against all land or other property of any kind vested in, or under the control or management, or in the possession of any agent or trustee as he would have against the land or property of any other taxpayer in respect of any tax, and in as full and ample a manner. 15

## PART II.

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## NATURE OF THE TAXATION, AND GENERAL EXEMPTIONS.

*Taxation.*

Nature of the  
taxation.  
1891, s. 15 altered.

12. Subject to the provisions of this Act, there shall be assessed and levied, in and for each year ending the thirty-first day of March, for the use of Her Majesty in aid of the Consolidated Fund, taxation as follows, that is to say:— 25

- (1.) Ordinary land-tax upon all land (including in the term "land" mortgages of land) at such rate in the pound sterling as is fixed from time to time by Acts to be passed for that purpose: 30
- (2.) Graduated land-tax upon land (excluding from the term "land" mortgages of land) in the cases and at the rates hereinafter provided: 30
- (3.) Income-tax upon all income at such rate in the pound sterling as is fixed from time to time by Acts to be passed for that purpose. 35

Date at which  
ownership deter-  
mined for land-tax  
purposes.  
1891, s. 17 (1).  
1894, s. 6 (1).  
Income upon which  
income-tax to be  
charged.  
1891, s. 17 (1).  
1894, s. 5 (2).  
Taxpayers to furnish  
returns.  
1891, s. 17 (1).

13. Land-tax, both ordinary and graduated, shall be charged on all land owned as at noon on the thirty-first day of March immediately preceding the year in and for which such tax is assessed and levied as aforesaid. 40

14. Income-tax shall be charged on all income derived or received during the year immediately preceding the year in and for which such tax is assessed and levied as aforesaid.

15. For the purposes of the assessment and levy of such taxation, every taxpayer shall, in manner hereinafter provided, furnish returns setting forth a full and complete statement of his land and income respectively, with such other particulars as are prescribed. 45



General Exemptions from Tax.

16. Except where otherwise specially provided by this Act, land and income shall be exempt from taxation in the cases and to the extent following, that is to say:—

Exemptions from tax. 1891, s. 16 altered.

5 (1.) All land owned, and income derived or received, by or on behalf of— Land and income.

(a.) Her Majesty:

(b.) Any local authority, or other local governing or statutory public body:

10 (c.) Any friendly society not carrying on business for pecuniary profit outside its circle of membership: 1892, s. 3 altered.

15 (d.) Any building society duly registered under any Act relating to building societies: Provided that the annual or other dividends or profits paid or credited to any member or shareholder of any such society shall be deemed to be part of his income, and be taxable accordingly; and any such society shall, whenever requested by the Commissioner so to do, forward to him a statement of such dividends or profits: 1893, s. 4.

20 (e.) Any public charitable or public educational institution, howsoever formed or constituted, if carried on exclusively for any public charitable or public educational purpose, and not for pecuniary profit, nor for the benefit of any particular religious or other society or the members thereof: 1892, s. 3.

25 (f.) Any savings-bank constituted under "The Savings-Bank Act, 1858": Ib., s. 3.

30 (g.) The Commissioners of Sinking Funds under "The Public Debts Sinking Funds Act, 1868," and also the Commissioners or Trustees of any sinking fund in respect of the debt of any local authority or other local governing body whose income is hereinbefore exempted from taxation: Ib., s. 3.

35 (h.) Any religious society, in so far as the proceeds of such land and income are devoted to the support of the aged or infirm clergy or ministers of such society, or their widows or children. 1895, s. 6 altered.

(2.) All land owned by any person or society, and used or occupied by such person or society solely as a site for— Land.

40 (a.) A place of worship for any religious society, or a place of residence for any of the clergy or ministers of such society:

45 (b.) A charitable or educational institution (other than a public charitable or educational institution hereinbefore exempt) not carried on exclusively for pecuniary profit: Provided that this exemption shall not extend to more than fifteen acres in the case of any one such institution:

50 (c.) A public library, athenæum, mechanics' institute, public museum, school of mines, or masonic lodge:

(d.) A show-ground or place of meeting of any agricultural society:

- (e.) A public cemetery or public burial-ground :  
 (f.) A public garden, public domain, public recreation-ground, or other public reserve :  
 (g.) A public road or public street :  
 (h.) A public railway, to the extent of the land 5  
 actually used for permanent-way, and for yards, sheds,  
 and buildings for the purposes of traffic only, but not  
 further or otherwise.
- Native land. (3.) All Native land, if neither leased to nor occupied by any 10  
 person other than the Native owner.
- Income. (4.) All income derived or received by or on behalf of—  
 (a.) The Governor, in respect of the salary and  
 emoluments of his office :  
 (b.) Any pensioner resident in New Zealand, in respect 15  
 of his pension received from the Crown in Great Britain or  
 the Government of any British Possession : Provided  
 that he satisfies the Commissioner that such pension is  
 liable to income-tax or a like tax in Great Britain or such  
 Possession, and that such tax has been duly paid :  
 (c.) Any public society not carrying on nor concerned 20  
 in any business for pecuniary profit :  
 (d.) Any owner of land, in respect of the rent thereof,  
 or the profits derived from the direct use or cultivation  
 thereof :  
 (e.) Any mortgagee of land, in respect of his mort- 25  
 gage :
- 1893, s. 11 (5). |
- Only owners of land specified in preceding section entitled to exemption. 1891, Sch. A (1), 5. |
- Assessment of owners of other estates therein. |
- 1893, s. 3. |
17. With respect to lands which, by virtue of the *last-preceding* section hereof, are exempt from land-tax, the following provisions shall apply :—
- (1.) The benefit of such exemption shall in each case be limited 30  
 to the owner specified in that section, and shall not extend  
 to any other person who is the owner of any estate or  
 interest in the land, whether as purchaser, lessee, licensee,  
 occupier, or otherwise howsoever ; and every such person  
 shall be liable to assessment and taxation in respect of 35  
 such estate or interest.
- (2.) In the case of land owned by or vested in Her Majesty on  
 any express or implied trust, the person entitled in equity  
 to the rents or profits of such land, or (if a mortgage) to  
 the whole or any part of the principal, interest, or other 40  
 moneys secured by such mortgage, shall, for the pur-  
 poses of assessment and taxation, be deemed to be the  
 owner of such land or mortgage, and be liable to assess-  
 ment and taxation in respect thereof.
- (3.) If such trust is in favour of any public institution or depart- 45  
 ment the Governor in Council may from time to time  
 make regulations prescribing the person or authority to  
 make returns, the mode of assessment, and the funds of  
 such institution or department out of which the tax  
 shall be paid. 50

## PART III.

## RETURNS, ASSESSMENTS, AND APPEALS.

*Returns.*

18. Subject to the provisions of this Act every person, being the  
 5 owner of any land or deriving or receiving any income, shall be liable  
 as taxpayer for the making of returns in respect thereof as here-  
 inafter prescribed, and for the payment of the whole amount of tax  
 (if any) assessed thereon respectively; and for the purposes of this  
 section the following provisions shall apply:—
- 10 (1.) Returns in the prescribed form shall be made to the Com-  
 missioner by every taxpayer—
- (a.) Of land, annually in the case of a company and  
 biennially in every other case, as at noon on the thirty-  
 15 first day of March, the first of such annual returns being  
 required to be made as on the thirty-first day of March,  
 one thousand eight hundred and ninety-eight, and the  
 first of such biennial returns, as on the thirty-first day of  
 March, one thousand eight hundred and ninety-nine; and
- 20 (b.) Of income annually, the first of such returns  
 being of income derived or received during the year  
 ending at the close of the thirty-first day of March, one  
 thousand eight hundred and ninety-eight.
- (2.) The return of land for each annual or biennial period shall  
 25 contain a full and complete statement of all land owned  
 by the taxpayer at the commencement of such period, and  
 also such other particulars as are prescribed.
- (3.) The return of income for each annual period shall contain  
 30 a full and complete statement of all income derived or  
 received by the taxpayer during the year immediately  
 preceding the commencement of such period, and also  
 such other particulars as are prescribed:
- Provided that, where such return cannot be con-  
 veniently made, the Commissioner in his discretion may,  
 for the purpose of assessment, accept an actual or esti-  
 35 mated return made up to the date of the annual balance  
 of the books of such taxpayer, such estimated assess-  
 ment to be adjusted upon such annual balance being  
 completed.
- 40 (4.) Returns required to be made by any Act hereby repealed  
 may be required by the Commissioner to be made and  
 revised under this Act. Such returns shall be subject to  
 the provisions of this Act.
- (5.) Every annual or biennial return shall be made on or before  
 a date to be publicly notified by the Commissioner.
- 45 (6.) Every taxpayer shall make such new or additional returns as  
 and when the Commissioner from time to time requires. 1893, s. 5 altered.
- (7.) No taxpayer shall be released from his liability to make  
 50 returns and otherwise comply with the provisions of this  
 Act by reason merely that, in consequence of exemptions  
 or deductions or otherwise, he is not liable to pay tax. *Ib.*, s. 8 altered.

Form and time of  
 making returns of  
 land and income.  
 1891, s. 17.

1894, s. 5 and s. 6  
 altered.

20/11.

1891, s. 22 (2).

- (8.) Any return made or purporting to be made or signed by or on behalf of any taxpayer, or by the public officer of any company, shall for all purposes be taken and deemed to be duly signed by such taxpayer or officer until the contrary is proved.

5

*Assessments and Assessment-rolls.*

Valuations of land to be made when required.

1894, s. 8 and s. 9. altered.

19. For the purpose of assessments the Commissioner may make valuations of land at such times, and such valuations may be limited in application to such districts, or such specific lands, as he thinks necessary; and any taxpayer may, by notice in writing, require the Commissioner to make a new valuation of such taxpayer's land for the year commencing on the thirty-first day of March next after receipt of such notice.

10

Commissioner to prepare assessments.

1891, s. 17 (2) altered.

20. From the returns and valuations made as aforesaid the Commissioner shall cause assessments to be prepared for the purpose of ascertaining the amount upon which tax shall be levied, and such assessments shall be entered in assessment-rolls.

15

Assessment in case of default or unsatisfactory return.

1894, s. 13 altered.

21. If any taxpayer makes default in furnishing any return, or if the Commissioner is not satisfied with the return made by any taxpayer, he may make and enter in the assessment-roll an assessment of the amount on which, in his judgment, tax ought to be levied, and the taxpayer shall be liable to taxation thereon, excepting in so far as he establishes on appeal that such assessment is excessive.

20

Assessment-rolls.

22. With respect to assessment-rolls the following provisions shall apply:—

25

Form.

- (1.) They shall be in the prescribed form, and those in respect of land shall be kept separate and distinct from those in respect of income.

Alterations.

1891, s. 23 altered.

- (2.) The Commissioner may from time to time and at any time make all such alterations in or additions to any assessment-roll as he thinks necessary in order to insure full and accurate assessments, notwithstanding that tax may have been paid in respect of the land or income included in the assessment which he proposes to alter or add to:

30

35

1892, s. 6 (5) altered.

Provided that every such alteration or addition which has the effect of imposing any fresh liability or increasing any existing liability shall be notified to the taxpayer affected, and, unless made with his consent, shall be subject to appeal.

40

1892, s. 6.

- (3.) For the purposes of this section the Commissioner may, *inter alia*, from time to time, in respect of any assessment-roll, place thereon or remove therefrom the name of any taxpayer, or the particulars or value or amount of any land or income, or of any deduction relating thereto; or increase or reduce the value or amount of any land or income, or of any deduction relating thereto.

45

Validity.

1891, s. 22 (3).

- (4.) The validity of any assessment or assessment-roll shall not be affected by reason that any of the provisions of this Act have not been complied with.

50

- 5 (5.) The assessment-roll, signed by the Commissioner, shall, for the purposes of this Act, be the assessment-roll in respect of the land or income, and of the taxpayers therein respectively mentioned; and the Commissioner's signature and certificate shall be conclusive proof of the identity of any document purporting to be an assessment-roll. Proof thereof.
- 10 (6.) The production of any assessment-roll, or of any entry made therein, or of any document under the hand of the Commissioner purporting to be a copy of or extract from such roll, shall be conclusive evidence of the due making of the assessment; and, except in proceedings on appeal against the assessment (when the same shall be *prima facie* evidence only), shall also be conclusive evidence that the amount and all the particulars of such assessment are correct. Evidence.  
1891, s. 22.  
Ib., s. 19 (4).
- 15 (7.) The production of any document under the hand of the Commissioner purporting to be a copy of or extract from any return or assessment, shall for all purposes be sufficient evidence of the matters therein set forth without producing the original. Ib., s. 22.
- 20 23. As soon as conveniently may be after any taxpayer's assessment is made and entered in the assessment-roll (whether such roll is completed or not), the Commissioner shall cause to be given to him a notice in writing of such assessment : Notice of assessment to be given.  
Ib., s. 19 altered.
- 25 Provided that the omission to give any such notice shall not invalidate any assessment.

*Appeal.*

- 30 24. Objections to any assessment may be made by way of appeal by or on behalf of the taxpayer assessed, or by the Commissioner, in such manner, within such time, and on such terms and conditions as are prescribed; and with respect to every such appeal the following provisions shall apply :— Objections to be by way of appeal.  
Ib., s. 19 (3)
- 35 (1.) The appeal shall be heard and determined by a Stipendiary Magistrate alone, who for that purpose, and whatever the amount involved, shall have all the powers conferred upon a Stipendiary Magistrate by "The Magistrates' Courts Act, 1893": Provided that no appeal in respect of assessment of income shall be heard in open Court. Hearing.  
1894, s. 11.  
1892, s. 7.
- 40 (2.) Subject to prescribed regulations, the practice and procedure of the Magistrate's Court in civil cases shall apply in so far as the same are applicable, and the burden of proof shall lie on the appellant. Procedure.
- 45 (3.) The decision of the Stipendiary Magistrate shall be final and conclusive, and the assessment-roll shall, where necessary, be altered so as to accord therewith. Decision.  
1891, s. 21 adapted.
- (4.) When disposing of the appeal, the Magistrate may make such order as to costs as he thinks fit. Costs.  
Ibid.

## PART IV.

## ASSESSMENT OF LAND.

*Ordinary Land-tax.*

Ordinary land-tax,  
on what to be  
assessed.

1891, Sch. A (1), ss.  
1 and 2 altered, and  
Sch. A (2), s. 1  
altered.

Special exemption.

Further exemption  
in certain cases on  
account of age, or  
ill-health.

Ib., Sch. A (1), s. 2,  
proviso.

1892, s. 17 (1).

Assessment of joint  
tenants, co-partners,  
co-trustees, &c.

1891, s. 17 (5).

1892, s. 5 altered.

Purchaser of land on  
credit or deferred  
payment liable to  
tax.

1891, Sch. A (1), s. 3.  
1892, s. 17 (1).

Mortgage not  
exempt because land  
exempt.

1891, Sch. A (2) s. 2.

25. Ordinary land-tax on land shall in the case of each owner thereof be assessed and levied on the unimproved value of land other than mortgages, and on the capital value of mortgages, after deducting from the total of such values, the capital value of all mortgages (if any) due or owing by him on such land, and also deducting from the value then remaining the special exemption following, that is to say:—

- (1.) When such remaining value, with the addition of the remaining value (ascertained as aforesaid), of all other land and mortgages whatsoever whereof he is the owner, does not exceed one thousand five hundred pounds, an exemption of five hundred pounds; or
- (2.) When such remaining value, with such addition as aforesaid, exceeds one thousand five hundred pounds, an exemption of five hundred pounds, diminishing at the rate of one pound for every two pounds of such excess, so as to leave no exemption when such remaining value, with such addition as aforesaid, amounts to or exceeds two thousand five hundred pounds.

26. In any case where the total profits derived in any year by any taxpayer from all the land of which he is the owner, taken together with his total income from all sources during such year, does not exceed two hundred pounds, and by reason of age, ill-health, or other disability, he is incapacitated from earning any further income from business or employment, the Commissioner if satisfied of the facts, and that payment of the ordinary land-tax in full would entail hardship, may allow a further exemption not exceeding (with the special exemption hereinbefore provided) a total of two thousand pounds.

27. With respect to persons owning land as joint tenants, tenants in common, co-partners, co-trustees, or on joint account, the following provisions shall apply:—

- (1.) They shall be assessed jointly, and shall be jointly and severally liable for the due furnishing of returns of such land, and for the payment of the total ordinary land-tax thereon:

Provided that one exemption only in respect of such land shall be allowed, where any exemption is authorised by this Act.

- (2.) Such tax shall be computed and levied separately and distinctly from any other tax chargeable on the same persons, or any of them.

28. Every purchaser of land on credit or deferred payment, and the assignee or transferee of any such purchaser, shall be deemed to be the owner of such land, and shall be liable to assessment and taxation in respect thereof.

29. No mortgage shall be exempt from land-tax by reason merely that the land comprised therein is exempt.

30. No mortgagee shall be liable to land-tax on money receivable by way of interest on his mortgage, and no mortgagor shall be entitled to deduct from the value of his mortgaged land any money payable by way of interest on such mortgage.

How interest on mortgage to be dealt with. 1894, s. 14.

5 31. No banking company, nor any company now or hereafter registered in New Zealand under any Act, whose sole or principal business is that of a loan, building, and investment company, and whose head office is situate and management is conducted in New Zealand, shall be liable to land-tax on mortgages.

Mortgages of banking, or loan, building, and investment companies exempt from land-tax. 1891, Sch. A (2) s. 1. 1893, s. 11 (1).

10 32. If a mortgagee is absent from New Zealand, and has no agent in New Zealand known to the Commissioner, then, without releasing the mortgagee from his liability to make returns and pay land-tax in respect of his mortgage, the mortgagor shall be liable to be assessed and to pay land-tax in respect thereof on behalf of the mortgagee.

Mortgagor liable to assessment on behalf of absent mortgagee. 1891, s. 17 (4).

*The Graduated Land-tax on Land other than Mortgages.*

33. (1.) In every case where the unimproved value of the land (other than mortgages) owned by any taxpayer is not less than the amount mentioned in the first column of the *First Schedule* hereto, and is less than the amount mentioned in the second column thereof, then, in addition to the ordinary land-tax (if any), every such taxpayer shall be liable each year to a further graduated land-tax on such unimproved value at the rate mentioned in the third column of that Schedule :

What lands to be liable to graduated land-tax. *Ib.*, Sch. A (2), s. 3. *Ib.*, Sch. B altered.

25 Provided that, in the case of any owner who has been absent from New Zealand for a period of not less than three years next preceding the date of the passing of the Act fixing the rate of ordinary land-tax, the scale of taxation set forth in the *First Schedule* shall be increased by twenty per centum in each case where it is applicable :

Increased rate in case of absentee owner.

30 Provided, further, that in no case shall any deduction from the unimproved value of the land be allowed in respect of any mortgages owing thereon.

35 (2.) Persons owning land as joint tenants, tenants in common, co-partners, co-trustees, or on joint account, shall, in respect of such land and for the purposes of the graduated land-tax thereon, be deemed to be a single taxpayer, and shall be jointly and severally liable for the full payment of such tax without regard to their relative shares or interests in the land.

*Ib.*, s. 17 (5). 1892, s. 5.

*Land-tax in respect of Native Land and of Mortgages held by or for Natives.*

40 34. With respect to Native land (other than mortgages) occupied by any other person than the Native owner, the following special provisions shall apply :—

Tax on Native land held by other than Native owner. 1895, s. 7.

45 (1.) Such land shall be liable to one-half of the ordinary land-tax (but not to the graduated land-tax) in respect of the Native owner's interest therein.

(2.) If such land is held by a trustee (not being a Native) in trust for the Native owner, the tax shall be payable on behalf of the Native owner by the trustee.

Taxation of mortgages held by Natives.  
1895, s. 8.

(3.) In all other cases the tax shall be payable on behalf of the Native owner by the occupier of such land.

35. With respect to mortgages held by or in trust for Natives, the following provisions shall apply :—

(1.) Such mortgages shall be liable to the ordinary land-tax, but not to the graduated tax. 5

(2.) If the mortgagee (not being a Native) is the trustee, the tax shall be payable by him on behalf of the Native for whom he is trustee.

(3.) In all other cases the tax shall be payable by the mortgagor on behalf of the Native mortgagee. 10

Occupier deemed agent of Native owner.  
Ib., s. 9.

36. In all cases, except where such Native land or mortgages are held by trustees (not being Natives), the occupier of the land or the mortgagor under the mortgage shall be deemed to be the agent of the Native owner for all the purposes of this Act; and it shall be sufficient if the Commissioner serves such agent with a notice setting forth the land or mortgage, as the case may be, in respect of which the tax is payable, the assessment thereof, and the amount of the tax. 15

## PART V.

20

### ASSESSMENT OF INCOME.

#### *Income of Companies.*

Income of company.  
1891, Sch. C 1 altered.  
1892, s. 17 (3).

37. Where the taxpayer is a company, its income derived from business shall, except in so far as the meaning of income is extended or modified in the *four next succeeding* sections, be deemed to include all profits derived from or received in New Zealand from such business in each year ending at the close of the thirty-first day of March, including therein all profits from investments of any kind other than investments in land, and including also all dividends earned and sums carried to any reserve fund howsoever designated, and income-tax shall be assessed and levied on all such income accordingly. 25 30

Income-tax to be assessed thereon.

Income of banking company.  
1894, s. 17.

38. In the case of a banking company, such income each year shall be deemed to be a sum equal to seven shillings and sixpence in every one hundred pounds of the average of its total assets and liabilities for the four quarters of the year, according to the sworn statements published in the *Gazette* as required by law. 35

Income of loan, building, and investment company.  
1891, Sch. C 1.  
1893, s. 11 (3) (a).

39. In the case of a company registered in New Zealand under any Act, whose sole or principal business is that of a loan, building, and investment company, and whose head office is situated and management is conducted in New Zealand, all interest and profits derived or received by it from mortgages shall be deemed to form part of its income derived from business, and income-tax shall be payable accordingly. 40

Income of insurance company other than life.  
1891, Sch. C 1.  
1892, s. 17 (3) altered.  
Reg., 14 Mar., 1893.

40. In the case of a company carrying on the business of insurance or guarantee against loss, damage, or risk of any kind whatsoever (other than life insurance), the following provisions shall apply :— 45

(1.) No income-tax shall be payable in respect of income derived from business carried on outside New Zealand. 50



(2.) The company shall supply the Commissioner with whatever information he requires for determining what portion of its income is to be deemed to be its income derived from business carried on outside New Zealand and what portion is not.

5

41. In the case of a company carrying on the business of life insurance (including the department created under "The Government Insurance and Annuities Act, 1874"), its income derived from business shall be deemed to be a sum equal to its total income from investments of any kind other than investments in or on land.

Income of life insurance company. 1891, Sch. C 4.

10

42. No company shall be entitled to any deduction by way of exemption in respect of assessment for income-tax.

No exemption to company. Ib., Sch. C 3.

Debentures issued by Companies.

43. With respect to debentures issued by a company, the following provisions shall apply:—

15

(1.) The company shall be deemed to be the agent of all the debenture-holders, whether in or beyond New Zealand, and shall be liable to assessment and taxation accordingly.

Company deemed agent of debenture-holders. Ib., Sch. C 2. 1893, s. 11 (3) (d) altered.

20

(2.) Such assessment shall be separate and distinct from the company's own assessment, and no deduction by way of exemption or otherwise shall be allowed to the company as such agent, or to any debenture-holder.

25

44. The provisions of the last-preceding section hereof shall be construed subject to the provisions following, that is to say:—

Procedure where debenture money invested on mortgage or charged on land. 1892, s. 17 (3).

30

(1.) Neither the debenture-holder nor the company shall be liable to income-tax on so much of the money borrowed on debentures as at the thirty-first day of March next preceding the date for making the annual returns of income was then invested by the company on duly-registered mortgages of land in New Zealand which were then assessed for land-tax.

35

(2.) Where it is proved to the satisfaction of the Commissioner that any money borrowed on debentures is charged on land of which the company is the owner, the amount so charged shall, to the extent of the capital value of the land, be deemed to be a duly-registered mortgage in favour of all the debenture-holders, and may be deducted by the company when making its own return for land-tax.

40

(3.) The company shall, in respect of the amount so deducted, be liable to assessment and land-tax in the same manner and with the same consequences, *mutatis mutandis*, as in the case of income-tax on debentures under the last-preceding section hereof, and the provisions of that section shall *mutatis mutandis* apply accordingly.

45

(4.) During the period for which the company pays land-tax on the amount so deducted, neither the debenture-holders nor the company shall be liable to income-tax in respect of debentures equal to such amount.

*Income of Taxpayers other than Companies.*

Income-tax, on what to be assessed. 1891, Sch. D 1. Ib., E 1.	45. Where the taxpayer is other than a company, income-tax shall be assessed and levied on— (1.) Income derived from business, and (2.) Income derived from employment or emolument.	5
Income derived from business. 1892, s. 17 (4) altered and extended	46. "Income derived from business" includes, but without limiting the meaning of those words, the profits derived from or received in New Zealand by any taxpayer, in or out of New Zealand, in each year ending the thirty-first day of March, from the following sources :— (1.) From any business : (2.) From the purchase, sale, or other disposition of personal property : (3.) From the purchase, sale, or other disposition of real property, if the taxpayer's ordinary business comprises dealing in such property, but not otherwise : (4.) From loans, investments, or deposits of money, whatever may be their nature and howsoever made, other than mortgages, and from any contract whatever under which income is derived or received : (5.) From Crown land held or occupied as a small grazing-run, or for pastoral purposes, under "The Land Act, 1892," or any former Land Act : (6.) From any of the following operations, in so far as the same are carried on upon or in connection with any land whatsoever by any other person than the owner thereof in fee-simple, that is to say— (a.) The cutting, treatment, and sale of timber, flax, or other fibre grown on such land ; (b.) The quarrying, treatment, and sale of stone found on such land ; (c.) The mining for and treatment and sale of any metal, mineral, coal, or oil found on such land ; (d.) The digging, treatment, and sale of gum found on such land : (7.) From the purchase, sale, or other disposition of live-stock of any description, or the meat, butter, cheese, or other natural or manufactured products thereof, nevertheless to the extent only of the excess of profit thereby derived over and above the annual value of the land on which such live-stock are kept for the aforesaid purposes, and in cases only where such land and the produce thereof are not in themselves sufficient for the full sustenance of such live-stock : (8.) From any charge or annuity of any kind, other than a mortgage : (9.) From the annual or other dividends or profits accruing to any member or shareholder from shares or rights of membership in any building society duly registered under any Act relating to building societies : (10.) From every source whatsoever (including rents, interest, or profits from lands or mortgages) outside New Zealand	10 15 20 25 30 35 40 45 50
Ib., s. 17 (1).		
1891, Sch. E 1.		
1893, s. 4.		
1891, s. 17 (4) (e)		

whereby income, not otherwise liable to tax under this Act, is derived from or received in New Zealand.

But does not include—

5 (a.) Dividends derived by the owner of the shares of any company (except a building society), in respect of such shares ; nor 1891, Sch. C 3, and 1892, s. 17 (4). 1893, s. 4.

10 (b.) Profits resulting to the owner from the purchase, sale, or other disposition of the shares of any company whatsoever (except where such owner's ordinary business comprises dealings therein) ; nor

(c.) Income liable to taxation under any other provision of this Act, or expressly exempt from taxation under this Act.

15 47. "Income derived from employment or emolument" means the profits derived from or received in New Zealand by any taxpayer, in or out of New Zealand, in each year ending the thirty-first day of March, from the following sources :— Income derived from employment or emolument. 1891, Sch. E 1. Sch., F 5.

(1.) From any profession, employment, or vocation of any kind not otherwise liable to taxation under this Act :

20 (2.) From any salary, wages, allowances, stipend, or pension (other than a pension hereinbefore exempt from tax), including all sums received or receivable by way of bonus, extra salary, or emolument of any kind.

25 48. From the yearly income of every taxpayer, other than a company, there shall be deducted by way of special exemption the sum of three hundred pounds : Provided nevertheless as follows :— Deduction by way of special exemption. 1892, s. 17 (4) and (5).

30 (1.) No taxpayer, whether alone or in partnership, shall be entitled to more than one such exemption, and such one exemption shall be deducted from the total amount of his income derived from every business, employment, and emolument :

35 (2.) No taxpayer, whether alone or in partnership, shall be entitled to such exemption if his home has not been in New Zealand during any part of the year next preceding the commencement of the year of assessment. Non-resident not entitled thereto. 1893, s. 11 (4) altered.

40 49. Any taxpayer who has effected an insurance on his own life for his own benefit, or for the benefit of his wife and children, or one or some of them, shall be entitled to deduct from his income as an outgoing the amount of premiums, to the extent of not more than fifty pounds, paid in any year in respect of such insurance. Certain life insurance premiums deductible. 1891, Sch. F 7.

50 50. If such taxpayer is a co-partner in any business or employment, and has no other income than that derived from the co-partnership, the foregoing deduction in respect of premiums may be made from his share of the partnership income. When premium may be deducted from partnership income. 1892, s. 17 (6).

45 *Income of all Taxpayers engaged in Shipping.*

51. In the case of a taxpayer carrying on business as owner or charterer of shipping, the following provisions shall apply :— How income of owner or charterer of shipping to be assessed.

50 (1.) Income derived from business in New Zealand shall include income derived or received from business originating and carried on in New Zealand, and also from any business originating in New Zealand and carried on outside New 1891, Sch. C 1, proviso. Reg., 14 Mar., 1893.

Zealand, but not income derived or received from business originating outside New Zealand although carried on in New Zealand :

- (2.) Such taxpayer shall supply the Commissioner with whatever information he requires for determining what portion of income is to be deemed income derived from business in New Zealand and what portion is not. 5
- (3.) The Governor may from time to time make such regulations as he deems necessary in order to give full effect to the provisions of this section. 10

*General Provisions as to Income of all Taxpayers.*

When taxpayer deemed to have derived income.  
1891, Sch. F 2.

52. For the purposes of this Act a taxpayer shall be deemed to have derived income, although the same has not been actually paid to or received by him, but has been credited in account, or reinvested, or accumulated, or capitalised, or carried to any reserve fund, or otherwise dealt with in his name or interest, or on his behalf. 15

Items not deductible when ascertaining income.

53. In ascertaining the income derived from business, employment, or emolument, no deduction shall be made in respect of any of the following items :—

Ib., Sch. F 2 (b).

- (1.) Repair of premises, or supply or repair of or alterations in implements, utensils, or machinery used for such business, employment, or emolument beyond the sum usually expended in any year for such purposes : 20

1894, s. 18 (1).

Provided that, in cases where depreciation (whether caused by fair wear and tear, or by the fact of any such implements, utensils, or machinery becoming obsolete or useless) cannot be made good by repairs, the Commissioner may allow such deduction as he deems just : 25

1891, Sch. F 2 (b).  
1893, s. 11 (6) (a).

- (2.) Any loss or outgoing not actually incurred in New Zealand or not exclusively arising out of such business, employment, or emolument : 30

1891, Sch. F 2 (b) and (c).

- (3.) Capital withdrawn therefrom ; money used or intended to be used as capital therein ; capital used in the improvement of premises occupied therefor ; interest which might have been made on such capital or money if laid out at interest : 35

Ib., (d).

- (4.) Bad debts, except bad debts proved to be such to the satisfaction of the Commissioner :

Ib., (e).

- (5.) Any average loss beyond the actual amount of loss after adjustment ; any sum recoverable under any insurance or contract of indemnity : 40

Ib., (f).

- (6.) Disbursements or expenses of any kind, not wholly and exclusively incurred for the purposes of such business, employment, or emolument :

Ib., (g).

- (7.) Maintenance of the taxpayer, his family, or domestic establishment : 45
- (8.) Payments of any kind made by husband to wife or by wife to husband :

- (9.) Rent or value of any dwelling-house or domestic offices except in so far as they are used for the purposes of such business, employment, or emolument, not exceeding such proportion of the said rent or value as may be allowed by the Commissioner : 1891, Sch. F. 2 (h).
- 5 (10.) Land-tax or income-tax : 1893, s. 11, (6 (b)).
- (11.) Sums expended for any domestic or private purposes distinct from the purposes of such business, employment, or emolument : 1891, Sch. F 2 (i).
- 10 (12.) Losses, outgoings, and expenses incurred in connection with the ownership, use, and cultivation of land : Provided that where it is difficult to apportion such losses, outgoings, and expenses between land on the one hand and business, employment, or emolument on the other, they may be adjusted in such manner as the Commissioner thinks fit : 1894, s. 18 (2) altered.
- 15 (13.) Interest payable on any mortgage. 1894, s. 18 (2) altered.
- 54. With respect to taxpayers deriving or receiving income from business, employment, or emolument as co-partners or on joint 20 account, the following provisions shall apply :—
- (1.) They shall be liable to make a joint return of such business, employment, or emolument, and shall be jointly and severally liable for the payment of the total income-tax thereon : 1891, s. 17 (5).  
1891, Sch. F 3.  
1892, s. 17 (6).  
Jointly and severally liable for tax.
- 25 (2.) Such tax shall be computed and levied separately from any other tax chargeable on the same taxpayers or any of them.
- 55. When any taxpayer (other than a taxpayer in respect of 30 profits specified in subsections *six* or *seven* of section *forty-six* hereof) occupies and actually uses for the sole purposes of business, employment, or emolument any land owned by him, he shall be entitled, in any return of income derived from such business, employment, or emolument, to deduct as an outgoing a sum equal to 35 five per centum per annum on the capital value of such land for the period during which such land is occupied and used as aforesaid. Deduction in respect of land owned and occupied for business.  
1891, Sch. F 6, and  
1892, s. 17 (6) altered.

PART VI.

PAYMENT OF TAXATION, AND PROCEDURE TO ENFORCE SAME.

*Due Date of Tax.*

- 40 56. Land-tax and income-tax for each year shall be due and payable on such respective dates as are appointed in that behalf by the Governor in Council ; and the Commissioner shall in each case give not less than fourteen days' public notice of the date so appointed. Dates for payment of tax to be appointed by Governor in Council.  
1891, s. 24 altered.
- 45 57. If any tax remains unpaid at the expiration of fourteen days after the due date thereof, ten per centum on the amount of the tax unpaid shall be and be deemed to be added thereto by way of additional tax, and shall be payable accordingly : If tax unpaid fourteen days after due date 10 per centum to be added. Proviso.  
Ib., s. 24.  
1893, s. 10.  
1895, s. 3.
- Provided that in any case where such non-payment is in consequence of the taxpayer having omitted or neglected to make full

and complete returns, or of his having claimed any deduction or exemption to which he was not entitled, then the Commissioner, if satisfied that the taxpayer has not been guilty of wilful neglect or default, shall send to him notice of the amount of the overdue tax, and no additional tax shall be charged save in respect of so much of such overdue tax as remains unpaid at the expiration of fourteen days from the date of such notice. 5

*Recovery of Tax in Arrear.*

Tax recoverable by Commissioner. 1891, s. 25. 1895, s. 4.

Procedure in Courts for recovery of tax. 1891, s. 25 altered.

58. All unpaid tax shall be recoverable in any Court of competent jurisdiction by the Commissioner, on behalf of the Crown, by suit in his official name. 10

59. With respect to proceedings in any Court for the recovery of tax, the following provisions shall apply:—

(1.) It shall be sufficient if the particulars of demand state the amount sought to be recovered, and the date on which the same was payable, with such further and other particulars as the Commissioner thinks necessary in order to fully inform the defendant of the nature of the demand. 15

(2.) If the summons is served upon the defendant at least thirty days before the day appointed for hearing, then, unless eight days before such day a statement in writing by or on behalf of the defendant, showing a defence on the merits, is filed in the Court, judgment shall be given for the amount claimed and costs without allowing any defence, and without the necessity of the Commissioner or any one on his behalf appearing in Court or proving the liability of the defendant. 20 25

Mode of service when defendant absent, or cannot be found.

*Ib.*, s. 34 altered.

60. If, in any proceedings for the recovery of any tax against any taxpayer whose name is entered in the assessment-roll, the defendant— 30

(1.) Is absent from New Zealand, and has not, to the knowledge of the Commissioner, after reasonable inquiry in that behalf, any attorney or agent in New Zealand on whom service of process can be effected; or

(2.) Cannot after reasonable inquiry be found,— 35

then, notwithstanding any Act or rule of Court to the contrary, good service of any summons or writ may, without leave of the Court, be effected on him by posting the same, or a sealed copy thereof, in a letter addressed to him at his last-known place of business or abode in New Zealand, or by affixing the same on a conspicuous part of the land to which the tax relates. 40

Commissioner or officers may appear in proceedings.

*Ib.*, s. 42.

61. In all proceedings under this Act the Commissioner may appear either personally or by solicitor, or by some officer in the public service of the colony; and the appearance of any such officer, and his statement that he so appears by authority of the Commissioner, shall be sufficient evidence of such authority for all purposes. 45

*Special Provisions.*

Procedure when name of owner of land cannot be ascertained.

*Ib.*, s. 35 altered.

62. Whenever, after reasonable inquiry to the satisfaction of the Commissioner, the name of the owner of any land cannot be ascertained, the following provisions shall apply:— 50

(1.) He shall be entered on the assessment-roll under the designation of "the owner" of such land, and under that designation he shall be assessed and be liable to tax in respect of such land.

5 (2.) Proceedings for the recovery of such tax may be taken, and judgment may be given against him and enforced under the designation aforesaid.

10 (3.) Good service of any notice, summons, or writ may be effected on him by affixing the same, or a sealed copy thereof, on a conspicuous part of the land to which the tax relates, any Act or rule of Court to the contrary notwithstanding.

15 63. For the purpose of insuring the due making of full and complete returns and the full payment of taxation, the following provisions shall apply in any case where, whether intentionally or not, any taxpayer escapes full taxation in his lifetime by reason of not having duly made full and complete returns, that is to say:—

Provisions when full taxation not paid during lifetime. 1891, s. 26.

20 (1.) The Commissioner shall have the same powers and remedies against the executors or administrators of such taxpayer as he would have had against him in his lifetime; and it shall be the duty of such executors or administrators to make such returns as the Commissioner requires for the purpose of the full assessment of all land and income in respect of which full taxation has not been duly paid as aforesaid.

25 (2.) The assessment shall be made at the respective rates of tax payable in respect of the year or years for which tax ought to have been paid; and the amount payable and to be recovered shall be treble the amount of the tax so assessed, and shall be a first charge on all such taxpayer's estate.

30 (3.) No time or period which has heretofore elapsed, or may hereafter elapse, shall be deemed to prevent the operation of this section; and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section, and recovering such treble tax, as in the case of ordinary assessment and taxation.

35 64. The tax on land shall, by force of this Act and without registration, be a first charge on the land in respect of which it is payable, and such charge shall have priority over all other encumbrances whatsoever; and, notwithstanding any disposition of any land, it shall continue to be liable, in the hands of any purchaser or holder thereof, for the payment of such tax so long as the same remains unpaid.

Tax to be a first charge on land. Ib., s. 41.

40 65. No statute of limitations, now or hereafter in force, shall bar or affect any action or remedy for recovery of tax.

Statutes of limitation not to bar remedy. Ib., s. 29.

45 66. Nothing in this Act contained shall be construed to limit or affect the operation of "The Crown Suits Act, 1881," and all rights and remedies conferred upon Her Majesty by that Act and by this Act shall co-exist and may be exercised independently of one another.

Act not to limit operation of "The Crown Suits Act, 1881." Ib., s. 29.

Remedy against lessee, mortgagee, mortgagor, &c., if taxpayer makes default.

1891, s. 36 altered.

67. In any case where a taxpayer makes default in the payment of any land-tax, then, without in any way releasing him from his liability therefor, the following provisions shall apply so long as such default continues:—

- (1.) If the land-tax is payable in respect of any land which is subject to any lease or mortgage, or is occupied by any person, then the lessee, mortgagee, or occupier shall be responsible for the payment of such land-tax, and the same may be recovered from him as if he were the defaulting taxpayer. 5
- (2.) If the land-tax is payable in respect of any mortgage, then the mortgagor shall be responsible for the payment thereof, and the same may be recovered from him as if he were the defaulting taxpayer. 10
- (3.) All payments made under this section by any such lessee, mortgagee, occupier, or mortgagor as aforesaid shall be deemed to be made on behalf of the defaulting taxpayer. 15

Contracts to evade tax void.

Ib., s. 40, altered.

68. Every contract, agreement, or arrangement made or entered into, in writing or verbally, either before or after the commencement of this Act, shall be absolutely void in so far as, directly or indirectly, it has or purports to have the purpose or effect of in any way directly or indirectly altering the incidence of any tax, or relieving any person from liability to pay any tax or make any return, or defeating, evading, or avoiding any duty or liability imposed on any person by this Act, or preventing the operation of this Act in any respect. 20

69. For the more effective administration of this Act the following provisions shall apply:—

- (1.) Every person, local authority, and public or private body or society whatsoever, whether taxpayers or not, and every department of the Public Service, shall from time to time furnish the Commissioner with lists of all persons employed by them, and the salary, wages, stipend, or other allowances or emolument paid or allowed to each person so employed. 30
- (2.) The Commissioner, or any person authorised by him in that behalf, shall at all times have full and free access to all lands, buildings, places, books, documents, and other papers for the purpose of valuing or inspecting the same; and for such purposes may make extracts from or copies of any such books, documents, or papers. 35
- (3.) The Commissioner may, by notice in writing, require any person (whether a taxpayer or not) to attend and give evidence before him or any officer authorised by him in that behalf, concerning any land, income, or assessment, and to produce all books, documents, and other papers whatsoever in such person's custody or under his control relating thereto. 40
- (4.) The Commissioner may require such evidence to be given under oath, and either verbally or in writing, and for such purpose he, or the officer authorised as aforesaid, may administer an oath. 45

Administrative powers.

Salary and wage lists to be furnished.

Ib., Sch. F 4 altered.

Access to buildings, books, &c.

1893, s. 6.

1894, s. 9.

Evidence of any person may be required.

1893, s. 6 altered.

Oath may be administered.

Ibid.



70. Regulations may be made prescribing the scale of expenses to be allowed to persons attending to give evidence as aforesaid (not exceeding the scale of witnesses' expenses prescribed under "The Magistrates' Courts Act, 1893,"), and whatever else may be required in order to give effect to the *last-preceding* section hereof.

Regulations as to scale of expenses of persons giving evidence. 1893, s. 6 altered.

*Penalties.*

71. (1.) If any person within New Zealand, whether liable to taxation or not,—

Penalty for neglect generally, refusing to give evidence, making false return, or evading tax. 1891, s. 43 altered.

10 (a.) Refuses or neglects to duly attend and give evidence when required by the Commissioner, or to truly and fully answer any question put to him, or to produce any book or paper required of him; or

(b.) Fails or neglects to duly furnish any return as and when required by this Act or by the Commissioner; or

15 (c.) Knowingly and wilfully makes or delivers any false return, or makes any false answer, whether verbally or in writing, in relation to any matter or thing affecting his own or any other person's liability to or exemption from assessment or taxation; or

Ibid. 1893, s. 7.

20 (d.) By any act, default, neglect, fraud, art, or contrivance whatsoever, evades or attempts to evade full assessment, or taxation, or the payment of any tax,—

1891, s. 43 altered.

25 he commits an offence, and is liable to a penalty of not less than *five* pounds nor more than *one hundred* pounds, and if he is convicted of any offence under paragraph (d) the convicting Court shall also inflict on him an additional penalty of treble the amount of the tax the assessment or payment whereof he has evaded or attempted to evade.

30 (2.) In all proceedings in respect of any offence under paragraphs (c) or (d), wilful intent shall be presumed until the contrary is proved.

(3.) The payment of such penalties shall not relieve any person from liability to assessment and payment of any tax for which he would otherwise be liable.

35 (4.) If any person aids or assists in the commission of any offence under this section, he is liable to a penalty of not less than *five* nor more than *fifty* pounds.

(5.) The term "person" throughout this section includes the public officer of a company, and also an agent and a trustee.

40 72. Whenever any person is convicted of any offence under paragraph (d) of the *last-preceding* section hereof, the following special provisions shall apply:—

Procedure to recover penalty for evading tax.

Ib., s. 44 altered.

45 (1.) There shall be two separate convictions, the first adjudging the defendant to pay such penalty and costs as are imposed, and the second adjudging him to pay the additional penalty of treble the amount of the tax the assessment or payment whereof he has evaded or attempted to evade.

50 (2.) Such first conviction shall be drawn up and be enforceable forthwith, but such second conviction shall not be formally drawn up until the amount of such additional penalty has been ascertained or fixed in manner herein-after provided.

- (3.) As soon as conveniently may be after the date of the first conviction the Commissioner shall proceed to ascertain the amount of such additional penalty, and shall serve on the defendant notice of the amount so ascertained.
- (4.) Within fourteen days after the service of such notice the defendant, if he disputes the accuracy of such amount, may appeal as from an assessment, and the amount as ascertained by the Commissioner, or, in case of appeal, as fixed by the Magistrate, shall be the amount of such additional penalty.
- (5.) The Commissioner shall, by notice under his hand, inform the Clerk of the convicting Court of the amount so ascertained or fixed, and thereupon such second conviction shall be formally drawn up for such amount, and be enforceable forthwith.
- (6.) The payment of such additional penalty shall not in any way release any person from any assessment or taxation for which he would otherwise be liable.

Penalty for obstructing officer, or breach of Act. 1891, s. 45 altered.

73. If any person,—
- (1.) Obstructs or hinders any officer acting in the discharge of his duty under this Act ; or
- (2.) Commits any breach of this Act or of any regulation thereunder for which no specific penalty is imposed elsewhere than by this section—

he commits an offence and is liable to a penalty not exceeding *fifty* pounds.

Penalties recoverable in summary way. *Ib.*, s. 47.

74. (1.) All penalties under this Act shall be recoverable in a summary way and only upon the information or complaint of a person appointed by the Governor either generally or for the purpose of any particular case ; and all such penalties, when recovered, shall be paid into the Consolidated Fund.

Not prejudiced by irregularity.

(2.) No proceeding in respect of any penalty under this Act shall be prejudiced or affected by reason of any irregularity or informality in any assessment, or in any notice or other proceeding in relation thereto.

Power to remit or compound for penalties and reward informer.

(3.) The Governor may, at his discretion, mitigate or stay or compound proceedings for any penalty, and may reward any person who informs of any offence against this Act or assists in the recovery of any penalty.

Offences may be prosecuted within three years. *Ib.*, s. 48.

(4.) Notwithstanding anything in "The Justices of the Peace Act, 1882," or in any other Act to the contrary, any information or complaint in respect of any penalty under this Act may be laid at any time within three years next after the date of the offence.

## PART VII.

### MISCELLANEOUS.

Owner to make return of land acquired during first year of biennial period. *Ib.*, s. 18 altered.

75. In any case where, at any time during the first year of the biennial period of assessment for land-tax, any person becomes the owner of any land, or the agent or trustee in respect thereof, he shall make returns thereof on or before the thirtieth day of April in the

second year of the biennial period, and shall be liable to assessment and land-tax in respect thereof for such second year; and the Commissioner shall make such fresh assessments and also such alterations in and additions to the assessment-roll, and do such other things as are necessary in the premises.

76. In any case where, at any time during the first year of such biennial period, any taxpayer ceases to be the owner of land, or charges any land by mortgage, the following provisions shall apply:—

Provision where taxpayer ceases to own land or charges same by mortgage.

(1.) The Commissioner, if apprised of the fact by such taxpayer by notice in writing on or before the thirtieth day of April in the second year of the biennial period, shall, after such inquiry as he thinks fit, make such fresh assessments, and also such alterations in and additions to the assessment-roll, and do such other things as are necessary in order to readjust the liability of all persons concerned to assessment and taxation in accordance with such fact, and they shall be liable accordingly.

1892, s. 9 altered and revived.

(2.) Every such assessment, alteration, and readjustment shall be made and shall take effect as on and from the commencement of the second year of the biennial period.

77. In any case where by reason of the non-registration of a mortgage before the commencement of the first or second year, as the case may be, of such biennial period, the capital value thereof is not deducted in the assessment of the mortgagor, the following provisions shall apply:—

Procedure to enforce registration of mortgages.  
1891, Sch. A (2), s. 4.  
1894, s. 15 altered.

(1.) He may by notice in writing require the mortgagee to register the mortgage within twenty-one days after receipt of such notice;

(2.) If the mortgagee fails to register the mortgage within such twenty-one days, all tax paid in respect thereof by the mortgagor subsequent to the thirty-first day of March thereafter shall be deemed to have been paid on behalf of the mortgagee.

(3.) If the mortgagee registers the mortgage within such twenty-one days, and the Commissioner is apprised of the fact by notice in writing on or before the thirtieth day of April in any year of the biennial period, then the provisions of section *seventy-six* hereof shall apply, and shall take effect as on the commencement of such year.

78. Every person who, under the provisions of this Act, pays any tax for or on behalf of any other person shall be entitled to recover the same from such other person as a debt, together with all costs of proceedings attending the recovery thereof, or to retain or deduct the same out of any money in his hands belonging or payable to such other person; and if he has paid the same as mortgagee, then, until repaid, it shall be deemed to be covered by the mortgage, in addition to the principal or other moneys thereby secured, and shall bear interest at the same rate accordingly.

Person paying tax may recover from person liable.  
1891, s. 37.

79. In any case where two or more taxpayers are jointly and severally liable for the payment of any tax and one of them pays the same, he shall be entitled to contribution from the others in proportion to their relative shares or interests in the land or income in respect whereof the tax is payable.

Contribution from taxpayers jointly liable.  
1892, s. 5 (2).

Married woman  
liable to tax.  
1891, s. 39.

If too little tax  
paid, deficiency to  
be made up.  
Ib., s. 27.

If too much tax  
paid, excess to be  
refunded.  
Ib., s. 10 (5).  
Ib., s. 28.

In case of  
bankruptcy or  
serious hardship,  
taxpayer may be  
released from  
liability.  
1892, s. 10.

Application of Act  
in respect to stamp  
and deceased  
persons' estates  
duties.  
Ib., s. 18 altered.

Validation of  
regulations made  
and things done  
under repealed Acts.

80. The land owned and income derived or received by a married woman for her sole and separate use shall be liable to assessment and taxation in like manner as if she were unmarried.

81. If, after any tax has been paid, it is discovered that too little in amount has been paid, the taxpayer liable for the tax shall forthwith pay the deficiency. 5

82. If, after any tax has been paid, it is discovered that too much in amount has been paid, whether by reason of duplicate taxation or otherwise, the Commissioner, upon being satisfied thereof, shall order the excess to be returned to the taxpayer entitled thereto. 10

83. In any case where it shall be shown to the satisfaction of the Commissioner that any taxpayer liable to the payment of tax has become bankrupt, or has suffered loss to such extent as that the exaction of the full amount of tax would entail serious hardship, the Commissioner may release such taxpayer wholly or in part from such liability, and make such entries and alterations in the assessment-roll as are necessary for that purpose. 15

84. (1.) The provisions of any Act in force relating to stamp duties, or the duties upon the estates of deceased persons, which provide that the amount of duty payable in respect of any land shall be ascertained in accordance with the value thereof as assessed under "The Property Assessment Act, 1885," or under any Act repealed by that Act, shall be deemed to include this Act, as from the date of the coming into operation hereof. 20

(2.) Whenever it becomes necessary to determine the amount of duty payable after such date in respect of any such land, the same shall be calculated on the capital value of the owner's interest therein, as appearing in any assessment-roll for the time being in force under this Act: 25

Provided that where a valuation of such land is required as at a date subsequent to the last assessment thereof under this Act, it shall be the duty of the Commissioner to satisfy himself as to the then value of such land, and if necessary to make a new assessment thereof, and amend the assessment-roll in accordance therewith. 30

(3.) And generally where, in any unrepealed Act, any reference is made to "The Property Assessment Act, 1885," such reference shall, in so far as relates to land, be construed as referring to this Act. 35

85. For the purpose of conclusively settling any doubts as to the validity or regularity of anything done under any Act hereby repealed, it is hereby declared as follows:— 40

(1.) All regulations made under any such repealed Act, and all things done by the Commissioner, any Board of Review, or any Stipendiary Magistrate, and all returns of land or income required to be made under any such Act shall be and be deemed to have been valid and lawfully made, done, and required, as the case may be. 45

(2.) All assessments of land or income, and all assessment-rolls made under any such Act, shall respectively be and be deemed to have been valid so far as the validity thereof depends on compliance with any such Act. 50

(3.) All penalties and obligations incurred under any such Act shall be deemed to have been and to be validly and lawfully incurred.

86. Nothing in this Act contained shall be construed to affect the operation of "The Government Valuation of Land Act, 1896," or of any Order in Council heretofore or hereafter made thereunder.

"The Government Valuation of Land Act, 1896," not affected.

*Regulations.*

- 5 87. The Governor in Council may from time to time make such regulations, not inconsistent with this Act, as he deems necessary for the following purposes or any of them, that is to say:—
- 10 (1.) Prescribing the duties and functions of all officers and other persons appointed or employed under this Act:
- 15 (2.) Prescribing the form of returns to be made, the particulars to be set forth therein, and the persons by whom and the time when or within which such returns shall be made; prescribing also the forms of the assessment-rolls, notices, and other documents referred to in this Act or necessary in order to give effect thereto:
- 20 (3.) Making provision for the assessment and taxation of taxpayers absent from or not permanently resident in New Zealand, whether they are or are not represented in New Zealand by agents: 1892, s. 19 altered.
- 25 (4.) Providing, where there is no provision in this Act, or no sufficient provision, in respect of any matter or thing necessary to give effect to this Act, in what manner and form the deficiency shall be supplied: 1891, s. 10.
- 30 (5.) For any purpose, whether general or to meet particular cases, that may be desirable in order to carry out the objects and purposes of this Act, or to give effect to anything for which regulations are contemplated or required by this Act:
- 35 (6.) Imposing a penalty, not exceeding *fifty* pounds, for any breach of any such regulations.
88. (1.) All such regulations shall be gazetted, and when so gazetted shall have the force of law. To be gazetted and laid before each House. Ib., s. 11.
- 40 (2.) All such regulations shall be laid before each House of the General Assembly within fourteen days after the gazetting thereof, if the Assembly is then sitting, and, if not, then within ten days after the next meeting of the Assembly.
- 45 89. (1.) If anything required by or under this Act to be done at or within a fixed time cannot be or is not so done, the Governor, by Order in Council, may from time to time appoint a further or other time for doing the same, whether the time within which the same ought to have been done has or has not expired. Power to extend time for doing act. Ib., s. 12.
- 50 (2.) Anything done within the time prescribed by such Order in Council shall be as valid as if it had been done within the time fixed by or under this Act.
90. The Acts specified in the *Second* Schedule hereto are hereby repealed: Provided nevertheless— Repeal.
- (1.) That all regulations made thereunder and purporting to be in force at the time of the coming into operation of this Act shall continue in force until repealed or altered under this Act; and also Saving.

- (2.) That all assessments and returns made or required to be made thereunder may be made, completed, dealt with, and enforced under this Act; and also
- (3.) That all assessments, returns, and rolls made thereunder and in force at the coming into operation of this Act shall be deemed to have been made under this Act; and
- (4.) That all liabilities incurred thereunder in respect of taxation, penalties, or otherwise may be enforced under this Act.

5

Schedules.

## SCHEDULES.

## FIRST SCHEDULE.

First Column. Where the Unimproved Value is not less than	Second Column. And is less than	Third Column. The Rate of Graduated Tax is
£5,000 ...	£10,000 ...	One-eighth of a penny in the pound sterling.
£10,000 ...	£15,000 ...	Two-eighths of a penny in the pound sterling.
£15,000 ...	£20,000 ...	Three-eighths of a penny in the pound sterling.
£20,000 ...	£25,000 ...	Four-eighths of a penny in the pound sterling.
£25,000 ...	£30,000 ...	Five-eighths of a penny in the pound sterling.
£30,000 ...	£40,000 ...	Six-eighths of a penny in the pound sterling.
£40,000 ...	£50,000 ...	Seven-eighths of a penny in the pound sterling.
£50,000 ...	£70,000 ...	One penny in the pound sterling.
£70,000 ...	£90,000 ...	One penny and one-eighth of a penny in the pound sterling.
£90,000 ...	£110,000 ...	One penny and two-eighths of a penny in the pound sterling.
£110,000 ...	£130,000 ...	One penny and three-eighths of a penny in the pound sterling.
£130,000 ...	£150,000 ...	One penny and four-eighths of a penny in the pound sterling.
£150,000 ...	£170,000 ...	One penny and five-eighths of a penny in the pound sterling.
£170,000 ...	£190,000 ...	One penny and six-eighths of a penny in the pound sterling.
£190,000 ...	£210,000 ...	One penny and seven-eighths of a penny in the pound sterling.
Where the unimproved value is— £210,000 ...	Or exceeds— £210,000 ...	Twopence in the pound sterling.

## SECOND SCHEDULE.

- 1891, No. 18.—The Land and Income Assessment Act, 1891.
- 1892, No. 54.—The Land and Income Assessment Act Amendment Act, 1892.
- 1893, No. 33.—The Land and Income Assessment Acts Amendment Act, 1893.
- 1894, No. 65.—The Land and Income Assessment Acts Amendment Act, 1894.
- 1895, No. 70.—The Land and Income Assessment Acts Amendment Act, 1895.