

PREFACE TO THE LAND AND INCOME ASSESSMENT BILL, 1900.

THIS Bill is a consolidating and amending Bill.

Marginal references are given, against each clause which is not new, to the section of the existing Act from which it is taken.

New matter is indicated by a vertical line in the margin.

Although the existing Acts have been recast and their language a good deal altered, this has been done with the sole object of making their provisions more concise and their meaning plainer.

No alteration in the existing law and no alteration in the practice of the department are intended, except where such are indicated by the vertical marginal line, or explained in this preface.

Clause 3, Interpretation: The definition of "agent" is somewhat extended. The new provision is contained in subclause (3), which is required to secure the tax on income remitted to absentees by banks chiefly, but in some cases by private firms, who disclaim agency.

"Business": New definition for general use. It avoids the repetition of "trade, business, manufacture, adventure, undertaking, or concern." It also includes the business of a company, of whatever nature, as set forth in its articles of association, except business in connection with investments in land, which is excluded by clause 45.

"Capital value" of land, other than mortgages, takes the place of the old definition of "actual value" in Schedule A of the Act of 1891.

"Capital value" of mortgage is to give effect to the old provision of Schedule A, part (2), section 1, and to the practice of the department. It also prevents the deduction of the mortgage beyond the amount at which it can be assessed to the mortgagee. This is new, but it is submitted that it is fair.

"Improvements" are redefined with a view of making the previous law clearer, not with a view of any alteration.

"Land": The definition is made to include mortgage, to save repetition of "land and mortgages" in the Bill, and is generally made more emphatic.

"Owner": A proviso has been added that where the rate of graduated tax or any exemption or deduction is in question, such rate of tax or exemption or deduction must be computed with reference to the land or income of the person to whom such land or income beneficially belongs, and not to that of the trustee or agent. This is inserted to settle a point which has been raised that the trustee or agent is the owner when the beneficial owner is non-resident in the colony.

"Profit" has been made to include gain, instead of repeating "gains or profits" throughout the Bill.

"Taxpayer" is introduced as a convenient designation for those who are owners of land or the recipients of income, whether liable to tax or not; it prevents the use of so many different terms for describing those who come under the provisions of the law, and who may be taxable in some years although not in others.

"Unimproved value," "value of improvements": New definitions to make clearer the existing law.

Clause 11, (3), enables the Commissioner to adopt certain measures in exceptional cases.

Clause 11, (6), empowers a trustee to borrow money to pay tax in the absence of funds.

Clause 12 amends the provisions as to the taxation of non-resident traders and the assessment of their profits.

Clause 16, (1), (c) : A friendly society carrying on business outside its circle of membership is not exempted from taxation in respect of so much of its business as is carried on outside such circle.

Clause 16, (5), (f), exempts co-operative dairy factories from income-tax on milk supplied by shareholders or members.

Clause 18, (2) : Companies are to make annual returns of land instead of biennial returns. It is much more convenient for companies to do so, on account of the number of alterations in their land and mortgages.

Clause 18, (9) : Returns required under previous Acts may be made and revised under this.

Clause 22, (6) : Required to prevent the necessity of producing in Court large volumes which contain original and confidential information not connected with the case in dispute.

Clause 40 : The definition of the income of a company is somewhat altered, but the law is only made clearer.

Clause 45, (2) and (3) : Where a mining company is engaged in business other than mining, the income from such non-mining business is assessable in the ordinary manner.

Clause 43, (3), makes it clear that the profit arising from the realisation of landed property is not income, unless it appears that buying and selling such property forms part of the taxpayer's ordinary business. This is in accordance with the English practice.

Clause 48, (6), is new. Considerable incomes are derived from treating timber, quarrying stone, carting gravel, sand, &c., making bricks, mining, and kindred undertakings carried on upon leasehold land, and it is almost impossible to assess the resulting leasehold interests for land-tax. The incomes derived have therefore been made assessable for income-tax, the lessee's interests in the land being made exempt under clause 16 (4).

Clause 48, (7), is new. The object is to assess for income-tax the manufacturer's profit in all cases where owners or occupiers of land sell timber or flax being the produce of their land in any but its natural state.

Clause 48, (8) : The proviso to this subsection is drawn to meet such cases as the following : A large butchery business is often carried on by an owner who sells many times over as many stock as his land will graze. On the profits realised by the sale of this surplus it is right that he should pay tax. The section of the English Act containing a similar provision is as follows : "Whenever the Commissioners shall, on examination, find that any lands occupied by a dealer in cattle or by a dealer in or seller of milk (which lands shall have been estimated and charged on the rent or annual value) are not sufficient for the keep and sustenance of the cattle brought on the said lands, so that the rent or annual value of the said lands cannot afford a just estimate of the profits of such dealer, it shall be lawful for the said Commissioners to require a return of such profits, and to charge such further sum thereon as, together with the charge in respect of the occupation of the said lands, shall make up the full sum wherewith such trader ought to be charged in respect of the like amount of profits charged according to the first rule in this case."—5 and 6 Vict., c. 35, sec. 100, Third Case, 3rd Rule.

Clause 48, (11), (b) is intended to set at rest the question as to whether a casual transaction in shares which may have resulted in a profit is taxable or not. This subclause is in accordance with the English practice.

Clause 50, (2) : A non-resident is not entitled to exemption. This is the old provision made more definite.

Clause 54, (1) : The words "sinking or insurance," before "fund," and "howsoever designated," after it, are new. They are introduced so as to get over a difficulty which has arisen when a *bond fide* reserve fund is not designated by that exact name in the books or balance-sheet of a taxpayer.

Clause 55 : Subclause (8) is new. It is needed to prevent the granting of what would practically be two exemptions to a married man in business.

Clause 55, (13) : Interest on any mortgage is not deductible. The deduction of 5 per

cent. on the capital value of all land owned and used by the taxpayer renders this unnecessary. (See clause 57.)

Clause 57: This clause is intended to remove a grievance which exists as between a taxpayer in business who occupies premises for which he pays rent and one who occupies his own freehold, or premises erected on leasehold ground. In the first case rent is deducted, and in the hands of the landlord is not taxable, being income derived from land; in the second case the allowance is limited under the existing law to 5 per cent. on the amount on which land-tax is paid. This may be nothing, and in the case of premises on leasehold land no allowance can now be made. As an equivalent of the rent paid by a tenant, it is proposed to allow to a freeholder a deduction of 5 per cent. on the capital value of his business premises; while a leaseholder, who is now entitled to deduct his ground-rent only, will be allowed a further deduction of 5 per cent. on the capital value of any leasehold interest he may own in his business premises. This will exclude land, with its profits and liabilities, from the income-tax system.

Clause 58: A taxpayer temporarily carrying on business in New Zealand may be required to give security for the payment of income-tax.

Clause 62, (2): The words of the present Act are, "The summons shall be served upon the defendant at least thirty days before the day appointed for hearing." These have been altered to, "If the summons is served," &c. There is no intention to alter the practice of the department, except in cases where the taxpayer is known to be on the point of leaving the colony, when it is necessary that an immediate summons should be obtained to protect the revenue.

Clause 70, (2): This gives the right to recover a defaulting mortgagee's land-tax from a mortgagor in the same manner as a defaulting owner's land-tax is recoverable from a mortgagee or from a tenant.

Clause 72, (2): The alteration consists in the power given to "make extracts," without which the other power is of no use.

Clause 72, (4): The Commissioner or his authorized officer may administer an oath.

Clause 74, (2): Where a taxpayer makes a false return or evades full assessment, wilful intent is to be presumed until the contrary is proved.

Clauses 78 and 79: These contain provisions for dealing with cases in which taxpayers (other than companies) have either ceased to be owners or have acquired or mortgaged land in the interval between the years when returns are usually made.

Clauses 84 and 85: The operation of the original sections has been limited to three years, except in the cases provided for in clause 66.

Clause 87, (2): This provision is to meet a case where a death occurs at a date removed from that of the last valuation, and where an alteration, not necessarily affecting land-tax, but affecting stamp duty, may have taken place.

Clause 88: This is to settle any doubt as to the validity of anything done under past Acts, so far as its validity depends on compliance with any such Acts.

Clause 92: This repeals the Assessment Acts named in Schedule 2, and provides that regulations made under repealed Acts shall remain in force under this Act until repealed or altered, and that assessments and returns under past Acts may be completed, dealt with, and enforced under this Act.

Clause 93: The provisions as to the valuation of land, and objections thereto, are suspended so long as valuations of land are made and confirmed under "The Government Valuation of Land Act, 1896."

LAND AND INCOME ASSESSMENT.

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## 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, 1900."

Act divided into Parts.

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

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

PART II.—Nature of the Taxation, and General Exemptions. 10  
(Sections *thirteen to seventeen.*)

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

- PART IV.—Assessment of Land. (Sections *twenty-five* to *thirty-seven*.)
- PART V.—Assessment of Debentures issued by Companies. (Sections *thirty-eight* and *thirty-nine*.)
- 5 PART VI.—Assessment of Income. (Sections *forty* to *fifty-eight*.)
- PART VII.—Payment of Taxation, and Procedure to enforce same. (Sections *fifty-nine* to *seventy-seven*.)
- 10 PART VIII.—Miscellaneous. (Sections *seventy-eight* to *ninety-three*.)

## PART I.

## ADMINISTRATION OF ACT.

*Interpretation.*

3. In this Act, if not inconsistent with the context,—

Interpretation.

1891, s. 3 extended.

1892, s. 19 altered.

15 “Agent” includes every person who, in New Zealand, for or on behalf of any other person outside New Zealand (hereinafter throughout this Act called “the principal”),—

20 (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

25 (2.) Directly or indirectly, whether by sample, price-list, negotiation, or otherwise howsoever, sells or disposes of any such property, or offers or exposes such property for sale or disposition, or solicits or procures the sale or disposition thereof; or

(3.) Has the control, receipt, or disposal of any income belonging to the principal, or directly or indirectly remits the same to the principal :

30 “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 income, and includes the amount of tax imposed on such land and income respectively, and also all matters comprised in any return required under this Act :

1891, s. 3.

1894, s. 3.

35 “Business” includes trade, manufacture, adventure, undertaking, and concern, and in the case of a company includes its business, of whatever nature, as set forth in its articles of association :

40 “Capital value” of land, other than a mortgage, means the sum which the owner’s estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to require :

45

Provided that in estimating the capital value of land held in life tenancy the interest of the reversioner shall be deemed to form part of that value, and shall be included accordingly :

- 1891, s. 3 altered.  
1892, s. 11 (1).
- 1891, s. 3 extended.
- Ib., Sch. A (1) altered.
- Ib., s. 3.
- Land to include growing timber, &c.  
Ib. s. 3.
- 1892, s. 17 (2).
- 1894, s. 16.
- 1892, s. 17 (2) altered.
- 1891, s. 3.  
"Maori."
- 1895, s. 2 altered.
- "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: 5
- "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: 10
- "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: 15
- "Improvements" on land means all work actually done thereon by the expenditure of capital or labour by the owner or occupier of the land, nevertheless in so far only as the effect of such work is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation, but shall not include work done on or for the benefit of land by the Crown or by any statutory public body: 20
- "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 are made the subject of taxation under this Act: 25
- "Land" includes all lands, tenements, and hereditaments, whether corporeal or incorporeal, in New Zealand, and also includes all mortgages thereof, all chattel and other interests therein, all timber or flax growing or standing thereon, and all metals, minerals, and precious stones contained therein: 30
- "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: 35
- "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: 40
- "Native" means an aboriginal inhabitant of New Zealand, but does not include half-castes or their descendants: 45
- "Native land" means land owned by or held in trust for any Native:
- "Non-resident agent" includes every person who acts as agent without having a fixed and permanent place of business or abode in New Zealand: 50
- "Non-resident trader" includes every person who carries on business in New Zealand without having a fixed and permanent place of business in New Zealand:

“Occupier,” in respect of Native land, includes every person having or enjoying in any way or for any purpose whatsoever the use thereof:

5 “Owner,” in respect of land, means the person who, whether 1891, s. 3.  
beneficially or as trustee or mortgagee or otherwise, and whether jointly or separately,—

(1.) Is seized or entitled to land for any estate, 1892, s. 11 (2).  
whether freehold, leasehold, or otherwise, in possession; or

10 (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

(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:

15 Provided that for the purpose of assessing the rate of graduated tax, or of allowing any exemption or deduction hereinafter provided for, “owner” means the beneficial owner as distinguished from the trustee or agent:

20 “Person” includes a body of persons, whether corporate or 1894, s. 2, and 1895,  
unincorporate: s. 2.

“Prescribed” means prescribed by this Act or by regulations 1891, s. 3.  
under this Act:

“Profit” includes gain:

25 “Tax,” or “taxation,” means the duty upon land or income, 1b., s. 3.  
and includes any additional charge in respect thereof to be assessed, collected, or enforced under this Act:

30 “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, but does not include a local authority or any other local governing or statutory public body:

35 “Trustee” includes trustee, executor, administrator, guardian, 1891, s. 14 (6).  
committee, receiver, liquidator, the Public Trustee, 1892, s. 11 (3).

40 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:

45 “Unimproved value” of land means the sum which the owner’s estate or interest therein, if unencumbered by any mortgage or other charge thereon, and if no improvements existed thereon, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a *bonâ fide* seller might be expected to require:

50 “Value of improvements” means the sum by which the improvements upon an owner’s land increase its value:

55 Provided that the value of improvements shall in no case be deemed to be more than the cost of such improvements estimated at the time of valuation, exclusive of the cost of repairs and maintenance.



## Appointments, &amp;c.

Power to appoint  
Commissioner and  
Deputy  
Commissioner.  
1891, s. 4.

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. 5

Persons continued  
in office.

(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. 10

Statutory powers of  
Property-tax  
Commissioner  
vested in  
Commissioner.  
Ib., s. 6.  
Powers of Deputy  
Commissioner.  
Ib., s. 5.

(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. 15

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.

(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. 20

Power to appoint  
other officers.  
Ib., s. 7.

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. 25

Persons now in  
office continued  
therein.  
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 hereby repealed, shall, without further appointment, be deemed to hold such office under this Act. 30

Officers to maintain  
secrecy.  
Ib., 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 matters to any person whomsoever, except for the purpose of carrying into effect the provisions of this Act; and also 35

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. 40

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. 45

(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. 50

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.

Rolls or assessments may be made for purposes of other Acts.

1891, s. 6.

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

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 authorized agent or attorney, and with respect to every such company and person the following provisions shall apply:—

Every company to be represented by a public officer.

Ib., s. 13.

- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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 (including non-resident agents), 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.
- 1891, s. 17 (3).
- Ib., s. 14 (2).
- Ib., s. 14 (3) altered.
- Ib., s. 14 (4).
- Ib., s. 14 (3).
- 1892, s. 19.
- 1891, s. 14 (5).
- (1.) He shall be answerable, as taxpayer, 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. 5
- (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. 10
- (3.) Where the Commissioner thinks fit so to do, he may exercise in respect of any specified agent the powers conferred upon him by subsection *six* of the *next succeeding* section hereof; and in any such case the provisions of subsections *six* and *seven* of that section shall apply in like manner as if the agent were a non-resident agent. 15
- (4.) In any case where as 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. 20
- (5.) 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 which is, or will become, due in respect of any such land or income subject to tax, estimating the tax at the previous year's rate, if the rate of the tax which will become due has not been fixed. 25
- (6.) 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. 30
- (7.) 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. 35
- (8.) He is hereby indemnified for all payments which he makes in pursuance of this Act or by requirement of the Commissioner. 40
- (9.) 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. 45
- (10.) For the purpose of insuring the payment of 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. 50

*Non-resident Agents and Non-resident Traders.*

12. With respect to non-resident agents and non-resident traders the following special provisions shall apply, anything in this Act to the contrary notwithstanding:—

Special provisions  
as to non-resident  
agents and non-  
resident traders.

- (1.) It shall not be lawful for any non-resident agent to act as agent, or for any non-resident trader to carry on business, unless he is the holder of a warrant in that behalf from the Commissioner, or a Collector of Customs.
- (2.) The warrant shall be in the prescribed form, and shall, without fee, be issued either by the Commissioner or any Collector of Customs on application in that behalf.
- (3.) In every case where the warrant is issued by a Collector of Customs he shall duly notify the Commissioner.
- (4.) In all proceedings against any person for breach of subsection *one* of this section it shall lie on the defendant to prove that he is a warrant-holder, by producing the warrant, or by satisfactorily accounting for its non-production.
- (5.) The warrant-holder shall make returns at such times and in such manner in all respects as the Commissioner requires, either generally or in particular cases.
- (6.) The Commissioner may from time to time, as he thinks fit, assess any specified non-resident agent or non-resident trader for income-tax in respect of any specific transaction, or of all transactions during any specified period, and may fix the amount of the tax at the rate then last in force (if the rate of tax is not then fixed by law), and on the assumption that the specified transaction, or, as the case may be, all the transactions during the specific period, have produced a net profit of five per centum of the gross proceeds resulting therefrom:
- (7.) The tax so fixed by the Commissioner shall be payable on demand, and shall be recoverable forthwith in the same manner in all respects as in the case of income-tax in arrear.

## PART II.

## NATURE OF THE TAXATION, AND GENERAL EXEMPTIONS.

*Taxation.*

13. Subject to the provisions of this Act, there shall be assessed and levied, in and for each year ending on 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,—

Nature of the  
taxation  
1891, s. 15 altered.

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

(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.

14. (1.) Land-tax, both ordinary and graduated, shall be charged on land as owned 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. 5

(2.) 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. 10

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. 15

#### 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:—

(1.) All land owned, and income derived or received, by or on behalf of— 20

(a.) Her Majesty:

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

(c.) Any friendly society, but in respect only of business carried on within its circle of membership: 25

(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 return of such dividends or profits: 30

(e.) Any public charitable or public educational institution, howsoever formed or constituted, if carried on for any public charitable or public educational purpose, and not for pecuniary profit: 35

(f.) Any savings-bank constituted under "The Savings-Bank Act, 1858": 40

(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 or statutory public body whose land and income are hereinbefore exempted from taxation: 45

(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. 50

Date at which ownership determined 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).

Exemptions from tax.

Ib., s. 16 altered.

Land and income.

1892, s. 3 altered.

93, s. 4.

1892, s. 3.

Ib., s. 3.

Ib., s. 3.

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.
- (a.) A place of worship for any religious society, or a place of residence for any of the clergy or ministers of such society : 1891, s. 16 (1).
- 5 (b.) A charitable or educational institution (other than a public charitable or educational institution herebefore 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 : Ib.
- 10 (c.) A public library, athenæum, mechanics' institute, public museum, school of mines, or masonic lodge : Ib.
- (d.) A show-ground or place of meeting of any agricultural society : Ib.
- 15 (e.) A public cemetery or public burial-ground : Ib.
- (f.) A public garden, public domain, public recreation-ground, or other public reserve : Ib.
- (g.) A public road or public street : Ib.
- 20 (h.) A public railway, to the extent of the land actually used for permanent-way, and for yards, sheds, and buildings for the purposes of traffic only, but not further nor otherwise. Ib.
- (3.) All Native land, if neither leased to nor occupied by any person other than the Native owner. Ib., Native land.
- 25 (4.) The interest (if any), of the lessee or licensee in land held under lease or license for any of the purposes specified in subsections *five* and *six* of section *forty-eight* hereof, and the profits derivable from which are assessed for income-tax.
- 30 (5.) All income derived or received by or on behalf of— Income.
- (a.) The Governor, in respect of the salary and emoluments of his office : Ib., s. 16 (2).
- (b.) Any pensioner resident in New Zealand, in respect 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 : 1893, s. 11 (5).
- 35 (c.) Any public society not carrying on or concerned in any business for pecuniary profit : 1891, s. 16 (2).
- 40 (d.) Any owner of land, in respect of the rent thereof, or the profits derived from the direct use or cultivation thereof ; but this exemption shall not be held to apply to profits derived by owners of land as described in subsections *five*, *six*, *seven*, and *eight* of section *forty-eight* hereof : Ib., altered.
- 45 (e.) Any mortgagee of land, in respect of his mortgage : Ib., s. 16 (2).
- (f.) Any co-operative dairy-factory company (meaning thereby a company formed for the purpose of manufacturing dairy produce from milk supplied in accordance with its articles or rules) ; but in so far only as such income is derived from the manufacture of dairy produce from milk so supplied by its members or shareholders, and in cases only where the articles or rules provide that the amount of the exemption shall be distributed solely amongst the members or shareholders who have supplied milk to the company, and in sums proportionate to the quantity of milk supplied by them.
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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 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 such estate or interest. 5
- (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 moneys secured by such mortgage, shall, for the purposes of assessment and taxation, and to the extent to which he is so entitled, be deemed to be the owner of such land or mortgage, and be liable to assessment and taxation in respect thereof. 10
- (3.) If such trust is in favour of any public institution or department 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. 15 20 25

### PART III.

#### RETURNS, ASSESSMENTS, AND APPEALS.

##### *Returns.*

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

18. Subject to the provisions of this Act every taxpayer shall be liable for the making of returns of land and income as hereinafter 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:— 30

- (1.) The returns shall be in the prescribed form, and shall be made to the Commissioner by every taxpayer on or before a date or dates to be publicly notified by the Commissioner. 35
- (2.) Returns of land shall be made for annual periods in the case of a company, and for biennial periods in the case of every other taxpayer. 40
- (3.) Each such annual or biennial period shall be deemed to commence at noon on the thirty-first day of March.
- (4.) The first such annual period shall be deemed to have commenced at noon on the thirty-first day of March, one thousand nine hundred, and the first such biennial period shall be deemed to have commenced at noon on the thirty-first day of March, one thousand eight hundred and ninety-nine. 45

1894, ss. 5 and 6 altered.

- (5.) Returns of income shall be made for annual periods.
- (6.) Each such annual period shall commence at the close of the thirty-first day of March, and the first such period shall be deemed to have commenced at the close of the thirty-first day of March, one thousand nine hundred.
- 5 (7.) The return of land for each annual or biennial period shall 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.
- 10 (8.) The return of income for each annual period shall contain 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:
- 15       Provided that, where such return cannot be conveniently made, the Commissioner in his discretion may, for the purpose of assessment, accept a return made up to the date of the annual balance of the taxpayer's books, or he may accept an estimated return which shall be adjusted upon such annual balance being completed.
- 20 (9.) 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.
- 25 (10.) In addition to the returns hereinbefore required to be made, every taxpayer shall make such new or additional returns as and when the Commissioner from time to time requires. 1893, s. 5 altered.
- 30 (11.) No taxpayer shall be released from his liability to make 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.
- 35 (12.) Any return made or purporting to be made or signed by or on behalf of any taxpayer shall for all purposes be taken and deemed to be duly signed by such taxpayer until the contrary is proved. 1891, s. 22 (2).

*Assessments and Assessment-rolls.*

- 40 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. Valuations of land to be made when required. 1894, ss. 8 and 9 altered.
- 45 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. Commissioner to prepare assessments. 1891, s. 17 (2) altered.
- 50 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. Assessment in case of default or unsatisfactory return. 1894, s. 13 altered.
- 55



- Assessment-rolls. 22. With respect to assessment-rolls the following provisions shall apply:—
- Form. (1.) They shall be in such form as the Commissioner thinks fit, and those in respect of land shall be kept separate and distinct from those in respect of income. 5
- 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 10 in the assessment which he proposes to alter or add to:
- 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 15 subject to appeal.
- Ib., 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 20 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.
- 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 25 Act have not been complied with.
- Evidence. Ib., s. 22. (5.) 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 30 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. 35
- Ib., s. 19 (4). (6.) The production of any document under the hand of the Commissioner purporting to be a copy of or extract from any return or assessment-roll or register shall for all purposes be sufficient evidence of the matters therein set forth without producing the original. 40
- Notice of assessment to be given. Ib., s. 19 altered. 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:
- Provided that the omission to give any such notice shall not 45 invalidate any assessment.

#### Appeal.

- Objections to be by way of appeal. 1891, s. 19 (3). 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 50 are prescribed; and with respect to every such appeal the following provisions shall apply:—
- Hearing. 1894, s. 11. 1892, s. 7. (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 55 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.

(2.) The appeal shall be heard and determined by the Magistrate exercising jurisdiction in the Magistrate's Court situate in or near the locality in which the subject-matter of the appeal arises, or in such other Magistrate's Court as the parties to the appeal agree on.

(3.) 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.

(4.) When disposing of the appeal, the Magistrate may make such order as to costs as he thinks fit.

(5.) If the appeal relates to the assessment of land, and any question of value is in dispute, the Magistrate shall fix the capital value, the value of improvements, and the unimproved value.

(6.) The assessment-roll shall, where necessary, be altered so as to accord with the Magistrate's decision.

(7.) The Magistrate's decision shall be final.

Procedure.

Costs.  
1891, s. 21.

Decision.  
Ib. adapted.

## PART IV.

### ASSESSMENT OF LAND.

#### *Ordinary Land-tax.*

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

Ordinary land-tax,  
on what to be  
assessed.  
1891, Sch. A (1), ss.  
1 and 2 altered, and  
Sch. A (2), s. 1  
altered.

(1.) When such remaining value does not exceed one thousand five hundred pounds, an exemption of five hundred pounds; or

(2.) When such remaining value 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 amounts to or exceeds two thousand five hundred pounds.

Special exemption.

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

Further exemption  
in certain cases on  
account of age, or  
ill-health.  
1891, Sch. A (1), s. 2,  
proviso.  
1892, s. 17 (1).

special exemption hereinbefore provided) a total of two thousand pounds.

Assessment of joint tenants, co-partners, co-trustees, &c.  
1891, s. 17 (5).  
1892, s. 5 altered.

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 :—

5

(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 authorized by this Act.

10

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

15

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.

How interest on mortgage to be dealt with.

1894, s. 14.

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. A mortgage shall not be exempt from land-tax by reason merely that the land comprised therein is exempt.

20

30. (1.) A mortgagee shall not be liable to land-tax on money receivable by way of interest on his mortgage.

(2.) A mortgagor shall not be entitled to deduct from the value of his mortgaged land any money payable by way of interest on the mortgage.

25

Mortgages of banking, or loan, building, and investment companies exempt from land-tax.

1891, Sch. A (2), s. 1.  
1893, s. 11 (1).

Mortgagor liable to assessment on behalf of absent mortgagee.

1891, s. 17 (4).

31. A banking company shall be exempt from liability to land-tax on mortgages ; and 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 situate and management is conducted in New Zealand, shall be similarly exempt.

30

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.

35

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

What lands to be liable to graduated land-tax.

1891, Sch. A (2), s. 3.  
Ib., Sch. B altered.

33. In each case mentioned in the first and second columns of the *First* Schedule hereto, the taxpayer shall, in addition to the ordinary land-tax, be liable each year to a graduated land-tax on the total unimproved value of all the land (other than mortgages) of which he is the owner at noon on the thirty-first day of March, at the rate mentioned in the third column of the said Schedule :

40

Increased rate in case of absentee owner.

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 rate of graduated land-tax set forth in the *First* Schedule hereto shall be increased by twenty per centum in each case where it is applicable :

45

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.

50

34. 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.

Assessment of joint tenants, &c., for graduated tax. 1891, s. 17 (5). 1892, s. 5.

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

35. With respect to Native land (other than mortgages) occupied by any person other than the Native owner, the following special provisions shall apply, anything contained elsewhere in this Act to the contrary notwithstanding:—

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

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

36. With respect to mortgages held by or in trust for Natives, the following special provisions shall apply, anything contained elsewhere in this Act to the contrary notwithstanding:—

Taxation of mortgages held by Natives. *Ib.*, s. 8.

- (1.) Such mortgages shall be liable to the ordinary land-tax.
- (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.

37. In all cases, except where such Native land and 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.

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

PART V.

ASSESSMENT OF DEBENTURES ISSUED BY COMPANIES.

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

Company deemed agent of debenture-holders. 1891, Sch. C 2. 1893, s. 11 (3) (d) altered.

- (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.
- (2.) Such assessment shall be separate and distinct from the company's own assessment, and no deduction by way of

Procedure where  
debenture money  
invested on mort-  
gage or charged on  
land.

1892, s. 17 (3).

exemption or otherwise shall be allowed to the company as such agent, nor to any debenture-holder.

39. The company shall be liable to income-tax in respect of all income derived by the debenture-holders from such debentures: Provided that,—

- (1.) It shall not be so liable in respect of any of the money borrowed which, 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 such duly registered mortgages of land in New Zealand as were then assessable for land-tax: 5
- (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: 10
- (3.) The company shall, however, as agent for the debenture-holders, be liable to assessment for land-tax in respect of the amount so deducted, but shall not be liable to income-tax in respect of debentures equal to such amount. 15

## PART VI.

### ASSESSMENT OF INCOME.

#### *Income of Companies.*

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

40. 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 *five 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 falling within the definitions of "income derived from business" and "income derived from employment or emolument" in sections *forty-eight* and *forty-nine* hereof, and also all profits from investments of any kind other than investments in land, and including also all dividends earned and sums carried to any reserve, sinking, or insurance fund howsoever designated, and income-tax shall be assessed and levied on all such income accordingly. 30

Income-tax to be  
assessed thereon.

Income of banking  
company.  
1894, s. 17.

41. In the case of a banking company, such income each year shall be deemed to be a sum equal to ten shillings 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, and income-tax shall be payable accordingly. 35

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

42. 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, such income shall include 45

all interest and profits derived or received by it from mortgages, and income-tax shall be payable accordingly.

5 43. 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 :—

Income of insurance company, other than life.  
1891, Sch. C 1.  
1892, s. 17 (3) altered.  
Reg., 14 Mar., 1898.

(1.) Such income shall not include income derived from business carried on outside New Zealand.

10 (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 in New Zealand and what portion is not, and income-tax shall be payable accordingly.

15 44. 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"), such income shall be deemed to be a sum equal to its total income from investments of any kind other than investments in or on land, and income-tax shall be payable accordingly.

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

20 45. In the case of a company formed for mining purposes within the meaning of "The Mining Companies Act, 1894," or having those purposes amongst its objects, and registered under that Act or "The Companies Act, 1882," the following provisions shall apply :—

Income of mining company.  
1893, s. 11 (3) (e) altered.

25 (1.) Such company's income derived from business in respect of mining in any year shall be deemed to be a sum equal to one-half of the dividends paid by such company to its shareholders in such year, and the company shall be liable to income-tax accordingly.

30 (2.) Such tax shall be irrespective of any tax to which such company may be liable in respect of income derived from business other than mining.

35 (3.) The Commissioner may from time to time require such company to furnish evidence and particulars to his satisfaction for the purpose of insuring the proper assessment of the company.

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

No exemption to company.  
1891, Sch. C 3.

*Income of Taxpayers other than Companies.*

40 47. Where the taxpayer is other than a company, income-tax shall be assessed and levied on—

Income-tax, on what to be assessed.

(1.) Income derived from business, and

Ib., D 1.  
Ib., E 1.

(2.) Income derived from employment or emolument.

45 48. "Income derived from business" includes, but without limiting the meaning of the 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 :—

Income derived from business.  
1892, s. 17 (4) altered and extended.

(1.) From any business :

Ib., s. 17 (4) (a) altered.

50 (2.) From the purchase, sale, or other disposition of personal property :

Ib., (b).

1892, s. 17 (4) b,  
altered.

Ib., (c).

Ib., (d).

Ib., s. 17 (1) altered.

1891, Sch. E, 1.

1893, s. 4.

1892, s. 17 (4) (e).

- (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
- (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 : 10
- (6.) From any of the following operations, in so far as the same are carried on upon or in connection with any land whatsoever, whether Native land or otherwise, by any person other than the Native owner thereof, or, as the case may be, the owner thereof in fee-simple, that is to say,— 15
- (a.) The quarrying, digging, treatment, and sale of stone, gravel, sand, clay, or soil found on such land ;
- (b.) The mining for and treatment and sale of any metal, mineral, precious stone, coal, or oil found on such land ; 20
- (c.) The digging, treatment, and sale of gum found on such land :
- (7.) From the cutting, treatment, and sale of timber or flax by any person whether the owner of such land or not : 25
- Provided that in estimating the amount of income which shall be liable to assessment to tax, the Commissioner shall deduct from the gross profits the market value of the product when in its natural or unmanufactured state :
- (8.) From the business of dealing in live-stock, meat, butter, cheese, wool, grain, fruit, or other crops, being the natural products of land, by any person other than the owner of such land : 30
- Provided that when the taxpayer is also the owner of land which, being used for purposes of the said business, is not in itself sufficient for the full sustenance or production of such live-stock or other products, then the Commissioner shall assess for income-tax only the profits derived from dealing in so much of the above-named live-stock or products as is in excess of the capacity of the said land to fully sustain or produce : 40
- (9.) From any charge or annuity of any kind, other than a mortgage :
- (10.) 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 : 45
- (11.) From every source whatsoever (including rents, interest, or profits from lands or mortgages) outside New Zealand whereby income is derived or received in New Zealand. 50
- But does not include—

(a.) Dividends derived by the owner of the shares of any company registered in New Zealand (except a building society), in respect of such shares; nor

1891, Sch. C 3, and 1893, s. 4.

5 (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

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

1892, s. 17 (4).

49. "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.

15 (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.

50. 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).

25 (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:

30 (2.) No taxpayer, whether alone or in partnership, shall be entitled to such exemption if his home has not been in New Zealand during some part of the year next preceding the commencement of the year of assessment.

Non-resident not entitled thereto. 1893, s. 11 (4) altered.

35 51. 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 for any year, as an outgoing, the amount of premiums, to the extent of not more than fifty pounds, paid in such year in respect of such insurance.

Certain life insurance premiums deductible. 1891, Sch. F, 7.

40 52. If such taxpayer is a co-partner in any business or employment, and has no income other than that derived from the co-partnership, or if, having other income, the amount thereof is insufficient to allow of the foregoing deduction in respect of premiums, then such deduction, or any part thereof, 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.*

53. In the case of a taxpayer (whether a company or not) 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.) Such taxpayer's income derived from business in New Zealand shall be deemed to include income derived or received from business originating and carried on in New Zealand,

1891, Sch. C 1, proviso. Reg., 14 Mar., 1893.



and also from business originating in New Zealand and carried on outside New Zealand, but not income derived or received from business originating outside New Zealand although carried on in New Zealand, and income-tax shall be payable accordingly. 5

- (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. 10
- (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.

54. For the purposes of this Act a taxpayer (whether a company or not) 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, sinking, or insurance fund, however designated, or otherwise dealt with in his name or interest, or on his behalf. 15

Items not deductible when ascertaining income.

55. In ascertaining the income derived from business, employment, or emolument, no deduction shall be made in respect of any of the following items:— 20

Ib. (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: 25

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: 30

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:

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

- (3.) Capital withdrawn therefrom; money used or intended to be used as capital therein; money 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: 40

Ib., (e).

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

Ib., (f).

- (6.) Disbursements or expenses of any kind, not wholly and exclusively incurred for the purposes of such business, employment, or emolument: 45

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 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 as may be allowed by the Commissioner :

1891, Sch. F 2 (h) altered.

(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 (d).

(12.) Losses, outgoings, and expenses incurred in connection with the ownership and use of land, except in cases where the profits derived from such ownership and use are liable to assessment for income-tax : 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 just :

1894, s. 18 (2) altered.

(13.) Interest payable on any mortgage :

Ib.

(14.) Losses or expenses incurred by the owner from the purchase, sale, or other disposition of shares of any company, except where such owner's ordinary business comprises dealings therein.

extended.

56. With respect to taxpayers deriving or receiving income from business, employment, or emolument as co-partners or on joint account, the following provisions shall apply :—

Partners to make joint return.

(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).

Ib., Sch. F 3.

1892, s. 17 (6).

Jointly and severally liable for tax.

(2.) Such tax shall be stated and levied separately from any other tax chargeable on the same taxpayers or any of them.

57. When any taxpayer occupies and actually uses for the sole purposes of business any land of which he is the owner, he shall be entitled, in any return of income derived from such business, to deduct as an outgoing a sum computed at the rate of five per centum per annum on the capital value of his interest in the land, or, as the case may be, in the improvements thereon.

Deduction in respect of land occupied and used for business.

1891, Sch. F 6, and

1892, s. 17 (6)

altered.

58. (1.) If at any time the Commissioner has reason to believe that any taxpayer establishing or carrying on business in New Zealand intends to carry on such business for a short time only, he may at any time and from time to time require such taxpayer to give security by way of bond, deposit, or otherwise to the satisfaction of the Commissioner for the due assessment and payment of income-tax on the profits derived from such business.

Security for payment of income-tax may be required in certain cases.

(2.) 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.

## PART VII.

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

*Due Date of Tax.*

Dates for payment of tax to be appointed by Governor in Council.  
1891, s. 24 altered.

If tax unpaid fourteen days after due date 10 per centum to be added.  
Ib., s. 24.

Proviso.  
1893, s. 10.  
1895, s. 3.

59. 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. 5

60. 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: 10

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. 15 20

*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.

61. 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. 25

62. 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. 30

(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. 35 40

63. If, in any proceedings for the recovery of any tax against any taxpayer whose name is entered in the assessment-roll, the defendant— 45

(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

Mode of service when defendant absent, or cannot be found.  
Ib., s. 34 altered.

(2.) Cannot after reasonable inquiry be found,—  
 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,  
 5 in a letter addressed to him at his last known place of business or  
 abode in New Zealand, and, in the case of land-tax, by affixing the  
 same on a conspicuous part of the land to which the tax relates.

*Special Provisions.*

10 64. 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 solicitor  
 or officer, and his statement that he so appears by authority of the  
 Commissioner, shall be sufficient evidence of such authority for all  
 purposes.

Commissioner or  
 officers may appear  
 in proceedings.  
 1891, s. 42.

15 65. 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:—

Procedure when  
 name of owner of  
 land cannot be  
 ascertained.  
 Ib., s. 35 altered.

(1.) He shall be entered on the assessment-roll under the  
 20 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.

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

25 (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.

30 66. 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.  
 Ib., s. 6.

35 (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  
 40 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.

(2.) The assessment shall be made at the respective rates of tax  
 payable in respect of the year or years for which tax ought  
 45 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.

50 (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.

Tax to be a first charge on land. 1891, s. 41.

67. 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. 5 10

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

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

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

69. 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. 15

Remedy against lessee, mortgagee, mortgagor, &c., if taxpayer makes default. *Ib.*, s. 36, altered.

70. 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:— 20

(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. 25

(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. 30

(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. 35

Contracts to evade tax void. *Ib.*, s. 40, altered.

71. 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. 40

Administrative powers.

72. For the more effective administration of this Act the following provisions shall apply:— 45

Salary and wage lists to be furnished. *Ib.*, Sch. F 4 altered.

(1.) Every person, local authority, and public or private body or society whatsoever, whether a taxpayer or not, and every department of the Public Service, shall from time to time furnish the Commissioner with a return of all persons employed by him or it, and the salary, wages, stipend, or other allowances or emolument paid or allowed to each person so employed. 50

- 5 | (2.) The Commissioner, or any officer authorized 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. Access to buildings, books, &c.  
1893, s. 6.  
1894, s. 9.
- 10 | (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 authorized 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. Evidence of any person may be required.  
1893, s. 6 altered.
- 15 | (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 authorized as aforesaid, may administer an oath. Oath may be administered.  
Ibid.
- 20 | 73. 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.  
Ibid.

#### Penalties.

- 25 | 74. (1.) If any person, whether liable to taxation or not,—
- (a.) Refuses or neglects to duly attend and give evidence when required by the Commissioner or any officer duly authorized by him, or to truly and fully answer any question put to him, or to produce any book or paper required of him; or Penalty for neglect generally, refusing to give evidence, making false return, or evading tax.  
1891, s. 43 altered.
- 30 | (b.) Fails or neglects to duly furnish any return as and when required by this Act or by the Commissioner; or
- (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 1891, s. 43 altered  
1893, s. 7.
- 35 | (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,—
- 40 | he commits an offence, and is liable to a penalty of not less than *two* 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
- 45 | evade.
- (2.) In all proceedings in respect of any offence under paragraph (c) or (d) of this section, 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.

(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

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

Procedure to recover penalty for evading tax.  
1891, s. 44 altered.

75. Whenever any person is convicted of any offence under paragraph (d) of the *last-preceding* section hereof, the following special provisions shall apply:— 10

- (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. 15
- (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. 20
- (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. 25
- (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. 30
- (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. 35
- (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. 40

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

76. 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— 45

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

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

77. (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. 50

(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.

Not prejudiced by irregularity.

5 (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.

Power to remit or compound for penalties and reward informer.

10 (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.

Offences may be prosecuted within three years. 1891, s. 48.

## PART VIII.

### MISCELLANEOUS.

15 78. In any case where, at any time during the first year of a biennial period of assessment for land-tax, any person becomes the owner of 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.

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

20 79. 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.

25 (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.

30 (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.

35 80. 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.

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

45 (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, then the provisions of section *seventy-nine* hereof shall apply, and shall take effect as on the commencement of such year. 5

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

81. 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. 10

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

82. 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. 15

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

83. 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. 20

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

84. If, within three years 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: 25

Provided that the limit of three years shall not apply to assessments made under section *sixty-six* of this Act, nor shall anything in this section operate to limit or affect the liability of the taxpayer or any other person under that section. 30

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

85. If, within three years 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. 35

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

86. 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. 40

Application of Act in respect to stamp and deceased persons' estates duties. *Ib.*, s. 13 altered.

87. (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 commencement hereof. 45

(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: 50

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 on receipt of an application from the Secretary of Stamps 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.

(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.

88. 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:—

(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.

(2.) All assessments of land and 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.

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

89. 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:—

(1.) Prescribing the duties and functions of all officers and other persons appointed or employed under this Act:

(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:

(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; and also for the assessment and taxation of agents (including non-resident agents) and non-resident traders:

(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:

(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:

Validation of regulations made and things done under repealed Acts.

Regulations.  
1891, s. 10.

1892, s. 19 altered.

1891, s. 10.

To be gazetted and  
laid before each  
House.  
1891, s. 11.

Power to extend  
time for doing any-  
thing under Act.  
Ib., s. 12.

Repeal.

Saving.

Valuations under  
"The Government  
Valuation of Land  
Act, 1896," to be  
used.

(6.) Imposing a penalty, not exceeding *fifty* pounds, for any breach of any such regulations.

90. (1.) All such regulations shall be gazetted, and when so gazetted shall have the force of law.

(2.) All such regulations shall be laid before both Houses of 5 Parliament within *fourteen* days after the gazetting thereof, if Parliament is then sitting, and, if not, then within *fourteen* days after the commencement of the next ensuing session.

91. (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 10 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.

(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 15 by or under this Act.

92. The Acts specified in the *Second* Schedule hereto are hereby repealed: Provided nevertheless—

(1.) That all regulations made thereunder and purporting to be in force at the time of the commencement of this Act 20 shall continue in force until repealed or altered under this Act; and also

(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 25

(3.) That all assessments, returns, and rolls made thereunder and in force at the commencement of this Act shall be deemed to have been made under this Act; and also

(4.) That all liabilities incurred thereunder in respect of taxation, penalties, or otherwise may be enforced under this Act. 30

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

(2.) So long as, pursuant to any Order in Council under "The 35 Government Valuation of Land Act, 1896," the valuations for the time being appearing on the general valuation-roll under that Act are used for the purposes of the assessment of duties of land-tax and otherwise under this Act, the provisions contained in this Act for the making of valuations of land, and objections thereto, shall be in- 40 operative.

## SCHEDULES.

Schedules.

## FIRST SCHEDULE.

First Column. Where the Total Unimproved Value of all the Land (other than Mortgages) of any Taxpayer is not less than	Second Column. And is less than	Third Column. The Rate of Graduated Tax on such Total Unimproved Value is
£5,000 ...	£10,000 ...	One-eighth of a penny in the pound sterling. 1893, s. 11 (2).
£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.  
 1897, No. 19.—The Land and Income Assessment Acts Amendment Act, 1897.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1900.