ANNO QUADRAGESIMO SEPTIMO ET QUADRAGESIMO OCTAVO

VICTORIAE REGINAE.

A.D. 1884.

No. 323.

An Act for a Tax on Land and on the Income from Real and Personal Property, Professions, Trades, and Avocations.

[Assented to, November 14th, 1884.]

WHEREAS it is desirable to raise additional revenue by taxation—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows, that is to say—

1. This Act may be cited for all purposes as the “Taxation Act, 1884.”

2. In the interpretation of this Act, and of all regulations to be made thereunder, unless inconsistent with the context, the following terms shall have the following meanings:—

“This Act” shall include all regulations to be made thereunder:

“Party” shall include every person or company:

“Company” shall include every corporate body:

“Taxes” shall include all taxes imposed by this Act, and all fines and interest payable in respect thereof:

“Land tax” shall mean the tax imposed by section 7:

“Income tax” shall mean the tax imposed by section 9:

“Trade” shall include all professions, trades, businesses, and avocations:

“Income
“Income derived from personal exertion” shall mean all income arising or accruing from any trade, or consisting of salaries, wages, allowances, pensions, or stipends:

“Income consisting of the produce of property” shall include all income not derived from personal exertion:

“Actual value,” as applied to any land, shall mean the capital amount for which the fee-simple of such land would sell with all improvements, if any, on such land: and

“Unimproved value” shall mean the actual value of any land less the amount of the value of all improvements, if any, on such land:

“Owner,” as applied to any estate or interest in land, shall include any party not being a mortgagee, legally or equitably seized or possessed of or entitled to or to purchase or acquire the estate or interest referred to:

“Taxpayer” shall include every party who shall be liable to pay any tax pursuant to this Act, and, for the purposes of any provision relating to any return, shall include every party required by any regulation to furnish such return:

“Taxpayer in a representative capacity,” shall mean every taxpayer in respect of land or income to which such taxpayer shall not be beneficially entitled:

“Contribution” shall mean any contribution provided for by section 22, and “contributor” shall include every party who shall be liable to pay any such contribution:

“Treasurer” shall mean the Treasurer of the province for the time being:

“Commissioner” shall mean the Commissioner of Taxes for the time being:

“Prescribed” shall mean prescribed by any regulations to be made under this Act:

“Returns” shall include all returns, declarations, statements, and information which shall be prescribed to be furnished:

“Notice” shall mean any notice written or printed, or partly written or partly printed:

“General notice” shall mean a notice published in the Government Gazette:

“Particular notice” shall mean a notice served personally, or by leaving at or posting addressed to the usual or last known place of abode or business of the party for whom the same is intended, or by affixing the same conspicuously on any land to the tax whereof the same may refer.

3. This Act is divided into Fifteen Parts, as follows:—

Part I.—The Land Tax:
PART I.—The Income Tax:

PART III.—The Taxable Amount:

PART IV.—The Taxpayer:

PART V.—Distribution of Burden of Taxation:

PART VI.—Officers and Procedure for Collection of Taxes:

PART VII.—Returns:

PART VIII.—Assessments for Land Tax:

PART IX.—Assessments for Income Tax:

PART X.—Appeals:

PART XI.—Recovery of Taxes by Ordinary Process and by Distress:

PART XII.—Recovery of Land Tax by Letting and Sale of Land:

PART XIII.—Public Officers of Companies:

PART XIV.—Regulations:

PART XV.—Miscellaneous.

4. Taxes shall be raised and levied pursuant to this Act in aid of the general revenue of the province for the financial year ending the thirtieth day of June, one thousand eight hundred and eighty-five, and for every subsequent financial year.

5. The taxes shall be calculated as at twelve o'clock noon on the first day of January, one thousand eight hundred and eighty-five, and of every subsequent first day of January, and shall be due and payable on the thirty-first day of March in each year, commencing on the thirty-first day of March, one thousand eight hundred and eighty-five.

6. If any tax shall not be paid before the end of one calendar month after the same shall fall due, a fine of Ten Pounds per centum and interest at the rate of Ten Pounds per centum per annum, from the time of the tax falling due, until payment thereof shall be added to the amount of the tax and shall be paid by the taxpayer: Provided that the Commissioner may remit such fine, in whole or in part, if sufficient reason be shown.

PART I.

THE LAND TAX.

7. A tax is hereby imposed on all land in South Australia, with the following exceptions:—

1. Land of the Crown, which, for the time being, shall not be subject to any agreement for sale or right of purchase:

11. Park lands, public roads, public cemeteries, and other public reserves:
The Taxation Act.—1884.

PART I.  

Land used solely for religious or charitable purposes, or used by any Institute under the provisions of the "Institute Act, No. 16 of 1874."

Rate of land tax.

8. The Land tax shall be at the rate of one halfpenny for every pound sterling in the amount of the taxable value thereof.

PART II.

THE INCOME TAX.

9. A tax is hereby imposed on all incomes arising or accruing in, or derived from, South Australia, with the following exceptions:—

i. The income of all Municipal Corporations and District Councils:

ii. The income of all Companies, Public Bodies, and Societies not carrying on any business for the purpose of gain to be divided amongst the shareholders, or members thereof:

iii. The income of all Friendly Societies.

Rate of income tax.

10. The income tax shall be at the following rates:—

i. On all income derived from personal exertion at the rate of Threepence for every Pound sterling of the taxable amount thereof:

ii. On all income, the produce of property, at the rate of Sixpence for every Pound sterling of the taxable amount thereof.

PART III.

THE TAXABLE AMOUNT.

Taxable value of land.

11. The unimproved value of any land shall be the taxable value thereof.

Taxable amount of income.

12. The taxable amount of the income of any taxpayer shall be ascertained as follows:—

i. The accounts of income derived from personal exertion, and of income the produce of property, shall be calculated separately:

ii. As to income derived from personal exertion the annual average of the amount of such income accruing to the taxpayer for the three years immediately preceding the time for calculation shall be taken as the basis of calculation:

iii. As to income consisting of the produce of property, the amount of such income accruing to the taxpayer during the year immediately preceding the time for calculation shall be taken as the basis of calculation:

iv. As
iv. As to the income of any taxpayer being a company, but not dividing its profits amongst its members in the said province, or being a Life Assurance Company, the amount of such income for the period or year ending on the day of the year immediately preceding the time for calculation up to which the accounts of the company have been usually made up, or ending at the time for calculation, whichever the Commissioner shall determine, shall be taken as the basis of calculation:

v. All losses, outgoings, and expenses actually incurred by the taxpayer in production of the income shall be deducted from the gross amount of the income of the taxpayer:

vi. The income of land shall not be included if land tax shall be payable by the same taxpayer, in respect of the same land, except so far as such income shall actually exceed Five Pounds per centum per annum on the unimproved value of the land:

vii. Whenever land with improvements thereon shall be used for the purpose of residence or enjoyment, and not for the purpose of profit or gain, by any party who would be liable to pay income tax in respect of the income thereof, if the same produced an income, such land shall be deemed to return to such party an income of Five Pounds per centum on the actual value thereof:

viii. The income received by any taxpayer in respect of any share or interest in any company liable to income tax shall not be included:

ix. The gross amount of the income having been ascertained according to the preceding rules, the net amount shall be fixed by deducting all losses, outgoings, and expenses, actually incurred by the taxpayer in the production of the income:

x. If the account shall be the account of a taxpayer in his sole individual right, Three Hundred Pounds shall be deducted from the net amount of income the produce of property, but if such income shall not amount to Three Hundred Pounds the difference shall be deducted from the income derived from personal exertion, and any net loss in the production of either income shall be deducted from the net amount of the other income:

xi. The net income as ascertained according to the preceding rules, and after making the deductions therein provided, shall be the taxable amount, except in the case mentioned in the next subdivision:

xii. In the case of the income of any taxpayer, being a company dividing its profits amongst its members in the said province, the taxable amount shall be deemed to be the amount
The amount of profits so divided, with the addition of any amount of profits carried to any reserved fund or capitalised in any way.

13. In calculating the taxable amount of any income no deduction shall in any case be made in respect of any of the following items:

i. The cost of the maintenance of the taxpayer and his family, or establishment:

ii. Domestic or private expenses:

iii. Any loss of expense recoverable under any insurance or contract of indemnity, or not proved to the satisfaction of the Commissioner, or which in the opinion of the Commissioner ought not to be considered a loss, outgoing, or expense incurred by the taxpayer in the production of the income:

Nor as regards any income derived from trade shall any deduction be made in respect of any of the following items:

iv. Any moneys not wholly and exclusively laid out or expended for the purposes of the trade:

v. The cost of the supply of any implements, utensils, or articles employed for the purposes of the trade, except those supplied in substitution of others which shall have become useless for wear and tear:

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

14. If any taxpayer shall carry on more than one trade, either alone or otherwise, and shall make a profit in one or more of such trades, and a loss on the other, or others, such loss shall be deducted from such profit in calculating the taxable amount of the income of such taxpayer.

PART IV.

THE TAXPAYER.

15. The taxpayers in respect of the land tax shall be—
The owners of the fee simple of the land taxed.

16. The following shall be taxpayers in respect of the income tax—

i. As to the income of any company, the public officer of the company:

ii. As to every other income, every party legally or equitably entitled to the receipt thereof.

17. The
17. The following shall be taxpayers in their representative capacity—

The public officer of every company, and every attorney or agent for every party permanently or temporarily absent from the province, and every trustee, executor, administrator, guardian, committee, public trustee, or receiver.

18. The public officer of a company, as regards the lands and income of such company, and every other taxpayer in a representative capacity, as regards the land or income to which in such capacity he shall be entitled, or of which in such capacity he shall have the management, receipt, care, or control, shall be subject to the same liabilities as if such land and income were the property of such taxpayer in his own individual right, except that no such taxpayer, not being the public officer of a company, shall be personally liable for the payment of any tax to any extent beyond the amount or value of any property over which he shall have any controlling power after the tax shall be payable.

19. The account of every taxpayer as to the tax payable in his representative capacity shall be kept separate and distinct from the account of the tax payable in his individual right; and the account of taxpayers jointly entitled to or interested in, whether as partners or otherwise, the same land or income as regards the tax payable in respect of such land or income, shall be kept jointly and separate and distinct from the sole accounts of such taxpayers.

PART V.

DISTRIBUTION OF BURDEN OF TAXATION.

20. Every taxpayer in respect of any land tax shall be liable to the Treasurer for the full payment of the whole amount of the tax.

21. The burden of the land tax shall be distributed between the taxpayers in the relative proportions of the value of their interests in the land taxed. And every taxpayer who shall have paid any land tax shall be entitled to recover from every other taxpayer in respect of the land tax of the same land a proper proportion of the amount paid.

22. Every party having paid any money by way of land tax or any contribution thereto shall be entitled to contribution towards such payment from the following parties:—

The owners of every freehold estate and of every term of years in the land taxed: Provided that such estate or term has heretofore been created or granted, and the immediate reversion on such estate or term is owned by the party claiming contribution, and such term has more than seven years to run at the time of the passing of this Act: Provided that the Crown shall in no case be liable to contribution.

23. The
PART V.

Amount of contribution.

23. The amount of the contribution to be made pursuant to the preceding section shall be a sum which bears the same proportion to the whole amount of the tax as the value of the estate or term owned by the contributor, and of all subsequent contributors, bears to the value of the fee simple.

Recovery of contribution.

24. Every contribution to which any party shall be entitled shall be a debt from the party liable to the contribution to the party entitled thereto, payable on demand, and may also be added to any rent becoming due by such first-mentioned party to such last-mentioned party, and shall be deemed part of such rent. And every remedy, by distress, re-entry, or otherwise, exercisable by such party in the case of non-payment of such original rent, shall be exercised in case of the non-payment of such additional rent or any part thereof.

Rules for calculation.

25. The calculation of values required to be made for the purpose of fixing the amount of any contribution or payment shall be made in accordance with such tables and rules as may be prescribed.

Indemnity to representative taxpayer or contributor.

26. Every taxpayer or contributor who shall pay any tax or contribution in any representative capacity shall be entitled to recover from the persons entitled to the land or income taxed in the proportions in which they shall be so entitled, or to retain out of any money that shall come to him in his representative capacity, so much as shall indemnify him against the payments which by this act he is required to make in his representative capacity.

Refund of income tax.

27. Whenever it shall be proved to the satisfaction of the Commissioner that income tax has been paid in respect of any income, which by reason of the smallness of the amount of the income of the party finally beneficially entitled thereto would have been exempted from the payment of income tax if the same had been included in the account of such party in his sole individual right, or that an excess has been paid in error, the Commissioner shall give a certificate to that effect, and on the production of such certificate the Treasurer shall refund the amount mentioned in the said certificate to the party so as aforesaid finally beneficially entitled to such income.

PART VI.

OFFICERS AND PROCEDURE FOR COLLECTION OF TAXES.

Commissioner of Taxes.

28. The taxes shall be under the control, direction, and management of an officer to be appointed by the Governor, and to be styled the Commissioner of Taxes.

Officers.

29. The Governor may also appoint such acting and deputy commissioners, assessors, collectors, officers, clerks, and persons as he
he may think proper for the purpose of carrying this Act into effect, and he may assign to them such duties as he shall think fit.

30. Every commissioner, assessor, collector, officer, clerk, or person appointed under this Act shall maintain the secrecy of all matters that may come to his knowledge in the course of his duty or employment, and shall not communicate any such matter to any person, or reveal the same in any way, except for the purpose of carrying into effect the provisions of this Act, and on any default in the premises shall, on conviction, be liable to be imprisoned, with or without hard labor, for any term not exceeding two years.

31. The following shall be the procedure for the collection of taxes:

   1. Returns shall be furnished to the Commissioner as prescribed for the purpose of enabling assessments to be prepared:

   2. The Commissioner shall afterwards cause assessments to be prepared for the purpose of ascertaining the amount of taxes payable by every taxpayer, and such assessments may be appealed against:

   3. After the assessment the amount of taxes ascertained thereby shall be recoverable from the taxpayers by ordinary process, or by distress, or letting, or sale of land, as hereinafter provided.

PART VII.

RETURNS.

32. Every taxpayer shall, within a prescribed time, or any extension thereof allowed by the Commissioner, furnish to the Commissioner in such manner as shall be prescribed, such returns in such form and containing such information and particulars as may be prescribed for the purpose of enabling the Commissioner to estimate the amount of the taxes to be paid by the taxpayer. And such returns shall be verified by any prescribed form of declaration or in such other manner as shall be prescribed.

33. Every taxpayer who shall fail to furnish any such return, pursuant to the last section, shall be guilty of a misdemeanor, punishable on summary conviction by a penalty not exceeding Twenty Pounds and treble the amount of the taxes payable by such taxpayer.

34. Every taxpayer who shall wilfully furnish any false return, or shall wilfully make any false declaration in reference to a return, shall be guilty of a misdemeanor, punishable on conviction in like manner as wilful and corrupt perjury.

35. On
PART VII.

Procedure on trial.

35. On the trial of any taxpayer for any misdemeanor mentioned in the sections 33 or 34, if it shall be proved to the satisfaction of the presiding judge that the return in question has not been received by the Commissioner, or that the return or declaration in question was made by the defendant and is false, the defendant shall be liable to be convicted, unless he shall prove that such return was duly furnished, or that he made the return or furnished the declaration bonâ fide believing the same to be true.

PART VIII.

ASSESSMENTS FOR LAND TAX.

36. The Commissioner shall, once in every third year, make an assessment of all land liable to land tax, and general notice of the making thereof shall be given so soon as conveniently may be after the same shall have been made, and immediately thereafter such publication such assessment shall be and remain in force, except so far as the same may at any time be altered, until a new assessment shall be made.

37. Such assessment shall be written in a book, wherein shall be specified in separate columns the following particulars:—

   i. A short description of or reference to the land assessed:
   ii. The actual value of the land assessed:
   iii. The unimproved value of the land assessed:
   iv. The amount of the land tax:
   v. The names and descriptions of the taxpayers in respect of the land assessed, so far as such name and description can be readily ascertained.

38. For the purpose of making any assessment, the Commissioner may, if he think proper, adopt or avail himself of so much of any assessment then in force which shall have been made by, or by the authority of, the Commissioner of Waterworks or any Municipal Corporation or District Council or Drainage Board as may be applicable to any assessment to be made under this Act, or as may be useful for the purpose of making the same.

39. The Commissioner, or any person having an order for that purpose under the hand of the Commissioner, shall be entitled as of right, at all reasonable times, to inspect, free of charge, all rate-books and assessment-books relating to any land, and all other books and documents concerning any assessment, and all deeds, instruments of title, books, returns, accounts, and documents, in the Lands Titles Registration Office, or the General Registry Office for the Registration of Deeds, or in the office of the Registrar of Probates, Commissioner of Inland Revenue, or in any other public office, and to make and take copies thereof, or extracts therefrom.

40. Any
The Taxation Act—1884.

40. Any person who shall wilfully neglect or refuse to permit the Commissioner, or any person having an order for that purpose under the hand of the Commissioner as aforesaid, to exercise any right conferred by the preceding section, shall, on conviction thereof, forfeit and pay for every such offence a penalty not exceeding Fifty Pounds.

41. So soon as any such assessment shall have been made by the Commissioner, the assessment-book, or a true copy thereof, shall be deposited in the office of the Commissioner, and the same shall be open, free of charge, to public inspection between the hours of ten o'clock in the forenoon and three o'clock in the afternoon on every day except Sundays, Saturdays, and public holidays.

42. The Commissioner may, at any time, alter or correct any assessment and assessment-book in any manner he shall think fit, and, so soon as he conveniently can thereafter, the Commissioner shall give general notice that the assessment has been altered or corrected, as the case may be.

43. After any assessment of any land has been made, the Commissioner shall give particular notice every year to the taxpayer in respect of the land assessed, of the particulars of the assessment, and the amount of the tax which is payable in respect of such land.

PART IX.

ASSESSMENTS FOR INCOME TAX.

44. The Commissioner shall annually make the assessments for income tax in a separate book, to be kept in his office, wherein shall be specified, in separate columns, the following particulars:

i. The name and description of the taxpayers, so far as the same can be readily ascertained:

ii. The gross amount of the income of the taxpayer derived from personal exertion:

iii. The taxable amount of such income:

iv. The gross amount of the income of the taxpayer, consisting of the produce of property:

v. The taxable amount of such income:

vi. The total amount of the tax payable by the taxpayer.

45. After any assessment of income has been made the Commissioner shall give particular notice in a sealed envelope every year to the taxpayer of the particulars of the assessment, as contained in the assessment-book.

46. The
PART IX.

Income tax assessment-book not to be open to public.

PART X.

Appeal.

Court of Appeal.

Commencement of appeal.

Hearing of appeal.

Decision on appeal.

Special case may be stated.

46. The assessment-book shall not be open to the public, but each taxpayer shall be entitled to information as to the particulars of such entries therein as shall relate to the assessment of such taxpayer, and to obtain, on payment of a fee not exceeding One Shilling per folio of seventy-two words, a copy of such entries certified by the Commissioner.

PART X.

APPEALS.

47. Any taxpayer may, within one month after the giving of any general or particular notice of any assessment, or of any altered, corrected, or additional assessment, appeal from the assessment, upon the ground that the amount of tax fixed by such assessment to be paid by such taxpayer is more than it ought to be.

48. The Local Court of Full Jurisdiction sitting at Adelaide, or, at the option of the appellant, the Local Court of Full Jurisdiction nearest to his residence or to the land assessed, shall be the Court of Appeal, to hear and determine all appeals from such assessment.

49. Every such appeal shall be commenced by a written notice, in such form and containing such particulars as shall be prescribed, or as near thereto as circumstances will permit, delivered to the Clerk of the Court and to the Commissioner within the period allowed for appealing.

50. Every appeal shall be heard at the sittings of the Local Court next after fourteen days from the expiration of the time allowed for appealing; and at the hearing, the assessment-book, or a copy of so much thereof as relates to the assessment appealed against, certified under the hand of the Commissioner, shall be produced by or on behalf of the Commissioner, and shall be received as evidence of the matters therein stated.

51. The Court shall hear evidence touching the question in dispute, and at the same or at some adjourned or subsequent sittings, the Court may make such order touching the matter in dispute, and costs, as shall be just, and shall cause any alteration necessitated by the decision to be immediately made in the assessment-book or certified copy as aforesaid, and every such alteration shall be attested by the signature of the Special Magistrate.

52. The Court, upon the hearing of any appeal, may, on the application of either party, state a special case for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case according to the practice on special cases, from Local Courts, and shall make such order as to costs as shall appear just; and the Court to which the appeal is made shall make an order
in respect of the matters referred to the Supreme Court in conformity with the certificate of the said Supreme Court, or of any Judge thereof, which order shall be enforced in manner provided for the enforcement of orders of Justices under the Ordinance No. 6 of 1850.

53. In reference to cases to be so stated, and the hearing thereof, the following provisions shall have effect:—

(1.) If the taxpayer shall require the case, he shall, before he shall be entitled to have the case stated, pay to the Commissioner a fee of Twenty Shillings for and in respect of the case:

(2.) The Supreme Court shall hear and determine the question or questions at law arising on a case transmitted under this Act, and shall thereupon reverse, affirm, or amend the assessment or determination in respect of which the case has been stated, or remit the matter to the Commissioner, with the opinion of the Court thereon, or may make such other order in relation to the matter, and may make such other order as to costs as to the Court may seem fit; and all such orders shall be final and conclusive on all parties:

(3.) The said Court shall have power, if they think fit, to cause the case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended:

(4.) The authority and jurisdiction hereby vested in the said Court may be exercised by a Judge of the Court sitting in chambers.

54. The right of the Commissioner to recover any taxes shall not be suspended by any appeal; but, if the appellant succeeds on such appeal, the amount (if any) of taxes received by the Commissioner in excess of the amount which, according to the decision on such appeal, the Commissioner was entitled to recover from him, shall forthwith be repaid to him by the Commissioner.

PART XI.

RECOVERY OF TAXES BY ORDINARY PROCESS AND BY DISTRESS.

55. If any tax shall be in arrear the Commissioner, without prejudice to his right to recover such tax in any other way, may sue for and recover the same in any Court of competent jurisdiction as a debt due to the Commissioner, and any action therefor may be maintained in the name of the Commissioner of Taxes, without specifying the name of the person holding the office, and shall not be liable to be abated by any vacancy or change occurring in the office of Commissioner or otherwise.

56. If
PART XI.
Recovery by distress.

56. If any taxes shall be in arrear for twenty-one days after any particular notice to the taxpayer to pay the same, the Commissioner, or any person authorised by the Commissioner, may thereupon without any warrant distrain the goods and chattels of such taxpayer wherever the same may be, for payment of the taxes in arrear; and if the sum for which the distress is taken, together with the reasonable costs of distress, be not paid within five days after the distress has been made, then the goods and chattels distrained, or so much as shall be sufficient to pay such sum and costs, may be sold, and the proceeds, after deducting such sum and costs, and all expenses, shall be returned to the taxpayer.

PART XII.

RECOVERY OF LAND TAX BY LETTING AND SALE OF LAND.

57. All land tax shall, until payment, be a first charge upon the land taxed, in preference to all rates, mortgages, charges, and encumbrances.

58. Whenever any land tax in respect of any land shall have been in arrear for the space of two years, it shall be lawful for the Commissioner to cause to be published three consecutive weeks in the Government Gazette a notice specifying such land, and the amount of taxes due in respect thereof, and stating that if such taxes shall not be paid within one year from the first publication of such notice, the Commissioner will let the land from year to year as provided by this Act, or will apply to the Supreme Court for a sale thereof.

59. If, after one year from the first publication of such notice, all or any part of the said taxes due at the time of such first publication are still unpaid, the Commissioner may let such lands from year to year, and may receive the rents and apply the same towards the payment of the said taxes and costs and expenses, and hold any surplus for the persons entitled to the income of the land.

60. The Commissioner, in lieu of letting such lands, may, by petition to the Supreme Court or any Judge thereof, apply for a sale of the land described in such notice, or of so much as may be necessary, and the Court or Judge, on being satisfied by affidavit or otherwise, that the arrears are lawfully due, and were in arrear at the time of the first publication of such notice, and that all acts required by this section to be done by the Commissioner have been done, shall order the sale of the said land, or so much thereof as shall be sufficient to pay all arrears due up to time of sale, together with all costs of and attending the application, and of and attending the sale by public auction, and that the proceeds be paid into Court.

61. The Court or a Judge shall order payment of the said taxes,
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Taxes, costs, and expenses to be first made out of the proceeds of the sale; and the conveyance or transfer, as the case may be, shall be executed by the master or other officer of the Court, to the purchaser, his heirs and assigns, in such form as shall be approved by the Court or a Judge, and such conveyance or transfer shall vest the land sold in the purchaser for an estate in fee simple, free from all encumbrances; and in cases where the land is under the Real Property Act of 1861, the purchaser shall be entitled to receive a certificate of title to the land purchased; and the balance arising from the proceeds of such sale shall be subject to any orders of the Court for the benefit of the parties interested therein.

PART XIII.

PUBLIC OFFICERS OF COMPANIES.

62. Every company which for the time being carries on business in the said province shall at all times be represented for the purposes of this Act by a person residing in the province, and the following provisions shall have effect:—

1. Such person shall be called the public officer of the company, and shall be appointed within three months after the passing of this Act, or after the company shall commence to carry on business in the province, whichever shall last happen:

2. 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 to be duly made until after notice thereof, specifying the name of the officer, and an address for service shall have been given to the Commissioner:

3. Every company failing or neglecting within the time hereinafter limited in that behalf to duly appoint a public officer, or to keep the office of such officer constantly filled as aforesaid, shall be liable to a penalty not exceeding Fifty Pounds for every day during which failure or neglect shall continue:

4. Everything done by any public officer, which he is required to do in his representative capacity, shall be deemed to have been done by the company; and every service made at the address for service, or on the public officer, or on any person acting or appearing to act in the business of the company, shall be sufficient for all the purposes of this Act; and every company on any default by the public officer shall be liable to pay all taxes and do all acts which pursuant to this Act should be paid or done by the public officer.
PART XIV.

REGULATIONS.

63. The Governor may from time to time make, alter, and revoke regulations not inconsistent with this Act, for the following purposes, or any of them, that is to say—

(1.) Prescribing the duties of all persons engaged or employed in the administration of this Act:

(2.) For regulating the security to be given by any such persons, and for defining the limits of districts and places within which any such persons are to act:

(3.) Prescribing tables and rules for fixing values in order to the ascertaining of the amount of any tax or contribution:

(4.) Prescribing returns to be furnished by any party to the Commissioner, and the form and contents thereof, and the time and mode of furnishing the same:

(5.) Imposing a penalty, not exceeding Fifty Pounds, for any breach of any regulation.

64. The Governor from time to time may make all such other regulations not inconsistent with this Act, either applicable generally or to meet particular cases, as may be necessary or desirable to carry out the objects and purposes of this Act, or as may be convenient for the administration thereof.

65. All such regulations shall be published in the Government Gazette, and within fourteen days after the making thereof shall be laid before both Houses of Parliament if Parliament be then sitting, and if Parliament be not then sitting then within fourteen days after the beginning of the next session of Parliament, and shall have the force of law from the date of such publication.

PART XV.

MISCELLANEOUS.

66. If the occupier of any land, or the person in possession of any property, when requested by the Commissioner, or by any other officer appointed under this Act, to disclose the name of the owner of such land or property, or of the person entitled to receive the income of such land or property, shall refuse or wilfully omit to disclose such name, or shall wilfully misstate the same, or shall neglect and refuse to give any information in his possession which shall be required by the Commissioner, or any such officer, such person shall, for every such offence, forfeit and pay a penalty not exceeding Twenty Pounds.

67. In every case in which any taxpayer shall have made default
default in furnishing any return, or if the Commissioner be not satisfied with the return furnished by any taxpayer, the Commissioner may make an assessment in such sum as, in the Commissioner's judgment, ought to be charged by virtue of this Act, and thereupon shall forthwith give notice thereof to the taxpayer to be charged, and such additional assessment shall be subject to appeal, but the taxpayer shall not be entitled to any costs on such appeal.

68. If the Commissioner shall be dissatisfied with any return furnished by any taxpayer under this Act, he may make further inquiry, by writing, and if the Commissioner shall not, within fourteen days, receive any answer, or shall receive an answer which shall not be satisfactory to the Commissioner, it shall be lawful for him, by warrant under his hand and seal, in a form to be prescribed, to require such persons as he may think fit to attend before him at his office, or at such place nearer to the residences of such persons as he may think fit, and to produce such books, papers, documents, and evidences touching the assessment in question as may respectively be in their custody or control, then and there to be examined by the Commissioner touching the said assessment.

69. Every person so summoned, on being tendered such sum as he would be entitled to as a witness on a trial at the Criminal Sittings of the Supreme Court, shall be bound to obey the exigency of the said warrant, and to answer truthfully all questions on such examination, and, in default thereof, the person so failing, without lawful excuse, shall, upon conviction, incur a penalty not exceeding One Hundred Pounds.

70. If any taxpayer charged with income tax shall prove to the satisfaction of the Commissioner that the income of such person during the year for which the computation was made fell short of the sum in respect of which the tax shall have been computed, the Commissioner shall cause the assessment to be amended accordingly, and the sum overpaid upon such first assessment shall be refunded to such person by the Treasurer: Provided that application for refund shall be made within three calendar months after the overpayment.

71. In every case of the adjudication of a fine or pecuniary penalty under this Act, and of the non-payment thereof, any Justice of the Peace may commit the offender or person making default in payment to any gaol in the said province for any time not exceeding six calendar months; the imprisonment to cease on payment of the sum due, and the costs of such proceedings as may have been taken for the recovery thereof; but this section shall not affect any remedy under the said Ordinance No. 6 of 1850.

72. Every proceeding under this Act for any omission, default, offence, or act to which any penalty is attached, where no other mode of proceeding is by this Act provided, may be had and taken before, and
and be heard and determined in a summary way, by any Special Magistrate or two Justices of the Peace, under the provision of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, intituled "An Ordinance to facilitate the Performance of the Duties of Justices of the Peace out of Sessions with respect to Summary Convictions and Orders," or of any Act now in force or hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders, and all convictions and orders made by such Magistrate or Justices may be enforced as in the said Ordinance or in any other Act as aforesaid is or shall be provided.

73. There shall be an appeal to the Local Court of Adelaide of Full Jurisdiction only from every conviction by any Special Magistrate or Justices for any offence against this Act, and from every order dismissing any information or complaint, or from any other order made by such Magistrate or Justices under this Act, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance, No. 6 of 1850, for appeals to Local Courts, or any Act to be hereafter in force regulating such appeals; but the Local Court of Adelaide aforesaid shall have power to make such order as to the payment of the costs of the appeal as it shall think fit, although such costs may exceed Ten Pounds.

74. In all actions brought against any officer or person for anything done in pursuance of this Act or in the execution of the powers or authorities thereof, such action shall be brought in the Local Court nearest to the place within which the cause of action shall have arisen, and the defendant in such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon.

75. The production of the Government Gazette containing any regulations purporting to be regulations under this Act, or any notice purporting to be published by the Commissioner in pursuance of this Act, or any notice of the appointment of any officer under this Act, shall be conclusive evidence of such regulation, publication, or appointment, and the production of any assessment-book or of any document under the hand of the Commissioner, purporting to be a copy of or extract from any assessment-book, shall be conclusive evidence of the making of the assessment, and except in the case of proceedings in appeal against the assessment, when the same shall be primá facie evidence, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such book or memorandum, are absolutely correct.

76. No contract or covenant heretofore made or executed shall bind any party to relieve any other party of the burden or incidence of any tax for which such last-mentioned party is made liable under this Act, nor shall any future contract or covenant so bind unless the tax in question is expressly mentioned in such contract or covenant.

77. No
77. No statute of limitation shall bar or affect any action or remedy for recovery of taxes.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WILLIAM C. F. ROBINSON, Governor.