



ANNO QUINQUAGESIMO SEPTIMO ET QUINQUAGESIMO OCTAVO

# VICTORIÆ REGINÆ.

A.D. 1894.

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## No. 604.

An Act to provide for Increased Taxes on Land and Income, and for other purposes.

[Assented to, December 21st, 1894.]

**B**E it 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 : Preamble.

**1.** Section 10 of the "Taxation Act, 1884," and the whole of "The Taxation Act Amendment Act, 1892," are hereby repealed, but so that this repeal shall not affect existing rights or liabilities, and the same shall be enforceable as if this repeal had not taken place. Repeal.

**2.** This Act may be cited as the "Taxation Act Amendment Act, 1894," and shall be incorporated and, except so far as inconsistent therewith, read with the "Taxation Act, 1884," the "Taxation Act Amendment Act, 1885," the "Taxation Act Amendment Act, 1887," and Act number 556 of 1892, being an Act to declare the meaning of the "Taxation Act, 1884," and all regulations purporting to have been made thereunder, which Acts and regulations, so far as inconsistent with this Act, but no further, are hereby repealed, but otherwise, except so far as hereby or heretofore repealed, are validated and confirmed as if herein enacted. Short title.

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

"Additional

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“Additional land tax” shall mean the additional land tax imposed by section 4:

“Absentee land tax” shall mean the absentee tax imposed by section 4:

“Taxation Act, 1884,” shall include all Acts and regulations confirmed by section 2:

“Absentee” shall include every person who shall have been absent from or resident out of South Australia for at least two years immediately prior to the date as on which any assessment shall be made, except in the case of life assurance societies doing business in South Australia on the mutual principle, or to cases in which the whole of the income from the land is paid to or for public or charitable purposes in the colony:

If at least three-fifths of the entire beneficial interest in any land are owned by absentees, or, in the case of a company owning land, if at least three-fifths of the entire beneficial interest in such company are held by absentees, the land in question for the purposes of this Act shall be deemed to be wholly owned by absentees; but any person not an absentee paying tax by virtue of this provision shall be entitled to a refund of the amount paid as an overpayment, pursuant to section 11.

**Increased taxes.**

4. The taxes recoverable under the “Taxation Act, 1884,” are hereby increased by the imposition of the following taxes, viz. :—

- i. An additional land tax of One Halfpenny for every Pound sterling exceeding the amount of Five Thousand Pounds of the total assessed unimproved value of all land owned by any party :
- ii. An absentee land tax of twenty per centum on and added to the amount of land tax and additional land tax payable in respect of land owned by absentees :
- iii. Income tax at the following rates, in lieu of the rates of income tax heretofore in force :—
  - (a) On all income derived from personal exertion, at the rate of Four Pence Halfpenny for every Pound sterling of the taxable amount thereof up to and inclusive of the sum of Eight Hundred Pounds, and at the rate of Six Pence for every Pound sterling of such amount above the said sum of Eight Hundred Pounds.
  - (b) On all income consisting of the produce of property at the rate of Nine Pence for every Pound sterling of the taxable amount thereof up to and inclusive of the sum of Eight Hundred Pounds, and at the rate of One Shilling for every Pound sterling of such amount above the said sum of Eight Hundred Pounds.

5. All

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**5.** All taxes, except income tax, shall be calculated as at twelve o'clock noon on the fourteenth day of December in every year, and shall be due and payable on the next succeeding fourteenth day of February. Calculation of taxes.

**6.** The Commissioner shall annually make the necessary assessments for additional land tax and for absentee land tax in books to be kept for that purpose, containing such particulars as the Commissioner shall think fit, and to be called the Additional Land Tax Register and the Absentee Land Tax Register; and such assessments may be added to, inspected, altered, corrected, and appealed against in like manner as in the case of the assessment for land tax. Assessments.

**7.** All unrepealed provisions of all existing Acts and regulations relating to the taxes imposed by the "Taxation Act, 1884," and assessments therefor shall, so far as practicable, apply to the increased taxes hereby imposed, and the assessments therefor, except where other provisions are hereby made on the subject. Application of Taxation Act.

The additional land tax and the absentee land tax, and the amount of interest and fine (if any) due in respect thereof, shall be deemed land tax under the "Taxation Act, 1884."

The Additional Land Tax Register, and the Absentee Land Tax Register, or a copy thereof or extract therefrom certified under the hand of the Commissioner, shall be evidence as to all matters and particulars therein stated.

Every company owning land in South Australia shall, for the purposes of section 62 of the "Taxation Act, 1884," be deemed to carry on business in the province.

**8.** If additional land tax shall be payable on land included in more than one land tax assessment, such additional land tax shall be charged on the land included in the various land tax assessments in the proportion that the amount of each assessment bears to the total amount thereof. Distribution of additional land tax.

**9.** No land or party assessed for land tax, or additional land tax, or absentee land tax shall be relieved from charge or liability by reason of change in the ownership of such land or any part thereof subsequent to the day as of which such assessment was made, or on account of any matter happening subsequently to such day, and the Commissioner may refuse to recognise any change in the ownership of such land, or any part thereof, until the amount of such tax, together with fines and interest thereon (if any), have been paid. Change in ownership.

**10.** The Commissioner may at any time, by particular notice, require any party to furnish returns, and may make assessments thereon, or in default thereof, or without requiring any return notwithstanding that the year in respect of which such returns should Commissioner may make omitted assessments.

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should have been required and assessment made shall have expired, and taxes shall be paid thereon; but any party so assessed shall be entitled to appeal against such assessment.

Commissioner to order to refund excess payment of taxes.

**11.** If any taxpayer shall prove to the satisfaction of the Commissioner that an overpayment of any tax has been made, the sum overpaid shall be refunded by the Treasurer: Provided that application for refund shall be made within six calendar months after the overpayment; but should such taxpayer be absent from the colony, then application may be made within twelve months.

Joint owners and others.

**12.** Where more parties than one are owners of any land amounting in value to more than Five Thousand Pounds, the same amount of additional land tax shall be payable in respect of such land as if only one party were the owner thereof. If any of such parties is owner of any other land, his interest in the first mentioned land shall not be taken into account in computing the amount of additional land tax to which he shall be liable in respect of such other land.

Trustees.

**13.** Where any parties shall be the owners of land amounting in value to more than Five Thousand Pounds as trustees under the same trust, and whether such parties shall or shall not have a beneficial interest in such land, the same amount of additional land tax shall be payable in respect of such land as if one party were the sole beneficial owner thereof; but such land shall not be taken into account in computing the amount of additional land tax which such trustees, or their beneficiaries, shall be liable for in respect of any other land: Provided that this section shall not apply to any land in which persons under the age of twenty-one years are beneficially interested under any trust created by the will of any person dying before this Act comes into operation.

Conveyance with intent to evade.

**14.** If any party has made, after the first day of October, one thousand eight hundred and ninety-four, or shall hereafter make, any conveyance, assignment, transfer, settlement, declaration of trust, gift, or other non-testamentary disposition of land, whether in writing or otherwise, or any agreement affecting land, not *bonâ fide* for valuable consideration, but with intent to evade the payment or to lessen the amount of the additional land or absentee tax payable by such party, such disposition or agreement shall be deemed fraudulent and void as between such party and the Commissioner, and such party shall be liable to a penalty of five times the amount of the taxes which ought to have been paid in respect of such land from the date of such disposition or agreement until the date of conviction. On any prosecution by the Commissioner under this section the onus of proving that any disposition or agreement as aforesaid was made *bonâ fide*, or was not made to evade the payment or lessen the amount of tax, shall lie upon the defendant, and if the defendant proves his *bonâ fides* the cost of such proof shall be borne by the Commissioner. And such party shall, as  
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between himself and any other party affected by such disposition or agreement, be estopped in all Courts of Law and Equity from raising the question of or disputing the effectiveness and validity of such disposition or agreement.

**15.** If any party has made, or shall hereafter make, any disposition or agreement as aforesaid, not *bonâ fide* for valuable consideration, but with intent to evade the payment or to lessen the amount of the additional land or absentee tax payable by such party, and shall accept any mortgage, incumbrance, or other instrument, for the purpose of giving a security over the land, or any declaration of trust with reference to such land, or any bond, agreement, bill of exchange, promissory note, or other security for money, such mortgage, incumbrance, instrument, declaration, bond, agreement, bill of exchange, promissory note, or other security for money shall be deemed illegal and void.

Securities from transferee for evasion of tax void.

**16.** Any judgment, decree, or order recovered or made against any party for the purpose of effecting a security to any party who shall have made, after the first day of October, one thousand eight hundred and ninety-four, or shall hereafter make, any disposition or agreement as aforesaid, not *bonâ fide* for valuable consideration, but with intent to evade the payment or to lessen the amount of the additional land or absentee tax payable by such party, shall be deemed fraudulent and void; and any Court, or a Judge or Special Magistrate of any Court wherein such judgment, decree, or order may have been recovered, may, upon application to be made by summons by any party affected, set aside such judgment, decree, or order, and all writs of execution and other proceedings issued or taken thereunder, and such Court, Judge, or Special Magistrate shall make such order as to costs as shall appear just.

Judgments recovered for evasion of tax void.

**17.** The Commissioner may cause any party whom he may consider or suspect to be capable of giving information which may assist in carrying out this Act to appear for examination at the Local Court nearest to where the said party shall dwell or carry on business, before any Special Magistrate sitting as a Local Court of limited jurisdiction, and to answer, on oath, all questions in aid of the purposes of this Act that may, by way of cross-examination or otherwise, be put to him by or on behalf of the Commissioner, and to produce any documents he may be required by the Commissioner to produce. The Commissioner may, for the purposes of this section give written notice under his hand, in the prescribed form, to any party to attend before any such Special Magistrate sitting as a Local Court of limited jurisdiction, and, if so required, to produce any documents; and any party receiving such notice, and being paid such sum as he would be entitled to as a witness upon subpoena from a Local Court, and not attending or producing documents within his custody or power in accordance therewith, or refusing to answer any such questions as aforesaid, shall be liable to a penalty of not less than Ten Pounds nor more than One Hundred Pounds.

Commissioner may cause person to be examined before a Local Court.

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Pounds. Any party who shall wilfully give false testimony on being examined under this section shall be guilty of perjury. The proceedings under this section shall be conducted privately.

Liability to tax not to arise from any contract.

**18.** No person shall be liable to pay or contribute to the payment of any additional land tax or absentee land tax to the exoneration of any other person by reason of any contract or covenant heretofore made or entered into, nor shall section 22 of the "Taxation Act, 1884," apply to the "Additional Land Tax," or to the "Absentee Land Tax."

Lands held under perpetual lease without revaluation of rent to be subject to land tax.

**19.** All land held under perpetual lease granted under or pursuant to "The Crown Lands Amendment Act, 1893," without revaluation of rent, and which shall subject the lessee to pay yearly, in addition to the rent, an amount equal to the land tax, and whether granted originally or on the surrender of an existing lease, and all land held under any perpetual lease to be hereafter granted, shall be liable to and shall be assessed for land tax, additional land tax, and absentee land tax; and the holder of every such lease shall pay the said taxes; and all the provisions of this Act, and of the "Taxation Act, 1884," and the regulations thereunder, shall apply to such land and the holder of such lease.

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

KINTORE, Governor.