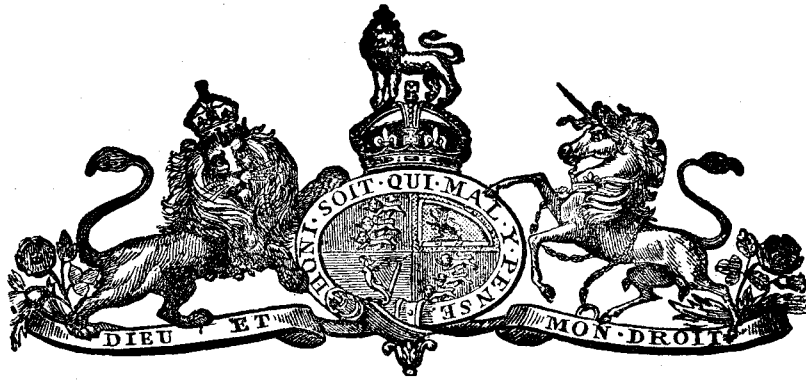


T A S M A N I A.



1905.

ANNO QUINTO

EDWARDI VII. REGIS,

No. 4.



AN ACT to consolidate and amend the Law A.D. 1905.
relating to the Tax upon Land.
[30 September, 1905.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

INTRODUCTORY.

1 This Act may be cited for all purposes as “The Land Tax Act, Short title, 1905.”

2 In this Act, unless the context otherwise determines—
“Assessed” means assessed under the provisions of “The Assessment Act, 1900”:
“Capital value” of any land means the capital value at which such land is for the time being assessed under the provisions of “The Assessment Act, 1900”:
“Commissioner” means the Commissioner of Taxes for the time being:

Interpretation.

[s. 4d.]

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“District” means a District for the purposes of “The Assessment Act, 1900”:

“Gazette” means the *Hobart Gazette*:

“Land” includes lands and buildings:

“Mortgage” means any charge whatsoever upon land, or any interest therein, whether created by deed, will, or any other instrument, or in any other manner whatsoever, and includes a rent charge:

“Mortgagee” includes the person entitled to a mortgage or any part thereof, and the person entitled to receive the interest or any part of the interest payable in respect of any mortgage:

“Occupier,” used with reference to any property, means the person entitled to the immediate possession and occupation thereof:

Ct. 64 Vict. No.
4, s. 4.

“Owner,” as applied to any land, means the person for the time being in the actual receipt of or entitled to receive, or who, if the land were let to a tenant, would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise; and shall include any person in the possession of any land under any lease or other instrument conferring possession of such land for any term not less than Ten years, without reserving any rent or reserving any annual rent or other periodical payment less than the annual rent that could reasonably be demanded for the use and occupation of such land:

“Prescribed” means prescribed by the Regulations to be made under this Act: Provided that where under this Act anything is required to be done in the “prescribed form,” it shall be sufficient if the same be substantially in the form so prescribed or to the effect thereof:

“Tax” means the charge or duty upon land imposed by this Act:

“Taxpayer” includes every person who shall be liable to pay any tax pursuant to this Act:

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

“This Act” includes all Regulations to be made thereunder:

“Treasurer” means the Treasurer for the time being of the State:

Repeal.

3—(1.) The Acts specified in the Schedule to this Act are hereby repealed.

(2.) All Regulations made under any Act hereby repealed, and purporting to be in force at the time of the commencement of this Act, shall continue in force until repealed or altered under this Act.

Land Tax Consolidation.

4 This Act is divided into Parts, as follows :—

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- Part I.—Introductory. Sects. 1 to 4 inclusive.
 Part II.—Tax and Taxpayer. Sects. 5 to 17 inclusive.
 Part III.—Distribution of Burden of Taxation. Sects. 18 to 25 inclusive.
 Part IV.—Officers. Sects. 26 to 28 inclusive.
 Part V.—Demand and Recovery of Taxes by Judgment, Distress, or Ordinary Process. Sects. 29 to 35 inclusive.
 Part VI.—Recovery of Taxes by Letting and Sale of Land. Sects. 36 to 40 inclusive.
 Part VII.—Regulations. Sects. 41 and 42.
 Part VIII.—Miscellaneous. Sects. 43 to 56 inclusive.

Act divided into Parts.

PART II.**TAX AND TAXPAYER.**

5 Subject to the provisions of this Act, there shall be raised and levied for the year ending the Thirty-first day of *December*, One thousand nine hundred and five, and for every subsequent year until and inclusive of the year ending the Thirty-first day of *December*, One thousand nine hundred and eight, for the use of His Majesty in aid of the Consolidated Revenue Fund, a graduated Land Tax upon all land in the State of *Tasmania* and its Dependencies, in the cases and at the rates hereinafter provided.

Graduated Land Tax to be levied. Cf. 2 Ed.VII. No. 3', s. 4.

6 The Tax shall be paid by the owners of the land taxed.

Taxpayers.

7—(1.) The Tax shall be charged on land as owned at noon on the Thirty-first day of *March* in the year for which the Tax is levied, and shall be due and payable on the First day of *October* immediately following.

Date at which ownership determined for purposes of Tax. Date at which Tax is due.

(2.) Every person whose name appears, on the Thirty-first day of *March* in any year, in any Assessment Roll in force under the provisions of "The Assessment Act, 1900," as owner of any property, shall, for the purposes of this Act, be deemed to be owner of such property unless, before such date, he—

Person shown as owner in Assessment Roll to be deemed owner under Act, unless he notifies Commissioner of transfer, &c., before the 31st day of *March*.

- i. Gives express notice in writing to the Commissioner that he has parted with or disposed of the property of which he is shown to be owner in such Assessment Roll, whether by sale, conveyance, assignment, or transfer of any kind; or that he has been deprived thereof by operation of law: and
- ii. Furnishes the Commissioner with full particulars, in writing, of the transaction, the price obtained for the property, the name and address of the purchaser or transferee thereof, or of such facts as relieve him from liability at law—such particulars to be verified by Statutory Declaration in the prescribed manner,

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Provided, that any person who shall pay the Tax for any year in respect of any land which he has parted with or disposed of, whether by sale, conveyance, assignment, or transfer, before the Thirtieth day *June* in such year, shall be entitled to recover from the purchaser or transferee in any Court of competent jurisdiction a fair and proper proportion of the amount of any Tax so paid as aforesaid, as money paid to the use of such purchaser or transferee.

Tax to be paid on total capital value of land owned at rate mentioned in Schedule.

8 In each case mentioned in the First column of Schedule A. the Taxpayer shall pay in each year to the Commissioner for the use of His Majesty a graduated Land Tax on the total capital value of all the land of which he is the owner at noon on the Thirty-first day of *March*, at the rate mentioned in the Second column of the said Schedule for every Pound sterling in the amount of such capital value.

SCHEDULE A.

FIRST COLUMN.	SECOND COLUMN.
<i>Where the Total Capital Value of all the Land of any Taxpayer is</i>	<i>The Rate of Graduated Tax on such Total Capital Value is</i>
Under £5000	One Half-penny in the Pound sterling.
£5000 and is under £15,000	Five-eighths of a Penny in the Pound sterling.
£15,000 and is under £40,000.....	Three Farthings in the Pound sterling.
£40,000 and is under £80,000.....	Seven-eighths of a Penny in the Pound sterling.
£80,000 and over	One Penny in the Pound sterling.

Joint tenants, &c.
Cf. Sect. 15 of
52 Vict. No. 31.

9 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.

Taxpayers in
representative
capacity.

10 The following shall be Taxpayers in their representative capacity :—

The public officer or other person representing a company, and every attorney or agent for every person permanently or temporarily absent from the State, and every trustee, executor, administrator, guardian, committee, public trustee, or receiver.

Land Tax Consolidation.

11 The public officer or other person representing a company, as regards the lands of such company, and every other Taxpayer in a representative capacity, as regards the land to which in such capacity he shall be entitled, or of which in such capacity he shall have the management, care, or control, shall be subject to the same liabilities as if such land 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.

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—
Liability of
Taxpayer in
representative
capacities.

12 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 as regards the Tax payable in respect of such land, shall be kept jointly and separate and distinct from the sole accounts of such Taxpayers.

Keeping of
accounts.

13 Where a taxpayer in a representative capacity is chargeable with the Tax as trustee of Two or more estates under different instruments or appointments, the land comprised in each of such estates shall, for the purposes of taxation under this Act, be deemed separate and distinct from the others.

Land held by
trustee, &c., in
respect of
different estates.
Sect. 6 of
2 Ed.VII. No. 31.

14 The Commissioner may, if he thinks fit, from time to time, and at any time, require any Taxpayer to furnish any information in writing or by verbal communication, and to produce for examination by the Commissioner, or by any person appointed by him for that purpose, at such time and place as may be appointed by the Commissioner, any deeds, instruments, or other documents or writings in his custody or under his control as may be necessary to enable the Commissioner to determine the rate at which such Taxpayer is liable to taxation under this Act in respect of any land.

Commissioner
may require
information, &c.
Sect. 8 of
2 Ed.VII. No. 31.

15 Every person who is in the possession or occupation of any land held under or from the Crown by virtue of any location order or other authority from any Governor of *New South Wales* or any Lieutenant-Governor of this State, and every person claiming derivatively from, through, or under any other person originally claiming under any such location order or other such authority as aforesaid, shall be deemed to be the owner of such land for the purposes of this Act, and shall pay the Tax in respect of such land.

Person in pos-
session of Crown
land under
location order to
pay Tax.
Sect. 6 of 52
Vict. No. 31.

16 Crown land which is the subject of a contract to purchase the same shall be liable to taxation under the provisions of this Act; and every purchaser of Crown land on credit shall be deemed the owner of such land for the purposes of this Act, and shall be liable to the payment of the Tax imposed by this Act.

Purchaser of
Crown land on
credit liable to
Tax.

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Sect. 7 of
52 Vict. No. 31,
as enacted by
Sect. 4 of
62 Vict. No. 51.
Certain lands
exempt from
taxation under
this Act.
Sect. 8 of 52
Vict. No. 31.

Provided that Crown land situate beyond the limits of any Town which is the subject of a contract to purchase the same on credit shall, until One-half of the purchase-money of such land has been paid or is due, be exempt from taxation under the provisions of this Act.

17 The following lands are hereby exempted from taxation under this Act; namely—

- I. Lands of the Crown which, for the time being, are not subject to lease, agreement for sale, or right of purchase :
- II. Any land the property of and occupied by or on behalf of His Majesty :
- III. Any land of the Crown held under any lease or licence granted under the provisions of any Act regulating the occupation by lease or licence of any lands of the Crown for any purpose in such Act mentioned :
- IV. The Botanical Gardens at *Hobart* :
- V. The Public Gardens at *Launceston* :
- VI. Public Roads, Public Cemeteries, not being the property of any Joint Stock or Public Company, and all Public Reserves and Recreation Grounds :
- VII. Land on which is built any Hospital, Benevolent Asylum, or other building used solely for charitable or religious purposes, or vested in trust for public purposes :
- VIII. Land on which is built the *Tasmanian Museum* :
- IX. Land on which is built any Public Library or Public Museum :
- X. Land on which is built any State School under the Education Department :
- XI. Any land the property of any Registered Society" or "Registered Branch" within the meaning of *The Friendly Societies Act, 1888* :
- XII. Any land owned by any Local Authority, or other Local Governing or Statutory Public Body

PART III.

DISTRIBUTION OF BURDEN OF TAXATION.

Liability of taxpayer.

18 Every taxpayer shall be liable to the Treasurer for the full payment of the whole amount of the Tax.

Distribution of burden.

19 In any case where Two or more persons are the owners of land as joint tenants, tenants in common, co-partners, co-trustees, or on a joint account, the burden of the Tax in respect of such land shall, as between such persons, be distributed amongst them in the relative proportions of the value of their shares or 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.

Land Tax Consolidation.

20 Every taxpayer who shall pay any Land Tax or any contribution thereto in any representative capacity shall be entitled to recover from the persons entitled to the land 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 such a sum as shall indemnify him against the payments which by this Act he is required to make in his representative capacity.

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Indemnity to representative taxpayer.
Cf. Sect. 20 of 52 Vict. No. 31.

21—(1.) The owner of any land which is subject to a mortgage, and who has made, or is or may be liable to make, any payment by way of interest in respect of such mortgage during any year for which such owner is required to pay the Tax imposed by this Act, may furnish to the Commissioner such particulars as the Commissioner may require in respect of such mortgage, and such owner, upon satisfying the Commissioner of the existence of such mortgage, and the amount of interest payable or paid in respect of such mortgage for the year for which such owner is required to pay the Tax imposed by this Act, shall be entitled to deduct from the amount of the Tax demanded from him by the Commissioner One-sixth of a Penny for every Pound of the total amount of the money advanced on such mortgage.

Owner of land under mortgage may claim deduction in respect of mortgage.
Sect. 3 of 59 Vict. No. 21.

(2.) Every claim for any deduction from the Tax demanded from the owner of any land under the provisions of this Act shall be made within Thirty days after the delivery of the demand; and if any owner fails or neglects to make his claim for a deduction within such Thirty days he shall not be entitled to any such deduction as aforesaid.

Claim to deduction to be made within 30 days of demand.
Sect. 4 of 59 Vict. No. 21.

22 In every case in which a rent-charge is payable in respect of any land and the owner or other person liable to pay the same has paid the Tax or Taxes payable in respect of such land, such owner or other person as aforesaid shall be entitled to recover from the person entitled to receive such rent-charge a sum which shall bear the same proportion to the whole amount of such Tax or Taxes as such rent-charge bears to the annual rent which a tenant might be reasonably expected to pay for such land as if such sum were money paid to the use of the person to whom such rent-charge is payable, or such sum may be deducted from or set off against the amount of such rent-charge then due or thereafter to become due.

Deduction from rent-charge on account of Tax paid.
Sect. 11 of 53 Vict. No. 19.

23 Where in any case the owner of any land is liable to the payment in the first instance of any Tax imposed by this Act on such land, and such owner is not resident in *Tasmania* or is unknown or cannot be found, the occupier or occupiers of such land, if more than one, shall be liable and compellable to pay such Tax, and every such occupier is hereby empowered to deduct from the rent payable by him to such owner for the use and occupation of such land the amount of the Tax so paid by or recovered from such occupier in respect of such land; and if such land is unoccupied, the trustee or agent or receiver having the receipt of the rent or annual value of such land shall be

Where owner cannot be found Tax may be recovered from occupier.
Sect. 12 of 52 Vict. No. 31.

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liable and compellable to pay such Tax to the extent of the rent or annual value of such land received by him during the year preceding the day on which such Tax is payable.

Married women having separate property. Sect. 47 of 52 Vict. No. 31.

24 Any married woman having, or being entitled to any property to her sole or separate use, shall be chargeable with and liable to pay the like Taxes, and in like manner as if she were unmarried.

Person other than owner, &c., in possession under lease may deduct from rent payable by him a proportionate part of Tax. Cf. Sects. 13 and 14 of 52 Vict. No. 31.

25 Where any person (other than the owner of any land, or the attorney or agent of the owner) in possession of such land under any lease or other instrument conferring possession of such land for any term not less than Ten years, shall be liable to the payment of any rent or other periodical payment less than the annual rent that could be reasonably demanded for the use and occupation of such land, and shall have paid the Tax or Taxes in respect of such land, he shall be entitled to recover from the person entitled to receive such rent or other periodical payment a sum which shall bear the same proportion to the whole amount of the Tax or Taxes as such rent or other payment payable by such person bears to the annual rent which a tenant might be reasonably expected to pay for such land, as if such sum were money paid to the use of such person entitled, or such sum may be deducted from or set off against the rent or other payment then due or thereafter to become due.

PART IV.**OFFICERS.**

This Part of Act to be subject to Public Service Act.

26 This Part of this Act shall be construed with and be subject to the provisions of any Act for the time being in force regulating the Public Service of *Tasmania* (hereinafter referred to as "any such Public Service Act").

Commissioner of Taxes.

27—(1.) The collection and recovery of all Taxes imposed by this Act shall be under the control, direction, and management of an officer, to be styled the Commissioner of Taxes.

Governor to appoint Commissioner. Cf. Sect. 21 of 52 Vict. No. 31.

(2.) The Governor may, subject to the provisions of any such Public Service Act, from time to time, appoint, remove, or suspend any such Commissioner.

(3.) Whenever any such Commissioner dies, resigns, or becomes incapable to act, or is removed or suspended, the Governor may, subject to the provisions of any such Public Service Act, appoint in his place, either permanently or temporarily, another fit and proper person to be Commissioner.

(4.) The person who at the commencement of this Act holds the office of Commissioner of Taxes under any Act hereby repealed shall be deemed, without further appointment, to have been duly appointed to hold that office under this Act.

Land Tax Consolidation.

28—(1.) The Governor may, subject to the provisions of any such Public Service Act, from time to time—

- i. Appoint and employ such collectors and other officers as are necessary for the proper administration or for the purposes of this Act :
- ii. Assign to any one he so appoints to office or employs such duties and functions as he thinks fit :
- iii. Suspend from office or remove any one so appointed, and appoint another in his place.

(2.) Every person who at the commencement of this Act holds any office or appointment by virtue of any Act hereby repealed shall be deemed, without further appointment, to be duly appointed under this Act.

(3.) All the powers and duties vested in or imposed upon the Commissioner by this Act, are hereby vested in and imposed upon the Collector at *Launceston* ; and such powers and duties may be exercised by such Collector in the same manner as such powers and duties are exercisable by the Commissioner.

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Appointment of
collectors and
other officers.
Cf. Sect. 22 of
52 Vict. No. 31.

PART V.**DEMAND AND RECOVERY OF TAX BY JUDGMENT, DISTRESS,
OR ORDINARY PROCESS.**

29—(1.) Before legal proceedings are taken for the recovery of any Tax under this Act the Commissioner or a Collector shall forward a demand in writing by the post, addressed to the usual or last known place of abode of the person liable to pay the same, setting forth in such demand the amount of Tax due, the place where the same is to be paid, the hours of the day between which such payment is to be made, and the place where and date when such demand is posted.

Whenever any such demand is sent by the post the Commissioner or Collector shall retain a duplicate of the demand ; and the production by the Collector of such duplicate shall be evidence of the demand having been delivered to the person to whom it is addressed on the day on which such demand would, in ordinary course of post, have been received at the Post Office where letters addressed as aforesaid would be finally received for delivery. Any notice required to be given to any person may, if the whereabouts or usual or last known place of abode or business in *Tasmania* of such person is not known to the Collector issuing the notice, be affixed to some conspicuous part of the land in respect of which the Tax is demanded, and it shall not be necessary in any notice to any owner of any land to mention such owner by name.

(2.) Where any person shall be the owner or occupier of more properties than one, it shall be lawful for the Commissioner or Collector to set forth in the demand in writing mentioned in the last preceding Section the total amount of Tax payable by such person in respect of all the properties owned or occupied by him, naming in such demand the

Demand of Tax
may be sent by
post.
Cf. Sect. 29 of 52
Vict. No. 31.

Several properties
may be included
in one demand.
Sect. 30 of 52
Vict. No. 31,

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several properties in respect of which the total amount of Tax is demanded; and such demand shall be valid and sufficient for all purposes under this Act.

If Tax so demanded not paid within 28 days after demand proceedings may be taken.
Sect. 31 of 52
Vict. No. 31.

30 All persons liable to pay any Tax demanded as aforesaid are hereby required to pay the same at the place and between the hours of the day mentioned in the demand; and in case the amount of Tax mentioned in the demand is not paid within Twenty-eight days after the day on which the demand would in the ordinary course of post have been received at such last-mentioned Post Office, such proceedings may be had for the recovery of such amount of Tax as are hereinafter mentioned.

Collector may in all cases name a place for payment of Tax.
Sect. 32 of 52
Vict. No. 31.

31 In all cases in which by this Act a demand is required to be made by the Commissioner or Collector on the person liable to pay any Tax, the Collector is hereby authorised to name in such demand some place at which the Tax demanded is to be paid; and such Tax shall thereupon be payable at such place and not elsewhere.

Unpaid Tax may be recovered by judgment in Supreme Court.
Sect. 34 of 52
Vict. No. 31.

32 If any person liable to pay any Tax under this Act shall neglect to pay the same before the expiration of the said period of Twenty-eight days, the Commissioner, without prejudice to his right to recover such Tax in any other way, may give a certificate to the Crown Solicitor of *Tasmania* certifying that such Tax remains unpaid, and stating the amount due and the name and place of abode or business of the person liable to pay the same, and upon receipt of such certificate the Crown Solicitor shall cause a final judgment to be signed in the Supreme Court for the amount of such Tax and Ten Shillings for costs; and every such judgment may be in the form following; that is to say—
Tasmania to wit: In the Supreme Court of *Tasmania*:

Be it remembered that Attorney-General of our said Lord the King, for said Lord the King, gives the Court here to understand and be informed that is indebted to our said Lord the King in the sum of by virtue of "The Land Tax Act, 1905:" Therefore on the day of it is considered by the Court here that our said Lord the King do recover against the said the said sum, and also the sum of Ten Shillings for costs, making altogether the sum of

Or may be levied by distress.
Sect. 35 of 52
Vict. No. 31.

33 If any Tax shall be in arrear after the expiration of the said period of Twenty-eight days, the Commissioner or any person authorised by the Commissioner may thereupon, without any warrant, enter upon any land or into any building occupied by any person liable to the same Tax, and on whom a demand to pay the same has been served in accordance with the provisions of this Act, and demand from such person liable as aforesaid, immediate payment of the Tax in arrear, together with such reasonable costs of the person so entering as the Commissioner may authorise, and in default of payment thereof

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forthwith, such person may distrain all goods and chattels found in or upon any premises so entered by him as aforesaid; and if the sums for which the distress is taken, together with all reasonable costs thereof, or in relation thereto, be not paid within Five days after the distress has been made, then the said distress, or so much as shall be sufficient to pay such Tax and costs, may be sold, and any overplus shall be returned to the owner of the goods. A.D. 1905.

34—(1.) Upon being required so to do by the Commissioner or any person acting under his authority, all police officers and constables shall— Police to render assistance.
Cf. Sect. 36 of 52
Vict. No. 31.

- i. Obtain and furnish such information as may be required :
- ii. Serve any notices or documents :
- iii. Aid in collecting and recovering any Tax and in making distresses or sales :
- iv. Assist in carrying out the provisions of this Act.

(2.) Any police officer or constable refusing to comply with any of the provisions of this Section shall forfeit and pay a penalty not exceeding Five Pounds.

35 If any Tax payable under this Act shall be in arrear after the expiration of the said period of Twenty-eight days, the Commissioner without prejudice to any right to recover or enforce payment of such Tax in any other way, may sue for and recover the same in any Court of competent jurisdiction, 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 of Taxes or otherwise. Recovery by ordinary process.

PART VI.**RECOVERY OF TAXES BY LETTING AND SALE OF LAND.**

36 The Land Tax imposed by this Act shall, by force of this Act and without registration, be a first charge upon the land taxed, in priority to all rates, mortgages, charges, liens, and 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 the Tax so long as the same remains unpaid. Land Tax to be a first charge upon the land.
Cf. Sects. 37 & 45 of 52 Vict. No. 31.

37 Whenever the Land Tax payable in respect of any land shall have been in arrear for the space of Six months or upwards, it shall be lawful for the Commissioner to cause to be published for Three consecutive weeks in the *Gazette* and in Three consecutive numbers of one or more newspapers a notice, specifying such land and the amount of Taxes due in respect thereof, and stating that if such Taxes be Notice of intention to let or sell.
Sect. 38 of 52
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not paid within Six months 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.

Commissioner
may let from year
to year.
Sect. 39 of 52
Vict. No. 31.

38 If after Six months 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 land, or any part thereof, from year to year, and may receive the rents and profits thereof and apply the same towards the payment of the said Taxes, and costs and expenses, and hold any surplus in trust for the rightful owner of such land.

Commissioner
may apply to
Supreme Court
for sale.
Sect. 40 of 52
Vict. No. 31.

39 If after Two years 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, instead of letting such lands, may by petition to the Supreme Court, or a Judge thereof, apply for a sale of the land described in such notice, or of so much thereof as may be necessary to produce the amount of Tax due in respect thereof, and the Court or Judge, on being satisfied by affidavit or otherwise that Six calendar months' notice of such petition has been served on the owner of such land, or left at his usual or last known place of abode in *Tasmania*, and that the arrears are lawfully due and were in arrear at the time of the first publication of such notice in the *Gazette*, and that all things required by this Act 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 the time of sale, together with all costs of and attending the application and of and attending the sale of such land, and that the proceeds be paid into Court.

Application of
proceeds of sale.
Sect. 41 of 52
Vict. No. 31.

40 The Court or a Judge shall order payment of the said 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 Registrar, or such other officer of the Court as the Court may direct, to the purchaser, his executors, administrators, 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 encumbrances, and in cases where the land is under *The Real Property Act* 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.

25 Vict. No. 16.

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A.D. 1905.

PART VII.

REGULATIONS.

41—(1.) 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—

Governor
may make
Regulations.
Cf. Sect. 42 of
52 Vict. No. 31.

- i. Prescribing the duties of all persons engaged or employed in the administration of this Act:
- ii. 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 or insufficiency shall be supplied:
- iii. 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:
- iv. Imposing a penalty not exceeding Ten Pounds for any breach of any Regulation.

(2.) General words in this Section shall not be limited or controlled by particular words.

42 All such Regulations shall be published in the *Gazette*, and thereupon shall have the force of law and be deemed to be part of this Act, and they shall be laid before both Houses of Parliament as soon as may be after the making thereof.

Regulations to be
published and
laid before
Parliament.

PART VIII.

MISCELLANEOUS.

43—(1.) Every company owning land subject to taxation under this Act shall at all times be represented by a person residing in the State; and a place within the State shall be appointed from time to time by every such company as aforesaid at which any notice, process, or proceeding affecting the company under this Act may be served or delivered.

Companies to
name "Public
Officer" and
office at which
notices, &c., may
be served.
Sect. 16 of
52 Vict. No. 31.

(2.) Any notice, process, or proceeding which under this Act may be taken against any company, may be given to, served upon, or taken against the person representing the company as aforesaid, and if at any time there be no such person, then any such notice, process, or proceeding may be given to, served upon, or taken against any officer or person acting or appearing to act in the business or affairs of such company.

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Disputes may be settled by Judge in Chambers.
Cf. Sect. 43 of 52 Vict. No. 31 and Sect. 5 of 62 Vict. No. 51.

44—(1.) A Judge of the Supreme Court sitting in Chambers is hereby empowered to hear and summarily determine and settle any dispute or matter relating to any dispute—

- i. Concerning the liability or alleged liability of any person to payment of the Tax imposed by this Act: or
- ii. Arising between any persons whomsoever concerning any Tax payable under this Act or the distribution of the burden of any Tax.

And the decision of such Judge shall be final.

(2.) The Judge may in any such case make such order as he may deem to be just and the circumstances of the case shall require; and may make such order as to costs as he may think fit.

Judges to make Rules.
Sect. 44 of 52 Vict. No. 31.

(3.) It shall be lawful for the Judges of the said Court to make such Rules from time to time as they see fit for regulating the mode of deciding all such disputes or differences, and for prescribing the forms to be used in connection therewith.

Statute of Limitations not to affect proceedings for recovery of Tax.
Sect. 48 of 52 Vict. No. 31.
Contracts to evade Tax void.
Cf. Sect. 49 of 52 Vict. No. 31.

45 No Statute of Limitations shall bar or affect any action or other remedy for the recovery or enforcement of Taxes under this Act.

46 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 imposed by this Act, or relieving any person from liability to pay any such Tax, 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.

Service of notices.
Sect. 50 of 52 Vict. No. 31.

47 All notices by this Act required to be given by the Commissioner or any officer under this Act to the owner or occupier of any land or premises or any other person may, except as otherwise provided, be served personally upon such owner, occupier, or person, or left with some inmate of his place of abode, or by forwarding the same by post addressed to the usual or last known place of abode of such person.

Notices may be in writing or print.
Sect. 51 of 52 Vict. No. 31.

48 Every notice, demand, or like document given by or on behalf of the Commissioner under this Act, or by any officer under this Act, may be in writing or in print, or partly in writing and partly in print, and shall be sufficiently authenticated if the name of the Commissioner or officer by whom the same is given shall be printed thereon.

Evidence.
Cf. 64 Vict. No. 4, Sect. 64.
64 Vict. No. 4.

49 The production of any Assessment Roll, or of any document under the hand of any Assessor under "The Assessment Act, 1900," purporting to be a copy of or extract from any Assessment Roll, shall be conclusive evidence of the making of the Assessment; and, except in the case of proceedings in Appeal under "The Assessment Act, 1900,"

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against the Assessment, when the same shall be *prima facie* evidence only, shall be conclusive evidence that the amount and all the particulars of such Assessment appearing in such Roll or document are absolutely correct; and in all questions and proceedings under this Act relating to the tax, and in all other proceedings whatsoever, it shall be sufficient to refer to an entry in the Assessment Roll in force for the time being under "The Assessment Act, 1900," for any District; and such entry shall be received as conclusive evidence that the value of the property specified therein is at the date of the reference, and has been from the commencement of the period to which such Assessment Roll applies, of the amount therein set forth; and such entry may be proved by an extract from the Assessment Roll purporting to be signed by any Assessor.

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50 If any person shall obstruct any officer acting in the discharge of his duties under this Act, or shall refuse or neglect to answer any lawful question put by any such officer relating to any land belonging to or occupied by such person, or shall give any false or evasive answer, he shall be liable to a penalty not exceeding Fifty Pounds.

Penalty for obstructing officers, &c. Sect. 53 of 52 Vict. No. 31.

51 If any Company makes default in complying with any provision of this Act, such Company shall incur a penalty not exceeding Five Pounds for every day during which such default continues; and every director or manager or other officer or agent of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Penalty on Company making default in complying with this Act. Sect. 54 of 52 Vict. No. 31.

52 If any statement, declaration, or other document required by this Act is false in any particular to the knowledge of any person who signs the same, such person shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the Court, to be imprisoned for any term not exceeding Three years, or to a penalty not exceeding One hundred Pounds.

Penalty for making false statements, &c. Sect. 55 of 52 Vict. No. 31.

53 Should the Commissioner fail to do any act or perform any duty in the execution of this Act within the time prescribed, he shall, as soon as may be after the time at which such act or duty should have been done or performed, do or perform the same or cause the same to be done or performed; and the performance of any such act or duty as aforesaid at any other than the prescribed time shall, notwithstanding such failure, be valid and effectual.

Time extended for doing certain acts. 4 Ed. VII. No. 22, s. 16.

54 All offences against this Act, or any Regulation, and all penalties and sums of money imposed or made payable by this Act, or by any Regulation, shall, where no other mode of procedure is provided, be heard, determined, and recovered in a summary way by and before a Police Magistrate or any Two Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*.

Recovery of penalties. Cf. Sect. 56 of 52 Vict. No. 31.

19 Vict. No. 8.

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Appropriation
of penalties.
Cf. Sect. 57 of
52 Vict. No. 31.

55 All penalties imposed under this Act, or any Regulation, and all costs (except those under this Act expressly made payable to any person acting under this Act) recovered from any person in any proceeding under this Act, shall be paid to the Treasurer, and shall form part of the Consolidated Revenue Fund.

Action against
officers, &c.
Cf. Sect. 58 of
52 Vict. No. 31.

56 Unless otherwise expressly provided, no action shall lie against any officer or any other person for anything done in pursuance of this Act, unless notice in writing of such action is given to the defendant at least One month before the commencement of the action.

SCHEDULE.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
52 Vict. No. 31	"The Land Tax Act, 1888"
53 Vict. No. 19	"The Land Tax Amendment Act, 1889"
54 Vict. No. 24	"The Land Tax Amendment Act, 1890"
56 Vict. No. 7	"The Land Tax Amendment Act, 1892"
58 Vict. No. 2	"The Land Tax Amendment Act, 1894"
59 Vict. No. 21	"The Land Tax Act, 1895"
62 Vict. No. 51	"The Land Tax Amendment Act, 1898"
63 Vict. No. 24	"The Land Tax Act, 1899"
2 Edward VII. No. 31	"The Land Tax Amendment Act, 1902"