

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Interpretation.</li> <li>3. Construction of term "prescribed."</li> <li>4. Trustees to be entitled to an exemption of £500 for each beneficiary.</li> <li>5. Only one exemption to be allowed.</li> <li>6. Amendment of sections 43 and 44 of the Act of 1879.</li> <li>7. Repeal of sections 71 and 72. Amended provisions.</li> <li>8. Provision where death has occurred before or without assessment. Tax may be levied for triennial period.</li> <li>9. When liens may be registered against real property. Tax may be levied on part of real estate.</li> <li>10. Amendment of section 93 of Act of 1879.</li> </ol> | <ol style="list-style-type: none"> <li>11. New procedure under section 93.</li> <li>12. Amendment of section 94.</li> <li>13. Amendment of section 96. Penalties to be recovered summarily under "The Justices of the Peace Act, 1882."</li> <li>14. Amendment in section 6 of Act of 1881 as to company's statements.</li> <li>15. Amendment of section 8 of amending Act.</li> <li>16. Amendment of section 11 of amending Act.</li> <li>17. Amendment of section 15 of amending Act.</li> <li>18. Provision that persons disposing of property shall give notice to Commissioner. If action brought after notice, person sued to have costs of suit.</li> <li>19. Bankrupt to be freed from personal liability.</li> <li>20. Procedure in local Courts.</li> <li>21. Offences and penalties may be prosecuted and recovered within three years.</li> </ol> |
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1883, No. 44.

AN ACT to amend "The Property Assessment Act, 1879," and the Acts amending the same.

[8th September, 1883.

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

1. The Short Title of this Act is "The Property Assessment Acts Amendment Act, 1883." Short Title.
2. In this Act, if not inconsistent with the context,— Interpretation.
  - "The said Act" means "The Property Assessment Act, 1879:"
  - "The amending Act" means "The Property Assessment Act Amendment Act, 1881:"
  - "The said Acts" mean the said Act and all amendments thereof, including this Act.
3. For the purposes of the said Acts "prescribed" includes anything prescribed, whether prescribed by regulations or by or under any provisions of any of the said Acts, or by any notice or public notice served or published pursuant to the said Acts or any of them. Construction of term "prescribed."
4. When a trustee is assessed in respect of property held on account of more than one beneficiary he shall be entitled, subject to the provisions of the next succeeding section hereof, to an exemption of property up to five hundred pounds in respect of the interest of each beneficiary liable to the payment of property-tax. Trustees to be entitled to an exemption of £500 for each beneficiary.

Only one exemption to be allowed.

5. No person or company liable to assessment under the said Acts, either in his or its own name or by an agent or trustee, or jointly with any one else as his partner, and who is so assessed in more than one district or in respect of more than one statement, shall be entitled to the benefit of more than one exemption of property up to five hundred pounds.

Amendment of sections 43 and 44 of the Act of 1879.

6. In section forty-three of the said Act the words "the said Deputy shall also at the same time" are repealed, and in lieu thereof the words "the Commissioner shall" are inserted.

In section forty-four of the said Act the word "such," in the last line but one of the said section, is repealed, and the article "a" is inserted in lieu thereof.

Repeal of sections 71 and 72. Amended provisions.

7. Sections seventy and seventy-one of the said Act are hereby repealed, and the following section is enacted in lieu thereof:—

The Commissioner may from time to time, in respect of any assessment roll,—

- (1.) Place thereon the name of any person of whose liability to taxation he is satisfied, and erase therefrom the name of any person not so liable;
- (2.) Add to any roll any property omitted to be assessed by any Assessor, or omitted to be returned by any owner in any statement of property at the time and in the manner prescribed;
- (3.) Place thereon any property acquired by any person which he is satisfied is liable to taxation, and erase therefrom any property no longer so liable;

The Commissioner, in his discretion, may decrease any assessment, but nothing herein shall authorize him to increase the assessed value of any property already appearing on the roll.

The Commissioner shall not add any name or property to an assessment roll under the power hereinbefore conferred upon him until the expiration of one month after he has given notice thereof to the person or company affected thereby.

Provision where death has occurred before or without assessment.

8. Where any person shall die leaving any property which has not been assessed or returned for assessment in accordance with the said Acts or any of them, the Commissioner may take such and the like proceedings in respect of any such property as he could do under the last preceding section, which shall extend and apply to such cases.

Tax may be levied for triennial period.

The tax to be recoverable against the legal personal representatives of any such person or his estate in any such case shall be assessed, levied, and recovered in accordance with the said Acts for the whole or part (as the case may be) of the triennial period during which such property has not been so assessed or returned for assessment.

When liens may be registered against real property.

9. The power of registering a lien conferred by the said Act may be exercised at any time after judgment for the amount of tax has been obtained; but such registration shall not prevent the Commissioner from exercising any right or power of sale vested in him by the said Act.

Tax may be levied on part of real estate.

In any case where judgment for property-tax has been recovered against an owner of property, the Commissioner may cause a notice of lien to be registered as prescribed against any part of the real pro-

perty of such owner, and, in case he shall proceed to a sale of such real property as provided by the said Act, or this Act the amount of such judgment, and all costs and other moneys recoverable by or under the said Acts, may be levied, recovered, and charged upon or against such real property as effectually as if it were the sole real property of such owner.

10. The following amendments are hereby made in section ninety-three of the said Act:—

Amendment of section 93 of Act of 1879.

- (1.) The word "wilfully," in subsection one, is repealed, and in lieu thereof the words "Being within or having an agent within the colony of New Zealand" are inserted:
- (2.) In subsection one the following words shall be added after the words "prescribed time:" "unless such person shall prove that such failure or neglect was not wilful;"
- (3.) In subsection two the words "for the purpose of evading assessment thereof" are repealed.

11. (1.) Whenever, upon any information against a principal offender under section ninety-three of the said Act, the Justices before whom the same shall be heard shall hold the matter of the information to be proved, there shall be two convictions, the first in the common form adjudging the defendant to pay the penalty imposed and such costs as shall be allowed, and the second adjudging the defendant to pay treble the amount of the tax of which he has sought to evade the payment.

New procedure under section 93.

(2.) Such first conviction shall be forthwith enforceable in the manner directed by "The Justices of the Peace Act, 1882;" but such second conviction shall not be formally drawn up until the amount of the tax of which the defendant has sought to evade payment shall have been ascertained by the Commissioner, who shall ascertain and fix the same within three calendar months from the date of the conviction.

(3.) The Commissioner shall give notice to the defendant of the amount so ascertained, and if the defendant shall, within fourteen days from the giving of such notice, object to such amount he shall be entitled to have such objection heard by any Resident Magistrate, in the manner provided by section seventy-two of the said Act.

(4.) At any time after such amount shall have been ascertained by the Commissioner or (if the defendant shall so object) by such Resident Magistrate, the second conviction may be formally drawn up adjudging the defendant to pay treble the amount so ascertained, and shall be forthwith enforceable in the manner directed by "The Justices of the Peace Act, 1882."

12. In section ninety-four of the said Act the words "by obstructing" and "by refusing or neglecting" are respectively repealed, and the words "obstructs," "refuses or neglects," are inserted in lieu thereof respectively.

Amendment of section 94.

13. In section ninety-six of the said Act the words "by persons to be appointed by the Governor to sue for the same" are hereby repealed, and the words "in a summary way before any Resident Magistrate or two or more Justices of the Peace, upon the information, in the manner prescribed by "The Justices of the Peace Act, 1882," of a person or persons appointed by the Governor, either generally

Amendment of section 96. Penalties to be recovered summarily under "The Justices of the Peace Act, 1882."

or for the purpose of any particular case," are inserted in lieu thereof.

But this provision shall not prevent the recovery of any penalty that may have accrued, and would have been recoverable prior to the passing of this Act; and any action, suit, or other proceeding for that purpose may be commenced, prosecuted, and enforced accordingly as if this Act had not been passed.

Amendment in section 6 of Act of 1881 as to company's statements.

14. The following proviso shall be added to section six of the amending Act; that is to say,—

Provided also that the names and statements expressed and contained in such balance-sheet shall, for all the purposes of the said Act and this Act, be conclusive against and binding upon such company, but shall not be necessarily accepted by or be binding upon the Commissioner before any Board of Reviewers or Resident Magistrate:

Provided, further, that any company which shall not have issued any balance-sheet prior to the date to which the statement of such company should relate shall return its statement in the manner and form prescribed for the case of persons other than companies, and shall be assessed accordingly; but so soon as such company shall have issued any balance-sheet to its shareholders the Commissioner may amend the assessment roll so that such company may be assessed in accordance with such balance-sheet.

Amendment of section 8 of amending Act.

15. The following words shall be added to section eight of the amending Act; that is to say, "Except in the cases referred to in the last proviso to section six, this section shall not apply to companies."

Amendment of section 11 of amending Act.

16. No person or company shall be entitled to claim deduction under the provisions of the third subsection of section eleven of the amending Act for or in respect of any liability of any such person or company, however the same may arise, to any person or company not resident or carrying on business in New Zealand, unless such first-mentioned person or company shall show to the satisfaction of the Commissioner—

(1.) That at the date when the statement in which such deduction is claimed is furnished such first-mentioned person or company was the agent of the person or company not resident or carrying on business in New Zealand, under or by virtue of some express authority, and entitled by virtue thereof to make such deduction as aforesaid; and

(2.) That such last-mentioned person or company was, at the date aforesaid, entitled to claim the exemption provided in the said Acts and will receive the benefit thereof.

Amendment of section 15 of amending Act.

17. In section fifteen of the amending Act the words "at which the same is assessed as aforesaid" shall be omitted, and the words "at which the same was valued in such statement" shall be inserted in lieu thereof.

No person shall be entitled to avail himself of the privilege conferred by the said fifteenth section after the expiration of ten days after the sitting of the Board of Reviewers or Resident Magistrate (as the case may be) who have or has fixed such assessment.

Provision that persons disposing of property shall give notice to Commissioner.

18. When any person whose name appears on any roll in force under the said Acts or any of them as liable to tax shall part with or dispose of the property in respect of which he is or appears to

be liable, whether by sale, conveyance, or transfer of any kind, or by operation of law, he shall continue liable to the payment of such tax, unless he gives express notice in writing to the Commissioner of the fact of such sale, conveyance, or transfer as aforesaid, or of such facts as relieve him from liability at law.

If, after any such notice has been given to the Commissioner, any action or proceeding is brought or taken against any such person for the recovery of tax which it shall be decided he is not liable to pay, such person shall be entitled to recover his full costs and expenses to which he shall have been put by reason of such proceedings.

If action brought after notice, person sued to have costs of suit.

19. In any case where it shall be shown to the satisfaction of the Commissioner that any person liable to the payment of tax has become bankrupt within the meaning of any Act for the time being in force relating to bankruptcy, such person shall be released from all personal liability in respect of such tax, and the Commissioner may erase his name from any roll in force.

Bankrupt to be freed from personal liability.

20. With respect to suits and proceedings in local Courts for the recovery of property-tax the following provisions shall have effect:—

Procedure in local Courts.

- (1.) When default is made in the payment of tax and a summons for the recovery thereof is issued and served, then, unless, eight days before the day appointed for hearing, a statement in writing by or on behalf of the defendant, showing a defence on its merits, shall be made to the Clerk of the Court in which the summons was issued, judgment shall be given for the amount claimed without allowing any defence, and without the necessity of the Commissioner or any one on his behalf appearing in Court, or proving the liability of the defendant and the non-payment of the tax:
- (2.) In all such cases the summons shall be served upon the defendant at least thirty days before the day appointed for hearing:
- (3.) It shall be sufficient in any suit or proceeding in a local Court under the said Acts or any of them if the particulars of demand state the amount sought to be recovered, the date on which the same was payable, with such further and other particulars as the Commissioner thinks necessary to fully inform the defendant of the nature of the demand:
- (4.) The Commissioner or Deputy Commissioner may appear in any such suit or proceeding, either personally or by solicitor, or by some public officer; and the appearance of any such officer and his statement that he so appears by authority of the Commissioner or Deputy Commissioner shall be sufficient evidence of such authority for all purposes:
- (5.) A "local Court" means a District Court or a Resident Magistrate's Court in which any such suit or proceeding as aforesaid may be brought or taken.

Offences and penalties may be prosecuted and recovered within three years.

21. Notwithstanding anything in "The Justices of the Peace Act, 1882," or any other Act, any information or complaint to be heard in a summary way before two or more Justices for or in respect of any offence against the said Acts or any of them, or for the recovery of any penalty under the said Acts or any of them, may be laid at any time within three years next after the date of the offence committed or the penalty incurred.

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