THE TAX COLLECTION ACT

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THE TAX COLLECTION ACT

[13th August, 1867.]

1. This Act may be cited as the Tax Collection Act.

2.—(1) The words "tax" or "taxes" as used in this Act shall include quit rents and all taxes, rates, duties, and fees payable under any enactment to the Collector or Assistant Collector of Taxes for any parish.

(2) All rates levied or imposed, or hereafter to be levied or imposed under or by virtue of any enactment of this Island, shall be deemed to be taxes within the meaning of this Act.

3. It shall be lawful for the Governor-General at any time to appoint a Collector of Taxes for each or any parish of this Island, and as many assistants to every such Collector, as may be necessary.

4. Subject to the orders of the Collector of Taxes, all assistants to every such Collector of Taxes shall have the powers of the Collector of Taxes, and all such assistants shall perform such duties in the Revenue Department as the Collector, whose assistants they are, shall subject to the orders of his official superiors, prescribe.

5. Every Collector of Taxes, and Assistant Collector of Taxes shall hold his office during pleasure, and that notwithstanding his having been appointed to some other office which under this Act he can hold concurrently with his office of Collector of Taxes, or Assistant Collector of Taxes.

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6. [Deleted by Act 12 of 1985, Schedule.]

7. A Collector of Taxes, or an Assistant to a Collector of Taxes in any parish, may be appointed by the Governor-General to be a Sub-Collector of Customs in any port within that parish; and, when so appointed, his capacity of Sub-Collector of Customs shall be subject to the orders of the Commissioner of Customs or the Commissioner of Inland Revenue, as may be appropriate, and a Sub-Collector of Customs may also be appointed by the Governor-General to be the Collector of Taxes, or an Assistant to the Collector of Taxes in that parish.

8. [Deleted by Act 12 of 1985, Schedule.]

9. The Minister may prescribe, from time to time, regulations for the guidance of Collectors of Taxes and their Assistants in every department of their business, and may also fix, for any breach of the said regulations, such penalty as may be thought proper, not exceeding in any one case, the sum of one hundred thousand dollars.

10. All penalties under this Act, as well as penalties fixed by regulations prescribed under the authority of the last preceding section, may be recovered in a summary manner in the parish wherein the offence shall be committed; and, in default of immediate payment, by imprisonment for a period not exceeding three months, unless the same be sooner paid.

11. Every Collector of Taxes and every Assistant shall give such reasonable assistance in the filling up of forms under any enactment dealing with licences and registration.

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duties or under any other enactment under which duties or taxes may be receivable by him as may be required from him by any taxpayer.

12. Collectors of Taxes, or their Assistants shall notify to the Accountant-General the name of every person in arrear for taxes, who shall be the recipient of any salary payable by the Government of this Island, or entitled to any money payable out of the public revenue; and thereupon the Accountant-General shall retain the amount of such taxes, and any surcharge thereon.

13. For every neglect of duty, for which no other penalty is enforced by this or any other enactment, a Collector of Taxes or his Assistant shall forfeit and pay a fine not exceeding ten dollars; and the Accountant-General shall deduct, from any salary payable to such defaulting officer, the amount of the penalty inflicted for every such neglect or default.

Collection of Taxes

14.—(1) The Tax Collection Year shall be from the first day of April in one year until the thirty-first day of March in the succeeding year.

(2) All taxes shall be due and payable on the first day of April in each financial year.

(3) All returns and in-givings relating thereto shall be made on the first day of April in each financial year.

Payment in Moieties and Instalments

15. Whenever the taxes shall amount to or exceed the sum of one hundred dollars, they may be paid by moieties, the first, on or before the thirtieth day of April, and the second, on or before the last day of October then next succeeding; and upon payment of the first moiety, in the case of licences,
the Collector of Taxes shall grant the licence by this Act required and in respect of which the same is paid and so on in like manner upon the payment of the second moiety.

16. When any person, having under the provisions of section 15, on or before the 30th day of April in any year paid the first moiety of the tax or duty made payable in respect of the possession of any article or thing, shall prior to the 1st day of October next ensuing have assigned such article or thing, and, pursuant to the provisions of this Act, shall have also transferred the licence thereon—and when any person in possession of any house or land on the 1st day of April in any year shall, under the provisions of this Act, have paid the first moiety of the taxes payable in respect thereof, and shall previous to the 1st day of October then next ensuing have discontinued the possession thereof—then if, before the 1st day of October after payment of such first moiety, such person shall give to the Collector notice of such assignment and transfer, or such discontinuance of possession (as the case may be), he shall not be liable to pay the second moiety of the said taxes;—but, save as aforesaid, payment by any person of the first moiety of any taxes payable shall involve and be deemed to be an admission of the obligation to pay the second moiety, and such second moiety shall be payable by such person, although, before the month of October in which the same is payable he shall have ceased to possess the article or thing, or to be in possession of the house or land, in respect of which the tax in question was payable.

Where such notice of discontinuance of possession of any house or land shall have been given, the Collector shall give ten days' notice to any succeeding occupier of the same before issuing any warrant of distress for enforcement of payment of the second moiety of the taxes payable in respect thereof; but when no such notice of discontinuance

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shall have been given no action at the suit of any such succeeding occupier shall lie against any Collector in respect of any distress levied without such notice to such occupier.

17. The duties to be paid by moieties as aforesaid shall be entered and registered by the Collector of Taxes separately, and apart from those paid in full; and the licences issued and granted for moieties shall have the word “moiety” written or printed legibly on the top, and along the margin of the same respectively.

18. In any case in which the taxes payable by any person on the first day of April for the ensuing financial year shall exceed the sum of two hundred dollars, the same may be paid in four equal quarterly payments on the first day of April, and on or before the first day of July, the first day of October, and the first day of January in each year:

Provided, however, that if the first quarterly instalment is not paid within the month of April, the whole sum due for taxes for the financial year shall be thereupon payable, and may be enforced under the provisions of this Act:

Provided also, that if the instalments due on the first day of July and the first day of October are not respectively paid within those months, the whole amount of the unpaid taxes for the current financial year shall thereupon become payable, and may be enforced under the provisions of this Act.

19. When any person has, on or before the thirtieth day of April in any year paid the first quarter of the tax made payable in respect of the possession of any article or thing, and shall prior to the first day of July or the first day of October or the first day of January next ensuing have assigned such article or thing, and pursuant to the provisions of this Act: [The inclusion of this page is authorized by L.N. 3/2001]
sions of this Act shall have also transferred the licence thereon; and when any person in occupation or possession of any house, or possession of any land on the first day of April in any year shall, under the provisions of this Act, have paid the first quarter of the taxes payable in respect thereof, and shall previous to the first day of July or the first day of October or the first day of January, as the case may be, have discontinued the occupation or possession of such house or the possession of such land; then, if before the first day of July, the first day of October, or first day of January after payment of such first, second, or third quarterly payment, such person shall give to the Collector notice of such assignment or transfer, or such discontinuance of occupation or possession, as the case may be, he shall not be liable to pay the remaining quarterly payments or payment of the said taxes, but, save as aforesaid, payment by any person of the first quarterly payment of any taxes payable shall involve and be deemed to be an admission of the obligation to pay the remaining quarterly payments, and such quarterly payments shall be payable by such persons, although before the first day of July, first day of October, or first day of January, as the case may be, he shall have ceased to possess the article or thing, or to be in occupation or possession of the house, or in possession of the land in respect of which the tax in question was payable. Where such notice of discontinuance or occupation or possession of any house or land shall have been given, the Collector shall give ten days' notice to any succeeding occupier or possessor of the same, before issuing any warrant of distress for enforcement of payment of the second, third, or fourth quarterly payment of the taxes payable in respect thereof, but when no such notice shall have been given, no action at the suit of any succeeding occupier or possessor shall lie against any Collector in respect of any distress levied without such notice to such occupier or possessor.

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20. Any person who shall obtain from a Collector of Taxes, Assistant Collector of Taxes or other officer of the Inland Revenue Department or any other Revenue Department, a receipt on payment of any duty, rates, taxes, or other moneys applicable for public purposes, is hereby required to produce, at his residence or place of business, such receipt at any time or times within two years from the issue thereof, whenever it is demanded by the Collector of Taxes or any authorized officer of any Revenue Department, or any one specially appointed by him in writing; and if any such person shall, without reasonable excuse, refuse to produce such receipt, to be read and examined by the Collector of Taxes or any authorized officer of any Revenue Department or any person so appointed as aforesaid, within a reasonable time after production thereof shall have been demanded, such person shall for each and every such offence forfeit and pay any sum not exceeding five hundred dollars.

21.—(1) All duties, rates and taxes on houses or lands in the Island are hereby declared to be a first charge and lien on such houses and lands, and on the properties on which such houses are respectively situated, subject nevertheless, to any preferential charges or liens thereon existing on the seventeenth day of May, 1905.

(2) The charge and lien for duties, rates and taxes created by this section and by the Property Tax, Kingston and St. Andrew Corporation and Parochial Rates and Finance Acts shall be in force until the duty, rate or tax in respect of the same shall be paid, and may be proceeded for and realized at any time, at the discretion of the Minister, notwithstanding that on account of the poverty of the person primarily liable to pay such duty, rate or tax, the same shall have been remitted under any enactment granting power of remission thereof, or shall not have been levied for in pursuance of this Act.

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(3) Provided that, notwithstanding anything to the contrary contained in this or any other enactment, no such duties, rates or taxes shall (whether the collection of the same shall or shall not have been suspended, and whether the same shall or shall not have been levied for) be recoverable from any person except within seven years from the date when the same became due and payable, and after the said period of seven years, any charge or lien upon the real property in respect of such duties, rates or taxes shall be extinguished:

Provided, however, that nothing herein contained shall affect the enforcement of the payment of the expenses referred to in the Kingston Improvements Act and the Local Improvement Act as being a prior charge, or the charge created under the said Acts.

(4) The word “properties” in this section, includes all property, as defined in the Property Tax Act, the Kingston and St. Andrew Corporation Act and the Parochial Rates and Finance Act, and all lands, tenements and hereditaments in the Island, on which any house is built.

22. Where only one moiety of the tax or duty shall have been paid, the remaining moiety shall, within ten days after the same falls due, be paid to the Collector of Taxes, or Assistant to the Collector by the party liable thereto; or in default the Collector of Taxes, or Assistant Collector of Taxes, without the necessity for any other authority than is given by this Act, may distrain for the same, and the costs thereon, in like manner as in this Act directed.

**Enforcement of Taxes**

23. When no return, in respect of the duties or taxes, or any of them, imposed by any enactment of this Island, as shall be by such enactment required, shall be made to the Collector of Taxes, or other officer as aforesaid, such officer shall assess the person neglecting to make such return to the best of his judgment, and according to such information as

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he may be able to obtain, and shall add to such duties or
taxes the penalty specified in that enactment.

The Collector of Taxes or other officer as aforesaid shall
deliver to the person assessed, or leave at his usual or last
known place of abode, or on the premises assessed, a
statement of such duties and taxes and penalty, and if
within fifteen days after such service, the person so charged
shall not make a return as required by the law or laws in
that respect, and pay the duties or taxes for which, by such
return, he shall appear liable, together with the penalty
imposed under this section, the assessment shall be binding
and conclusive upon the person charged.

24. If any person making a return of the duties or taxes
imposed upon him by any enactment, shall not therewith
pay the said duties or taxes, or if any person assessed shall
not make a return of and pay the duties or taxes to which he
is liable and the penalty thereon within ten days after the
delivery of the assessment to him, the Collector of Taxes,
without the necessity for any other authority than is given
by this Act, for the recovery of the said duties or taxes so
returned, or included in the assessment, and the penalty
thereon and the costs of distress, may distrain the goods
and chattels of the person so liable as aforesaid to the said
duties and taxes wheresoever found, as well as any goods
and chattels found on the land or premises in the possession
of the person liable.

25. If any person liable to the payment of any taxes or
duties whatsoever shall, in any return required by him to
be made, charge himself with less duty than he is liable
to pay under the enactment or enactments imposing such
taxes or duties, or in any other manner evade the payment of
any such taxes or duties, every such person shall, on
conviction, not only be liable to pay the taxes and duties so
evaded, but an additional sum, by way of a penalty, equal to

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TAX COLLECTION

the amount of the taxes or duties so evaded, and the costs of the proceeding to recover the same, and shall be further liable to a penalty not exceeding five thousand dollars.

26. In case of any distress on the goods and chattels of any succeeding occupier, for the duties or taxes due by a previous occupier, it shall be lawful for such succeeding occupier to deduct the amount enforced by such distress from the next payment of rent; but as against the goods and chattels of any other than the person originally liable, such levy must be made within six months after the duties or taxes shall have become leviable.

27. In addition to the other remedies given by this Act or any other enactment relating to taxes, the Collector of Taxes or Assistant Collector of Taxes, may proceed for the recovery of any amount claimed for any taxes, and for the penalty thereon, in a Resident Magistrate's Court, and such proceedings may be brought in the name of such Collector of Taxes, or Assistant Collector of Taxes, who shall describe himself by his name and office, and such proceedings shall not abate by the death, removal, retirement or resignation of such Collector of Taxes, or Assistant Collector of Taxes, but may be carried on and enforced by and in the name of his successor.

28. Every Collector of Taxes, or Assistant Collector of Taxes, shall have power to name and appoint a Bailiff for the purpose of making a distress for taxes, and every such bailiff shall have the like powers as his principal might or could have exercised in relation to such distress, and the proceedings thereunder, and shall be entitled to the like protection:

Provided that every such Collector, or Assistant Collector, shall be responsible for the acts of the Bailiff appointed by him.
29. Whenever the goods and chattels, or other property of any person indebted for taxes shall have been taken by the Bailiff or Assistant Bailiff of the Resident Magistrate's Court of his parish, by virtue of any execution, warrant, or other process, it shall be lawful for the Collector of Taxes, or Assistant Collector of Taxes, to make a declaration in writing before a Justice of his parish that such person is indebted for taxes, stating the amount wherein such person is so indebted, and to deliver the same to the Bailiff or Assistant Bailiff of such Resident Magistrate's Court, who shall have seized such property; and it shall be the duty of the Bailiff or Assistant Bailiff of such Resident Magistrate's Court, to pay over to such Collector of Taxes or Assistant Collector of Taxes, the net proceeds of any such levy, or a sufficient portion thereof in or towards satisfaction of the taxes so declared to be due; and the declaration so made and delivered to the officer executing the process aforesaid, shall by such officer be returned to the Court out of which such process shall have issued as the authority for such payment.

30. A distress or levy for any tax, duty, arrear, moiety, instalment, penalty, or costs under any law of this Island, may be made on any money bonds, bills, notes, or other securities for money, belonging to the same person against whom such distress or levy shall be made, and the same shall be sold and disposed of under the provisions of this Act; and whenever necessary, for the purpose of vesting the same in the purchaser thereof, the Collector of Taxes, or other officer as aforesaid, shall assign and endorse such security for money, without rendering himself liable thereby.

31. It shall be lawful to keep any distress for the space of ten days (unless the same shall be of a perishable nature, when the same may be immediately sold); and if the same

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be not redeemed within ten days, or before sale, to sell and dispose of the same, or a sufficient portion thereof, to satisfy the duties or taxes, and the expenses of the distress, and a commission of five per centum on such taxes, or on the value of the distress, if the proceeds shall be insufficient to satisfy the taxes; and the surplus of any sale, and any unsold goods or chattels, shall be returned, on demand, to the person distrained on.

32. No distress shall be redeemable except upon payment of the taxes due, and of the commission aforesaid.

33. No action shall be brought, nor shall any Collector of Taxes, or other officer as aforesaid, be answerable or accountable for any loss, deterioration, or injury to any goods or chattels, or other property levied or distrained upon, except for wilful negligence, ill-usage, or injury.

34. The person making such distress shall not, by reason of any irregularity, be deemed a trespasser ab initio.

35. The Collector of Taxes may proceed as by this Act directed, for the recovery of taxes, or any arrear, moiety, penalty, or costs respectively, notwithstanding that the property in respect whereof the same shall be payable be in receivership in the Supreme Court, or the party proceeded against be an officer of that Court, without the necessity of any application to the Court for that purpose.

36. Upon the bankruptcy of any person charged with the payment of taxes, the sum which shall be charged to such person, whether the same shall have become due or not, shall, to the extent to which such taxes may remain un-
paid at the time of such bankruptcy, be the prior charge and lien upon the estate and effects of such bankrupt, in the hands of the Trustee in Bankruptcy or other assignee of such estate, and shall be paid by him out of such estate and effects, if any; and every such bankrupt shall be relieved and discharged from such payment.

37. The permanent quit rent and the property tax may be recovered and enforced under the provisions of this Act, as well against the occupier or tenant, as the owner or any other person interested in the land subject thereto.

38. The cost of any such distress shall be charged on the same scale as the fees in other cases of distress; but it shall not be necessary for the Collector of Taxes, or Assistant Collector of Taxes, in making a distress, to appraise the same, nor shall any charge be allowed for appraisement.

39. [Repealed by Act 31 of 1999.]

40. If any person shall assault, hinder, or obstruct, or incite any person to assault, hinder, or obstruct any Collector of Taxes, or Assistant Collector of Taxes, or other officer in the performance of his duty, under any enactment or law relating to taxes or duties, every such person shall be liable to a penalty not exceeding ten thousand dollars for every such offence to be recovered as other penalties under this Act.

40A.—(1) The Minister may by order published in the Gazette vary—

(a) the amount of taxes payable by moieties or instalments; or

(b) any penalty payable under the Act.

(2) An order under subsection (1) shall be subject to affirmative resolution.

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41. Whenever it shall come to the knowledge of any Collector of Taxes, that any person in possession of a house, whether as owner or otherwise, which is liable to taxation under any law of this Island, is poor and indigent, and unable to pay the tax, rate or duty upon such house, or cannot afford to pay more than a portion of such taxes, rates or duties, he shall refrain from enforcing the payment of any such taxes, rates or duties, or portion thereof, until he has transmitted to the Parish Council, or, in the cases of the parishes of Kingston and St. Andrew, the Kingston and St. Andrew Corporation, a statement of the case, in which he shall give the name of the party, and the amount due by him for taxes, rates or duties, with a description of the house liable to the taxes, rates or duties, and any evidence he may have of the poverty of such person, or his inability to pay the whole of the tax, rate or duty with which he is charged.

42. It shall be lawful in every such case for the Collector of Taxes, or other officer as aforesaid, to examine on oath (and he is hereby authorized to administer such oath), the person liable for the duties, rates or taxes, and any other person who may be willing to give information respecting his circumstances, and to take down in writing the statement of such persons, to be forwarded with his statement to the Parish Council, or, in the cases of the parishes of Kingston and St. Andrew, the Kingston and St. Andrew Corporation.

43. The Parish Council, or Kingston and St. Andrew Corporation, in every such case may institute such further inquiry as they shall consider necessary; and, when satisfied that the person is poor and destitute, and unable to pay the duties, rates or taxes for which he is liable, or to pay the whole of them, shall report the case, with their

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recommendation, to the Minister, who may direct the Collector of Taxes not to levy for the same, or for the whole thereof, as the Minister shall think proper, or until such time as the Minister shall think proper.

44. Whenever the Minister is satisfied from a report made to him by a Collector of Taxes, that any person is so poor and destitute, as to be unable to pay either current property tax or any arrears thereof, due by him, he may direct the Collector of Taxes not to levy for such tax or for such arrears thereof, and he may remit the same, either in whole or in part, and may wipe off all such remitted taxes from the tax roll accounts.

*Actions by Persons Aggrieved*

45. In any action to be brought for recovery of the value of any distress for duties or taxes which may have been sold, no greater damages than the net proceeds of sale, after payment of all expenses attending the same, shall be recoverable, unless the plaintiff shall prove that by fraud, or want of care, the distress hath been sold at an under-value, or that before the sale he had given written notice to the Collector of Taxes or Assistant Collector or other officer or person distraining, of his intention to replevy such goods, within a time to be mentioned in such notice, not exceeding ten days from the taking, and had required the sale to be delayed to enable him to replevy the same, and tendered a reasonable sum to cover the additional expenses occasioned thereby, and that the sale was, notwithstanding, proceeded with before the expiration of such time.

*Recovery of Penalties, Forfeitures and Taxes*

46.—(1) All penalties and forfeitures imposed by this Act, or by the Licence and Registration Duties Act or the Property Tax Act, or by any other enactment in force for raising and imposing duties or taxes, may be recovered,
and all taxes, duties, and arrears required to be paid to the Collector of Taxes, and not paid to him pursuant to the provisions of this Act, or other such enactments as aforesaid, as well as the penalty thereon, may, instead of the process of distress hereinbefore directed, also be recovered in a summary manner in the parish wherein such offence or default was committed, or the offender or defaulter resides; and, in case of non-payment, may be enforced by distress and sale of the offender’s or defaulter’s goods, or imprisonment not exceeding three months, unless such penalty, taxes, duties, arrears, and costs shall be sooner paid, and may be enforced under the provisions of any Statute in respect to summary proceedings, and the forms of any such Statute, or other Statutes, may be adapted to meet the requirements of this Act or other enactment as aforesaid; the taxes, duties, and arrears, and the surcharge, and any penalty attaching to such non-payment, may be included in, and recovered in one proceeding, notwithstanding any provision in any enactment relating to summary proceedings providing to the contrary.

(2) Subsequently to the order of the court under subsection (1), the Collector of Taxes or other officer as aforesaid, may, if he is satisfied that any action taken to enforce the order can be effectively suspended, receive any sum offered by the defaulter on account of taxes, duties, arrears and penalty thereon; so that the defaulter arranges, to the satisfaction of such Collector or other officer on such terms and conditions as may be fixed by such Collector or other officer, for payment of the amount remaining unpaid of such taxes, duties, arrears and penalty, and notwithstanding anything in this Act or in any other enactment contained, or any provision, or rule of law to the contrary the receipt of any sum under this subsection shall not have the effect of vitiating the said order:


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Provided, however, that where the said order is to be enforced by distress and sale of the defaulter's goods, the distress shall be abated proportionately by the amount of such payment, and where the said order is to be enforced by imprisonment, the court making the original order shall vary the term of imprisonment accordingly.

47. Nothing in any law relating to summary proceedings shall preclude the Collector of Taxes or Assistant Collector of Taxes from proceeding by distress, or under the provisions of section 46, for the recovery of the said taxes, duties, arrears, and surcharge, at any time until full payment shall have been made to the Government of this Island for the same.

48. The Justices adjudicating under this Act may award to the informer a sum not exceeding a moiety of the penalty to be imposed.

Evidence

49. Copies of all rules passed by the Minister for the regulation of the duties and the guidance of Collectors of Taxes, and Assistant Collectors of Taxes, and other officers, in relation to the departments of the Customs and Inland Revenue, signed, or purporting to be signed by the Minister, and printed copies of such rules purporting to be printed by authority of the Government of this Island, produced from the office of the Commissioner of Customs or the Commissioner of Inland Revenue, or of any other officer of either of the said departments, shall be received in all courts as sufficient evidence of such rules.

50. In all legal proceedings, the production of a certificate, purporting to be signed by the Accountant-General, or other officer to whom the duty shall appertain, or by any Collector of Taxes, or other officer as aforesaid, stating the number and description or the value of property, in

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respect of which the person therein named appears to have paid taxes or duties; and any book, record, statement, or return made by any of those officers in the execution of this Act, or the Licence and Registration Duties Act, or other such enactment as aforesaid, shall be received as *prima facie* evidence of the truth of the statements therein contained; and any certificate, purporting to be signed as aforesaid, that the person therein named does not appear, from any document in his office, authorized to occupy, or keep, or use any property within the meaning of this Act, or the Licence and Registration Duties Act, or other such enactment as aforesaid, or any greater number of any such items respectively than shall be expressed in any such certificate, shall be also received *prima facie* evidence of the truth of the facts therein stated.

### Application of Act

51. The powers and provisions of this Act shall apply to the collection and enforcement of all taxes, duties, and penalties which are or shall be raised or imposed by any law not otherwise specifically providing for the collection of the same.

52.—(1) Where the person liable to pay taxes, rates or duties collectible pursuant to this Act or to do any acts, matters or things in relation thereto is a body corporate such body corporate shall designate an officer of the body corporate (hereinafter in this section referred to as the "responsible officer") who shall be—

(a) answerable for doing all such acts, matters and things as aforesaid; and

(b) responsible for making payment to the Collector of Taxes of all such taxes, rates or duties collectible as aforesaid.

[The inclusion of this page is authorized by L.N. 87/2004]
(2) The body corporate shall give written notice to the Collector of Taxes of any designation made pursuant to subsection (1) and shall also notify the Collector of any change in that designation.

(3) In the absence of any designation pursuant to subsection (1), the person who is the managing director of the body corporate or, as the case may be, the person who (by whatever name called) performs in Jamaica the duties normally carried out by a managing director or, if there is no such person, the person in Jamaica appearing to the Collector of Taxes to be primarily in charge of the body corporate's affairs shall for the purposes of this section be deemed to be the responsible officer.

(4) A responsible officer who fails or neglects to carry out his duties in accordance with this section shall be jointly and severally liable together with the body corporate for all taxes, rates and duties and any penalties in relation thereto unless he satisfies the Collector that—

(a) there were bona fide reasons for the failure or neglect and that payment could not have been made in the circumstances; or

(b) he was overruled by the board of directors (hereinafter referred to as the board) or was otherwise prevented by the board or any director thereof from carrying out his duties under this section.

(5) If the Collector is not satisfied as to the matters referred to in subsection (4) he shall inform the responsible officer of his decision in writing.

(6) Where the responsible officer satisfies the Collector pursuant to subsection (4) that he was overruled or prevented as mentioned in that subsection, each director shall be jointly and severally liable (together with the body corporate) for the taxes, rates and duties and any penalties in relation thereto unless he proves that—
(a) there were bona fide reasons for overruling the responsible officer or preventing payment and that payment could not have been made in the circumstances; or

(b) he was neither a party to the decision of the board to overrule the responsible officer nor a party to any action by the board or any other director to prevent payment.

(7) A person who is designated a responsible officer shall not be liable in respect of any taxes, rates or duties which were due and payable—

(a) prior to the date of his designation; or

(b) during any period when, consequent on notification to the Collector, he is not the responsible officer.

(8) In this section—

“body corporate” means—

(a) a statutory body or authority; and

(b) a company;

“company” means a company incorporated or registered under the Companies Act.

Schedule [Repealed by Act 31 of 1999.]