

## CAP. XVII.

An Act respecting duties on successions and on transfers of real estate.

[Assented to 24th June, 1892.]

Preamble.

**W**HEREAS the funded debt of this Province on the 30th January, 1887, was \$18,155,013.33, and on the 17th December, 1891, had been increased to \$25,209,873.33, and the ordinary expenditure had been increased from \$3,032,771.45 in the year ending 30th June, 1886, to the sum of \$4,095,520.45, for the year ending 30th June, 1891, and to an estimated expenditure of \$4,436,907.50, for the year ending 30th June, 1892, and the total expenditure has been increased from \$3,532,742.27, in the year ending June 30th, 1886, to the sum, for the year ending 30th June, 1891, of \$5,871,394.86, and to an estimated expenditure, for the year ending 30th June, 1892, of the sum of \$6,247,997.96 ;

Whereas also the floating debt of this Province, on the 17th December, 1891, exclusive of claims and petitions of right and of the loan of 20,000,000 of francs, falling due on the 16th July, 1893, amounted to a sum of over \$8,000,000.00.

Whereas, although during the last five years additional taxes have been levied, yet the ordinary revenue was \$2,948,999.69, for the year ending 30th June, 1886, and only \$3,457,144.32, for the year ending 30th June, 1891, and an estimated revenue of \$3,392,106.71, for the year ending 30th June, 1892, and is totally inadequate to meet the increased expenditure ;

Whereas the present revenue is insufficient to meet the increased expenditure and additional burdens put on this Province, and it is expedient and necessary to levy new taxes to meet such debts and obligations ;

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

Section added after R. S. Q., title fourth, chapter fifth, section eighth.

**1.** The following section and articles are added after section eighteenth of chapter fifth of title fourth of the Revised Statutes of the Province of Quebec :

SECTION XVIII<sup>a</sup>.

## DUTIES ON SUCCESSIONS AND ON TRANSFERS OF REAL ESTATE.

Tax upon sales, &c., of immoveables, exception.

**" 1191<sup>a</sup>.** On the sale, transfer, assignment, or exchange of immoveable property within the Province, except in cases of donation in the direct line, descending and ascending, of immoveables not exceeding in value five thousand dollars,

there shall be levied and paid a tax of one and a half cents per dollar upon the value of such immoveable, according to the value as shown by the deed.

Such value must be the *bonâ fide* value; but if such value is below the municipal valuation for purposes of assessment the latter shall be taken. How value is established.

Such tax shall be collected in stamps, of the amount required, affixed to a register or book to be kept for that purpose by the registrar for the registration division in which the immoveable is situate, and payable to the registrar at the time of the registration of such deed, and the stamps shall be forthwith cancelled by the registrar. How collected, &c.

2. No registrar shall effect such registration before such tax shall have been paid to him; nor shall any deed or act or any condition or contract therein be legal or binding unless such tax has been so paid. Deed not to be registered unless tax paid, &c.

Such tax shall be payable by the purchaser, assignee or donee, and, in case of exchange, by both parties to the deed, one half each, and the tax levied on the basis of one half the total value of the properties exchanged. By whom to be paid.

3. In the case of deeds of donation or other deeds where the value may not appear, the person liable to the duty shall, in addition to producing a certificate from the municipal authorities, file a statutory declaration with the registrar setting forth the value of such property. Declaration to be filed in certain cases.

4. The person liable to the payment of taxes under this article shall file the deed respecting the same with the registrar within thirty days from the date thereof. When deed to be filed.

5. If the value stated in any deed produced for the said purpose shall be lower than its actual *bonâ fide* value, and no statement as to its correct value is produced, double taxes shall become due and be exacted in favor of Her Majesty; and the person in default shall, in addition to any other recourse against him, be liable to a penalty of one hundred dollars, and in default of payment an imprisonment of one month. Penalty if deed does not give correct value, &c.

6. The book so to be kept by such registrar shall be in such form and contain such information as may be, from time to time, prescribed by the Lieutenant-Governor in Council. Form of book to be kept by registrar.

7. This section shall not apply to sales by sheriffs, by curators to abandonments of property, by auction or by licitation." Application of section limited.

"1191b. All transmissions, owing to death, of the property in usufruct, or enjoyment of, moveable and immoveable property in the Province shall be liable to the following taxes calculated upon the net value of the property transmitted : Tax upon transmission of property, owing to death.

Tariff.

1. In the direct line, ascending or descending, and between consorts..... 1%  
excepting in estates the total value of which, after payment of all debts and expenses, does not exceed the sum of \$10,000.00.
2. In the collateral line :
  - (a.) If the succession devolves to the brother or sister or descendant of the brother or sister of the deceased ..... 3%
  - (b) If the succession devolves to the brother or sister, or descendant of the brother or sister, of the grand parents of the deceased..... 6%
  - (c.) If the succession devolves to any other collateral..... 8%
3. If the succession devolves to a stranger..... 10%

By whom to be paid in certain cases.

“ **1191c.** In case of property transmitted in usufruct or with substitution, the tax shall be paid by the usufructuary or the institute, and shall not be exigible from any further beneficiary under the same deed.

Declaration of value, &c., to be made and when.

“ **1191d.** Every heir, universal legatee, legatee by general or particular title, executor, trustee and administrator, or notary before whom a will has been executed, shall, within thirty days after the death of the testator or *de cujus*, forward to the collector of provincial revenue for the district wherein the testator died or the succession devolved a copy of the will, if there is one, and said persons, excepting the notary, shall also transmit, within three months, to such collector of provincial revenue, a declaration under oath, setting forth the name, surname, residence and calling of the declarant, the name, surname and residence of the testator or *de cujus*, the actual value of the property transmitted, the amount of the debts, and the net value of the share of the declarant in the succession.

Interim declaration and delay that may be granted thereupon.

2. If, however, within the said three months an interim declaration, under oath, is made by any of the beneficiaries, that it is impossible—within the said delay—to furnish the declaration mentioned in the preceding paragraph, the said collector may extend such delay for sixty days, and a further delay, not exceeding six months, may be granted by the Provincial Treasurer.

Statement of amount due to be prepared.

3. On receipt of such first mentioned declaration, the said collector shall cause to be prepared a statement of the amount of the duties to be paid by the declarant.

Notification to be given to declarant.

4. Such collector of provincial revenue shall inform the declarant of the amount due as aforesaid, by registered

letter mailed to his address, and notify him to pay the same within thirty days after the notice is sent; and, if the amount is not then paid to him on the day fixed, the said collector of provincial revenue may sue for the recovery thereof before any court of competent jurisdiction in his own district.

5. No transfer of the properties of any estate or succession shall be valid, nor shall any title vest in any person, if the taxes payable under this section have not been paid; and no executor, trustee, administrator, curator, heir or legatee shall consent to any transfers or payments of legacies, unless the said duties have been paid.

6. If any declaration, so required, is not made within the prescribed delay, or within any extended delay that may have been granted, or if any false or incorrect statement is made in any such declaration, either as to value or otherwise, double duties shall become due and be exacted in favor of Her Majesty, and the person in default shall, in addition to any other recourse against him, be liable to a penalty of one hundred dollars and in default of payment imprisonment of one month.

"1191e. Articles 1154, 1158 and 1185 shall apply to the registrars of each registration division, the collectors of revenue of each revenue district and to the revenue collected by either of them, for the purposes of this section.

"1191f. Articles 1159, 1160, 1162, 1163, 1164, 1165, 1166 and 1190 shall also apply to the present section, in so far as it is not otherwise provided herein.

"1191g. All fines imposed by this section shall be paid to the collector of provincial revenue for the district in which such fines are incurred and collected, and shall be recovered before the Superior or the Circuit Court, according to the amount thereof, by suit, on behalf of Her Majesty, taken by the collector of provincial revenue in his own name.

"1191h. Any sum that may become due to the Crown, in virtue of this section, shall constitute a privileged debt ranking, concurrently with any other privilege of the Crown, immediately after law costs.

"1191i. The collector of provincial revenue, who collects any sum in virtue of this section, shall be entitled to retain such percentage as the Lieutenant-Governor in Council may determine."

2. This act shall come into force on the day of its sanction.