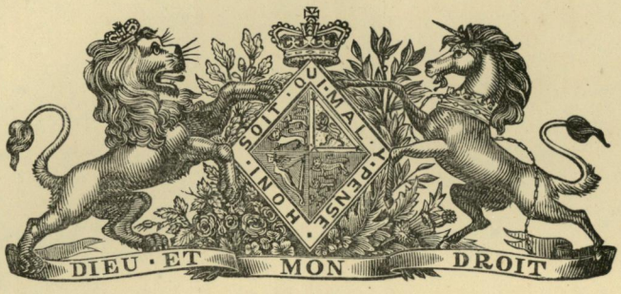
This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

Legislative Assembly Chamber,
Sydney, 26 *May,* 1897.

F. W. WEBB,
Clerk of the Legislative Assembly.

New South Wales.



ANNO SEXAGESIMO

VICTORIÆ REGINÆ.

* *

No. .

An Act to amend the Stamp Duties Acts, 1880–1894.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. Where, on the death of any person before or after the commencement of this Act, duty was or is, by virtue of section fifty-three of the Stamp Duties Act of 1880 or section two of the Stamp Duties Amendment Act of 1894, payable in respect of any real or personal estate or property, such estate or property shall, for all the purposes of the Stamp Duties Acts, 1880–1894, be deemed to have been and to be part of the estate of the person dying as aforesaid, and to have been devised or bequeathed by him to the persons taking under any disposition mentioned in the sections aforesaid:

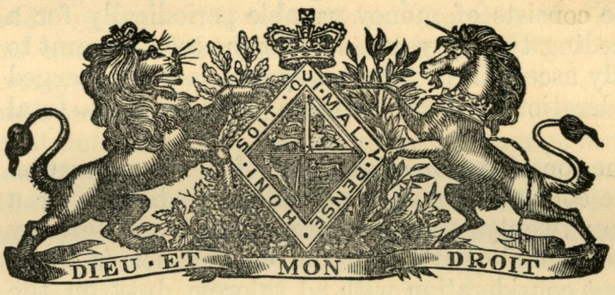
Property liable under s. 53 of Act of 1880 or s. 2 of Act of 1894 deemed part of estate of deceased person.

Provided that this Act shall not apply in any case where an application has, before the commencement of this Act, been made for probate or letters of administration of, or an order to collect, the estate of the said person.

2. This Act shall be construed as one with the Stamp Duties Acts, 1880–1894, and may be cited as the "Stamp Duties (Amendment) Act, 1897."

Incorporation of Acts of 1880–1894.

Short title.



This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

Legislative Assembly Chamber,
Sydney, 7 December, 1897.

F. W. WEBB,
Clerk of the Legislative Assembly.

New South Wales.

ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

* * *

No. . (A.D. 1897.)

An Act to amend the Stamp Duties Acts, 1880–1894, and to impose certain Stamp Duties.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Stamp duties on instruments.

Charge of duties on instruments mentioned in Schedule I.

1. There shall be charged, levied, collected, and paid for the use of Her Majesty under the provisions of the Stamp Duties Acts, 1880–1894, and to form part of the Consolidated Revenue Fund for and in respect of the instruments mentioned in Schedule I hereto, duties of the several amounts and at the several rates therein specified.

When several instruments required to complete title.

2. Where, in the case of a conveyance by way of exchange, or a conveyance by the official assignee to a mortgagee, or a disclaimer of mortgaged property by an official assignee or trustee, or in the case of a foreclosure order, or a settlement, gift, or voluntary conveyance,

there are several instruments for completing the title of the person taking under such conveyance, disclaimer, order, settlement, or gift, the principal instrument only shall be charged with ad valorem duty, and the other instruments shall be respectively charged with such other duty as they may be liable to, but such last-mentioned duty shall not exceed the ad valorem duty payable in respect of the principal instrument. Where a person receives under a will or settlement shares in a company represented by more than one certificate or document, the certificates or documents representing the same shall be treated as one certificate or document, and duty on one transfer thereof be paid thereon accordingly. And where any settlement, appointment of new trustees, or document of similar nature, made after the passing of this Act has been duly stamped, all instruments made after the execution thereof being ancillary thereto to complete the titles to properties thereunder, shall be exempt from stamp duty.

How consideration consisting of periodical payments to be charged. 54 & 55 Vic., c. 39, s. 56.

3. (I) Where the consideration or any part of the consideration for a conveyance on sale consists of money payable periodically for a definite period not exceeding twenty years, so that the total amount to be paid can be previously ascertained, the conveyance is to be charged in respect of that consideration with ad valorem duty on such total amount.

(II) Where the consideration or any part of the consideration for a conveyance on sale consists of money payable periodically for a definite period exceeding twenty years, or in perpetuity, or for any indefinite period not terminable with life, the conveyance is to be charged in respect of that consideration with ad valorem duty on the total amount which will or may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of the instrument.

(III) Where the consideration or any part of the consideration for a conveyance on sale consists of money payable periodically during any life or lives, the conveyance is to be charged in respect of that consideration with ad valorem duty on the amount which will or may, according to the terms of sale, be payable during the period of twelve years next after the day of the date of the instrument.

(IV) Provided that no conveyance on sale chargeable with ad valorem duty in respect of any periodical payments, and containing also provision for securing the payments, is to be charged with any duty in respect of such provision, and no separate instrument made in that case for securing the payments is to be charged with ad valorem duty or a higher duty than that payable in respect of such instrument.

Valuation of property passing under voluntary conveyance.

4. (I) The person making a settlement, deed of gift, or voluntary conveyance (not being the appointment merely of a new trustee) of property liable to stamp duty shall within one month after making the same, and before registration in the registry of deeds, lodge with the Commissioner an affidavit by some competent person stating, to the best of his knowledge, information, and belief, the value of such property, together with the settlement, deed, or conveyance, or a true copy thereof. The Commissioner shall thereupon assess the duty payable in respect of the instrument.

(II) Where the settlement, deed, or conveyance has been executed at some place out of the Colony the affidavit, together with the settlement, deed, or conveyance or the true copy thereof, may be lodged within one month after the instrument has been first received in the Colony.

(III) If default is made in lodging the affidavit or the settlement, deed, or conveyance, or a true copy thereof within the time limited by this section, the person so making default shall be liable to a penalty not exceeding twenty pounds in addition to the fine payable on stamping the instrument.

5. (I) Where a conveyance is as to the whole or part of the consideration by way of exchange, the parties to the exchange or one of them shall, within one month after the execution of the exchange, lodge with the Commissioner an affidavit by some competent person stating to the best of his knowledge, information, and belief the value of the property exchanged and any money passing to equalise the dealing, together with the conveyance or a true copy thereof, the Commissioner shall thereupon assess the duty payable in respect of the conveyance.

Duty where conveyance is by way of exchange.

(II) Where the conveyance has been executed at some place out of the Colony the affidavit, together with the conveyance or the true copy thereof, may be lodged within one month after the instrument has been first received in the Colony.

(III) If default is made in lodging the affidavit or the conveyance or a true copy thereof within the time limited as aforesaid, the parties to the exchange shall each be liable to a penalty not exceeding twenty pounds in addition to the fine payable on stamping the instrument: Provided that not more than one such penalty shall be imposed in respect of one conveyance by way of exchange.

6. (I) Where a person having, before or after the commencement of this Act, contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be charged with ad valorem duty in respect of the consideration for the sale to the original purchaser, or in respect of the consideration for the sale by the original purchaser to the sub-purchaser, whichever consideration is the larger.

Duty where conveyance is by original seller to sub-purchaser.

(II) Where a person having before or after the commencement of this Act contracted for the purchase of any property, but not having obtained a conveyance, contracts to sell the whole or any part or parts thereof to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts or parcels, the conveyance of each part or parcel shall be charged with ad valorem duty as assessed by the commissioner in respect of the consideration moving from the sub-purchaser thereof, or in respect of an amount which bears the same proportion to the consideration for the sale to the original purchaser as the value of such part or parcel bears to the value of the property originally contracted to be sold, whichever amount is the larger.

Conveyance to several sub-purchasers

The sub-purchaser shall within one month after the execution of the conveyance lodge with the commissioner an affidavit by some competent person stating the values of the property originally contracted to be sold and of the part or parcel conveyed to the sub-purchaser, to the best of his knowledge, information, and belief, together with the conveyance or a true copy thereof. The commissioner shall thereupon assess the duty in respect of the instrument.

Where the conveyance has been executed at some place out of the Colony, the affidavit, together with the conveyance or the true copy thereof, may be lodged within one month after the instrument has been first received in the Colony.

If default is made in lodging the affidavit or the conveyance or a true copy thereof within the time limited by this section, the sub-purchaser shall be liable to a penalty not exceeding twenty pounds in addition to the fine payable on stamping the instrument.

7. (I) Where a disclaimer under the Bankruptcy Act, 1887, or a foreclosure order is executed or made, the disclaimer or foreclosure order shall be lodged by the mortgagee with the commissioner within one month after the execution or making of the same together with an affidavit by some competent person stating to the best of his knowledge, information, and belief the value of the property, the subject of

Disclaimer or foreclosure order.

of the disclaimer or foreclosure, together with the disclaimer or order. The commissioner shall thereupon assess the duty payable in respect of the disclaimer or foreclosure order. And the said duty shall, until payment thereof, be a charge on the said property.

(II) If default is made in lodging the affidavit or the disclaimer or order within the time limited by this section, the person so making default shall be liable to a penalty not exceeding twenty pounds in addition to the fine payable on stamping the instrument.

Penalty for issuing passenger ticket unstamped.

8. Any person who gives or issues a passenger ticket liable to stamp duty and not duly stamped shall be liable to a penalty not less than two pounds nor more than ten pounds.

Foreign policies. Penalty for not bringing them to be stamped.

9. A policy or other instrument of insurance chargeable under section forty of the Stamp Duties Act of 1880 with stamp duty shall, within the time mentioned in the said section, be brought to the commissioner for the purpose of being stamped by the person carrying on the business of insurance within New South Wales by whom or on whose behalf the policy or instrument was made or signed.

Any such person who fails to comply with the provisions of this section shall be liable to a penalty not less than ten pounds nor more than fifty pounds.

Penalty upon stamping instruments after execution. 54 & 55 Vic., c. 39, s. 15.

10. (I) Save where other express provision is made in the Stamp Duties Acts, 1880–1894, or this Act any unstamped or insufficiently stamped instrument may be stamped after the execution thereof on payment of the unpaid duty and a fine of twenty-five pounds, and also by way of further fine where the unpaid duty exceeds ten pounds of interest on such duty at the rate of five pounds per centum per annum from the day upon which the instrument was first executed up to the time when the amount of interest is equal to the unpaid duty:

Provided that no fine as aforesaid shall be charged if the instrument is stamped within one month after the date of execution.

(II) In the case of the instruments mentioned in Schedule II to this Act, the following provisions shall have effect:—

Instruments mentioned in Schedule II to be stamped within three months.

(*a*) The instrument, unless it is written upon duly stamped material, shall be duly stamped with the proper ad valorem duty before the expiration of one month after it is first executed, or after it has been first received in the Colony in case it is first executed at any place out of the Colony, unless the assessment of the commissioner with respect to the amount of duty with which the instrument is chargeable is required by or under the Stamp Duties Acts, 1880–1894, or this Act.

(*b*) If the assessment of the commissioner has been required as aforesaid, the instrument shall be stamped in accordance with the assessment within fourteen days after notice of the assessment.

(*c*) If any such instrument executed after the day of the commencement of this Act is not duly stamped in conformity with the foregoing provisions of this subsection, the person in that behalf specified in the said Schedule shall be liable to a penalty of fifty pounds, and in addition to the fine payable on stamping the instrument, there shall be paid a further fine equivalent to the stamp duty thereon, unless a reasonable excuse for the delay in stamping, or the omission to stamp, or the insufficiency of stamp, be afforded to the satisfaction of the commissioner or of the court before whom it is produced.

(III)

(III) Provided that, save where other express provision is made by the Stamp Duties Acts, 1880–1894, or this Act, in relation to any particular instrument— Proviso.

(*a*) any unstamped or insufficiently stamped instrument which has been first executed at some place out of the Colony, may be stamped at any time within two months after it has been first received in the Colony on payment of the unpaid duty only;

(*b*) the commissioner may, if he thinks fit, mitigate or remit any fine payable on stamping.

(IV) The payment of any fine payable on stamping is to be denoted on the instrument by a particular stamp. Fines.

11. Except where express provision is made to the contrary in the Stamp Duties Acts, 1880–1894, or this Act, and except in the case of the duties on fire policies and renewal receipts and noting bills of exchange or promissory notes or other notarial acts, all duties shall be denoted by impressed stamps only. Impressed stamps to be used.

12. Where under this Act an assessment may be made by the Commissioner of the duty payable on any instrument, the Commissioner may assess the duty on the footing of the value of any property referred to or dealt with in such instrument as stated in any affidavit lodged with him in accordance with the provisions of this Act. But if he is dissatisfied with the value stated in such affidavit, or if no affidavit has been lodged with him within the time limited in that behalf, he may, with the approval of the Colonial Treasurer, cause a valuation of the property to be made by some person appointed by him, and may assess the duty payable on the footing of such valuation. Assessments of duty by the commissioner.

Any person dissatisfied with any assessment made by the commissioner under this Act may appeal therefrom in the manner and subject to the conditions prescribed by the Stamp Duties Act of 1880, and the provisions of section sixteen of that Act shall apply in respect of assessments so made.

If there is no appeal as aforesaid against such assessment, it shall be in the discretion of the Commissioner, having regard to the merits of the case, to charge the whole or any part of the expenses of and incidental to the making of the valuation to the person liable to pay the duty, and to recover the same from him as a debt due to Her Majesty.

If there is an appeal as aforesaid against such assessment, the payment of such expenses shall be in the discretion of the court hearing the appeal.

Supplemental and repeal.

13. Sections thirteen and eighteen and subsections (III) and (IV) of section thirty-five of the Stamp Duties Act of 1880 and so much of Schedule I to that Act as imposes stamp duties on policies for or against loss by fire and any renewal or continuance thereof are hereby repealed. Repeal.

14. This Act shall commence on the fifteenth day of December, one thousand eight hundred and ninety-seven, and shall be construed with the Stamp Duties Acts, 1880–1894, and may be cited as the "Stamp Duties (Amendment) Act, 1897." Incorporation and short title.

SCHEDULE I.

	£	s	d.
ACKNOWLEDGMENT by executor or administrator in lieu of conveyance under section twenty of the Probate Act of 1890 Amendment Act ...	1	0	0
APPLICATION under section seventy-nine of the Real Property Act, to be registered as proprietor of an estate upon transmission	1	0	0
APPOINTMENT OF A NEW TRUSTEE, and appointment in execution of a power of any property or of any use, share, or interest in any property by any instrument not being a will	1	0	0
CONVEYANCE by way of exchange. Same duty as on conveyance by way of sale, as assessed by the commissioner, on the value of property exchanged, and any money passing to equalise the dealing.			
CONVEYANCE of any property by the official assignee to a mortgagee. Same duty as on conveyance on sale calculated on the amount at which the security has been valued.			
DECLARATION made in New South Wales under Colonial or Foreign Marine Policy, 3d. for every £100 and fractional part of £100 insured.			
DISCLAIMER of mortgaged land under the Bankruptcy Act, 1887, by an official assignee or trustee.—The same duty as on conveyance on sale, as assessed by the commissioner, on the value of the property at the time of disclaimer.			
FIRE POLICIES and Renewal Receipts, 4d. for every £100 and fractional part of £100 insured.			
FORECLOSURE ORDER. The same duty as on conveyance on sale as assessed by the commissioner on the value of the property at the time of the foreclosure.			
NOTARIAL ACT OF ANY KIND whatsoever (except a protest of or noting a bill of exchange or promissory note)	0	2	6
NOTING Bill of Exchange or Promissory Note	0	1	0
PASSENGER TICKET given or issued in the Colony by or on behalf of any steamship company, association, or owner of any steamship, in return for the payment of a sum of money amounting to £2 or upwards unless a stamped receipt is given in respect of such payment and at the time thereof	0	0	2
SETTLEMENT, DEED OF GIFT, OR VOLUNTARY CONVEYANCE OF ANY PROPERTY. The amount (to be assessed by the commissioner on the value of the settled property) which would be payable as probate duty on such property if the settlor had died at the time of making the settlement, deed, or conveyance, and such property had formed the whole of his estate.			

SCHEDULE II.

Title of instrument.	Person liable to penalty.
Conveyance on sale of any real property	The vendee.
Conveyance by way of exchange	The transferee.
Conveyance by the official assignee to a mortgagee ...	The mortgagee.
Declaration under foreign marine policy	The consignor.
Disclaimer by the official assignee	The mortgagee.
Lease	The lessee.
Settlement, gift, or voluntary conveyance	The settlor or donor.
Transfer of run or station held under lease or promise of lease from the Crown or any interest therein.	The transferee.

Sydney : William Applegate Gullick, Governmen tPrinter.—1897.