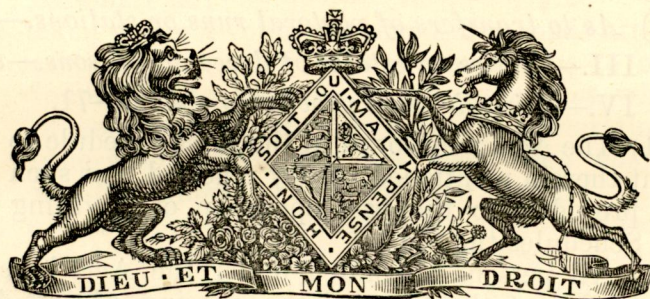


New South Wales.



ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

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Act No. 27, 1898.

An Act to consolidate the Laws relating to Stamp Duties.  
[Assented to, 27th July, 1898.]

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:—

PART I.

*Preliminary.*

1. This Act may be cited as the "Stamp Duties Act, 1898," and is divided into parts, divisions, and subdivisions, as follows:—

Short title and division.

PART I.—*Preliminary.*—ss. 1-8.

PART II.—*Duties on deeds and instruments.*

DIVISION 1.—*General regulations.*—ss. 9-24.

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DIVISION

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 DIVISION 2.—*Special regulations.*

- (1) *As to agreements.*—s. 25.
- (2) *As to bank notes, bills of exchange, and promissory notes.*—ss. 26–32.
- (3) *As to bills of lading.*—ss. 33, 34.
- (4) *As to conveyances on sale.*—ss. 35–38.
- (5) *As to leases, &c.*—ss. 39–41.
- (6) *As to policies of insurance.*—ss. 42–44.
- (7) *As to receipts*—ss. 45–47.
- (8) *As to transfers of pastoral runs or stations.*—s. 48.

 PART III.—*Duties on estates of deceased persons.*—ss. 49–59.

 PART IV.—*Miscellaneous provisions.*—ss. 60–71.

 Repeal of Acts.  
 First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein mentioned hereby repealed, but such repeal shall be without prejudice to the past operation of anything in the said Acts or the Schedules thereto.

 Officers under Acts  
 hereby repealed.

(2) All persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

 Regulations under  
 Acts hereby repealed.

(3) All regulations made and forms prescribed under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under this Act.

 Interpretation.  
 44 Vic. No. 3, s. 2.

3. In this Act, unless the context or subject matter otherwise indicates or requires,—

“Administrator” means any person to whom any letters of administration in the estate of any deceased person is granted in New South Wales.

“Affidavit” includes affirmation and statutory declaration.

“Bank” means any corporation, society, or number of persons carrying on the business of banking.

“Banker” means the person managing or administering the affairs of any bank or branch thereof.

“Bill of exchange” means any ordinary bill of exchange, or any draft, order, cheque, letter of credit, instrument, or writing, not payable on demand, entitling any person whether or not named therein to payment of money by any other person.

“Bill of lading” means any instrument signed by the master, mate, or other person in charge of any vessel, or by the agent, shipping clerk, or other person acting as such for such vessel, for the conveyance therein of goods, wares, or merchandise to any place beyond New South Wales.

“Commissioner”

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- “Commissioner” means any person appointed Commissioner of Stamp Duties under this Act.
- “Conveyance” means any instrument or deed whereby property is vested in any person or transferred or conveyed from one person to another.
- “Draft” means any draft, cheque, or order for money payable on demand, not being a bill of exchange or otherwise herein specified.
- “Estate” means real or personal property.
- “Executor” means any person to whom probate of the will of any deceased person is granted in New South Wales.
- “Executed” means signed and completed, whether or not by sealing or any process customary or required by law in any particular case.
- “Execution” means the form or process of being executed.
- “Instrument” means any written or printed deed or document.
- “Issue” means delivery of a promissory-note or bill of exchange by the maker or acceptor to the payee thereof.
- “Lease” means lease or promise of or agreement for a lease.
- “Marketable security” means any security capable of being sold in any stock market in New South Wales.
- “Material” means any sort of material commonly used for writing or printing upon which words or figures can be expressed.
- “Minister” means any Minister charged with the administration of this Act.
- “Money” means any sum in British, Foreign, or Colonial currency.
- “Policy” means any insurance, or contract, whether of insurance against loss by fire, or upon or concerning any vessel or goods, for any voyage or period, whether the same is issued singly or in duplicate or otherwise.
- “Promissory-note” means any ordinary promissory-note, or any debenture issued by any public company, corporation, or society in New South Wales, or any debenture issued out of New South Wales, if negotiated therein.
- “Receipt” means any stamp, mark, impression, indication, as well 50 Vic. No. 10, s. 3. as any note, memorandum, or writing whatsoever, whereby any money amounting to two pounds or upwards is deposited for any fixed period, or is acknowledged, or expressed to have been received or paid in satisfaction of any debt, or whereby any debt or demand or any part of a debt or demand of the amount of two pounds or upwards is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

“Regulations”

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44 Vic. No. 3, s. 2.

“Regulations” means regulations under this Act.

“Settlement” means any contract or agreement (whether voluntary or upon any good or valuable consideration other than a *bonâ fide* pecuniary consideration) whereby any property, real or personal, is settled or agreed to be settled, or containing any trusts or dispositions to take effect after the death of any person.

36 Vic. No. 15, s. 3.

“Stamp” means a stamp impressed by means of a die, or an adhesive stamp, and includes a postage stamp.

44 Vic. No. 3, s. 2.

“Stamped” means impressed with stamps by means of a die, or having an adhesive stamp affixed according to this Act.

“Stock” means any share in stocks or funds of Great Britain, or of any Foreign or Colonial State or Government, or in the capital, stock, or funded debt of any company, corporation, or society, British, Foreign, or Colonial.

“Unstamped” means either not stamped at all or insufficiently stamped, or not duly stamped.

“Writing” means any mode or process by which words or figures can be expressed upon material.

Stamp duties to be levied.

*Ibid.* s. 3.

Second and Third Schedules.

4. From and after the commencement of this Act, and subject to the exemptions contained in the Second and Third Schedules hereto, there shall be charged, levied, collected, and paid for the use of Her Majesty, and to form part of the Consolidated Revenue Fund, for and in respect of the several instruments and matters described or mentioned in this Act, and in the said Schedules hereto the several duties or sums of money, and at the several rates specified herein or set down in figures against the same respectively in the said Schedules.

Such duties shall be denoted in stamps upon the material upon which any such instrument or matter is written or expressed.

Power to appoint commissioner and officers.

*Ibid.* s. 4.

50 Vic. No. 10, s. 6.

5. The Governor may appoint—

- (a) a Commissioner who shall be charged with the levying and collection of the duties imposed by this Act; and also
- (b) either a Deputy or an Assistant Commissioner of Stamps, who shall perform such duties and exercise such powers as the Governor may prescribe; and also
- (c) such other officers as may be deemed necessary for the due execution of this Act.

The said persons shall give such security for the due discharge of the duties hereby reposed in them as the Governor may direct.

Power to appoint stamp distributors.

44 Vic. No. 3, s. 5.

6. (1) The Minister may appoint any person a distributor of stamps throughout New South Wales, who shall be remunerated for his services by a commission upon the value of stamps purchased by him for disposal.

Stamps to be provided.

(2) The Minister shall also provide for denoting the several duties hereby imposed, such stamps or dies as may be required for the purposes

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purposes of this Act, and do any other act which may be necessary for effectually collecting the said duties.

7. All stamp duties which may from time to time be chargeable by law upon any instruments shall be denoted and paid in accordance with the provisions of this Act and the regulations.

Stamp duties to be denoted, &c., in accordance with Act and Regulations.

8. The Schedules to this Act and everything therein contained shall be read and construed as part of this Act.

44 Vic. No. 3, s. 6. Schedules part of Act.

*Ibid.* s. 7.

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PART II.

*Duties on deeds and instruments.*

DIVISION I.—*General Regulations.*

9. Every instrument, subject under this Act to be stamped, shall be written in such manner, and every instrument partly or wholly written before being stamped shall be so stamped, that the stamp appears on the face of the instrument, and cannot be used for or applied to any other instrument written upon the same piece of material.

Stamp to appear on face of instrument.

*Ibid.* s. 8.

10. (1) Every fact and circumstance affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable under this Act, shall be fully and truly set forth in such instrument.

Consideration money, &c., to be truly set forth.

*Ibid.* s. 9.

(2) Every person who, with intent to defraud Her Majesty, executes any instrument in which all the said facts and circumstances are not fully and truly set forth, or, who being employed or concerned in or about the preparation of any instrument, with the like intent neglects or omits fully and truly to set forth therein all the said facts and circumstances, shall forfeit the sum of fifty pounds.

Penalty.

11. In the case of an instrument chargeable under this Act with duty in respect of any money in any foreign or colonial currency, such duty shall be calculated in British currency according to the current rate of exchange on the day of the date of the instrument.

Value of consideration to be calculated in British currency.

*Ibid.* s. 10.

12. Where an instrument is chargeable with duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

If in stock how to be calculated.

*Ibid.* s. 11.

13. Whenever the duty with which an instrument is chargeable under this Act depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty on production of both the instruments shall be denoted in such manner as the Commissioner thinks fit upon such first-mentioned instrument.

Commissioner may denote duty as paid.

*Ibid.* s. 12.

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Stamping documents  
after execution.  
44 Vic. No. 3, s. 13.

14. (1) Subject to the provisions of this Act any unstamped instrument may be stamped after the execution thereof on payment of the unpaid duty and a sum by way of fine at the rate of twenty pounds per centum on the value of the stamps to be affixed.

The payment of any fine shall be denoted on the instrument by a particular stamp—

Proviso.

(2) Provided as follows :—

- (a) Any unstamped instrument which was first executed at any place out of New South Wales may be stamped at any time within two months after it is first received in New South Wales on payment of the unpaid duty only.
- (b) The Commissioner may if he thinks fit at any time within twelve months after the first execution of any instrument remit the fine or any part thereof.
- (c) No fine as aforesaid shall be charged if the instrument is stamped within one month after execution.

No instrument  
admissible as evidence  
except in criminal  
proceedings or unless  
duly stamped.  
*Ibid.* s. 14.

15. (1) Unless otherwise herein expressly enacted no unstamped instrument executed in New South Wales after the passing of this Act, or relating, wheresoever executed, to any property situate, or to any matter or thing done, or to be done, in New South Wales, shall, except in criminal proceedings, be admissible in evidence, or available or effectual for any purpose whatsoever in law or equity :

Provision as to  
unstamped  
instruments at any  
trial not criminal.

Provided that upon the production of any such instrument as evidence at the trial of any cause not being a criminal proceeding, the officer of the Court whose duty it is to read such instrument shall call the attention of the Judge to any omission or insufficiency of the stamp, and the instrument if unstamped or not sufficiently stamped shall not be received in evidence until the whole or the deficiency of the stamp duty and the fine imposed by this Act has been paid ; and such officer of the Court shall, upon payment to him of such stamp duty and fine, give a receipt for the amount of the same, and thereupon such instrument shall be admissible in evidence, saving all just exceptions on other grounds.

Officer of the Court  
to receive and account  
for the duty and  
penalty.

(2) An entry of the fact of such payment and of the amount thereof shall be made in a book kept by such officer, who shall, at the end of each sittings or assizes, duly make a return to the Commissioner of any moneys which he has so received by way of duty or fine, distinguishing between such moneys, and stating the name of the cause and of the parties from whom he received such moneys, and the date and description of the instrument for the purpose of identifying the same, and he shall pay over the said moneys to the Commissioner. And in case such officer neglects or refuses to furnish such account, or to pay over any of the money so received by him, he shall be liable to be proceeded against in the manner directed by this Act, and the Commissioner shall, upon request and production of the receipt hereinbefore

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before mentioned cause such instrument to be stamped with the proper stamp in respect of the sums so paid as aforesaid.

16. No conveyance or other instrument affecting real estate in New South Wales, or power of attorney authorising the execution or registering of any such conveyance or other instrument shall, wheresoever executed, be inadmissible in evidence by reason of the same not being stamped in accordance with the laws of any country other than New South Wales.

Deeds affecting real estate and executed out of New South Wales.

20 Vic. No. 23.

17. Subject to regulations any Commissioner may, upon being required by any person, assess upon any instrument or material the duty payable under this Act and cause it to be stamped accordingly:

For removing doubts as to the sufficiency or insufficiency of stamp duty paid on instruments.

44 Vic. No. 3, s. 15.

Provided that any instrument upon which the duty has been assessed by the Commissioner shall not be stamped otherwise than in accordance with such assessment.

18. (1) Any person dissatisfied with the assessment of a Commissioner may, within fourteen days after the date thereof, and on payment of duty in conformity therewith, appeal against such assessment to the Minister, who may confirm or modify such assessment; and if such assessment is not confirmed the amount of duty to be ultimately retained shall be that fixed by the Minister and the difference shall be refunded to the appellant.

Appeal to Supreme Court against Commissioner's decision.

*Ibid.* s. 16.

If such person is still dissatisfied, he may, within twenty-one days after the Minister's decision is communicated to him, appeal to the Supreme Court, and may for that purpose require the Commissioner to state and sign a case setting forth the grounds upon which his assessment was made:

Provided that any person dissatisfied with such assessment may appeal to the Supreme Court in the first instance without any intermediate appeal to the Minister.

(2) The Commissioner shall thereupon state and sign a case accordingly and deliver the same to the appellant upon whose application such case may be set down for hearing in the Supreme Court.

Commissioner to state case.

(3) Upon the hearing of such case (due notice of which shall be given to the Commissioner) the Court shall determine the question submitted, and assess the duty chargeable under this Act, and also decide the question of costs.

Court to determine question.

(4) If it is decided by the Court that the assessment of the Commissioner is erroneous, any excess of duty which has been paid in conformity with such erroneous assessment, together with any penalty which has been paid in consequence thereof, shall be ordered by the Court to be repaid to the appellant.

Order as to excess.

(5) For the purposes of this section the Court may be holden before one Judge only.

Single Judge.

19. In any case of application to the Commissioner with reference to any instrument, the Commissioner may require an abstract

Abstract of instrument to be furnished.

of *Ibid.* s. 17.

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of the instrument, and also such evidence as he deems necessary in order to show whether every fact and circumstance affecting the liability of the instrument to duty or the amount of the duty chargeable thereon has been fully and truly set forth, and may refuse to proceed upon any such application until such abstract and evidence are furnished accordingly.

**20.** Except where express provision is made to the contrary, all duties shall be denoted by impressed stamps only.

**21.** Any instrument, the duty upon which is required or permitted by law to be denoted by an adhesive stamp, shall not be deemed duly stamped unless the person affixing such stamp cancels the same by writing or stamping with a die on or across each stamp his name or initials, or the name or initials of his firm, together with the true date of such cancellation; and in case he wilfully neglects or refuses duly and effectually to do so, he shall be liable to a penalty not exceeding ten pounds.

**22.** Every person who—

- (a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or fraudulently affixes to any instrument any adhesive stamp which has been removed from any other instrument with intent that such stamp may be used again; or
- (b) knowingly sells, or offers for sale, or utters any adhesive stamp which has been removed from any instrument, or utters any instrument having thereon any adhesive stamp which, to his knowledge, has been so removed as aforesaid; or
- (c) practises or is concerned in any fraudulent act, contrivance, or device with intent to evade any duty under this Act—

shall be liable to a penalty (beside any other penalty to which he may be liable) not exceeding twenty pounds, in addition to the value of the duty evaded or sought to be evaded.

**23.** No unstamped instrument required by this Act to be stamped shall be registered or capable of being registered in any Court or office. Any officer knowingly registering or permitting to be registered any such instrument shall be liable to a penalty not exceeding five pounds for each offence.

**24.** The Supreme Court may, upon application on behalf of a Commissioner, grant a rule requiring any person who has received money payable by way of duty or penalty under this Act, or the executor or administrator of such person, to show cause why he should not deliver to the Commissioner an account upon affidavit of any duty or sum of money received by such person, or executor, or administrator, and why the same should not be forthwith paid to the said Commissioner.

The Court may make absolute such rule, and enforce by attachment or otherwise the payment of any such duty or sum of money as appears to be due, together with costs.

DIVISION

Impressed stamps to be used.  
44 Vic. No. 3, s. 18.  
Mode of cancelling adhesive stamps.  
*Ibid.* s. 19.

Penalty on fraudulent removal or second use of adhesive stamps.  
*Ibid.* s. 20.

Instruments not to be registered unless duly stamped.  
*Ibid.* s. 21.

The Supreme Court to enforce payment of any moneys received for duties.  
*Ibid.* s. 22.



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DIVISION II.—*Special Regulations.*(1) *As to agreements.*

25. The duty of one shilling upon an agreement may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the agreement is first executed.

Adhesive stamp may be used for agreement.

44 Vic. No. 3, s. 23.

(2) *As to bank notes, bills of exchange, and promissory notes.*

26. There shall be payable quarterly to the Commissioner by every bank an annual composition at the rate of forty shillings for every one hundred pounds upon the amount of notes stated to be in circulation in the return made by such bank pursuant to the Banks and Bank Holidays Act, 1898. Any bank note payable on demand issued unstamped by any banker who has duly paid such composition may be from time to time re-issued without being liable to stamp duty.

Bank notes exempt by composition.

*Ibid.* s. 24.

27. Any banker, not having paid such composition, who issues or causes or permits to be issued any bank note not duly stamped, shall be liable to a penalty not exceeding fifty pounds.

Penalty for issuing unstamped bank notes.

*Ibid.* s. 25.

28. The *ad valorem* duties upon bills of exchange and promissory-notes drawn or made out of New South Wales shall be denoted by adhesive stamps; and every holder of any unstamped bill of exchange or promissory-note drawn out of New South Wales shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates, or pays the same, cause it to be duly stamped:

Adhesive stamp to be used for foreign bills.

*Ibid.* s. 26.

Provided that if, at the time when any such bill or note comes into the hands of any *bonâ fide* holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall, so far as relates to such holder, be deemed to be duly cancelled, although it may not appear to have been so affixed or cancelled by the proper person:

Holder to cancel stamps.

Provided, also, that if, at the time when any such bill or note comes into the hands of any *bonâ fide* holder thereof, there is affixed thereto an adhesive stamp not duly cancelled it shall be competent for such holder to cancel such stamp as if he were the person by whom it was affixed, and upon his so doing such bill or note shall be deemed duly stamped and be as valid and available as if the stamp had been cancelled by the person by whom it was affixed:

Provided that nothing herein shall relieve any person from any penalty under this Act.

29. A bill of exchange or promissory-note purporting to be drawn or made out of New South Wales shall, for the purposes of this Act, be deemed to have been so drawn or made, although it may, in fact, be drawn or made in New South Wales.

Document deemed to be drawn as it may purport.

*Ibid.* s. 27.

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Penalty for  
unstamped bill and  
note.  
44 Vic. No. 3, s. 28.

**30.** (1) Whosoever issues, indorses, transfers, uses, negotiates, presents for payment, or pays any bill of exchange or promissory-note liable to duty and not duly stamped shall be liable to a penalty not exceeding twenty pounds.

Penalty.

(2) Whosoever takes or receives from any other person any bill of exchange or promissory-note not duly stamped, either in payment, or as a security, or by purchase, or otherwise, without causing the same to be duly stamped within fourteen days after receiving it, shall be liable to a penalty not exceeding twenty pounds, and shall not be entitled to recover thereon, or to make the same available for any purpose whatever until the same is duly stamped.

Proviso.

(3) Provided that no bill of exchange or promissory-note shall be liable to duty unless drawn or made after the thirtieth day of June, one thousand eight hundred and eighty.

Bills drawn in sets,  
how to be stamped.  
*Ibid.* s. 29.

**31.** Any number of bills of exchange or promissory-notes drawn in or forming part of one set or series, according to the custom of merchants or bankers, shall be held to be one such bill or note for the purposes of this Act, provided that one of the number is duly stamped.

Duty on draft may  
be denoted by  
adhesive stamp.  
*Ibid.* s. 30.

**32.** The duty of one penny on a draft payable on demand may be denoted by an adhesive stamp to be affixed thereto by the maker or holder thereof.

(3) *As to bills of lading.*

Bills of lading not  
to be stamped after  
execution.  
*Ibid.* s. 31.

**33.** (1) A bill of lading shall not be stamped after the execution thereof.

Penalty.

(2) Whosoever makes or executes any bill of lading not duly stamped shall forfeit a sum not exceeding fifty pounds.

No master or mate  
to sign bill of lading  
unless stamped.  
*Ibid.* s. 32.

**34.** No master or mate of any vessel, and no agent or shipping clerk or other person acting for any vessel, shall be bound to sign any bill of lading or instrument answering the purpose of a bill of lading for the conveyance of merchandise of any kind to any place beyond New South Wales unless it is duly stamped.

(4) *As to conveyances on sale.*

If in stock, &c., how  
to be calculated.  
*Ibid.* s. 33.

**35.** (1) Where the consideration, or any part of the consideration, for a conveyance on sale, consists of any stock or marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the value of such stock or security.

If unmarketable  
security.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon such security.

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**36.** Where any property is conveyed to any person in consideration wholly or in part of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money, or stock shall be deemed the whole or part as the case may be of the consideration in respect whereof the conveyance shall be chargeable with *ad valorem* duty.

Where property subject to debt duty to be charged on such debt.

44 Vic. No. 3, s. 34.

**37.** (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto, and such conveyance shall be charged with *ad valorem* duty in respect of such distinct consideration.

Property sold at one price conveyed by separate deeds.

*Ibid.* s. 35.

(2) Where any property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

Where sold to several at one price and conveyed in parts by separate deeds.

(3) Where a person having 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 by the original purchaser to the sub-purchaser.

Sub-sales conveyance by original seller to sub-purchaser.

(4) Where a person having 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 in respect only of the consideration moving from the sub-purchaser thereof without regard to the amount or value of the original consideration.

To several sub-purchasers in parts.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be exempt from the said *ad valorem* duty and chargeable only with the duty to which it may be liable under any general description, but such last-mentioned duty shall not exceed the *ad valorem* duty.

Conveyance by original seller to sub-purchaser where not to be charged.

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Parties may elect which is to be the principal instrument.  
44 Vic. No. 3, s. 36.

**38.** Where there are several instruments of conveyance for completing the purchaser's title to the property sold, the principal instrument of conveyance 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.

(5) *As to leases.*

Lease made in conformity with agreement how to be charged.  
*Ibid.* s. 37.

**39.** (1) An agreement for a lease, or with respect to the letting of any lands, tenements, or heritable subjects for any term shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

Amount of duty.

(2) A lease made subsequently to and in conformity with such an agreement duly stamped shall be charged with the duty of two shillings and sixpence only.

Duty on certain leases how to be calculated and charged.  
*Ibid.* s. 38.

**40.** (1) Where the consideration or any part of the consideration for which any lease is granted or agreed to be granted does not consist of money but consists of any produce or other goods, the value of such produce or goods shall be deemed a consideration in respect of which the lease or agreement shall be chargeable with *ad valorem* duty, and where it is stipulated that the value of such produce or goods shall amount at least to or shall not exceed a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the value of such produce or goods for the purpose of assessing the *ad valorem* duty shall be estimated at such given sum or according to such permanent rate.

When duly stamped.

(2) A lease or agreement made either entirely or partially for any such consideration if it contains a statement of the value of such consideration and is stamped in accordance with such statement shall, so far as regards the subject matter of such statement, be deemed duly stamped, unless or until it is otherwise shown that such statement is incorrect and that it is in fact not duly stamped.

Lease not to be charged with increased duty in respect of any penal rent, &c.  
*Ibid.* s. 39.

**41.** (1) A lease, or agreement for a lease, or with respect to any letting shall not be charged with any duty in respect of any penal rent or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same same subject matter.

Nor in respect of covenant to improve the property.

(2) No lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration, either of a covenant by the lessee to make or of his having previously made any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease, shall be charged with any duty in respect of such further consideration.

(3)

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(3) No lease for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, shall be charged with any higher duty than one pound. Leases for life.

*(6) As to policies of insurance.*

42. A policy or other instrument of insurance which is made or signed out of New South Wales by or on behalf of any person carrying on the business of insurance in New South Wales, by which, according to any stipulation, agreement, or understanding, expressed or implied, any loss or damage, or any sum of money shall be payable or recoverable in New South Wales upon the happening of any contingency whatever, shall be charged with the same duty as is chargeable on policies made and signed within New South Wales: How foreign policy may be stamped. 44 Vic. No. 3, s. 40.

Provided such policy or instrument shall be brought to the said Commissioner for the purpose of being stamped within two calendar months next after the same has been received in New South Wales, and upon proof of that fact to the said Commissioner he shall cause such policy or instrument to be duly stamped on payment of the duties chargeable thereon.

## 43. Any person who—

- (a) receives or takes credit for any premium or consideration for any contract of insurance, and does not, within one month after receiving or taking credit for such premium or consideration, make out and execute a duly stamped policy of such insurance; Penalty for not making out, &c., duly stamped policy. Ibid. s. 41.
- (b) makes, executes, or delivers out or pays, or allows in account, or agrees to pay or allow in account any money upon or in respect of any policy which is not duly stamped—  
shall be liable to a penalty not exceeding twenty pounds.

44. (1) The duties imposed by this Act upon policies of insurance may be denoted by adhesive stamps, or partly by adhesive and partly by impressed stamps. Duties may be denoted by adhesive stamps. Ibid. s. 42.

(2) When the whole or any part of the duty upon a policy of insurance is denoted by an adhesive stamp, such adhesive stamp shall be cancelled by the person by whom the policy is first signed. Adhesive stamp to be cancelled.

(3) In default of such cancellation the person issuing such policy shall be liable to a penalty not exceeding twenty pounds. Penalty.

*(7) As to receipts.*

45. When on any division of profits made by any banking company the banker carries to the credit of any depositor or shareholder therein the amount payable to him on such division of profits, such transaction shall be considered a receipt liable to the duty on receipts under this Act. Division of profits carried to credit to be deemed a receipt. Ibid. s. 44.

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*Stamp Duties.*

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The said banker shall make a sworn return of every such transaction within one week after the same has taken place, and pay the duty thereon according to the rates imposed under the head of receipt, in default of so doing he shall be liable to a penalty not exceeding five hundred pounds.

Duty may be denoted by adhesive stamp.

44 Vic. No. 3, s. 45.

Penalty for giving unstamped receipt.

50 Vic. No. 10, s. 4.

46. The duty upon a receipt may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the receipt is given before he delivers it out of his hands.

47. (1) Any person who—

- (a) gives any receipt liable to duty and not duly stamped;
- (b) refuses to give a receipt duly stamped in any case where a receipt would be liable to duty;
- (c) upon a payment to the amount of two pounds or upwards gives a receipt for a sum not amounting to two pounds, or separates or divides the amount paid with intent to evade the duty;

shall incur a penalty of not less than two pounds nor more than ten pounds:

Demand for receipt not to affect tender.

(2) A demand for any such receipt shall not in any way affect the validity of a tender otherwise legal.

(8) *As to transfers of pastoral runs or stations.*

Assessment of stamp duties on transfers of pastoral runs.

44 Vic. No. 3, s. 47.

48. For the purpose of assessing the amount of stamp duty payable upon the instrument of transfer of any run or interest in a run held under lease or promise of a lease from the Crown, the Commissioner may require the person tendering such instrument for the purpose of being stamped to tender at the same time a declaration of the fair and reasonable market value of the interest intended to be transferred; such declaration to be duly made before a magistrate of the territory or a commissioner for affidavits.

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PART III.

*Duties on estates of deceased persons.*

Duties to be levied on estates of deceased persons.

*Ibid.*, s. 48.

Third Schedule.

49. (1) The duties to be levied, collected, and paid as aforesaid, upon the estates of deceased persons shall be according to the duties mentioned in the Third Schedule to this Act; and such duties shall be charged and chargeable upon and in respect of all estate whether real or personal which belonged to any testator or intestate dying after the commencement of this Act.

(2)

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(2) Duties to be levied, collected, and paid according to the duties mentioned in the said Third Schedule shall also be charged and chargeable upon and in respect of—

(A) all estate, whether real or personal—

- (a) which any person, dying after the twenty-second day of May, one thousand eight hundred and ninety-four, has disposed of, whether before or after that date, by will or by settlement containing any trust in respect of that estate to take effect after his death, under any authority enabling that person to dispose of the same by will or deed, as the case may be ; <sup>23 Vic., c. 15, s. 4.</sup>
- (b) taken under a voluntary disposition made after the day last aforesaid by such person purporting to operate as an immediate conveyance or gift *inter vivos*, whether by way of conveyance, transfer, delivery, declaration of trust or otherwise, which has not been *bonâ fide* made twelve months before the death of such person ; <sup>44 Vic., c. 12, s. 38, subs. 2 (a).</sup>
- (c) which such person, having been absolutely entitled thereto, has, before or after the day last aforesaid, voluntarily caused to be conveyed, transferred to, or vested in himself and any other person jointly, whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person ; <sup>44 Vic., c. 12, s. 38, subs. 2 (b).</sup>
- (d) being a purchase or investment by such person, made either by himself alone or in concert with, or by arrangement with, any other person, before or after the day last aforesaid, with property or the proceeds of property to which he was absolutely entitled, in the name of himself and any other person jointly, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person ; <sup>52 Vic., c. 7, s. 11.</sup>
- (e) passing under any voluntary settlement made before or after the day last aforesaid by such person by deed or any other instrument not taking effect as a will, whereby an interest in that property or the proceeds of sale thereof for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in that property or the proceeds of sale thereof ; <sup>44 Vic., c. 12, s. 38, subs. 2 (c).</sup>  
<sup>52 Vic., c. 7, s. 11.</sup>  
 and in this subsection the expression “voluntary settlement” includes any trust, whether expressed in writing or otherwise, in favour of a volunteer, and, if contained in a deed

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deed or other instrument affecting the settlement, whether that deed or instrument was made for valuable consideration or not as between the settlor and any other person ;

52 Vic., c. 7, s. 11.

- (B) all personal estate (not being chattels real) taken under any gift whenever made by such person, of which *bona fide* possession and enjoyment has not been assumed by the donee immediately upon the gift, and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise.

Penalty for not taking out probate.  
44 Vic. No. 3, s. 48.

50. Whosoever takes possession of and in any manner administers any part of such estate of any person deceased without obtaining probate of the will or letters of administration within six calendar months after the decease of such person, or two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration (if there is any such) which is not ended within four calendar months after the decease of such person, shall incur a penalty not exceeding one hundred pounds, and also a further penalty of ten pounds per centum on the amount of stamp duty payable on the probate or letters of administration and such penalties shall be recovered and enforced in manner herein provided :

Proviso.

Provided that such penalties shall not be incurred when such estate does not exceed two hundred pounds in value :

Provided also that no duty shall be charged on the taking out of any second probate or administration if the proper amount of duty has been duly paid on the first taking out of the same.

Certain debts and shares belonging to deceased persons liable to duty.  
57 Vic. No. 20, s. 1.

51. (1) The estate of any person dying after the twenty-second day of May, one thousand eight hundred and ninety-four, wheresoever such person may have been domiciled, shall, for the purposes of this Act be taken to include—

- (a) every specialty debt due to such person and secured or partly secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal property situate within New South Wales, and notwithstanding that the specialty was, at the time of the death of such person, outside New South Wales ;
- (b) every share held by such person in any company, corporation, or society, whether registered or incorporated within or out of New South Wales, and carrying on the business of mining for any mineral in New South Wales.

And duties may be levied, collected, and paid under and in accordance with the provisions of this Act in respect of the said debts and shares, notwithstanding that the debts or shares were not at the time of the death of the said person *bona notabilia* within New South Wales :

(2)



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(2) Provided that nothing in this section shall render any person liable under the last preceding section to a penalty for taking possession of or administering the estate of a deceased person, where the estate includes no property in respect of which probate or letters of administration or an order to collect may be granted in New South Wales.

52. (1) Upon the death of any person who, after the thirtieth day of June, one thousand eight hundred and eighty, makes any conveyance or gift of any estate with intent to evade the payment of duty under this Act or any Act hereby repealed, such property shall be deemed part of his estate for the purposes of this Act, and the payment of the duty upon the value of such property may be enforced in the same way as if such person had bequeathed or devised the said property to the person to whom the same has been conveyed or given; and any conveyance or gift of property which after the date aforesaid is made to take effect upon the death of the person making the same shall be deemed to have been made with intent to evade the payment of such duty.

(2) Any property being the subject matter of a *donatio mortis causá* shall, upon the death of the person making such *donatio mortis causá*, be deemed part of his property for the purposes of this Act, and duty shall be paid upon it, and payment of such duty may be enforced in the same way as against any other property of or to which such person has died seised, possessed, or entitled.

53. (1) Where any person dying after the twenty-second day of May, one thousand eight hundred and ninety-four was at the time of his death domiciled in New South Wales, all debts actually due and owing by him shall be deducted from his estate.

(2) Where any person so dying was not at the time of his death domiciled in New South Wales, the only debts which may be deducted from his estate shall be debts due and owing to persons resident in New South Wales, and debts secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal estate of the said person situate in New South Wales.

(3) Provided that, in any case, the debts to be deducted shall not include voluntary debts expressed to be payable on the death of the person so dying, or payable under any instrument which has not been *boná fide* delivered to the donee thereof three months before the death of such person, or debts in respect of which a reimbursement may be capable of being claimed from any other estate or person, except as to the excess (if any) above the amount of the reimbursement claimable.

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Affidavit of value to be lodged by applicants for probate or letters of administration.

50 Vic. No. 10, s. 5.

Registrar to transmit affidavit and inventory to Commissioner.

Third Schedule.

Commissioner may appoint valuator.

54. (1) No probate of the will or letters of administration of the estate of any person deceased shall be granted after the commencement of this Act unless the applicant for such probate or letters—

(a) lodges with his application an affidavit stating that to the best of his knowledge and belief the estate of the deceased, exclusive of what he was possessed of or entitled to as a trustee, but including all his real estate and all estates for years is under the value of a certain sum to be specified in such affidavit; and

(b) at the same time delivers with such affidavit an inventory setting forth a full and true account of the estate of the deceased, and the value thereof, and all such particulars as are necessary or proper for enabling the Commissioner fully and correctly to ascertain the duties payable in respect of such estate.

(2) The Registrar of the Probate Jurisdiction of the Supreme Court shall transmit to the Commissioner every such affidavit and inventory, together with a copy of the will or letters of administration to which they relate, within thirty days from the granting of any probate or letters of administration under a penalty not exceeding fifty pounds for any neglect therein, and the Commissioner, if satisfied with such account and inventory or with any amendment that may be made therein upon his requisition, may assess the duty on the footing of such account and inventory (after deducting the debts actually due and owing by the deceased) upon the sum specified in such affidavit according to the rates set forth in the Third Schedule hereto, and such probate or letters shall be stamped accordingly.

(3) If the Commissioner is dissatisfied with such account and inventory, he may cause an account and inventory to be taken by any person to be appointed by him for that purpose, and he may assess the duty on the footing of such last-mentioned account and inventory subject to appeal therefrom in accordance with the provisions of section eighteen of this Act; and if the duty exceeds the duty assessable according to the return made to the Commissioner and with which he was dissatisfied, and if there is no appeal against such assessment, then 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 incident to the taking of such last-mentioned account and inventory against the estate of the said deceased, and to recover the same accordingly, and if there is an appeal against such last-mentioned assessment then the payment of such expenses shall be in the discretion of the Court:

Provided that no such account or inventory as last-mentioned shall be taken by such Commissioner or by any person appointed by him without the previous approval of the Colonial Treasurer.

(4)

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(4) The Commissioner may lodge with the Registrar-General a caveat against the issue of any certificate of title by transmission where the land advertised by him does not clearly appear to have been included in any affidavit or inventory lodged with the Commissioner in connection with the estate of any deceased person upon which probate or administration duty has been assessed, or where the will of any deceased proprietor has not been proved in or letters of administration granted by the Supreme Court.

And may lodge caveat with Registrar-General.

Every such caveat shall be dealt with in all respects as if it were a caveat filed by the Registrar-General, except that the Commissioner shall be considered as the caveator.

55. (1) In respect of the estates of intestates deceased after the thirtieth day of June, one thousand eight hundred and eighty, for which an order to collect is granted to the Curator of Intestate Estates, a like duty shall be paid as by this Act is required to be paid by an administrator.

As to estates administered by Curator of Intestate Estates.  
44 Vic. No. 3, s. 50.

(2) No Judge shall pass the accounts of the Curator of Intestate Estates in respect of the estate of any such intestate unless the amount of duty chargeable on such estate (as if administration had been taken out in respect thereof) has been paid by such Curator, and a receipt for such amount signed by the Commissioner is produced by such Curator.

Accounts not to be passed till duty paid.

(3) Provided that no administration duty shall be chargeable in respect of any such estate previously collected by such Curator.

Proviso.

56. (1) Any duty payable under this Act by any executor or administrator shall be deemed to be a debt of the testator or intestate to Her Majesty, and shall be payable out of his personal estate.

Duties payable out of personal estate.  
*Ibid.* s. 51.

(2) If the personal estate is insufficient to pay such duty the executor or administrator or any person interested may apply to the Supreme Court, which may order that a sufficient part of the real estate be sold to pay the said duty.

Where personal estate insufficient.

(3) Every executor or administrator may deduct from any property devised or bequeathed to any person an amount equal to the duty thereon, calculated at the same rate as is payable upon the estate under this Act, unless the testator has made a different disposition as to the payment of the said duty in his will.

Deduction of duty from property devised.

57. No probate or letters of administration shall issue from the Prothonotary's office until the duty under this Act has been paid or security given for the same, and the probate or letters of administration duly stamped.

Probates, &c., not to issue until duty paid.  
*Ibid.* s. 52.

58. (1) Within six months after the death of any person who has executed a settlement containing any trust to take effect after his death, or within such further time as the Commissioner may allow, notice of such settlement shall be lodged by the trustee thereof or by some person interested thereunder, together with a declaration specifying

Settlement of property taking effect after death of settlor.  
*Ibid.* s. 53.

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fyng the property thereby settled and the value thereof, and duty shall thereupon be payable on such value at the rates specified in the Third Schedule hereto.

Third Schedule.

Procedure where notice not lodged.

(2) In case such notice and declaration are not lodged and the duty paid within six months or such further time as the Commissioner may allow, the Commissioner or any person interested may apply to the Supreme Court, which may order that a sufficient part of the property included in such settlement be sold, and the proceeds of such sale applied in payment of the duty and of the costs consequent thereon.

Court may make vesting orders.  
44 Vic. No. 3, s. 54.

**59.** Whenever any order has been made for the sale of any lands under this Act every person seised or possessed of such lands or entitled to a contingent interest therein shall be deemed to be so seised, possessed, or entitled upon a trust within the meaning of the Trustee Act, 1898. And the Supreme Court may make an order vesting such lands or any part thereof either in any purchaser or in such other person as the Court directs, and every such order shall have the same effect as if such person so seised, possessed, or entitled had been free from all disability, and had duly executed all proper conveyances and assignments.

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 PART IV.

*Miscellaneous provisions.*

One stamp may be used in place of many and *vice versa*.  
*Ibid.* s. 56.

**60.** Any single stamp may be used to denote the total amount of duty, and two or more stamps may be used to denote any one duty, and all instruments stamped with one, two, or more stamps for denoting the amount of duty charged thereon shall be as valid as if the same had been stamped with a single stamp or any number of stamps.

Proceeding if return not made by any accountable party.  
*Ibid.* s. 57.

**61.** Any person required under this Act to deliver any account who makes default in so doing shall be liable, upon application to the Supreme Court by the Commissioner, or any person by him duly authorised, to be sued by writ of summons in such form as the Judges of the said Court shall direct, commanding the party so in default to deliver such account and to pay all costs incurred in consequence of such default up to the time of such delivery within such period as may be appointed in the writ, or to show cause to the contrary, and on cause being shown such order shall be made as is just.

Accounting party to verify his account.  
*Ibid.* s. 58.

**62.** Every person delivering any account or estimate of property under this Act shall, if required by the Commissioner, produce before him such books and documents in the custody or control of such person

*Stamp Duties.*

so far as the same relate to such account or estimate as may afford any necessary information for the purpose of ascertaining such property and the duty payable thereon, and the Commissioner may without payment of any fee inspect and take copies of any public book; and any commissioner or other officer who discloses the same or the contents of any document or book to any person other than for the purpose of this Act shall be liable to a penalty not exceeding one hundred pounds.

**63.** The Commissioner shall enter and keep on record in a book every payment of duty made under the Third Schedule hereto, and shall give a receipt for such duty in such form as shall be provided by regulations, and shall upon application for any reasonable purpose, deliver to any person interested in any property affected thereby a certificate of such payment.

Books to be kept  
and receipts given.  
44 Vic. No. 3, s. 59.  
Third Schedule.

**64.** Whosoever makes or assists in making any false statement, or any fraudulent alterations in any statement or document required under this Act, with intent to evade the payment of duty, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any period not exceeding three years, and to a fine not exceeding one hundred pounds.

Persons fraudulently  
mis-stating property  
or debts.  
*Ibid.* s. 60.

**65.** Whosoever does or causes to be done, or knowingly assists in doing any of the acts following, that is to say:—

Penalties for fraudulent acts.  
*Ibid.* s. 61.

- (a) forges a die or stamp;
- (b) impresses any material with a forged die;
- (c) cuts, tears, or in any way removes from any material any stamp with intent to make fraudulent use of such stamp or of any part thereof;
- (d) mutilates any stamp with intent to make fraudulent use of any part thereof;
- (e) fraudulently fixes or places upon any material, or upon any stamp, any stamp or part of a stamp which has been cut, torn, or in any way removed from any other material, or out of or from any other stamp;
- (f) erases or otherwise removes from any stamped material any name, sum, date, or other matter or thing whatsoever thereon written, with the intent that any fraudulent use should be made of the stamp upon such material;
- (g) knowingly sells or exposes for sale, or utters or uses any forged stamp;
- (h) knowingly and without lawful excuse (the proof of which lawful excuse lies on the person accused) has in possession any forged die or stamp, or any stamp or part of a stamp which

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which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise removed—

shall be guilty of felony, and liable to be sentenced to hard labour on the roads or other public works of the colony, or to be imprisoned with or without hard labour for any term not exceeding seven years.

Transfer of shares to be stamped.  
44 Vic. No. 3, s. 62.

**66.** Whosoever receives any transfer of any shares not duly stamped without causing the same to be duly stamped within one week after receiving the same shall be liable to a penalty not exceeding ten pounds.

Affidavits and penalty for false oath.  
*Ibid.* s. 63.  
Penalty.

**67.** (1) Every affidavit required by this Act shall be made before a justice of the peace, or a commissioner for affidavits.

(2) Whosoever knowingly and wilfully makes a false oath or statement concerning any matter in this Act shall be liable to the same punishment as for wilful and corrupt perjury.

Courts in suits for administration of property to provide for payment of duty.  
*Ibid.* s. 64.

**68.** Whenever any suit is pending in any Court for the administration of any property chargeable with duty under this Act, such Court shall provide for the payment of such duty out of any property the subject matter of such suit which may be in the possession or control of the Court.

Recovery of penalties.  
*Ibid.* s. 65.

**69.** Any penalty incurred under this Act may be recovered in a summary way before any two justices of the peace, or by action of debt in the Supreme Court in the name of the Attorney-General, and with costs in either case.

Allowance in case stamps becoming useless.  
*Ibid.* s. 66.

**70.** Any person possessed of impressed stamps or stamped material rendered useless by being inadvertently spoiled, may upon application to the commissioner, be allowed in lieu thereof other stamps of the same or any other denomination amounting in the whole to the value of such spoiled stamps.

Power to make regulations and forms.  
*Ibid.* s. 67.

**71.** The Governor may frame regulations not being inconsistent with this Act and prescribe forms for carrying out this Act, and such regulations and forms when published in the *Gazette*, shall have the force of law :

Provided that the same shall be laid before both Houses of Parliament forthwith if Parliament is sitting, and if not, then within twenty-one days after the commencement of the next Session.

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SCHEDULES.

Section 2.

FIRST SCHEDULE.

Reference to Act.	Title or short title.	Extent of Repeal.
20 Vic. No. 23...	An Act to declare that instruments affecting Real Estate in this Colony executed out of the Colony are admissible in evidence therein although not stamped.	The whole.
36 Vic. No. 15...	Postage Stamps Extension Act of 1873.	The whole.
44 Vic. No. 3...	Stamp Duties Act of 1880.	The whole.
50 Vic. No. 10...	Stamp Duties Act Amendment Act of 1886.	The whole.
54 Vic. No. 15...	Transfer of Mining Stock Stamp Duty Exemption Act 1890.	The whole.
57 Vic. No. 20...	Stamp Duties Acts Further Amendment Act of 1894.	The whole.

SECOND SCHEDULE.

Section 4.  
44 Vic. No. 3.  
Schedule 1.

*Containing the Duties on Deeds or other instruments relating to transactions between living persons.*

	£	s.	d.	
AGREEMENT not under seal ... ..	0	1	0	
And see section 25.				
BANK NOTE. An Annual Composition to be paid by Banking Companies in lieu of duties on promissory-notes payable on demand issued by them—				
For every £100 and also for the fractional part of £100 of the average annual amount of such notes in circulation as certified under the Banks and Bank Holidays Act, 1898	2	0	0	
And see sections 26, 27.				
BILL OF EXCHANGE OR PROMISSORY-NOTE—				50 Vic. No. 10, s. 2.
For every £25 and also for any fractional part of £25 ... ..	0	0	6	
And see sections 28, 29, 30, 31.				
BILL OF LADING—				44 Vic. No. 3.
For every bill of lading or copy thereof ... ..	0	0	6	Schedule I.
And see sections 33, 34.				
CONVEYANCE OR TRANSFER on sale of any share or shares in the stock and funds of any corporation, company, or society whatever in New South Wales.				
For every £10 and also for any fractional part of £10 of the consideration money therein expressed ... ..	0	0	6	
And see section 66, and the exemptions to this Schedule.				
CONVEYANCE OR TRANSFER on sale of any property (except such stock and funds as aforesaid)—				
Where the amount or value of the consideration for the sale does not exceed £50 ... ..	0	5	0	
Exceeds £50 and does not exceed £100 ... ..	0	10	0	
For every £100 and also for any fractional part of £100 of such amount or value ... ..	0	10	0	
				CONVEYANCE

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	£	s.	d.
CONVEYANCE of any other kind not before charged ... ..	1	0	0
And see sections 35, 36, 37, 38.			
DRAFT—payable on demand. <i>See</i> section 32 ... ..	0	0	1
DEED of any kind whatever not otherwise charged in this Schedule ...	1	0	0
LEASE—			
(1.) For any definite term or for an indefinite term of any lands, tenements, or heritable subjects—			
Where the consideration or any part of the consideration moving either to the lessor or to any other person shall consist of any money, stock, or security—			
In respect of such consideration ... ..			
Where the consideration or any part of the consideration shall be any rent—			
In respect of such consideration—			
For every sum not exceeding £50 per annum ...	0	2	6
And for every £50 or fractional part of £50 per annum ... ..	0	2	6
(2.) Of any other kind whatsoever ... ..	1	0	0
And see sections 39, 40, 41.			
MEMORANDUM of transfer under the Act twenty-sixth Victoria number nine			
			(The same duty as for a conveyance for the sale of lands for a like sum the consideration of such transfer.)
POLICY for or against loss by fire—			
For every £100 and also for every fractional part of £100 insured for any term or period exceeding six calendar months ...	0	0	6
And not exceeding six months ... ..	0	0	3
On every renewal or continuance thereof for every £100 and for every fractional part of £100 insured for any term ... ..	0	0	3
POLICY for any voyage or period—			
For every £100 and also for any fractional part of £100 so insured	0	0	3
On every renewal or continuance thereof for every £100 or fractional part of £100 ... ..	0	0	3
POLICY not otherwise specified—			
For every £100 and for every fractional part of £100 insured ...	0	1	0
And see sections 43, 44.			
RECEIPT given for or upon the payment of any sum of money amounting to £2 and upwards ... ..	0	0	2
TRANSFER OF SHARES. <i>See</i> CONVEYANCE.			
TRANSFER of any run or station held under lease or promise of lease from the Crown or of any interest therein where the declared value of the said run, or station, or interest, or the value thereof assessed as in this Act provided shall not exceed £100 ... ..	0	10	0
And where such value shall exceed £100 then for every £100 and any fractional part of £100 ... ..	0	10	0
And see section 48.			

EXEMPTIONS.



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*Stamp Duties.*


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## EXEMPTIONS.

- Any agreement or memorandum for the hire of any labourer, artificer, manufacturer, or menial servant.*
- Any agreement or memorandum made for or relating to the sale of any goods, wares, or merchandise.*
- Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any voyage coastwise from port to port in the Colony of New South Wales.*
- Any Debenture or Treasury Bill issued by the Government of New South Wales.*
- Any draft or order for the payment of money issued by any duly authorised officer of the Government on account of the Public Service.*
- Any draft or order for the payment of money commonly called an advance note issued by a master of a ship or vessel in favour of a seaman.*
- Any instrument relating to the service of an apprentice, clerk, or servant.*
- Any Customs bond.*
- Any administration bond.*
- Any bail bond.*
- Any bond to the Crown for the safe custody of an insane person.*
- Any bond on appointment of a special bailiff.*
- Any mortgage of real property or mortgage given by way of bill of sale or otherwise of live stock, goods, chattels, or effects, or personal estate generally, and any transfer, assignment, release, re-conveyance, or discharge thereof, and every receipt endorsed on either or any of said documents for the consideration thereof.*
- Any preferable lien or any lien on crops under the Lien on Crops and Wool and Stock Mortgages Act, 1898.*
- Any policy of insurance on life or on any public hospital or charitable institution.*
- Any policy of insurance on the tools or implements of work or labour used by any working mechanic, artificer, handicraftsman, or labourer by a separate policy in a distinct sum.*
- Any policy, whereby any insurance company, or underwriter, or association of underwriters may effect an insurance or transaction, the original policy representing which may have already contributed to the stamp duty imposed on policies: Provided that the fact of such policy being a reinsurance policy shall be expressed on the face thereof.*
- Any receipt given for or upon the payment of money to or for the use of Her Majesty.*
- Any acknowledgment by any banker of the receipt of any bill of exchange or promissory-note for the purpose of being presented for acceptance or payment.*
- Any acknowledgment by any person on receipt of money for the purchase of stock or shares in any banking or public company.*
- Any acknowledgment or receipt given by any labourer, artificer, or workman for or on account of wages received by him.*
- Any receipt written upon or given for a bill of exchange or promissory-note duly stamped.*
- Any receipt endorsed, or otherwise written upon, or contained in any instrument liable to stamp duty, and duly stamped acknowledging the receipt of the consideration money therein expressed.*
- Any receipt given by depositors on receiving deposits from any savings bank.*
- Any acknowledgment given for money deposited in any bank to be accounted for: Provided that this exemption shall not extend to acknowledgments for any sum carried to the credit of any depositor or shareholder in any bank on any division of profits made by such bank, or for or in respect of any dividend from any joint stock or other company, on the same being deposited by any person to the credit of any other person in any bank, or for or in respect of any sum paid to the credit of any person in any bank for rent or interest by any other person, or for or in respect of any sum deposited, which would be liable to duty if paid directly by any person to any other person.*

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*Stamp Duties.*


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- Any receipt given in anticipation of a bill of lading, and not to be used in lieu thereof.*
- Any instrument of appointment relating to any property in favour of persons specially named or described as the objects of a power of appointment created by a previous settlement duly stamped in respect of the same property, or by will where probate duty has been paid in respect of the same property as personal estate.*
- 54 Vic. No. 15 s. 1. *Any instrument for the sale, transfer, or other disposition of any ship or vessel, or any part, interest, share, or property of, or in any ship or vessel.*
- Any conveyance or transfer made since the first day of October, in the year one thousand eight hundred and ninety, of any shares in the stock and funds of any corporation, company, or society, carrying on only the business of mining for extracting or smelting any mineral or metal in New South Wales; and whether the operations of such corporation, company, or society are carried on within New South Wales or elsewhere.*
- 44 Vic. No. 3.  
Schedule I. *And any copy of rules, or power, warrant, or letter of attorney granted by any trustee of any friendly society, within the meaning of Friendly Societies Act 1873 for the transfer of any share in the colonial funds or debentures, standing in the name of such trustee, or any order or receipt for money contributed to or received from the funds of any such society, by any person liable or entitled to pay or receive the same by virtue of the rules thereof, or any bond to be given to or on account of any such society, or by the treasurer, or any officer thereof, or any draft or order, or any form of policy, or any appointment of an agent, or any certificate or other instrument for the revocation of any such appointment, or any other document whatever required or authorised by the rules of any such society, shall be exempt from all stamp duties.*

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**THIRD SCHEDULE.**
*Duties on the estates of deceased persons.*

## Part I.

- Ss. 4, 49-59.  
10 Vic. No. 10.  
Schedule B.
1. On the probate or letters of administration to be granted in respect of any estate real and personal of deceased persons.
- |  |    |    |    |             |
|--|----|----|----|-------------|
| Where the value of such estate is under £5,000 ... | .. | .. | .. | 1 per cent. |
| Where the value is £5,000 and under £12,500 ...    | .. | .. | .. | 2 per cent. |
| Where the value is £12,500 and under £25,000 ...   | .. | .. | .. | 3 per cent. |
| Where the value is £25,000 and under £50,000 ...   | .. | .. | .. | 4 per cent. |
| Where the value is £50,000 and over that amount    | .. | .. | .. | 5 per cent. |

## Part II.

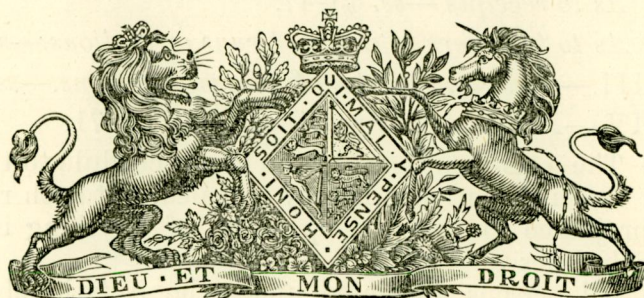
2. Settlement of property taking effect after death of settlor—same duties as under Part I.

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council Chamber,  
Sydney, 6th July, 1898. }

JOHN J. CALVERT,  
Clerk of the Parliaments.

## New South Wales.



ANNO SEXAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

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Act No. 27, 1898.

An Act to consolidate the Laws relating to Stamp Duties.  
[Assented to, 27th July, 1898.]

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:—

### PART I.

#### *Preliminary.*

1. This Act may be cited as the "Stamp Duties Act, 1898," and is divided into parts, divisions, and subdivisions, as follows:—

Short title and  
division.

PART I.—*Preliminary.*—ss. 1-8.

PART II.—*Duties on deeds and instruments.*

DIVISION 1.—*General regulations.*—ss. 9-24.

DIVISION

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DIVISION 2.—*Special regulations.*

- (1) *As to agreements.*—s. 25.
- (2) *As to bank notes, bills of exchange, and promissory notes.*—ss. 26–32.
- (3) *As to bills of lading.*—ss. 33, 34.
- (4) *As to conveyances on sale.*—ss. 35–38.
- (5) *As to leases, &c.*—ss. 39–41.
- (6) *As to policies of insurance.*—ss. 42–44.
- (7) *As to receipts.*—ss. 45–47.
- (8) *As to transfers of pastoral runs or stations.*—s. 48.

PART III.—*Duties on estates of deceased persons.*—ss. 49–59.PART IV.—*Miscellaneous provisions.*—ss. 60–71.

Repeal of Acts.  
First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein mentioned hereby repealed, but such repeal shall be without prejudice to the past operation of anything in the said Acts or the Schedules thereto.

Officers under Acts  
hereby repealed.

(2) All persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

Regulations under  
Acts hereby repealed.

(3) All regulations made and forms prescribed under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under this Act.

Interpretation.  
44 Vic. No. 3, s. 2.

3. In this Act, unless the context or subject matter otherwise indicates or requires,—

“Administrator” means any person to whom any letters of administration in the estate of any deceased person is granted in New South Wales.

“Affidavit” includes affirmation and statutory declaration.

“Bank” means any corporation, society, or number of persons carrying on the business of banking.

“Banker” means the person managing or administering the affairs of any bank or branch thereof.

“Bill of exchange” means any ordinary bill of exchange, or any draft, order, cheque, letter of credit, instrument, or writing, not payable on demand, entitling any person whether or not named therein to payment of money by any other person.

“Bill of lading” means any instrument signed by the master, mate, or other person in charge of any vessel, or by the agent, shipping clerk, or other person acting as such for such vessel, for the conveyance therein of goods, wares, or merchandise to any place beyond New South Wales.

“Commissioner”

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- “Commissioner” means any person appointed Commissioner of Stamp Duties under this Act.
- “Conveyance” means any instrument or deed whereby property is vested in any person or transferred or conveyed from one person to another.
- “Draft” means any draft, cheque, or order for money payable on demand, not being a bill of exchange or otherwise herein specified.
- “Estate” means real or personal property.
- “Executor” means any person to whom probate of the will of any deceased person is granted in New South Wales.
- “Executed” means signed and completed, whether or not by sealing or any process customary or required by law in any particular case.
- “Execution” means the form or process of being executed.
- “Instrument” means any written or printed deed or document.
- “Issue” means delivery of a promissory-note or bill of exchange by the maker or acceptor to the payee thereof.
- “Lease” means lease or promise of or agreement for a lease.
- “Marketable security” means any security capable of being sold in any stock market in New South Wales.
- “Material” means any sort of material commonly used for writing or printing upon which words or figures can be expressed.
- “Minister” means any Minister charged with the administration of this Act.
- “Money” means any sum in British, Foreign, or Colonial currency.
- “Policy” means any insurance, or contract, whether of insurance against loss by fire, or upon or concerning any vessel or goods, for any voyage or period, whether the same is issued singly or in duplicate or otherwise.
- “Promissory-note” means any ordinary promissory-note, or any debenture issued by any public company, corporation, or society in New South Wales, or any debenture issued out of New South Wales, if negotiated therein.
- “Receipt” means any stamp, mark, impression, indication, as well 50 Vic. No. 10, s. 3. as any note, memorandum, or writing whatsoever, whereby any money amounting to two pounds or upwards is deposited for any fixed period, or is acknowledged, or expressed to have been received or paid in satisfaction of any debt, or whereby any debt or demand or any part of a debt or demand of the amount of two pounds or upwards is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.
- “Regulations”

*Stamp Duties.*

44 Vic. No. 3, s. 2.

“Regulations” means regulations under this Act.

“Settlement” means any contract or agreement (whether voluntary or upon any good or valuable consideration other than a *bonâ fide* pecuniary consideration) whereby any property, real or personal, is settled or agreed to be settled, or containing any trusts or dispositions to take effect after the death of any person.

36 Vic. No. 15, s. 3.

“Stamp” means a stamp impressed by means of a die, or an adhesive stamp, and includes a postage stamp.

44 Vic. No. 3, s. 2.

“Stamped” means impressed with stamps by means of a die, or having an adhesive stamp affixed according to this Act.

“Stock” means any share in stocks or funds of Great Britain, or of any Foreign or Colonial State or Government, or in the capital, stock, or funded debt of any company, corporation, or society, British, Foreign, or Colonial.

“Unstamped” means either not stamped at all or insufficiently stamped, or not duly stamped.

“Writing” means any mode or process by which words or figures can be expressed upon material.

Stamp duties to be levied.

*Ibid.* s. 3.

Second and Third Schedule.

4. From and after the commencement of this Act, and subject to the exemptions contained in the Second and Third Schedules hereto, there shall be charged, levied, collected, and paid for the use of Her Majesty, and to form part of the Consolidated Revenue Fund, for and in respect of the several instruments and matters described or mentioned in this Act, and in the said Schedules hereto the several duties or sums of money, and at the several rates specified herein or set down in figures against the same respectively in the said Schedules.

Such duties shall be denoted in stamps upon the material upon which any such instrument or matter is written or expressed.

Power to appoint commissioner and officers.

*Ibid.* s. 4.

50 Vic. No. 10, s. 6.

5. The Governor may appoint—

- (a) a Commissioner who shall be charged with the levying and collection of the duties imposed by this Act; and also
- (b) either a Deputy or an Assistant Commissioner of Stamps, who shall perform such duties and exercise such powers as the Governor may prescribe; and also
- (c) such other officers as may be deemed necessary for the due execution of this Act.

The said persons shall give such security for the due discharge of the duties hereby reposed in them as the Governor may direct.

Power to appoint stamp distributors.

44 Vic. No. 3, s. 5.

6. (1) The Minister may appoint any person a distributor of stamps throughout New South Wales, who shall be remunerated for his services by a commission upon the value of stamps purchased by him for disposal.

Stamps to be provided.

(2) The Minister shall also provide for denoting the several duties hereby imposed, such stamps or dies as may be required for the purposes

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purposes of this Act, and do any other act which may be necessary for effectually collecting the said duties.

7. All stamp duties which may from time to time be chargeable by law upon any instruments shall be denoted and paid in accordance with the provisions of this Act and the regulations.

Stamp duties to be denoted, &c., in accordance with Act and Regulations.

8. The Schedules to this Act and everything therein contained shall be read and construed as part of this Act.

44 Vic. No. 3, s. 6. Schedules part of Act.

*Ibid.* s. 7.

## PART II.

*Duties on deeds and instruments.*DIVISION I.—*General Regulations.*

9. Every instrument, subject under this Act to be stamped, shall be written in such manner, and every instrument partly or wholly written before being stamped shall be so stamped, that the stamp appears on the face of the instrument, and cannot be used for or applied to any other instrument written upon the same piece of material.

Stamp to appear on face of instrument.

*Ibid.* s. 8.

10. (1) Every fact and circumstance affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable under this Act, shall be fully and truly set forth in such instrument.

Consideration money, &c., to be truly set forth.

*Ibid.* s. 9.

(2) Every person who, with intent to defraud Her Majesty, executes any instrument in which all the said facts and circumstances are not fully and truly set forth, or, who being employed or concerned in or about the preparation of any instrument, with the like intent neglects or omits fully and truly to set forth therein all the said facts and circumstances, shall forfeit the sum of fifty pounds.

Penalty.

11. In the case of an instrument chargeable under this Act with duty in respect of any money in any foreign or colonial currency, such duty shall be calculated in British currency according to the current rate of exchange on the day of the date of the instrument.

Value of consideration to be calculated in British currency.

*Ibid.* s. 10.

12. Where an instrument is chargeable with duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

If in stock how to be calculated.

*Ibid.* s. 11.

13. Whenever the duty with which an instrument is chargeable under this Act depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty on production of both the instruments shall be denoted in such manner as the Commissioner thinks fit upon such first-mentioned instrument.

Commissioner may denote duty as paid.

*Ibid.* s. 12.

14.

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*Stamp Duties.*


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Stamping documents  
after execution.  
44 Vic. No. 3, s. 13.

14. (1) Subject to the provisions of this Act any unstamped instrument may be stamped after the execution thereof on payment of the unpaid duty and a sum by way of fine at the rate of twenty pounds per centum on the value of the stamps to be affixed.

The payment of any fine shall be denoted on the instrument by a particular stamp—

Proviso.

(2) Provided as follows :—

- (a) Any unstamped instrument which was first executed at any place out of New South Wales may be stamped at any time within two months after it is first received in New South Wales on payment of the unpaid duty only.
- (b) The Commissioner may if he thinks fit at any time within twelve months after the first execution of any instrument remit the fine or any part thereof.
- (c) No fine as aforesaid shall be charged if the instrument is stamped within one month after execution.

No instrument  
admissible as evidence  
except in criminal  
proceedings or unless  
duly stamped.  
*Ibid.* s. 14.

15. (1) Unless otherwise herein expressly enacted no unstamped instrument executed in New South Wales after the passing of this Act, or relating, wheresoever executed, to any property situate, or to any matter or thing done, or to be done, in New South Wales, shall, except in criminal proceedings, be admissible in evidence, or available or effectual for any purpose whatsoever in law or equity :

Provision as to  
unstamped  
instruments at any  
trial not criminal.

Provided that upon the production of any such instrument as evidence at the trial of any cause not being a criminal proceeding, the officer of the Court whose duty it is to read such instrument shall call the attention of the Judge to any omission or insufficiency of the stamp, and the instrument if unstamped or not sufficiently stamped shall not be received in evidence until the whole or the deficiency of the stamp duty and the fine imposed by this Act has been paid ; and such officer of the Court shall, upon payment to him of such stamp duty and fine, give a receipt for the amount of the same, and thereupon such instrument shall be admissible in evidence, saving all just exceptions on other grounds.

Officer of the Court  
to receive and account  
for the duty and  
penalty.

(2) An entry of the fact of such payment and of the amount thereof shall be made in a book kept by such officer, who shall, at the end of each sittings or assizes, duly make a return to the Commissioner of any moneys which he has so received by way of duty or fine, distinguishing between such moneys, and stating the name of the cause and of the parties from whom he received such moneys, and the date and description of the instrument for the purpose of identifying the same, and he shall pay over the said moneys to the Commissioner. And in case such officer neglects or refuses to furnish such account, or to pay over any of the money so received by him, he shall be liable to be proceeded against in the manner directed by this Act, and the Commissioner shall, upon request and production of the receipt herein-  
before



*Stamp Duties.*

before mentioned cause such instrument to be stamped with the proper stamp in respect of the sums so paid as aforesaid.

16. No conveyance or other instrument affecting real estate in New South Wales, or power of attorney authorising the execution or registering of any such conveyance or other instrument shall, wheresoever executed, be inadmissible in evidence by reason of the same not being stamped in accordance with the laws of any country other than New South Wales.

Deeds affecting real estate and executed out of New South Wales.

20 Vic. No. 23.

17. Subject to regulations any Commissioner may, upon being required by any person, assess upon any instrument or material the duty payable under this Act and cause it to be stamped accordingly:

For removing doubts as to the sufficiency or insufficiency of stamp duty paid on instruments.

44 Vic. No. 3, s. 15.

Provided that any instrument upon which the duty has been assessed by the Commissioner shall not be stamped otherwise than in accordance with such assessment.

18. (1) Any person dissatisfied with the assessment of a Commissioner may, within fourteen days after the date thereof, and on payment of duty in conformity therewith, appeal against such assessment to the Minister, who may confirm or modify such assessment; and if such assessment is not confirmed the amount of duty to be ultimately retained shall be that fixed by the Minister and the difference shall be refunded to the appellant.

Appeal to Supreme Court against Commissioner's decision.

*Ibid.* s. 16.

If such person is still dissatisfied, he may, within twenty-one days after the Minister's decision is communicated to him, appeal to the Supreme Court, and may for that purpose require the Commissioner to state and sign a case setting forth the grounds upon which his assessment was made:

Provided that any person dissatisfied with such assessment may appeal to the Supreme Court in the first instance without any intermediate appeal to the Minister.

(2) The Commissioner shall thereupon state and sign a case accordingly and deliver the same to the appellant upon whose application such case may be set down for hearing in the Supreme Court.

Commissioner to state case.

(3) Upon the hearing of such case (due notice of which shall be given to the Commissioner) the Court shall determine the question submitted, and assess the duty chargeable under this Act, and also decide the question of costs.

Court to determine question.

(4) If it is decided by the Court that the assessment of the Commissioner is erroneous, any excess of duty which has been paid in conformity with such erroneous assessment, together with any penalty which has been paid in consequence thereof, shall be ordered by the Court to be repaid to the appellant.

Order as to excess.

(5) For the purposes of this section the Court may be holden before one Judge only.

Single Judge.

19. In any case of application to the Commissioner with reference to any instrument, the Commissioner may require an abstract of

Abstract of instrument to be furnished.

of *Ibid.* s. 17.

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of the instrument, and also such evidence as he deems necessary in order to show whether every fact and circumstance affecting the liability of the instrument to duty or the amount of the duty chargeable thereon has been fully and truly set forth, and may refuse to proceed upon any such application until such abstract and evidence are furnished accordingly.

**20.** Except where express provision is made to the contrary, all duties shall be denoted by impressed stamps only.

**21.** Any instrument, the duty upon which is required or permitted by law to be denoted by an adhesive stamp, shall not be deemed duly stamped unless the person affixing such stamp cancels the same by writing or stamping with a die on or across each stamp his name or initials, or the name or initials of his firm, together with the true date of such cancellation; and in case he wilfully neglects or refuses duly and effectually to do so, he shall be liable to a penalty not exceeding ten pounds.

**22.** Every person who—

- (a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or fraudulently affixes to any instrument any adhesive stamp which has been removed from any other instrument with intent that such stamp may be used again; or
- (b) knowingly sells, or offers for sale, or utters any adhesive stamp which has been removed from any instrument, or utters any instrument having thereon any adhesive stamp which, to his knowledge, has been so removed as aforesaid; or
- (c) practises or is concerned in any fraudulent act, contrivance, or device with intent to evade any duty under this Act—

shall be liable to a penalty (beside any other penalty to which he may be liable) not exceeding twenty pounds, in addition to the value of the duty evaded or sought to be evaded.

**23.** No unstamped instrument required by this Act to be stamped shall be registered or capable of being registered in any Court or office. Any officer knowingly registering or permitting to be registered any such instrument shall be liable to a penalty not exceeding five pounds for each offence.

**24.** The Supreme Court may, upon application on behalf of a Commissioner, grant a rule requiring any person who has received money payable by way of duty or penalty under this Act, or the executor or administrator of such person, to show cause why he should not deliver to the Commissioner an account upon affidavit of any duty or sum of money received by such person, or executor, or administrator, and why the same should not be forthwith paid to the said Commissioner.

The Court may make absolute such rule, and enforce by attachment or otherwise the payment of any such duty or sum of money as appears to be due, together with costs.

DIVISION

Impressed stamps to be used.  
44 Vic. No. 3, s. 18.  
Mode of cancelling adhesive stamps.  
*Ibid.* s. 19.

Penalty on fraudulent removal or second use of adhesive stamps.  
*Ibid.* s. 20.

Instruments not to be registered unless duly stamped.  
*Ibid.* s. 21.

The Supreme Court to enforce payment of any moneys received for duties.  
*Ibid.* s. 22.

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*Stamp Duties.*


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DIVISION II.—*Special Regulations.*(1) *As to agreements.*

25. The duty of one shilling upon an agreement may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the agreement is first executed.

Adhesive stamp may be used for agreement.

44 Vic. No. 3, s. 23.

(2) *As to bank notes, bills of exchange, and promissory notes.*

26. There shall be payable quarterly to the Commissioner by every bank an annual composition at the rate of forty shillings for every one hundred pounds upon the amount of notes stated to be in circulation in the return made by such bank pursuant to the Banks and Bank Holidays Act, 1898. Any bank note payable on demand issued unstamped by any banker who has duly paid such composition may be from time to time re-issued without being liable to stamp duty.

Bank notes exempt by composition.

*Ibid.* s. 24.

27. Any banker, not having paid such composition, who issues or causes or permits to be issued any bank note not duly stamped, shall be liable to a penalty not exceeding fifty pounds.

Penalty for issuing unstamped bank notes.

*Ibid.* s. 25.

28. The *ad valorem* duties upon bills of exchange and promissory-notes drawn or made out of New South Wales shall be denoted by adhesive stamps; and every holder of any unstamped bill of exchange or promissory-note drawn out of New South Wales shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates, or pays the same, cause it to be duly stamped:

Adhesive stamp to be used for foreign bills.

*Ibid.* s. 26.

Provided that if, at the time when any such bill or note comes into the hands of any *boná fide* holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall, so far as relates to such holder, be deemed to be duly cancelled, although it may not appear to have been so affixed or cancelled by the proper person:

Holder to cancel stamps.

Provided, also, that if, at the time when any such bill or note comes into the hands of any *boná fide* holder thereof, there is affixed thereto an adhesive stamp not duly cancelled it shall be competent for such holder to cancel such stamp as if he were the person by whom it was affixed, and upon his so doing such bill or note shall be deemed duly stamped and be as valid and available as if the stamp had been cancelled by the person by whom it was affixed:

Provided that nothing herein shall relieve any person from any penalty under this Act.

29. A bill of exchange or promissory-note purporting to be drawn or made out of New South Wales shall, for the purposes of this Act, be deemed to have been so drawn or made, although it may, in fact, be drawn or made in New South Wales.

Document deemed to be drawn as it may purport.

*Ibid.* s. 27.

*Stamp Duties.*

Penalty for  
unstamped bill and  
note.  
44 Vic. No. 3, s. 28.

**30.** (1) Whosoever issues, indorses, transfers, uses, negotiates, presents for payment, or pays any bill of exchange or promissory-note liable to duty and not duly stamped shall be liable to a penalty not exceeding twenty pounds.

Penalty.

(2) Whosoever takes or receives from any other person any bill of exchange or promissory-note not duly stamped, either in payment, or as a security, or by purchase, or otherwise, without causing the same to be duly stamped within fourteen days after receiving it, shall be liable to a penalty not exceeding twenty pounds, and shall not be entitled to recover thereon, or to make the same available for any purpose whatever until the same is duly stamped.

Proviso.

(3) Provided that no bill of exchange or promissory-note shall be liable to duty unless drawn or made after the thirtieth day of June, one thousand eight hundred and eighty.

Bills drawn in sets,  
how to be stamped.  
*Ibid.* s. 29.

**31.** Any number of bills of exchange or promissory-notes drawn in or forming part of one set or series, according to the custom of merchants or bankers, shall be held to be one such bill or note for the purposes of this Act, provided that one of the number is duly stamped.

Duty on draft may  
be denoted by  
adhesive stamp.  
*Ibid.* s. 30.

**32.** The duty of one penny on a draft payable on demand may be denoted by an adhesive stamp to be affixed thereto by the maker or holder thereof.

*(3) As to bills of lading.*

Bills of lading not  
to be stamped after  
execution.  
*Ibid.* s. 31.  
Penalty.

**33.** (1) A bill of lading shall not be stamped after the execution thereof.

(2) Whosoever makes or executes any bill of lading not duly stamped shall forfeit a sum not exceeding fifty pounds.

No master or mate  
to sign bill of lading  
unless stamped.  
*Ibid.* s. 32.

**34.** No master or mate of any vessel, and no agent or shipping clerk or other person acting for any vessel, shall be bound to sign any bill of lading or instrument answering the purpose of a bill of lading for the conveyance of merchandise of any kind to any place beyond New South Wales unless it is duly stamped.

*(4) As to conveyances on sale.*

If in stock, &c., how  
to be calculated.  
*Ibid.* s. 33.

**35.** (1) Where the consideration, or any part of the consideration, for a conveyance on sale, consists of any stock or marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the value of such stock or security.

If unmarketable  
security.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon such security.

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36. Where any property is conveyed to any person in consideration wholly or in part of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money, or stock shall be deemed the whole or part as the case may be of the consideration in respect whereof the conveyance shall be chargeable with *ad valorem* duty.

Where property subject to debt duty to be charged on such debt.

44 Vic. No. 3, s. 34.

37. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto, and such conveyance shall be charged with *ad valorem* duty in respect of such distinct consideration.

Property sold at one price conveyed by separate deeds.

*Ibid.* s. 35.

(2) Where any property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

Where sold to several at one price and conveyed in parts by separate deeds.

(3) Where a person having 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 by the original purchaser to the sub-purchaser.

Sub-sales conveyance by original seller to sub-purchaser.

(4) Where a person having 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 in respect only of the consideration moving from the sub-purchaser thereof without regard to the amount or value of the original consideration.

To several sub-purchasers in parts.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be exempt from the said *ad valorem* duty and chargeable only with the duty to which it may be liable under any general description, but such last-mentioned duty shall not exceed the *ad valorem* duty.

Conveyance by original seller to sub-purchaser where not to be charged.

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*Stamp Duties.*


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Parties may elect which is to be the principal instrument.  
44 Vic. No. 3, s. 36.

**38.** Where there are several instruments of conveyance for completing the purchaser's title to the property sold, the principal instrument of conveyance 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.

(5) *As to leases.*

Lease made in conformity with agreement how to be charged.  
*Ibid.* s. 37.

**39.** (1) An agreement for a lease, or with respect to the letting of any lands, tenements, or heritable subjects for any term shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

Amount of duty.

(2) A lease made subsequently to and in conformity with such an agreement duly stamped shall be charged with the duty of two shillings and sixpence only.

Duty on certain leases how to be calculated and charged.  
*Ibid.* s. 38.

**40.** (1) Where the consideration or any part of the consideration for which any lease is granted or agreed to be granted does not consist of money but consists of any produce or other goods, the value of such produce or goods shall be deemed a consideration in respect of which the lease or agreement shall be chargeable with *ad valorem* duty, and where it is stipulated that the value of such produce or goods shall amount at least to or shall not exceed a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the value of such produce or goods for the purpose of assessing the *ad valorem* duty shall be estimated at such given sum or according to such permanent rate.

When duly stamped.

(2) A lease or agreement made either entirely or partially for any such consideration if it contains a statement of the value of such consideration and is stamped in accordance with such statement shall, so far as regards the subject matter of such statement, be deemed duly stamped, unless or until it is otherwise shown that such statement is incorrect and that it is in fact not duly stamped.

Lease not to be charged with increased duty in respect of any penal rent, &c.  
*Ibid.* s. 39.

**41.** (1) A lease, or agreement for a lease, or with respect to any letting shall not be charged with any duty in respect of any penal rent or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same same subject matter.

Nor in respect of covenant to improve the property.

(2) No lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration, either of a covenant by the lessee to make or of his having previously made any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease, shall be charged with any duty in respect of such further consideration.

(3)

*Stamp Duties.*

(3) No lease for a life or lives not exceeding three, or for Leases for life.  
 a term of years determinable with a life or lives not exceeding three,  
 shall be charged with any higher duty than one pound.

*(6) As to policies of insurance.*

42. A policy or other instrument of insurance which is How foreign policy may be stamped.  
 made or signed out of New South Wales by or on behalf of any person 44 Vic. No. 3, s. 40.  
 carrying on the business of insurance in New South Wales, by which,  
 according to any stipulation, agreement, or understanding, expressed  
 or implied, any loss or damage, or any sum of money shall be payable  
 or recoverable in New South Wales upon the happening of any con-  
 tingency whatever, shall be charged with the same duty as is chargeable  
 on policies made and signed within New South Wales :

Provided such policy or instrument shall be brought to the said  
 Commissioner for the purpose of being stamped within two calendar  
 months next after the same has been received in New South Wales,  
 and upon proof of that fact to the said Commissioner he shall cause  
 such policy or instrument to be duly stamped on payment of the  
 duties chargeable thereon.

43. Any person who—

- (a) receives or takes credit for any premium or consideration for Penalty for not making out, &c., duly stamped policy. Ibid. s. 41.  
 any contract of insurance, and does not, within one month  
 after receiving or taking credit for such premium or con-  
 sideration, make out and execute a duly stamped policy of  
 such insurance ;
- (b) makes, executes, or delivers out or pays, or allows in account,  
 or agrees to pay or allow in account any money upon or in  
 respect of any policy which is not duly stamped—  
 shall be liable to a penalty not exceeding twenty pounds.

44. (1) The duties imposed by this Act upon policies of insurance Duties may be denoted by adhesive stamps. Ibid. s. 42.  
 may be denoted by adhesive stamps, or partly by adhesive and partly  
 by impressed stamps.

(2) When the whole or any part of the duty upon a policy Adhesive stamp to be cancelled.  
 of insurance is denoted by an adhesive stamp, such adhesive stamp  
 shall be cancelled by the person by whom the policy is first signed.

(3) In default of such cancellation the person issuing Penalty.  
 such policy shall be liable to a penalty not exceeding twenty pounds.

*(7) As to receipts.*

45. When on any division of profits made by any banking Division of profits carried to credit to be deemed a receipt. Ibid. s. 44.  
 company the banker carries to the credit of any depositor or shareholder  
 therein the amount payable to him on such division of profits, such  
 transaction shall be considered a receipt liable to the duty on receipts  
 under this Act.

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*Stamp Duties.*

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The said banker shall make a sworn return of every such transaction within one week after the same has taken place, and pay the duty thereon according to the rates imposed under the head of receipt, in default of so doing he shall be liable to a penalty not exceeding five hundred pounds.

Duty may be denoted by adhesive stamp.

44 Vic. No. 3, s. 45.

Penalty for giving unstamped receipt.

50 Vic. No. 10, s. 4.

46. The duty upon a receipt may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the receipt is given before he delivers it out of his hands.

47. (1) Any person who—

- (a) gives any receipt liable to duty and not duly stamped;
- (b) refuses to give a receipt duly stamped in any case where a receipt would be liable to duty;
- (c) upon a payment to the amount of two pounds or upwards gives a receipt for a sum not amounting to two pounds, or separates or divides the amount paid with intent to evade the duty;

shall incur a penalty of not less than two pounds nor more than ten pounds:

Demand for receipt not to affect tender.

(2) A demand for any such receipt shall not in any way affect the validity of a tender otherwise legal.

(8) *As to transfers of pastoral runs or stations.*

Assessment of stamp duties on transfers of pastoral runs.

44 Vic. No. 3, s. 47.

48. For the purpose of assessing the amount of stamp duty payable upon the instrument of transfer of any run or interest in a run held under lease or promise of a lease from the Crown, the Commissioner may require the person tendering such instrument for the purpose of being stamped to tender at the same time a declaration of the fair and reasonable market value of the interest intended to be transferred; such declaration to be duly made before a magistrate of the territory or a commissioner for affidavits.

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PART III.

*Duties on estates of deceased persons.*

Duties to be levied on estates of deceased persons.

*Ibid.* s. 48.

Third Schedule.

49. (1) The duties to be levied, collected, and paid as aforesaid, upon the estates of deceased persons shall be according to the duties mentioned in the Third Schedule to this Act; and such duties shall be charged and chargeable upon and in respect of all estate whether real or personal which belonged to any testator or intestate dying after the commencement of this Act.

(2)



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(2) Duties to be levied, collected, and paid according to the duties mentioned in the said Third Schedule shall also be charged and chargeable upon and in respect of—

(A) all estate, whether real or personal—

- (a) which any person, dying after the twenty-second day of May, one thousand eight hundred and ninety-four, has disposed of, whether before or after that date, by will or by settlement containing any trust in respect of that estate to take effect after his death, under any authority enabling that person to dispose of the same by will or deed, as the case may be; <sup>23 Vic., c. 15, s. 4.</sup>
- (b) taken under a voluntary disposition made after the day last aforesaid by such person purporting to operate as an immediate conveyance or gift *inter vivos*, whether by way of conveyance, transfer, delivery, declaration of trust or otherwise, which has not been *bonâ fide* made twelve months before the death of such person; <sup>44 Vic., c. 12, s. 38, subs. 2 (a).</sup>
- (c) which such person, having been absolutely entitled thereto, has, before or after the day last aforesaid, voluntarily caused to be conveyed, transferred to, or vested in himself and any other person jointly, whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person; <sup>44 Vic., c. 12, s. 38, subs. 2 (b).</sup>
- (d) being a purchase or investment by such person, made either by himself alone or in concert with, or by arrangement with, any other person, before or after the day last aforesaid, with property or the proceeds of property to which he was absolutely entitled, in the name of himself and any other person jointly, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person; <sup>52 Vic., c. 7, s. 11.</sup>
- (e) passing under any voluntary settlement made before or after the day last aforesaid by such person by deed or any other instrument not taking effect as a will, whereby an interest in that property or the proceeds of sale thereof for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in that property or the proceeds of sale thereof; <sup>44 Vic., c. 12, s. 38, subs. 2 (c).</sup>  
<sup>52 Vic., c. 7, s. 11.</sup>  
 and in this subsection the expression "voluntary settlement" includes any trust, whether expressed in writing or otherwise, in favour of a volunteer, and, if contained in a deed

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deed or other instrument affecting the settlement, whether that deed or instrument was made for valuable consideration or not as between the settlor and any other person ;

52 Vic., c. 7, s. 11.

- (B) all personal estate (not being chattels real) taken under any gift whenever made by such person, of which *boná fide* possession and enjoyment has not been assumed by the donee immediately upon the gift, and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise.

Penalty for not taking out probate.  
44 Vic. No. 3, s. 48.

50. Whosoever takes possession of and in any manner administers any part of such estate of any person deceased without obtaining probate of the will or letters of administration within six calendar months after the decease of such person, or two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration (if there is any such) which is not ended within four calendar months after the decease of such person, shall incur a penalty not exceeding one hundred pounds, and also a further penalty of ten pounds per centum on the amount of stamp duty payable on the probate or letters of administration and such penalties shall be recovered and enforced in manner herein provided :

Proviso.

Provided that such penalties shall not be incurred when such estate does not exceed two hundred pounds in value :

Provided also that no duty shall be charged on the taking out of any second probate or administration if the proper amount of duty has been duly paid on the first taking out of the same.

Certain debts and shares belonging to deceased persons liable to duty.  
57 Vic. No. 20, s. 1.

51. (1) The estate of any person dying after the twenty-second day of May, one thousand eight hundred and ninety-four, wheresoever such person may have been domiciled, shall, for the purposes of this Act be taken to include—

- (a) every specialty debt due to such person and secured or partly secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal property situate within New South Wales, and notwithstanding that the specialty was, at the time of the death of such person, outside New South Wales ;
- (b) every share held by such person in any company, corporation, or society, whether registered or incorporated within or out of New South Wales, and carrying on the business of mining for any mineral in New South Wales.

And duties may be levied, collected, and paid under and in accordance with the provisions of this Act in respect of the said debts and shares, notwithstanding that the debts or shares were not at the time of the death of the said person *bona notabilia* within New South Wales :

(2)

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(2) Provided that nothing in this section shall render any <sup>Proviso.</sup> person liable under the last preceding section to a penalty for taking possession of or administering the estate of a deceased person, where the estate includes no property in respect of which probate or letters of administration or an order to collect may be granted in New South Wales.

52. (1) Upon the death of any person who, after the thirtieth day of June, one thousand eight hundred and eighty, makes any conveyance or gift of any estate with intent to evade the payment of duty under this Act or any Act hereby repealed, such property shall be deemed part of his estate for the purposes of this Act, and the payment of the duty upon the value of such property may be enforced in the same way as if such person had bequeathed or devised the said property to the person to whom the same has been conveyed or given; and any conveyance or gift of property which after the date aforesaid is made to take effect upon the death of the person making the same shall be deemed to have been made with intent to evade the payment of such duty. <sup>Duty payable on property included in conveyance for purposes of evasion. 44 Vic. No. 3, s. 55.</sup>

(2) Any property being the subject matter of a *donatio mortis causá* shall, upon the death of the person making such *donatio mortis causá*, be deemed part of his property for the purposes of this Act, and duty shall be paid upon it, and payment of such duty may be enforced in the same way as against any other property of or to which such person has died seised, possessed, or entitled. <sup>Donationes mortis causá.</sup>

53. (1) Where any person dying after the twenty-second day of May, one thousand eight hundred and ninety-four was at the time of his death domiciled in New South Wales, all debts actually due and owing by him shall be deducted from his estate. <sup>What debts may be deducted. 57 Vic. No. 20, s. 3.</sup>

(2) Where any person so dying was not at the time of his death domiciled in New South Wales, the only debts which may be deducted from his estate shall be debts due and owing to persons resident in New South Wales, and debts secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal estate of the said person situate in New South Wales. <sup>When deceased was not domiciled in New South Wales. 31 & 32 Vic., c. 224, s. 7. 44 Vic., c. 12, s. 28.</sup>

(3) Provided that, in any case, the debts to be deducted <sup>Proviso.</sup> shall not include voluntary debts expressed to be payable on the death of the person so dying, or payable under any instrument which has not been *boná fide* delivered to the donee thereof three months before the death of such person, or debts in respect of which a reimbursement may be capable of being claimed from any other estate or person, except as to the excess (if any) above the amount of the reimbursement claimable.

*Stamp Duties.*

Affidavit of value to be lodged by applicants for probate or letters of administration.

50 Vic. No. 10, s. 5.

54. (1) No probate of the will or letters of administration of the estate of any person deceased shall be granted after the commencement of this Act unless the applicant for such probate or letters—

(a) lodges with his application an affidavit stating that to the best of his knowledge and belief the estate of the deceased, exclusive of what he was possessed of or entitled to as a trustee, but including all his real estate and all estates for years is under the value of a certain sum to be specified in such affidavit; and

(b) at the same time delivers with such affidavit an inventory setting forth a full and true account of the estate of the deceased, and the value thereof, and all such particulars as are necessary or proper for enabling the Commissioner fully and correctly to ascertain the duties payable in respect of such estate.

Registrar to transmit affidavit and inventory to Commissioner.

(2) The Registrar of the Probate Jurisdiction of the Supreme Court shall transmit to the Commissioner every such affidavit and inventory, together with a copy of the will or letters of administration to which they relate, within thirty days from the granting of any probate or letters of administration under a penalty not exceeding fifty pounds for any neglect therein, and the Commissioner, if satisfied with such account and inventory or with any amendment that may be made therein upon his requisition, may assess the duty on the footing of such account and inventory (after deducting the debts actually due and owing by the deceased) upon the sum specified in such affidavit according to the rates set forth in the Third Schedule hereto, and such probate or letters shall be stamped accordingly.

Third Schedule.

Commissioner may appoint valuator.

(3) If the Commissioner is dissatisfied with such account and inventory, he may cause an account and inventory to be taken by any person to be appointed by him for that purpose, and he may assess the duty on the footing of such last-mentioned account and inventory subject to appeal therefrom in accordance with the provisions of section eighteen of this Act; and if the duty exceeds the duty assessable according to the return made to the Commissioner and with which he was dissatisfied, and if there is no appeal against such assessment, then 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 incident to the taking of such last-mentioned account and inventory against the estate of the said deceased, and to recover the same accordingly, and if there is an appeal against such last-mentioned assessment then the payment of such expenses shall be in the discretion of the Court:

Provided that no such account or inventory as last-mentioned shall be taken by such Commissioner or by any person appointed by him without the previous approval of the Colonial Treasurer.

(4)

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(4) The Commissioner may lodge with the Registrar-General a caveat against the issue of any certificate of title by transmission where the land advertised by him does not clearly appear to have been included in any affidavit or inventory lodged with the Commissioner in connection with the estate of any deceased person upon which probate or administration duty has been assessed, or where the will of any deceased proprietor has not been proved in or letters of administration granted by the Supreme Court.

And may lodge caveat with Registrar-General.

Every such caveat shall be dealt with in all respects as if it were a caveat filed by the Registrar-General, except that the Commissioner shall be considered as the caveator.

55. (1) In respect of the estates of intestates deceased after the thirtieth day of June, one thousand eight hundred and eighty, for which an order to collect is granted to the Curator of Intestate Estates, a like duty shall be paid as by this Act is required to be paid by an administrator.

As to estates administered by Curator of Intestate Estates. 44 Vic. No. 3, s. 50.

(2) No Judge shall pass the accounts of the Curator of Intestate Estates in respect of the estate of any such intestate unless the amount of duty chargeable on such estate (as if administration had been taken out in respect thereof) has been paid by such Curator, and a receipt for such amount signed by the Commissioner is produced by such Curator.

Accounts not to be passed till duty paid.

(3) Provided that no administration duty shall be chargeable in respect of any such estate previously collected by such Curator.

Proviso.

56. (1) Any duty payable under this Act by any executor or administrator shall be deemed to be a debt of the testator or intestate to Her Majesty, and shall be payable out of his personal estate.

Duties payable out of personal estate. *Ibid.* s. 51.

(2) If the personal estate is insufficient to pay such duty the executor or administrator or any person interested may apply to the Supreme Court, which may order that a sufficient part of the real estate be sold to pay the said duty.

Where personal estate insufficient.

(3) Every executor or administrator may deduct from any property devised or bequeathed to any person an amount equal to the duty thereon, calculated at the same rate as is payable upon the estate under this Act, unless the testator has made a different disposition as to the payment of the said duty in his will.

Deduction of duty from property devised.

57. No probate or letters of administration shall issue from the Prothonotary's office until the duty under this Act has been paid or security given for the same, and the probate or letters of administration duly stamped.

Probates, &c., not to issue until duty paid. *Ibid.* s. 52.

58. (1) Within six months after the death of any person who has executed a settlement containing any trust to take effect after his death, or within such further time as the Commissioner may allow, notice of such settlement shall be lodged by the trustee thereof or by some person interested thereunder, together with a declaration specifying

Settlement of property taking effect after death of settlor. *Ibid.* s. 53.

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fyng the property thereby settled and the value thereof, and duty shall thereupon be payable on such value at the rates specified in the Third Schedule hereto.

Third Schedule.  
Procedure where  
notice not lodged.

(2) In case such notice and declaration are not lodged and the duty paid within six months or such further time as the Commissioner may allow, the Commissioner or any person interested may apply to the Supreme Court, which may order that a sufficient part of the property included in such settlement be sold, and the proceeds of such sale applied in payment of the duty and of the costs consequent thereon.

Court may make  
vesting orders.  
44 Vic. No. 3, s. 54.

59. Whenever any order has been made for the sale of any lands under this Act every person seised or possessed of such lands or entitled to a contingent interest therein shall be deemed to be so seised, possessed, or entitled upon a trust within the meaning of the Trustee Act, 1898. And the Supreme Court may make an order vesting such lands or any part thereof either in any purchaser or in such other person as the Court directs, and every such order shall have the same effect as if such person so seised, possessed, or entitled had been free from all disability, and had duly executed all proper conveyances and assignments.

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 PART IV.

*Miscellaneous provisions.*

One stamp may be  
used in place of  
many and *vice versa*.  
*Ibid.* s. 56.

60. Any single stamp may be used to denote the total amount of duty, and two or more stamps may be used to denote any one duty, and all instruments stamped with one, two, or more stamps for denoting the amount of duty charged thereon shall be as valid as if the same had been stamped with a single stamp or any number of stamps.

Proceeding if return  
not made by any  
accountable party.  
*Ibid.* s. 57.

61. Any person required under this Act to deliver any account who makes default in so doing shall be liable, upon application to the Supreme Court by the Commissioner, or any person by him duly authorised, to be sued by writ of summons in such form as the Judges of the said Court shall direct, commanding the party so in default to deliver such account and to pay all costs incurred in consequence of such default up to the time of such delivery within such period as may be appointed in the writ, or to show cause to the contrary, and on cause being shown such order shall be made as is just.

Accounting party to  
verify his account.  
*Ibid.* s. 58.

62. Every person delivering any account or estimate of property under this Act shall, if required by the Commissioner, produce before him such books and documents in the custody or control of such person

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so far as the same relate to such account or estimate as may afford any necessary information for the purpose of ascertaining such property and the duty payable thereon, and the Commissioner may without payment of any fee inspect and take copies of any public book ; and any commissioner or other officer who discloses the same or the contents of any document or book to any person other than for the purpose of this Act shall be liable to a penalty not exceeding one hundred pounds.

**63.** The Commissioner shall enter and keep on record in a book every payment of duty made under the Third Schedule hereto, and shall give a receipt for such duty in such form as shall be provided by regulations, and shall upon application for any reasonable purpose, deliver to any person interested in any property affected thereby a certificate of such payment.

Books to be kept  
and receipts given.  
44 Vic. No. 3, s. 59.  
Third Schedule.

**64.** Whosoever makes or assists in making any false statement, or any fraudulent alterations in any statement or document required under this Act, with intent to evade the payment of duty, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any period not exceeding three years, and to a fine not exceeding one hundred pounds.

Persons fraudulently  
mis-stating property  
or debts.  
*Ibid.* s. 60.

**65.** Whosoever does or causes to be done, or knowingly assists in doing any of the acts following, that is to say :—

Penalties for fraudu-  
lent acts.  
*Ibid.* s. 61.

- (a) forges a die or stamp ;
- (b) impresses any material with a forged die ;
- (c) cuts, tears, or in any way removes from any material any stamp with intent to make fraudulent use of such stamp or of any part thereof ;
- (d) mutilates any stamp with intent to make fraudulent use of any part thereof ;
- (e) fraudulently fixes or places upon any material, or upon any stamp, any stamp or part of a stamp which has been cut, torn, or in any way removed from any other material, or out of or from any other stamp ;
- (f) erases or otherwise removes from any stamped material any name, sum, date, or other matter or thing whatsoever thereon written, with the intent that any fraudulent use should be made of the stamp upon such material ;
- (g) knowingly sells or exposes for sale, or utters or uses any forged stamp ;
- (h) knowingly and without lawful excuse (the proof of which lawful excuse lies on the person accused) has in possession any forged die or stamp, or any stamp or part of a stamp which

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which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise removed—

shall be guilty of felony, and liable to be sentenced to hard labour on the roads or other public works of the colony, or to be imprisoned with or without hard labour for any term not exceeding seven years.

Transfer of shares to be stamped.  
44 Vic. No. 3, s. 62.

**66.** Whosoever receives any transfer of any shares not duly stamped without causing the same to be duly stamped within one week after receiving the same shall be liable to a penalty not exceeding ten pounds.

Affidavits and penalty for false oath.  
*Ibid.* s. 63.  
Penalty.

**67.** (1) Every affidavit required by this Act shall be made before a justice of the peace, or a commissioner for affidavits.

(2) Whosoever knowingly and wilfully makes a false oath or statement concerning any matter in this Act shall be liable to the same punishment as for wilful and corrupt perjury.

Courts in suits for administration of property to provide for payment of duty.  
*Ibid.* s. 64.

**68.** Whenever any suit is pending in any Court for the administration of any property chargeable with duty under this Act, such Court shall provide for the payment of such duty out of any property the subject matter of such suit which may be in the possession or control of the Court.

Recovery of penalties.  
*Ibid.* s. 65.

**69.** Any penalty incurred under this Act may be recovered in a summary way before any two justices of the peace, or by action of debt in the Supreme Court in the name of the Attorney-General, and with costs in either case.

Allowance in case stamps becoming useless.  
*Ibid.* s. 66.

**70.** Any person possessed of impressed stamps or stamped material rendered useless by being inadvertently spoiled, may upon application to the commissioner, be allowed in lieu thereof other stamps of the same or any other denomination amounting in the whole to the value of such spoiled stamps.

Power to make regulations and forms.  
*Ibid.* s. 67.

**71.** The Governor may frame regulations not being inconsistent with this Act and prescribe forms for carrying out this Act, and such regulations and forms when published in the *Gazette*, shall have the force of law :

Provided that the same shall be laid before both Houses of Parliament forthwith if Parliament is sitting, and if not, then within twenty-one days after the commencement of the next Session.



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## SCHEDULES.

Section 2.

## FIRST SCHEDULE.

Reference to Act.	Title or short title.	Extent of Repeal.
20 Vic. No. 23...	An Act to declare that instruments affecting Real Estate in this Colony executed out of the Colony are admissible in evidence therein although not stamped.	The whole.
36 Vic. No. 15...	Postage Stamps Extension Act of 1873.	The whole.
44 Vic. No. 3...	Stamp Duties Act of 1880.	The whole.
50 Vic. No. 10...	Stamp Duties Act Amendment Act of 1886.	The whole.
54 Vic. No. 15...	Transfer of Mining Stock Stamp Duty Exemption Act 1890.	The whole.
57 Vic. No. 20...	Stamp Duties Acts Further Amendment Act of 1894.	The whole.

## SECOND SCHEDULE.

Section 4.  
44 Vic. No. 3.  
Schedule 1.

*Containing the Duties on Deeds or other instruments relating to transactions between living persons.*

	£	s.	d.	
AGREEMENT not under seal ... ..	0	1	0	
And see section 25.				
BANK NOTE. An Annual Composition to be paid by Banking Companies in lieu of duties on promissory-notes payable on demand issued by them—				
For every £100 and also for the fractional part of £100 of the average annual amount of such notes in circulation as certified under the Banks and Bank Holidays Act, 1898	2	0	0	
And see sections 26, 27.				
BILL OF EXCHANGE OR PROMISSORY-NOTE—				
For every £25 and also for any fractional part of £25 ... ..	0	0	6	50 Vic. No. 10, s. 2.
And see sections 28, 29, 30, 31.				
BILL OF LADING—				
For every bill of lading or copy thereof ... ..	0	0	6	44 Vic. No. 3. Schedule I.
And see sections 33, 34.				
CONVEYANCE OR TRANSFER on sale of any share or shares in the stock and funds of any corporation, company, or society whatever in New South Wales.				
For every £10 and also for any fractional part of £10 of the consideration money therein expressed ... ..	0	0	6	
And see section 66, and the exemptions to this Schedule.				
CONVEYANCE OR TRANSFER on sale of any property (except such stock and funds as aforesaid)—				
Where the amount or value of the consideration for the sale does not exceed £50 ... ..	0	5	0	
Exceeds £50 and does not exceed £100 ... ..	0	10	0	
For every £100 and also for any fractional part of £100 of such amount or value ... ..	0	10	0	
				CONVEYANCE

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*Stamp Duties.*


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	£	s.	d.
CONVEYANCE of any other kind not before charged ... ..	1	0	0
And see sections 35, 36, 37, 38.			
DRAFT—payable on demand. <i>See</i> section 32 ... ..	0	0	1
DEED of any kind whatever not otherwise charged in this Schedule ...	1	0	0
LEASE—			
(1.) For any definite term or for an indefinite term of any lands, tenements, or heritable subjects—			
Where the consideration or any part of the consideration moving either to the lessor or to any other person shall consist of any money, stock, or security—			
In respect of such consideration ... ..			
Where the consideration or any part of the consideration shall be any rent—			
In respect of such consideration—			
For every sum not exceeding £50 per annum ...	0	2	6
And for every £50 or fractional part of £50 per annum ... ..	0	2	6
(2.) Of any other kind whatsoever ... ..	1	0	0
And see sections 39, 40, 41.			
MEMORANDUM of transfer under the Act twenty-sixth Victoria number nine			
POLICY for or against loss by fire—			
For every £100 and also for every fractional part of £100 insured for any term or period exceeding six calendar months ...	0	0	6
And not exceeding six months ... ..	0	0	3
On every renewal or continuance thereof for every £100 and for every fractional part of £100 insured for any term ... ..	0	0	3
POLICY for any voyage or period—			
For every £100 and also for any fractional part of £100 so insured	0	0	3
On every renewal or continuance thereof for every £100 or fractional part of £100 ... ..	0	0	3
POLICY not otherwise specified—			
For every £100 and for every fractional part of £100 insured ...	0	1	0
And see sections 43, 44.			
RECEIPT given for or upon the payment of any sum of money amounting to £2 and upwards ... ..	0	0	2
TRANSFER OF SHARES. <i>See</i> CONVEYANCE.			
TRANSFER of any run or station held under lease or promise of lease from the Crown or of any interest therein where the declared value of the said run, or station, or interest, or the value thereof assessed as in this Act provided shall not exceed £100 ... ..	0	10	0
And where such value shall exceed £100 then for every £100 and any fractional part of £100 ... ..	0	10	0
And see section 48.			

{ The same duty as a conveyance on a sale for the same consideration.

{ The same duty as for a conveyance for the sale of lands for a like sum the consideration of such transfer.

EXEMPTIONS.

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*Stamp Duties.*


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## EXEMPTIONS.

- Any agreement or memorandum for the hire of any labourer, artificer, manufacturer, or menial servant.*
- Any agreement or memorandum made for or relating to the sale of any goods, wares, or merchandise.*
- Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any voyage coastwise from port to port in the Colony of New South Wales.*
- Any Debenture or Treasury Bill issued by the Government of New South Wales.*
- Any draft or order for the payment of money issued by any duly authorised officer of the Government on account of the Public Service.*
- Any draft or order for the payment of money commonly called an advance note issued by a master of a ship or vessel in favour of a seaman.*
- Any instrument relating to the service of an apprentice, clerk, or servant.*
- Any Customs bond.*
- Any administration bond.*
- Any bail bond.*
- Any bond to the Crown for the safe custody of an insane person.*
- Any bond on appointment of a special bailiff.*
- Any mortgage of real property or mortgage given by way of bill of sale or otherwise of live stock, goods, chattels, or effects, or personal estate generally, and any transfer, assignment, release, re-conveyance, or discharge thereof, and every receipt endorsed on either or any of said documents for the consideration thereof.*
- Any preferable lien or any lien on crops under the Lien on Crops and Wool and Stock Mortgages Act, 1898.*
- Any policy of insurance on life or on any public hospital or charitable institution.*
- Any policy of insurance on the tools or implements of work or labour used by any working mechanic, artificer, handicraftsman, or labourer by a separate policy in a distinct sum.*
- Any policy, whereby any insurance company, or underwriter, or association of underwriters may effect an insurance or transaction, the original policy representing which may have already contributed to the stamp duty imposed on policies: Provided that the fact of such policy being a reinsurance policy shall be expressed on the face thereof.*
- Any receipt given for or upon the payment of money to or for the use of Her Majesty.*
- Any acknowledgment by any banker of the receipt of any bill of exchange or promissory-note for the purpose of being presented for acceptance or payment.*
- Any acknowledgment by any person on receipt of money for the purchase of stock or shares in any banking or public company.*
- Any acknowledgment or receipt given by any labourer, artificer, or workman for or on account of wages received by him.*
- Any receipt written upon or given for a bill of exchange or promissory-note duly stamped.*
- Any receipt endorsed, or otherwise written upon, or contained in any instrument liable to stamp duty, and duly stamped acknowledging the receipt of the consideration money therein expressed.*
- Any receipt given by depositors on receiving deposits from any savings bank.*
- Any acknowledgment given for money deposited in any bank to be accounted for: Provided that this exemption shall not extend to acknowledgments for any sum carried to the credit of any depositor or shareholder in any bank on any division of profits made by such bank, or for or in respect of any dividend from any joint stock or other company, on the same being deposited by any person to the credit of any other person in any bank, or for or in respect of any sum paid to the credit of any person in any bank for rent or interest by any other person, or for or in respect of any sum deposited, which would be liable to duty if paid directly by any person to any other person.*

*Any*

*Stamp Duties.*

- Any receipt given in anticipation of a bill of lading, and not to be used in lieu thereof.*
- Any instrument of appointment relating to any property in favour of persons specially named or described as the objects of a power of appointment created by a previous settlement duly stamped in respect of the same property, or by will where probate duty has been paid in respect of the same property as personal estate.*
- Any instrument for the sale, transfer, or other disposition of any ship or vessel, or any part, interest, share, or property of, or in any ship or vessel.*
- 54 Vic. No. 15 s. 1. *Any conveyance or transfer made since the first day of October, in the year one thousand eight hundred and ninety, of any shares in the stock and funds of any corporation, company, or society, carrying on only the business of mining for extracting or smelting any mineral or metal in New South Wales; and whether the operations of such corporation, company, or society are carried on within New South Wales or elsewhere.*
- 44 Vic. No. 3. Schedule I. *And any copy of rules, or power, warrant, or letter of attorney granted by any trustee of any friendly society, within the meaning of Friendly Societies Act 1873 for the transfer of any share in the colonial funds or debentures, standing in the name of such trustee, or any order or receipt for money contributed to or received from the funds of any such society, by any person liable or entitled to pay or receive the same by virtue of the rules thereof, or any bond to be given to or on account of any such society, or by the treasurer, or any officer thereof, or any draft or order, or any form of policy, or any appointment of an agent, or any certificate or other instrument for the revocation of any such appointment, or any other document whatever required or authorised by the rules of any such society, shall be exempt from all stamp duties.*

THIRD SCHEDULE.

*Duties on the estates of deceased persons.*

Part I.

- Ss. 4, 49-59. 50 Vic. No. 10. Schedule B.
1. On the probate or letters of administration to be granted in respect of any estate real and personal of deceased persons.
- |  |             |
|--|-------------|
| Where the value of such estate is under £5,000 ... ..  | 1 per cent. |
| Where the value is £5,000 and under £12,500 ... ..     | 2 per cent. |
| Where the value is £12,500 and under £25,000 ... ..    | 3 per cent. |
| Where the value is £25,000 and under £50,000 ... ..    | 4 per cent. |
| Where the value is £50,000 and over that amount ... .. | 5 per cent. |

Part II.

2. Settlement of property taking effect after death of settlor—same duties as under Part I.

*In the name and on the behalf of Her Majesty I assent to this Act.*

*Government House,  
Sydney, 27th July, 1898.*

HAMPDEN,  
Governor.

## Memo. and Certificate to accompany the Stamp Duties Bill.

THIS Bill consolidates six statutes :—

20 Vic. No. 23 ;  
36 Vic. No. 15 ;  
44 Vic. No. 3 ;  
50 Vic. No. 10 ;  
54 Vic. No. 15 ;  
57 Vic. No. 20.

1. The Act 20 Vic. No. 23, which now appears as clause 16 of this Bill, was passed at a time when there were no Stamp Acts in New South Wales. The passing of Stamp Acts since in New South Wales has rendered it advisable to make a slight change in the wording of the clause, which, it is considered, does not alter its meaning, but prevents a possible difficulty.

2. It has been thought safest to preserve in the Bill, in most cases, the dates of the Acts consolidated where these Acts caused liabilities and duties to arise "after the commencement of this Act," and in other ways made that date material, as *e.g.*, under clause 52, subsection (1). It would have been neater to use again the expression "after the commencement of this Act," and to rely upon the saving clause in the Interpretation Act, or upon a special saving clause to be inserted in this Bill, to keep alive all previous liabilities; but in a taxing measure, where large interests may be at stake, the safest course has been thought the best.

3. In clause 54, subsection (2), the term "Registrar of the Probate Jurisdiction" has been substituted for "Prothonotary," the duties therein mentioned of the latter having, by section 7 of the Probate Act, been conferred on the former.

4. In clause 55 the word "estate" has been substituted for the words "goods, chattels, and effects," in consequence of the Probate Act, sections 26 and 27.

5. In section 50 of the 44 Vic. No. 3 the order to collect was said to be granted "under the Act 11 Vic. No. 24, and any Act repealing the same." This has been altered to "to the Curator of Intestate Estates," he being the only person to whom an order to collect can be granted, and also in pursuance of a system of avoiding, as far as possible, references to other statutes, soon to be repealed and consolidated.

None of the alterations above explained are changes or amendments of the law, and I certify that the Bill now forwarded solely consolidates and in no way alters, amends, or adds to the law contained in the Acts therein consolidated.

CHAS. G. HEYDON,  
Commissioner for Consolidation of the Statute Law.

# Memo and Certificate to accompany the Stamp Duties Bill.

This Bill is intended to amend the

1. The Bill is intended to amend the Stamp Duties Act, 1891, in relation to the duties on stamps and to provide for the collection of the same.

2. It is proposed to amend the Act in relation to the duties on stamps and to provide for the collection of the same.

3. It is proposed to amend the Act in relation to the duties on stamps and to provide for the collection of the same.

4. It is proposed to amend the Act in relation to the duties on stamps and to provide for the collection of the same.

5. It is proposed to amend the Act in relation to the duties on stamps and to provide for the collection of the same.

6. It is proposed to amend the Act in relation to the duties on stamps and to provide for the collection of the same.

7. It is proposed to amend the Act in relation to the duties on stamps and to provide for the collection of the same.

8. It is proposed to amend the Act in relation to the duties on stamps and to provide for the collection of the same.

# Stamp Duties Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
		20 VICTORIA No. 23.
1	16	
		36 VICTORIA No. 15.
1	.....	Omitted (short title and commencement).
2	.....	Omitted (interpretation).
3	3	
4	.....	Omitted as unnecessary
		44 VICTORIA No. 3.
1	.....	Omitted (short title, commencement, and division).
2	3	
3	4	
4	5	
5	6	
6	7	
7	8	
8	9	
9	10	
10	11	
11	12	
12	13	
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26	28	
27	29	
28	30	
29	31	
30	32	
31	33	
32	34	
33	35	
34	36	
35	37	
36	38	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
44 VICTORIA No. 3— <i>continued.</i>		
37	39	
38	40	
39	41	
40	42	
41	43	
42	44	
43	.....	Repealed ; 50 Vic. No. 10, section 2.
44	45	
45	46	
46	.....	Repealed ; 50 Vic. No. 10, section 2.
47	48	
48	49, 50	
49	.....	Repealed ; 50 Vic. No. 10, section 2.
50	55	
51	56	
52	57	
53	58	
54	59	
55	52	
56	60	
57	61	
58	62	
59	63	
60	64	
61	65	
62	66	
63	67	
64	68	
65	69	
66	70	
67	71	
50 VICTORIA No. 10.		
1	.....	Omitted (short title).
2	.....	Omitted (repeals).
3	3	
4	47	
5	54	
6	5	
54 VICTORIA No. 15.		
1	Second Schedule.	
2	.....	Omitted (short title).
57 VICTORIA No. 20.		
1	51	
2	49	
3	53	
4	.....	Omitted (short title).



# Stamp Duties Bill.

## ARRANGEMENT OF CLAUSES.

### PART I.

#### *Preliminary.*

Clause.

1. Short title.
2. Repeals.
3. Interpretation section.
4. Stamp duties to be levied.
5. Power to appoint officers.
6. Power to appoint stamp distributors.
7. Stamp duties to be denoted in accordance with Act.
8. Schedules part of Act.

### PART II.

#### DUTIES ON DEEDS AND INSTRUMENTS.

##### DIVISION 1.—*General regulations.*

9. Stamp to appear on face of instrument.
10. Consideration money, &c., to be truly set forth.
11. Value of consideration to be calculated in British currency.
12. If in stock, how calculated.
13. Commissioner may denote duty as paid.
14. Stamping documents after execution.
15. Unstamped instruments as evidence.
16. Deeds executed out of New South Wales.
17. For removing doubts as to sufficiency of stamp duty.
18. Appeal to Supreme Court against Commissioner's decision.
19. Abstract of instrument to be furnished.
20. Impressed stamps to be used.
21. Mode of cancelling adhesive stamps.
22. Penalty on fraudulent removal or second use of adhesive stamps.
23. Instruments not to be registered unless duly stamped.
24. The Supreme Court to enforce payment of any moneys received for duties.

##### DIVISION 2.—*Special regulations.*

###### (1) *As to agreements.*

25. Adhesive stamp may be used for agreement.

###### (2) *As to bank notes, bills of exchange, and promissory notes.*

26. Bank notes exempt by composition.
27. Penalty for issuing unstamped bank notes.
28. Adhesive stamps to be used for foreign bills.
29. Document deemed to be drawn as it may purport.
30. Penalty for unstamped bill and note.
31. Bills in sets.
32. Duty on draft, how denoted.

###### (3) *As to bills of lading.*

33. Bills of lading not to be stamped after execution.
34. No master or mate to sign bill of lading unless stamped.

(4) *As to conveyances on sale.*

Clause

- 35. If consideration in stock, how calculated.
- 36. Where property subject to debt.
- 37. Property sold at one price conveyed by separate deeds.
- 38. Parties may elect which is to be the principal instrument.

(5) *As to leases.*

- 39. Leases in conformity with agreement.
- 40. Duty on certain leases.
- 41. As to penal rent.

(6) *As to policies of insurance.*

- 42. Foreign policy, how stamped.
- 43. Penalties.
- 44. Duties how denoted.

(7) *As to receipts.*

- 45. Division of profits.
- 46. Duty, how denoted.
- 47. Penalty.

(8) *As to transfers of pastoral runs or stations.*

- 48. Duties, how assessed.

## PART III.

*Duties on estates of deceased persons.*

- 49. Duties to be levied on estates of deceased persons.
- 50. Penalty for not taking out probate.
- 51. Certain debts and shares liable to duty.
- 52. Duty payable on property included in conveyance for purposes of evasion.
- 53. What debts may be deducted.
- 54. Affidavit of value to be lodged.
- 55. As to estates administered by the Curator of Intestate Estates.
- 56. Duties payable out of personal estate.
- 57. Probates not to issue until duty paid.
- 58. Settlement of property taking effect after death of settlor.
- 59. Court may make vesting orders.

## PART IV.

*Miscellaneous provisions.*

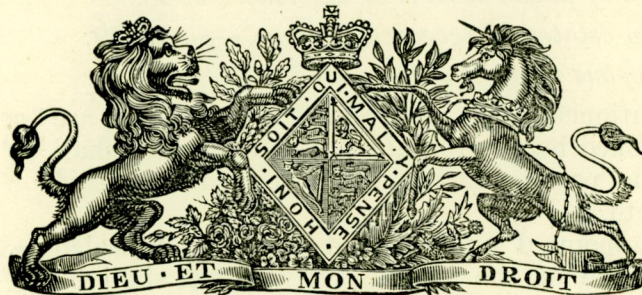
- 60. One stamp may be used in place of many.
- 61. Proceeding if return not made by any accountable party.
- 62. Accounting party to verify his account.
- 63. Books to be kept and receipts given.
- 64. Penalty.
- 65. Penalties.
- 66. Transfer of shares to be stamped.
- 67. Affidavits and penalty for false oath.
- 68. As to suits pending.
- 69. Recovery of penalties.
- 70. Allowance in case of stamps becoming useless.
- 71. Power to make regulations and forms.

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

*Legislative Council Chamber,  
Sydney, 5th July, 1898.* }

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO SEXAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

Act No. , 1898.

An Act to consolidate the Laws relating to Stamp Duties.

**B**E 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:—

### PART I.

#### *Preliminary.*

1. This Act may be cited as the "Stamp Duties Act, 1898," and is divided into parts, divisions, and subdivisions, as follows:—

Short title and  
division.

PART I.—*Preliminary.*—ss. 1-8.

PART II.—*Duties on deeds and instruments.*

DIVISION 1.—*General regulations.*—ss. 9-24.

c 27—A

DIVISION

*Stamp Duties.*DIVISION 2.—*Special regulations.*

- (1) *As to agreements.*—s. 25.
- (2) *As to bank notes, bills of exchange, and promissory notes.*—ss. 26–32.
- (3) *As to bills of lading.*—ss. 33, 34.
- (4) *As to conveyances on sale.*—ss. 35–38.
- (5) *As to leases, &c.*—ss. 39–41.
- (6) *As to policies of insurance.*—ss. 42–44.
- (7) *As to receipts*—ss. 45–47.
- (8) *As to transfers of pastoral runs or stations.*—s. 48.

PART III.—*Duties on estates of deceased persons.*—ss. 49–59.PART IV.—*Miscellaneous provisions.*—ss. 60–71.

2. (1) The Acts mentioned in the First Schedule to this Act are <sup>Repeal of Acts.</sup> to the extent therein mentioned hereby repealed, but such repeal shall <sup>First Schedule.</sup> be without prejudice to the past operation of anything in the said Acts or the Schedules thereto.

(2) All persons appointed under the Acts hereby repealed <sup>Officers under Acts</sup> and holding office at the time of the passing of this Act shall be <sup>hereby repealed.</sup> deemed to have been appointed hereunder.

(3) All regulations made and forms prescribed under the <sup>Regulations under</sup> authority of any Act hereby repealed and being in force at the time of <sup>Acts hereby repealed.</sup> the passing of this Act shall be deemed to have been made under this Act.

3. In this Act, unless the context or subject matter otherwise <sup>Interpretation.</sup> indicates or requires,—

“Administrator” means any person to whom any letters of administration in the estate of any deceased person is granted in New South Wales.

“Affidavit” includes affirmation and statutory declaration.

“Bank” means any corporation, society, or number of persons carrying on the business of banking.

“Banker” means the person managing or administering the affairs of any bank or branch thereof.

“Bill of exchange” means any ordinary bill of exchange, or any draft, order, cheque, letter of credit, instrument, or writing, not payable on demand, entitling any person whether or not named therein to payment of money by any other person.

“Bill of lading” means any instrument signed by the master, mate, or other person in charge of any vessel, or by the agent, shipping clerk, or other person acting as such for such vessel, for the conveyance therein of goods, wares, or merchandise to any place beyond New South Wales.

“Commissioner”

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*Stamp Duties.*

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- “Commissioner” means any person appointed Commissioner of Stamp Duties under this Act.
- “Conveyance” means any instrument or deed whereby property is vested in any person or transferred or conveyed from one person to another.
- “Draft” means any draft, cheque, or order for money payable on demand, not being a bill of exchange or otherwise herein specified.
- “Estate” means real or personal property.
- “Executor” means any person to whom probate of the will of any deceased person is granted in New South Wales.
- “Executed” means signed and completed, whether or not by sealing or any process customary or required by law in any particular case.
- “Execution” means the form or process of being executed.
- “Instrument” means any written or printed deed or document.
- “Issue” means delivery of a promissory-note or bill of exchange by the maker or acceptor to the payee thereof.
- “Lease” means lease or promise of or agreement for a lease.
- “Marketable security” means any security capable of being sold in any stock market in New South Wales.
- “Material” means any sort of material commonly used for writing or printing upon which words or figures can be expressed.
- “Minister” means any Minister charged with the administration of this Act.
- “Money” means any sum in British, Foreign, or Colonial currency.
- “Policy” means any insurance, or contract, whether of insurance against loss by fire, or upon or concerning any vessel or goods, for any voyage or period, whether the same is issued singly or in duplicate or otherwise.
- “Promissory-note” means any ordinary promissory-note, or any debenture issued by any public company, corporation, or society in New South Wales, or any debenture issued out of New South Wales, if negotiated therein.
- “Receipt” means any stamp, mark, impression, indication, as well 50 Vic. No. 10, s. 3. as any note, memorandum, or writing whatsoever, whereby any money amounting to two pounds or upwards is deposited for any fixed period, or is acknowledged, or expressed to have been received or paid in satisfaction of any debt, or whereby any debt or demand or any part of a debt or demand of the amount of two pounds or upwards is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

“Regulations”

*Stamp Duties.*

- “Regulations” means regulations under this Act. 44 Vic. No. 3, s. 2.
- “Settlement” means any contract or agreement (whether voluntary or upon any good or valuable consideration other than a *bonâ fide* pecuniary consideration) whereby any property, real or personal, is settled or agreed to be settled, or containing any trusts or dispositions to take effect after the death of any person.
- “Stamp” means a stamp impressed by means of a die, or an adhesive stamp, and includes a postage stamp. 36 Vic. No. 15, s. 3.
- “Stamped” means impressed with stamps by means of a die, or having an adhesive stamp affixed according to this Act. 44 Vic. No. 3, s. 2.
- “Stock” means any share in stocks or funds of Great Britain, or of any Foreign or Colonial State or Government, or in the capital, stock, or funded debt of any company, corporation, or society, British, Foreign, or Colonial.
- “Unstamped” means either not stamped at all or insufficiently stamped, or not duly stamped.
- “Writing” means any mode or process by which words or figures can be expressed upon material.

4. From and after the commencement of this Act, and subject to the exemptions contained in the Second and Third Schedules hereto, there shall be charged, levied, collected, and paid for the use of Her Majesty, and to form part of the Consolidated Revenue Fund, for and in respect of the several instruments and matters described or mentioned in this Act, and in the said Schedules hereto the several duties or sums of money, and at the several rates specified herein or set down in figures against the same respectively in the said Schedules.

Stamp duties to be levied.  
*Ibid.* s. 3.  
Second and Third Schedules.

Such duties shall be denoted in stamps upon the material upon which any such instrument or matter is written or expressed.

5. The Governor may appoint—
- (a) a Commissioner who shall be charged with the levying and collection of the duties imposed by this Act; and also
- (b) either a Deputy or an Assistant Commissioner of Stamps, who shall perform such duties and exercise such powers as the Governor may prescribe; and also
- (c) such other officers as may be deemed necessary for the due execution of this Act.

Power to appoint commissioner and officers.  
*Ibid.* s. 4.

50 Vic. No. 10, s. 6.

The said persons shall give such security for the due discharge of the duties hereby reposed in them as the Governor may direct.

6. (1) The Minister may appoint any person a distributor of stamps throughout New South Wales, who shall be remunerated for his services by a commission upon the value of stamps purchased by him for disposal.

Power to appoint stamp distributors.  
44 Vic. No. 3, s. 5.

(2) The Minister shall also provide for denoting the several duties hereby imposed, such stamps or dies as may be required for the purposes

Stamps to be provided.

*Stamp Duties.*

purposes of this Act, and do any other act which may be necessary for effectually collecting the said duties.

7. All stamp duties which may from time to time be chargeable by law upon any instruments shall be denoted and paid in accordance with the provisions of this Act and the regulations. Stamp duties to be denoted, &c., in accordance with Act and Regulations.

8. The Schedules to this Act and everything therein contained shall be read and construed as part of this Act. 44 Vic. No. 3, s. 6. Schedules part of Act.

*Ibid.* s. 7.

## PART II.

*Duties on deeds and instruments.*DIVISION I.—*General Regulations.*

9. Every instrument, subject under this Act to be stamped, shall be written in such manner, and every instrument partly or wholly written before being stamped shall be so stamped, that the stamp appears on the face of the instrument, and cannot be used for or applied to any other instrument written upon the same piece of material. Stamp to appear on face of instrument. *Ibid.* s. 8.

10. (1) Every fact and circumstance affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable under this Act, shall be fully and truly set forth in such instrument. Consideration money, &c., to be truly set forth. *Ibid.* s. 9.

(2) Every person who, with intent to defraud Her Majesty, executes any instrument in which all the said facts and circumstances are not fully and truly set forth, or, who being employed or concerned in or about the preparation of any instrument, with the like intent neglects or omits fully and truly to set forth therein all the said facts and circumstances, shall forfeit the sum of fifty pounds. Penalty.

11. In the case of an instrument chargeable under this Act with duty in respect of any money in any foreign or colonial currency, such duty shall be calculated in British currency according to the current rate of exchange on the day of the date of the instrument. Value of consideration to be calculated in British currency. *Ibid.* s. 10.

12. Where an instrument is chargeable with duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument. If in stock how to be calculated. *Ibid.* s. 11.

13. Whenever the duty with which an instrument is chargeable under this Act depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty on production of both the instruments shall be denoted in such manner as the Commissioner thinks fit upon such first-mentioned instrument. Commissioner may denote duty as paid. *Ibid.* s. 12.

*Stamp Duties.*

14. (1) Subject to the provisions of this Act any unstamped instrument may be stamped after the execution thereof on payment of the unpaid duty and a sum by way of fine at the rate of twenty pounds per centum on the value of the stamps to be affixed.

Stamping documents after execution.

44 Vic. No. 3, s. 13.

The payment of any fine shall be denoted on the instrument by a particular stamp—

(2) Provided as follows :—

Proviso.

- (a) Any unstamped instrument which was first executed at any place out of New South Wales may be stamped at any time within two months after it is first received in New South Wales on payment of the unpaid duty only.
- (b) The Commissioner may if he thinks fit at any time within twelve months after the first execution of any instrument remit the fine or any part thereof.
- (c) No fine as aforesaid shall be charged if the instrument is stamped within one month after execution.

15. (1) Unless otherwise herein expressly enacted no unstamped instrument executed in New South Wales after the passing of this Act, or relating, wheresoever executed, to any property situate, or to any matter or thing done, or to be done, in New South Wales, shall, except in criminal proceedings, be admissible in evidence, or available or effectual for any purpose whatsoever in law or equity :

No instrument admissible as evidence except in criminal proceedings or unless duly stamped.

*Ibid.* s. 14.

Provided that upon the production of any such instrument as evidence at the trial of any cause not being a criminal proceeding, the officer of the Court whose duty it is to read such instrument shall call the attention of the Judge to any omission or insufficiency of the stamp, and the instrument if unstamped or not sufficiently stamped shall not be received in evidence until the whole or the deficiency of the stamp duty and the fine imposed by this Act has been paid ; and such officer of the Court shall, upon payment to him of such stamp duty and fine, give a receipt for the amount of the same, and thereupon such instrument shall be admissible in evidence, saving all just exceptions on other grounds.

Provision as to unstamped instruments at any trial not criminal.

(2) An entry of the fact of such payment and of the amount thereof shall be made in a book kept by such officer, who shall, at the end of each sittings or assizes, duly make a return to the Commissioner of any moneys which he has so received by way of duty or fine, distinguishing between such moneys, and stating the name of the cause and of the parties from whom he received such moneys, and the date and description of the instrument for the purpose of identifying the same, and he shall pay over the said moneys to the Commissioner. And in case such officer neglects or refuses to furnish such account, or to pay over any of the money so received by him, he shall be liable to be proceeded against in the manner directed by this Act, and the Commissioner shall, upon request and production of the receipt hereinbefore

Officer of the Court to receive and account for the duty and penalty.



*Stamp Duties.*

before mentioned cause such instrument to be stamped with the proper stamp in respect of the sums so paid as aforesaid.

16. No conveyance or other instrument affecting real estate in New South Wales, or power of attorney authorising the execution or registering of any such conveyance or other instrument shall, wheresoever executed, be inadmissible in evidence by reason of the same not being stamped in accordance with the laws of any country other than New South Wales.

Deeds affecting real estate and executed out of New South Wales.

20 Vic. No. 23.

17. Subject to regulations any Commissioner may, upon being required by any person, assess upon any instrument or material the duty payable under this Act and cause it to be stamped accordingly :

For removing doubts as to the sufficiency or insufficiency of stamp duty paid on instruments.

44 Vic. No. 3, s. 15.

Provided that any instrument upon which the duty has been assessed by the Commissioner shall not be stamped otherwise than in accordance with such assessment.

18. (1) Any person dissatisfied with the assessment of a Commissioner may, within fourteen days after the date thereof, and on payment of duty in conformity therewith, appeal against such assessment to the Minister, who may confirm or modify such assessment; and if such assessment is not confirmed the amount of duty to be ultimately retained shall be that fixed by the Minister and the difference shall be refunded to the appellant.

Appeal to Supreme Court against Commissioner's decision.

*Ibid.* s. 16.

If such person is still dissatisfied, he may, within twenty-one days after the Minister's decision is communicated to him, appeal to the Supreme Court, and may for that purpose require the Commissioner to state and sign a case setting forth the grounds upon which his assessment was made :

Provided that any person dissatisfied with such assessment may appeal to the Supreme Court in the first instance without any intermediate appeal to the Minister.

(2) The Commissioner shall thereupon state and sign a case accordingly and deliver the same to the appellant upon whose application such case may be set down for hearing in the Supreme Court.

Commissioner to state case.

(3) Upon the hearing of such case (due notice of which shall be given to the Commissioner) the Court shall determine the question submitted, and assess the duty chargeable under this Act, and also decide the question of costs.

Court to determine question.

(4) If it is decided by the Court that the assessment of the Commissioner is erroneous, any excess of duty which has been paid in conformity with such erroneous assessment, together with any penalty which has been paid in consequence thereof, shall be ordered by the Court to be repaid to the appellant.

Order as to excess.

(5) For the purposes of this section the Court may be holden before one Judge only.

Single Judge.

19. In any case of application to the Commissioner with reference to any instrument, the Commissioner may require an abstract

Abstract of instrument to be furnished.

of *Ibid.* s. 17.

*Stamp Duties.*

of the instrument, and also such evidence as he deems necessary in order to show whether every fact and circumstance affecting the liability of the instrument to duty or the amount of the duty chargeable thereon has been fully and truly set forth, and may refuse to proceed upon any such application until such abstract and evidence are furnished accordingly.

**20.** Except where express provision is made to the contrary, all duties shall be denoted by impressed stamps only.

Impressed stamps  
to be used.  
44 Vic. No. 3, s. 18.  
Mode of cancelling  
adhesive stamps.  
*Ibid.* s. 19.

**21.** Any instrument, the duty upon which is required or permitted by law to be denoted by an adhesive stamp, shall not be deemed duly stamped unless the person affixing such stamp cancels the same by writing or stamping with a die on or across each stamp his name or initials, or the name or initials of his firm, together with the true date of such cancellation; and in case he wilfully neglects or refuses duly and effectually to do so, he shall be liable to a penalty not exceeding ten pounds.

**22.** Every person who—

(a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or fraudulently affixes to any instrument any adhesive stamp which has been removed from any other instrument with intent that such stamp may be used again; or

Penalty on fraudulent removal or second use of adhesive stamps.  
*Ibid.* s. 20.

(b) knowingly sells, or offers for sale, or utters any adhesive stamp which has been removed from any instrument, or utters any instrument having thereon any adhesive stamp which, to his knowledge, has been so removed as aforesaid; or

(c) practises or is concerned in any fraudulent act, contrivance, or device with intent to evade any duty under this Act—

shall be liable to a penalty (beside any other penalty to which he may be liable) not exceeding twenty pounds, in addition to the value of the duty evaded or sought to be evaded.

**23.** No unstamped instrument required by this Act to be stamped shall be registered or capable of being registered in any Court or office. Any officer knowingly registering or permitting to be registered any such instrument shall be liable to a penalty not exceeding five pounds for each offence.

Instruments not to be registered unless duly stamped.  
*Ibid.* s. 21.

**24.** The Supreme Court may, upon application on behalf of a Commissioner, grant a rule requiring any person who has received money payable by way of duty or penalty under this Act, or the executor or administrator of such person, to show cause why he should not deliver to the Commissioner an account upon affidavit of any duty or sum of money received by such person, or executor, or administrator, and why the same should not be forthwith paid to the said Commissioner.

The Supreme Court to enforce payment of any moneys received for duties.  
*Ibid.* s. 22.

The Court may make absolute such rule, and enforce by attachment or otherwise the payment of any such duty or sum of money as appears to be due, together with costs.

DIVISION

*Stamp Duties.*DIVISION II.—*Special Regulations.*(1) *As to agreements.*

25. The duty of one shilling upon an agreement may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the agreement is first executed.

Adhesive stamp may be used for agreement.

44 Vic. No. 3, s. 23.

(2) *As to bank notes, bills of exchange, and promissory notes.*

26. There shall be payable quarterly to the Commissioner by every bank an annual composition at the rate of forty shillings for every one hundred pounds upon the amount of notes stated to be in circulation in the return made by such bank pursuant to the Banks and Bank Holidays Act, 1898. Any bank note payable on demand issued unstamped by any banker who has duly paid such composition may be from time to time re-issued without being liable to stamp duty.

Bank notes exempt by composition.

*Ibid.* s. 24.

27. Any banker, not having paid such composition, who issues or causes or permits to be issued any bank note not duly stamped, shall be liable to a penalty not exceeding fifty pounds.

Penalty for issuing unstamped bank notes.

*Ibid.* s. 25.

28. The *ad valorem* duties upon bills of exchange and promissory-notes drawn or made out of New South Wales shall be denoted by adhesive stamps; and every holder of any unstamped bill of exchange or promissory-note drawn out of New South Wales shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates, or pays the same, cause it to be duly stamped:

Adhesive stamp to be used for foreign bills.

*Ibid.* s. 26.

Provided that if, at the time when any such bill or note comes into the hands of any *boná fide* holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall, so far as relates to such holder, be deemed to be duly cancelled, although it may not appear to have been so affixed or cancelled by the proper person:

Holder to cancel stamps.

Provided, also, that if, at the time when any such bill or note comes into the hands of any *boná fide* holder thereof, there is affixed thereto an adhesive stamp not duly cancelled it shall be competent for such holder to cancel such stamp as if he were the person by whom it was affixed, and upon his so doing such bill or note shall be deemed duly stamped and be as valid and available as if the stamp had been cancelled by the person by whom it was affixed:

Provided that nothing herein shall relieve any person from any penalty under this Act.

29. A bill of exchange or promissory-note purporting to be drawn or made out of New South Wales shall, for the purposes of this Act, be deemed to have been so drawn or made, although it may, in fact, be drawn or made in New South Wales,

Document deemed to be drawn as it may purport.

*Ibid.* s. 27.

*Stamp Duties.*

**30.** (1) Whosoever issues, indorses, transfers, uses, negotiates, presents for payment, or pays any bill of exchange or promissory-note liable to duty and not duly stamped shall be liable to a penalty not exceeding twenty pounds. Penalty for unstamped bill and note. 44 Vic. No. 3, s. 28.

(2) Whosoever takes or receives from any other person any bill of exchange or promissory-note not duly stamped, either in payment, or as a security, or by purchase, or otherwise, without causing the same to be duly stamped within fourteen days after receiving it, shall be liable to a penalty not exceeding twenty pounds, and shall not be entitled to recover thereon, or to make the same available for any purpose whatever until the same is duly stamped. Penalty.

(3) Provided that no bill of exchange or promissory-note shall be liable to duty unless drawn or made after the thirtieth day of June, one thousand eight hundred and eighty. Proviso.

**31.** Any number of bills of exchange or promissory-notes drawn in or forming part of one set or series, according to the custom of merchants or bankers, shall be held to be one such bill or note for the purposes of this Act, provided that one of the number is duly stamped. Bills drawn in sets, how to be stamped. Ibid. s. 29.

**32.** The duty of one penny on a draft payable on demand may be denoted by an adhesive stamp to be affixed thereto by the maker or holder thereof. Duty on draft may be denoted by adhesive stamp. Ibid. s. 30.

*(3) As to bills of lading.*

**33.** (1) A bill of lading shall not be stamped after the execution thereof. Bills of lading not to be stamped after execution. Ibid. s. 31.

(2) Whosoever makes or executes any bill of lading not duly stamped shall forfeit a sum not exceeding fifty pounds. Penalty.

**34.** No master or mate of any vessel, and no agent or shipping clerk or other person acting for any vessel, shall be bound to sign any bill of lading or instrument answering the purpose of a bill of lading for the conveyance of merchandise of any kind to any place beyond New South Wales unless it is duly stamped. No master or mate to sign bill of lading unless stamped. Ibid. s. 32.

*(4) As to conveyances on sale.*

**35.** (1) Where the consideration, or any part of the consideration, for a conveyance on sale, consists of any stock or marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the value of such stock or security. If in stock, &c., how to be calculated. Ibid. s. 33.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon such security. If unmarketable security.

*Stamp Duties.*

36. Where any property is conveyed to any person in consideration wholly or in part of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money, or stock shall be deemed the whole or part as the case may be of the consideration in respect whereof the conveyance shall be chargeable with *ad valorem* duty.

Where property subject to debt duty to be charged on such debt.

44 Vic. No. 3, s. 34.

37. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto, and such conveyance shall be charged with *ad valorem* duty in respect of such distinct consideration.

Property sold at one price conveyed by separate deeds.

*Ibid.* s. 35.

(2) Where any property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

Where sold to several at one price and conveyed in parts by separate deeds.

(3) Where a person having 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 by the original purchaser to the sub-purchaser.

Sub-sales conveyance by original seller to sub-purchaser.

(4) Where a person having 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 in respect only of the consideration moving from the sub-purchaser thereof without regard to the amount or value of the original consideration.

To several sub-purchasers in parts.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be exempt from the said *ad valorem* duty and chargeable only with the duty to which it may be liable under any general description, but such last-mentioned duty shall not exceed the *ad valorem* duty.

Conveyance by original seller to sub-purchaser where not to be charged.

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**38.** Where there are several instruments of conveyance for completing the purchaser's title to the property sold, the principal instrument of conveyance 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.

Parties may elect which is to be the principal instrument.  
44 Vic. No. 3, s. 36.

(5) *As to leases.*

**39.** (1) An agreement for a lease, or with respect to the letting of any lands, tenements, or heritable subjects for any term shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

Lease made in conformity with agreement how to be charged.

*Ibid.* s. 37.

(2) A lease made subsequently to and in conformity with such an agreement duly stamped shall be charged with the duty of two shillings and sixpence only.

Amount of duty.

**40.** (1) Where the consideration or any part of the consideration for which any lease is granted or agreed to be granted does not consist of money but consists of any produce or other goods, the value of such produce or goods shall be deemed a consideration in respect of which the lease or agreement shall be chargeable with *ad valorem* duty, and where it is stipulated that the value of such produce or goods shall amount at least to or shall not exceed a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the value of such produce or goods for the purpose of assessing the *ad valorem* duty shall be estimated at such given sum or according to such permanent rate.

Duty on certain leases how to be calculated and charged.

*Ibid.* s. 38.

(2) A lease or agreement made either entirely or partially for any such consideration if it contains a statement of the value of such consideration and is stamped in accordance with such statement shall, so far as regards the subject matter of such statement, be deemed duly stamped, unless or until it is otherwise shown that such statement is incorrect and that it is in fact not duly stamped.

When duly stamped.

**41.** (1) A lease, or agreement for a lease, or with respect to any letting shall not be charged with any duty in respect of any penal rent or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same same subject matter.

Lease not to be charged with increased duty in respect of any penal rent, &c.

*Ibid.* s. 39.

(2) No lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration, either of a covenant by the lessee to make or of his having previously made any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease, shall be charged with any duty in respect of such further consideration.

Nor in respect of covenant to improve the property.

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(3) No lease for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, shall be charged with any higher duty than one pound. Leases for life.

*(6) As to policies of insurance.*

42. A policy or other instrument of insurance which is made or signed out of New South Wales by or on behalf of any person carrying on the business of insurance in New South Wales, by which, according to any stipulation, agreement, or understanding, expressed or implied, any loss or damage, or any sum of money shall be payable or recoverable in New South Wales upon the happening of any contingency whatever, shall be charged with the same duty as is chargeable on policies made and signed within New South Wales : How foreign policy may be stamped. 44 Vic. No. 3, s. 40.

Provided such policy or instrument shall be brought to the said Commissioner for the purpose of being stamped within two calendar months next after the same has been received in New South Wales, and upon proof of that fact to the said Commissioner he shall cause such policy or instrument to be duly stamped on payment of the duties chargeable thereon.

43. Any person who—

- (a) receives or takes credit for any premium or consideration for any contract of insurance, and does not, within one month after receiving or taking credit for such premium or consideration, make out and execute a duly stamped policy of such insurance ; Penalty for not making out, &c., duly stamped policy. Ibid. s. 41.
- (b) makes, executes, or delivers out or pays, or allows in account, or agrees to pay or allow in account any money upon or in respect of any policy which is not duly stamped—

shall be liable to a penalty not exceeding twenty pounds.

44. (1) The duties imposed by this Act upon policies of insurance may be denoted by adhesive stamps, or partly by adhesive and partly by impressed stamps. Duties may be denoted by adhesive stamps. Ibid. s. 42.

(2) When the whole or any part of the duty upon a policy of insurance is denoted by an adhesive stamp, such adhesive stamp shall be cancelled by the person by whom the policy is first signed. Adhesive stamp to be cancelled.

(3) In default of such cancellation the person issuing such policy shall be liable to a penalty not exceeding twenty pounds. Penalty.

*(7) As to receipts.*

45. When on any division of profits made by any banking company the banker carries to the credit of any depositor or shareholder therein the amount payable to him on such division of profits, such transaction shall be considered a receipt liable to the duty on receipts under this Act. Division of profits carried to credit to be deemed a receipt. Ibid. s. 44.

The

*Stamp Duties.*

The said banker shall make a sworn return of every such transaction within one week after the same has taken place, and pay the duty thereon according to the rates imposed under the head of receipt, in default of so doing he shall be liable to a penalty not exceeding five hundred pounds.

**46.** The duty upon a receipt may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the receipt is given before he delivers it out of his hands.

Duty may be denoted by adhesive stamp.

44 Vic. No. 3, s. 45.

Penalty for giving unstamped receipt.

50 Vic. No. 10, s. 4.

**47.** (1) Any person who—

- (a) gives any receipt liable to duty and not duly stamped ;
- (b) refuses to give a receipt duly stamped in any case where a receipt would be liable to duty ;
- (c) upon a payment to the amount of two pounds or upwards gives a receipt for a sum not amounting to two pounds, or separates or divides the amount paid with intent to evade the duty ;

shall incur a penalty of not less than two pounds nor more than ten pounds :

(2) A demand for any such receipt shall not in any way affect the validity of a tender otherwise legal.

Demand for receipt not to affect tender.

(8) *As to transfers of pastoral runs or stations.*

**48.** For the purpose of assessing the amount of stamp duty payable upon the instrument of transfer of any run or interest in a run held under lease or promise of a lease from the Crown, the Commissioner may require the person tendering such instrument for the purpose of being stamped to tender at the same time a declaration of the fair and reasonable market value of the interest intended to be transferred ; such declaration to be duly made before a magistrate of the territory or a commissioner for affidavits.

Assessment of stamp duties on transfers of pastoral runs.

44 Vic. No. 3, s. 47.

## PART III.

*Duties on estates of deceased persons.*

**49.** (1) The duties to be levied, collected, and paid as aforesaid, upon the estates of deceased persons shall be according to the duties mentioned in the Third Schedule to this Act ; and such duties shall be charged and chargeable upon and in respect of all estate whether real or personal which belonged to any testator or intestate dying after the commencement of this Act.

Duties to be levied on estates of deceased persons.

*Ibid.* s. 48.

Third Schedule.

(2)



*Stamp Duties.*

(2) Duties to be levied, collected, and paid according to the duties mentioned in the said Third Schedule shall also be charged and chargeable upon and in respect of—

Certain estates liable to duty.  
57 Vic. No. 20, s. 2.

(A) all estate, whether real or personal—

(a) which any person, dying after the twenty-second day of May, one thousand eight hundred and ninety-four, has disposed of, whether before or after that date, by will or by settlement containing any trust in respect of that estate to take effect after his death, under any authority enabling that person to dispose of the same by will or deed, as the case may be ;

23 Vic., c. 15, s. 4.

(b) taken under a voluntary disposition made after the day last aforesaid by such person purporting to operate as an immediate conveyance or gift *inter vivos*, whether by way of conveyance, transfer, delivery, declaration of trust or otherwise, which has not been *bonâ fide* made twelve months before the death of such person ;

44 Vic., c. 12, s. 38, subs. 2 (a).

(c) which such person, having been absolutely entitled thereto, has, before or after the day last aforesaid, voluntarily caused to be conveyed, transferred to, or vested in himself and any other person jointly, whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person ;

44 Vic., c. 12, s. 38, subs. 2 (b).

(d) being a purchase or investment by such person, made either by himself alone or in concert with, or by arrangement with, any other person, before or after the day last aforesaid, with property or the proceeds of property to which he was absolutely entitled, in the name of himself and any other person jointly, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person ;

52 Vic., c. 7, s. 11.

(e) passing under any voluntary settlement made before or after the day last aforesaid by such person by deed or any other instrument not taking effect as a will, whereby an interest in that property or the proceeds of sale thereof for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in that property or the proceeds of sale thereof ;

44 Vic., c. 12, s. 38, subs. 2 (c).

52 Vic., c. 7, s. 11.

and in this subsection the expression "voluntary settlement" includes any trust, whether expressed in writing or otherwise, in favour of a volunteer, and, if contained in a deed

deed

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deed or other instrument affecting the settlement, whether that deed or instrument was made for valuable consideration or not as between the settlor and any other person ;

- (B) all personal estate (not being chattels real) taken under any gift whenever made by such person, of which *boná fide* possession and enjoyment has not been assumed by the donee immediately upon the gift, and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise. 52 Vic., c. 7, s. 11.

50. Whosoever takes possession of and in any manner administers any part of such estate of any person deceased without obtaining probate of the will or letters of administration within six calendar months after the decease of such person, or two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration (if there is any such) which is not ended within four calendar months after the decease of such person, shall incur a penalty not exceeding one hundred pounds, and also a further penalty of ten pounds per centum on the amount of stamp duty payable on the probate or letters of administration and such penalties shall be recovered and enforced in manner herein provided : Penalty for not taking out probate. 44 Vic. No. 3, s. 48.

Provided that such penalties shall not be incurred when such estate does not exceed two hundred pounds in value : Proviso.

Provided also that no duty shall be charged on the taking out of any second probate or administration if the proper amount of duty has been duly paid on the first taking out of the same.

51. (1) The estate of any person dying after the twenty-second day of May, one thousand eight hundred and ninety-four, wheresoever such person may have been domiciled, shall, for the purposes of this Act be taken to include— Certain debts and shares belonging to deceased persons liable to duty. 57 Vic. No. 20, s. 1.

- (a) every specialty debt due to such person and secured or partly secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal property situate within New South Wales, and notwithstanding that the specialty was, at the time of the death of such person, outside New South Wales ;
- (b) every share held by such person in any company, corporation, or society, whether registered or incorporated within or out of New South Wales, and carrying on the business of mining for any mineral in New South Wales.

And duties may be levied, collected, and paid under and in accordance with the provisions of this Act in respect of the said debts and shares, notwithstanding that the debts or shares were not at the time of the death of the said person *bona notabilia* within New South Wales :

(2)

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*Stamp Duties.*

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(2) Provided that nothing in this section shall render any Proviso. person liable under the last preceding section to a penalty for taking possession of or administering the estate of a deceased person, where the estate includes no property in respect of which probate or letters of administration or an order to collect may be granted in New South Wales.

52. (1) Upon the death of any person who, after the thirtieth Duty payable on property included in conveyance for purposes of evasion. 44 Vic. No. 3, s. 55. day of June, one thousand eight hundred and eighty, makes any conveyance or gift of any estate with intent to evade the payment of duty under this Act or any Act hereby repealed, such property shall be deemed part of his estate for the purposes of this Act, and the payment of the duty upon the value of such property may be enforced in the same way as if such person had bequeathed or devised the said property to the person to whom the same has been conveyed or given; and any conveyance or gift of property which after the date aforesaid is made to take effect upon the death of the person making the same shall be deemed to have been made with intent to evade the payment of such duty.

(2) Any property being the subject matter of a *donatio mortis causá* Donationes mortis causá. shall, upon the death of the person making such *donatio mortis causá*, be deemed part of his property for the purposes of this Act, and duty shall be paid upon it, and payment of such duty may be enforced in the same way as against any other property of or to which such person has died seised, possessed, or entitled.

53. (1) Where any person dying after the twenty-second day of What debts may be deducted. 57 Vic. No. 20, s. 3. May, one thousand eight hundred and ninety-four was at the time of his death domiciled in New South Wales, all debts actually due and owing by him shall be deducted from his estate.

(2) Where any person so dying was not at the time of his When deceased was not domiciled in New South Wales. 31 & 32 Vic., c. 224, s. 7. 44 Vic., c. 12, s. 28. death domiciled in New South Wales, the only debts which may be deducted from his estate shall be debts due and owing to persons resident in New South Wales, and debts secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal estate of the said person situate in New South Wales.

(3) Provided that, in any case, the debts to be deducted Proviso. shall not include voluntary debts expressed to be payable on the death of the person so dying, or payable under any instrument which has not been *boná fide* delivered to the donee thereof three months before the death of such person, or debts in respect of which a reimbursement may be capable of being claimed from any other estate or person, except as to the excess (if any) above the amount of the reimbursement claimable.

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54. (1) No probate of the will or letters of administration of the estate of any person deceased shall be granted after the commencement of this Act unless the applicant for such probate or letters—

Affidavit of value to be lodged by applicants for probate or letters of administration.

- (a) lodges with his application an affidavit stating that to the best of his knowledge and belief the estate of the deceased, exclusive of what he was possessed of or entitled to as a trustee, but including all his real estate and all estates for years is under the value of a certain sum to be specified in such affidavit; and
- (b) at the same time delivers with such affidavit an inventory setting forth a full and true account of the estate of the deceased, and the value thereof, and all such particulars as are necessary or proper for enabling the Commissioner fully and correctly to ascertain the duties payable in respect of such estate.

50 Vic. No. 10, s. 5.

(2) The Registrar of the Probate Jurisdiction of the Supreme Court shall transmit to the Commissioner every such affidavit and inventory, together with a copy of the will or letters of administration to which they relate, within thirty days from the granting of any probate or letters of administration under a penalty not exceeding fifty pounds for any neglect therein, and the Commissioner, if satisfied with such account and inventory or with any amendment that may be made therein upon his requisition, may assess the duty on the footing of such account and inventory (after deducting the debts actually due and owing by the deceased) upon the sum specified in such affidavit according to the rates set forth in the Third Schedule hereto, and such probate or letters shall be stamped accordingly.

Registrar to transmit affidavit and inventory to Commissioner.

Third Schedule.

(3) If the Commissioner is dissatisfied with such account and inventory, he may cause an account and inventory to be taken by any person to be appointed by him for that purpose, and he may assess the duty on the footing of such last-mentioned account and inventory subject to appeal therefrom in accordance with the provisions of section eighteen of this Act; and if the duty exceeds the duty assessable according to the return made to the Commissioner and with which he was dissatisfied, and if there is no appeal against such assessment, then 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 incident to the taking of such last-mentioned account and inventory against the estate of the said deceased, and to recover the same accordingly, and if there is an appeal against such last-mentioned assessment then the payment of such expenses shall be in the discretion of the Court:

Commissioner may appoint valuator.

Provided that no such account or inventory as last-mentioned shall be taken by such Commissioner or by any person appointed by him without the previous approval of the Colonial Treasurer.

(4)

*Stamp Duties.*

(4) The Commissioner may lodge with the Registrar-General a caveat against the issue of any certificate of title by transmission where the land advertised by him does not clearly appear to have been included in any affidavit or inventory lodged with the Commissioner in connection with the estate of any deceased person upon which probate or administration duty has been assessed, or where the will of any deceased proprietor has not been proved in or letters of administration granted by the Supreme Court.

And may lodge caveat with Registrar-General.

Every such caveat shall be dealt with in all respects as if it were a caveat filed by the Registrar-General, except that the Commissioner shall be considered as the caveator.

55. (1) In respect of the estates of intestates deceased after the thirtieth day of June, one thousand eight hundred and eighty, for which an order to collect is granted to the Curator of Intestate Estates, a like duty shall be paid as by this Act is required to be paid by an administrator.

As to estates administered by Curator of Intestate Estates. 44 Vic. No. 3, s. 50.

(2) No Judge shall pass the accounts of the Curator of Intestate Estates in respect of the estate of any such intestate unless the amount of duty chargeable on such estate (as if administration had been taken out in respect thereof) has been paid by such Curator, and a receipt for such amount signed by the Commissioner is produced by such Curator.

Accounts not to be passed till duty paid.

(3) Provided that no administration duty shall be chargeable in respect of any such estate previously collected by such Curator.

Proviso.

56. (1) Any duty payable under this Act by any executor or administrator shall be deemed to be a debt of the testator or intestate to Her Majesty, and shall be payable out of his personal estate.

Duties payable out of personal estate. *Ibid.* s. 51.

(2) If the personal estate is insufficient to pay such duty the executor or administrator or any person interested may apply to the Supreme Court, which may order that a sufficient part of the real estate be sold to pay the said duty.

Where personal estate insufficient.

(3) Every executor or administrator may deduct from any property devised or bequeathed to any person an amount equal to the duty thereon, calculated at the same rate as is payable upon the estate under this Act, unless the testator has made a different disposition as to the payment of the said duty in his will.

Deduction of duty from property devised.

57. No probate or letters of administration shall issue from the Prothonotary's office until the duty under this Act has been paid or security given for the same, and the probate or letters of administration duly stamped.

Probates, &c., not to issue until duty paid. *Ibid.* s. 52.

58. (1) Within six months after the death of any person who has executed a settlement containing any trust to take effect after his death, or within such further time as the Commissioner may allow, notice of such settlement shall be lodged by the trustee thereof or by some person interested thereunder, together with a declaration specifying

Settlement of property taking effect after death of settlor. *Ibid.* s. 53.

*Stamp Duties.*

fyng the property thereby settled and the value thereof, and duty shall thereupon be payable on such value at the rates specified in the Third Schedule hereto.

Third Schedule.

(2) In case such notice and declaration are not lodged and the duty paid within six months or such further time as the Commissioner may allow, the Commissioner or any person interested may apply to the Supreme Court, which may order that a sufficient part of the property included in such settlement be sold, and the proceeds of such sale applied in payment of the duty and of the costs consequent thereon.

Procedure where notice not lodged.

59. Whenever any order has been made for the sale of any lands under this Act every person seised or possessed of such lands or entitled to a contingent interest therein shall be deemed to be so seised, possessed, or entitled upon a trust within the meaning of the Trustee Act, 1898. And the Supreme Court may make an order vesting such lands or any part thereof either in any purchaser or in such other person as the Court directs, and every such order shall have the same effect as if such person so seised, possessed, or entitled had been free from all disability, and had duly executed all proper conveyances and assignments.

Court may make vesting orders.  
44 Vic. No. 3, s. 54.

## PART IV.

*Miscellaneous provisions.*

60. Any single stamp may be used to denote the total amount of duty, and two or more stamps may be used to denote any one duty, and all instruments stamped with one, two, or more stamps for denoting the amount of duty charged thereon shall be as valid as if the same had been stamped with a single stamp or any number of stamps.

One stamp may be used in place of many and *vice versa*.  
*Ibid.* s. 56.

61. Any person required under this Act to deliver any account who makes default in so doing shall be liable, upon application to the Supreme Court by the Commissioner, or any person by him duly authorised, to be sued by writ of summons in such form as the Judges of the said Court shall direct, commanding the party so in default to deliver such account and to pay all costs incurred in consequence of such default up to the time of such delivery within such period as may be appointed in the writ, or to show cause to the contrary, and on cause being shown such order shall be made as is just.

Proceeding if return not made by any accountable party.  
*Ibid.* s. 57.

62. Every person delivering any account or estimate of property under this Act shall, if required by the Commissioner, produce before him such books and documents in the custody or control of such person

Accounting party to verify his account.  
*Ibid.* s. 58.

*Stamp Duties.*

so far as the same relate to such account or estimate as may afford any necessary information for the purpose of ascertaining such property and the duty payable thereon, and the Commissioner may without payment of any fee inspect and take copies of any public book ; and any commissioner or other officer who discloses the same or the contents of any document or book to any person other than for the purpose of this Act shall be liable to a penalty not exceeding one hundred pounds.

**63.** The Commissioner shall enter and keep on record in a book every payment of duty made under the Third Schedule hereto, and shall give a receipt for such duty in such form as shall be provided by regulations, and shall upon application for any reasonable purpose, deliver to any person interested in any property affected thereby a certificate of such payment.

Books to be kept  
and receipts given.  
44 Vic. No. 3, s. 59.  
Third Schedule.

**64.** Whosoever makes or assists in making any false statement, or any fraudulent alterations in any statement or document required under this Act, with intent to evade the payment of duty, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any period not exceeding three years, and to a fine not exceeding one hundred pounds.

Persons fraudulently  
mis-stating property  
or debts.  
*Ibid.* s. 60.

**65.** Whosoever does or causes to be done, or knowingly assists in doing any of the acts following, that is to say :—

Penalties for fraudu-  
lent acts.  
*Ibid.* s. 61.

- (a) forges a die or stamp ;
- (b) impresses any material with a forged die ;
- (c) cuts, tears, or in any way removes from any material any stamp with intent to make fraudulent use of such stamp or of any part thereof ;
- (d) mutilates any stamp with intent to make fraudulent use of any part thereof ;
- (e) fraudulently fixes or places upon any material, or upon any stamp, any stamp or part of a stamp which has been cut, torn, or in any way removed from any other material, or out of or from any other stamp ;
- (f) erases or otherwise removes from any stamped material any name, sum, date, or other matter or thing whatsoever thereon written, with the intent that any fraudulent use should be made of the stamp upon such material ;
- (g) knowingly sells or exposes for sale, or utters or uses any forged stamp ;
- (h) knowingly and without lawful excuse (the proof of which lawful excuse lies on the person accused) has in possession any forged die or stamp, or any stamp or part of a stamp which

*Stamp Duties.*

which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise removed—

shall be guilty of felony, and liable to be sentenced to hard labour on the roads or other public works of the colony, or to be imprisoned with or without hard labour for any term not exceeding seven years.

66. Whosoever receives any transfer of any shares not duly stamped without causing the same to be duly stamped within one week after receiving the same shall be liable to a penalty not exceeding ten pounds.

Transfer of shares to be stamped.  
44 Vic. No. 3, s. 62.

67. (1) Every affidavit required by this Act shall be made before a justice of the peace, or a commissioner for affidavits.

Affidavits and penalty for false oath.  
*Ibid.* s. 63.

(2) Whosoever knowingly and wilfully makes a false oath or statement concerning any matter in this Act shall be liable to the same punishment as for wilful and corrupt perjury.

Penalty.

68. Whenever any suit is pending in any Court for the administration of any property chargeable with duty under this Act, such Court shall provide for the payment of such duty out of any property the subject matter of such suit which may be in the possession or control of the Court.

Courts in suits for administration of property to provide for payment of duty.  
*Ibid.* s. 64.

69. Any penalty incurred under this Act may be recovered in a summary way before any two justices of the peace, or by action of debt in the Supreme Court in the name of the Attorney-General, and with costs in either case.

Recovery of penalties.  
*Ibid.* s. 65.

70. Any person possessed of impressed stamps or stamped material rendered useless by being inadvertently spoiled, may upon application to the commissioner, be allowed in lieu thereof other stamps of the same or any other denomination amounting in the whole to the value of such spoiled stamps.

Allowance in case stamps becoming useless.  
*Ibid.* s. 66.

71. The Governor may frame regulations not being inconsistent with this Act and prescribe forms for carrying out this Act, and such regulations and forms when published in the *Gazette*, shall have the force of law :

Power to make regulations and forms.  
*Ibid.* s. 67.

Provided that the same shall be laid before both Houses of Parliament forthwith if Parliament is sitting, and if not, then within twenty-one days after the commencement of the next Session.

## SCHEDULES.



*Stamp Duties.*

SCHEDULES.

Section 2.

FIRST SCHEDULE.

Reference to Act.	Title or short title.	Extent of Repeal.
20 Vic. No. 23...	An Act to declare that instruments affecting Real Estate in this Colony executed out of the Colony are admissible in evidence therein although not stamped.	The whole.
36 Vic. No. 15...	Postage Stamps Extension Act of 1873.	The whole.
44 Vic. No. 3...	Stamp Duties Act of 1880.	The whole.
50 Vic. No. 10...	Stamp Duties Act Amendment Act of 1886.	The whole.
54 Vic. No. 15...	Transfer of Mining Stock Stamp Duty Exemption Act 1890.	The whole.
57 Vic. No. 20...	Stamp Duties Acts Further Amendment Act of 1894.	The whole.

SECOND SCHEDULE.

Section 4.  
44 Vic. No. 3.  
Schedule 1.

*Containing the Duties on Deeds or other instruments relating to transactions between living persons.*

	£	s.	d.	
AGREEMENT not under seal ... ..	0	1	0	
And see section 25.				
BANK NOTE. An Annual Composition to be paid by Banking Companies in lieu of duties on promissory-notes payable on demand issued by them—				
For every £100 and also for the fractional part of £100 of the average annual amount of such notes in circulation as certified under the Banks and Bank Holidays Act, 1898	2	0	0	
And see sections 26, 27.				
BILL OF EXCHANGE OR PROMISSORY-NOTE—				50 Vic. No. 10, s. 2.
For every £25 and also for any fractional part of £25 ... ..	0	0	6	
And see sections 28, 29, 30, 31.				
BILL OF LADING—				44 Vic. No. 3.
For every bill of lading or copy thereof ... ..	0	0	6	Schedule I.
And see sections 33, 34.				
CONVEYANCE OR TRANSFER on sale of any share or shares in the stock and funds of any corporation, company, or society whatever in New South Wales.				
For every £10 and also for any fractional part of £10 of the consideration money therein expressed ... ..	0	0	6	
And see section 66, and the exemptions to this Schedule.				
CONVEYANCE OR TRANSFER on sale of any property (except such stock and funds as aforesaid)—				
Where the amount or value of the consideration for the sale does not exceed £50 ... ..	0	5	0	
Exceeds £50 and does not exceed £100 ... ..	0	10	0	
For every £100 and also for any fractional part of £100 of such amount or value ... ..	0	10	0	

CONVEYANCE

*Stamp Duties.*

	£	s.	d.
CONVEYANCE of any other kind not before charged ... ..	1	0	0
And see sections 35, 36, 37, 38.			
DRAFT—payable on demand. See section 32 ... ..	0	0	1
DEED of any kind whatever not otherwise charged in this Schedule ...	1	0	0
LEASE—			
(1.) For any definite term or for an indefinite term of any lands, tenements, or heritable subjects—			
Where the consideration or any part of the consideration moving either to the lessor or to any other person shall consist of any money, stock, or security—			
In respect of such consideration ... ..			
Where the consideration or any part of the consideration shall be any rent—			
In respect of such consideration—			
For every sum not exceeding £50 per annum ...	0	2	6
And for every £50 or fractional part of £50 per annum ... ..	0	2	6
(2.) Of any other kind whatsoever ... ..	1	0	0
And see sections 39, 40, 41.			
MEMORANDUM of transfer under the Act twenty-sixth Victoria number nine			
POLICY for or against loss by fire—			
For every £100 and also for every fractional part of £100 insured for any term or period exceeding six calendar months ...	0	0	6
And not exceeding six months ... ..	0	0	3
On every renewal or continuance thereof for every £100 and for every fractional part of £100 insured for any term ... ..	0	0	3
POLICY for any voyage or period—			
For every £100 and also for any fractional part of £100 so insured	0	0	3
On every renewal or continuance thereof for every £100 or fractional part of £100 ... ..	0	0	3
POLICY not otherwise specified—			
For every £100 and for every fractional part of £100 insured ...	0	1	0
And see sections 43, 44.			
RECEIPT given for or upon the payment of any sum of money amounting to £2 and upwards ... ..	0	0	2
TRANSFER OF SHARES. See CONVEYANCE.			
TRANSFER of any run or station held under lease or promise of lease from the Crown or of any interest therein where the declared value of the said run, or station, or interest, or the value thereof assessed as in this Act provided shall not exceed £100 ... ..	0	10	0
And where such value shall exceed £100 then for every £100 and any fractional part of £100 ... ..	0	10	0
And see section 48.			

The same duty as a conveyance on a sale for the same consideration.

The same duty as for a conveyance for the sale of lands for a like sum the consideration of such transfer.

EXEMPTIONS.

*Stamp Duties.*

## EXEMPTIONS.

- Any agreement or memorandum for the hire of any labourer, artificer, manufacturer, or menial servant.*
- Any agreement or memorandum made for or relating to the sale of any goods, wares, or merchandise.*
- Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any voyage coastwise from port to port in the Colony of New South Wales.*
- Any Debenture or Treasury Bill issued by the Government of New South Wales.*
- Any draft or order for the payment of money issued by any duly authorised officer of the Government on account of the Public Service.*
- Any draft or order for the payment of money commonly called an advance note issued by a master of a ship or vessel in favour of a seaman.*
- Any instrument relating to the service of an apprentice, clerk, or servant.*
- Any Customs bond.*
- Any administration bond.*
- Any bail bond.*
- Any bond to the Crown for the safe custody of an insane person.*
- Any bond on appointment of a special bailiff.*
- Any mortgage of real property or mortgage given by way of bill of sale or otherwise of live stock, goods, chattels, or effects, or personal estate generally, and any transfer, assignment, release, re-conveyance, or discharge thereof, and every receipt endorsed on either or any of said documents for the consideration thereof.*
- Any preferable lien or any lien on crops under the Lien on Crops and Wool and Stock Mortgages Act, 1898.*
- Any policy of insurance on life or on any public hospital or charitable institution.*
- Any policy of insurance on the tools or implements of work or labour used by any working mechanic, artificer, handicraftsman, or labourer by a separate policy in a distinct sum.*
- Any policy, whereby any insurance company, or underwriter, or association of underwriters may effect an insurance or transaction, the original policy representing which may have already contributed to the stamp duty imposed on policies: Provided that the fact of such policy being a reinsurance policy shall be expressed on the face thereof.*
- Any receipt given for or upon the payment of money to or for the use of Her Majesty.*
- Any acknowledgment by any banker of the receipt of any bill of exchange or promissory-note for the purpose of being presented for acceptance or payment.*
- Any acknowledgment by any person on receipt of money for the purchase of stock or shares in any banking or public company.*
- Any acknowledgment or receipt given by any labourer, artificer, or workman for or on account of wages received by him.*
- Any receipt written upon or given for a bill of exchange or promissory-note duly stamped.*
- Any receipt endorsed, or otherwise written upon, or contained in any instrument liable to stamp duty, and duly stamped acknowledging the receipt of the consideration money therein expressed.*
- Any receipt given by depositors on receiving deposits from any savings bank.*
- Any acknowledgment given for money deposited in any bank to be accounted for: Provided that this exemption shall not extend to acknowledgments for any sum carried to the credit of any depositor or shareholder in any bank on any division of profits made by such bank, or for or in respect of any dividend from any joint stock or other company, on the same being deposited by any person to the credit of any other person in any bank, or for or in respect of any sum paid to the credit of any person in any bank for rent or interest by any other person, or for or in respect of any sum deposited, which would be liable to duty if paid directly by any person to any other person.*

*Stamp Duties.*

*Any receipt given in anticipation of a bill of lading, and not to be used in lieu thereof.*

*Any instrument of appointment relating to any property in favour of persons specially named or described as the objects of a power of appointment created by a previous settlement duly stamped in respect of the same property, or by will where probate duty has been paid in respect of the same property as personal estate.*

*Any instrument for the sale, transfer, or other disposition of any ship or vessel, or any part, interest, share, or property of, or in any ship or vessel.*

*Any conveyance or transfer made since the first day of October, in the year one thousand eight hundred and ninety, of any shares in the stock and funds of any corporation, company, or society, carrying on only the business of mining for extracting or smelting any mineral or metal in New South Wales; and whether the operations of such corporation, company, or society are carried on within New South Wales or elsewhere.* 54 Vic. No. 15 s. 1.

*And any copy of rules, or power, warrant, or letter of attorney granted by any trustee of any friendly society, within the meaning of Friendly Societies Act 1873 for the transfer of any share in the colonial funds or debentures, standing in the name of such trustee, or any order or receipt for money contributed to or received from the funds of any such society, by any person liable or entitled to pay or receive the same by virtue of the rules thereof, or any bond to be given to or on account of any such society, or by the treasurer, or any officer thereof, or any draft or order, or any form of policy, or any appointment of an agent, or any certificate or other instrument for the revocation of any such appointment, or any other document whatever required or authorised by the rules of any such society, shall be exempt from all stamp duties.* 44 Vic. No. 3. Schedule I.

## THIRD SCHEDULE.

*Duties on the estates of deceased persons.*

## Part I.

1. On the probate or letters of administration to be granted in respect of any estate real and personal of deceased persons. Ss. 4, 49-59. 50 Vic. No. 10. Schedule B.
- |   |     |     |     |             |
|---|-----|-----|-----|-------------|
| Where the value of such estate is under £5,000 ...  | ... | ... | ... | 1 per cent. |
| Where the value is £5,000 and under £12,500 ...     | ... | ... | ... | 2 per cent. |
| Where the value is £12,500 and under £25,000 ...    | ... | ... | ... | 3 per cent. |
| Where the value is £25,000 and under £50,000 ...    | ... | ... | ... | 4 per cent. |
| Where the value is £50,000 and over that amount ... | ... | ... | ... | 5 per cent. |

## Part II.

2. Settlement of property taking effect after death of settlor—same duties as under Part I.

## Memo. and Certificate to accompany the Stamp Duties Bill.

THIS Bill consolidates six statutes:—

20 Vic. No. 23 ;  
36 Vic. No. 15 ;  
44 Vic. No. 3 ;  
50 Vic. No. 10 ;  
54 Vic. No. 15 ;  
57 Vic. No. 20.

1. The Act 20 Vic. No. 23, which now appears as clause 16 of this Bill, was passed at a time when there were no Stamp Acts in New South Wales. The passing of Stamp Acts since in New South Wales has rendered it advisable to make a slight change in the wording of the clause, which, it is considered, does not alter its meaning, but prevents a possible difficulty.

2. It has been thought safest to preserve in the Bill, in most cases, the dates of the Acts consolidated where these Acts caused liabilities and duties to arise "after the commencement of this Act," and in other ways made that date material, as *e.g.*, under clause 52, subsection (1). It would have been neater to use again the expression "after the commencement of this Act," and to rely upon the saving clause in the Interpretation Act, or upon a special saving clause to be inserted in this Bill, to keep alive all previous liabilities; but in a taxing measure, where large interests may be at stake, the safest course has been thought the best.

3. In clause 54, subsection (2), the term "Registrar of the Probate Jurisdiction" has been substituted for "Prothonotary," the duties therein mentioned of the latter having, by section 7 of the Probate Act, been conferred on the former.

4. In clause 55 the word "estate" has been substituted for the words "goods, chattels, and effects," in consequence of the Probate Act, sections 26 and 27.

5. In section 50 of the 44 Vic. No. 3 the order to collect was said to be granted "under the Act 11 Vic. No. 24, and any Act repealing the same." This has been altered to "to the Curator of Intestate Estates," he being the only person to whom an order to collect can be granted, and also in pursuance of a system of avoiding, as far as possible, references to other statutes, soon to be repealed and consolidated.

None of the alterations above explained are changes or amendments of the law, and I certify that the Bill now forwarded solely consolidates and in no way alters, amends, or adds to the law contained in the Acts therein consolidated.

CHAS. G. HEYDON,  
Commissioner for Consolidation of the Statute Law.



# Stamp Duties Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
		<b>20 VICTORIA No. 23.</b>
1	16	
		<b>36 VICTORIA No. 15.</b>
1	.....	Omitted (short title and commencement).
2	.....	Omitted (interpretation).
3	3	
4	.....	Omitted as unnecessary
		<b>44 VICTORIA No. 3.</b>
1	.....	Omitted (short title, commencement, and division).
2	3	
3	4	
4	5	
5	6	
6	7	
7	8	
8	9	
9	10	
10	11	
11	12	
12	13	
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27	29	
28	30	
29	31	
30	32	
31	33	
32	34	
33	35	
34	36	
35	37	
36	38	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
44 VICTORIA No. 3— <i>continued.</i>		
37	39	
38	40	
39	41	
40	42	
41	43	
42	44	
43	.....	Repealed ; 50 Vic. No. 10, section 2.
44	45	
45	46	
46	.....	Repealed ; 50 Vic. No. 10, section 2.
47	48	
48	49, 50	
49	.....	Repealed ; 50 Vic. No. 10, section 2.
50	55	
51	56	
52	57	
53	58	
54	59	
55	52	
56	60	
57	61	
58	62	
59	63	
60	64	
61	65	
62	66	
63	67	
64	68	
65	69	
66	70	
67	71	
50 VICTORIA No. 10.		
1	.....	Omitted (short title).
2	.....	Omitted (repeals).
3	3	
4	47	
5	54	
6	5	
54 VICTORIA No. 15.		
1	Second Schedule.	
2	.....	Omitted (short title).
57 VICTORIA No. 20.		
1	51	
2	49	
3	53	
4	.....	Omitted (short title).



# Stamp Duties Bill.

## ARRANGEMENT OF CLAUSES.

### PART I.

#### *Preliminary.*

Clause.

1. Short title.
2. Repeals.
3. Interpretation section.
4. Stamp duties to be levied.
5. Power to appoint officers.
6. Power to appoint stamp distributors.
7. Stamp duties to be denoted in accordance with Act.
8. Schedules part of Act.

### PART II.

#### DUTIES ON DEEDS AND INSTRUMENTS.

##### DIVISION 1.—*General regulations.*

9. Stamp to appear on face of instrument.
10. Consideration money, &c., to be truly set forth.
11. Value of consideration to be calculated in British currency.
12. If in stock, how calculated.
13. Commissioner may denote duty as paid.
14. Stamping documents after execution.
15. Unstamped instruments as evidence.
16. Deeds executed out of New South Wales.
17. For removing doubts as to sufficiency of stamp duty.
18. Appeal to Supreme Court against Commissioner's decision.
19. Abstract of instrument to be furnished.
20. Impressed stamps to be used.
21. Mode of cancelling adhesive stamps.
22. Penalty on fraudulent removal or second use of adhesive stamps.
23. Instruments not to be registered unless duly stamped.
24. The Supreme Court to enforce payment of any moneys received for duties.

##### DIVISION 2.—*Special regulations.*

###### (1) *As to agreements.*

25. Adhesive stamp may be used for agreement.

###### (2) *As to bank notes, bills of exchange, and promissory notes.*

26. Bank notes exempt by composition.
27. Penalty for issuing unstamped bank notes.
28. Adhesive stamps to be used for foreign bills.
29. Document deemed to be drawn as it may purport.
30. Penalty for unstamped bill and note.
31. Bills in sets.
32. Duty on draft, how denoted.

###### (3) *As to bills of lading.*

33. Bills of lading not to be stamped after execution.
34. No master or mate to sign bill of lading unless stamped.

(4) *As to conveyances on sale.*

Clause.

- 35. If consideration in stock, how calculated.
- 36. Where property subject to debt.
- 37. Property sold at one price conveyed by separate deeds.
- 38. Parties may elect which is to be the principal instrument.

(5) *As to leases.*

- 39. Leases in conformity with agreement.
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(6) *As to policies of insurance.*

- 42. Foreign policy, how stamped.
- 43. Penalties.
- 44. Duties how denoted.

(7) *As to receipts.*

- 45. Division of profits.
- 46. Duty, how denoted.
- 47. Penalty.

(8) *As to transfers of pastoral runs or stations.*

- 48. Duties, how assessed.

## PART III.

*Duties on estates of deceased persons.*

- 49. Duties to be levied on estates of deceased persons.
- 50. Penalty for not taking out probate.
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- 52. Duty payable on property included in conveyance for purposes of evasion.
- 53. What debts may be deducted.
- 54. Affidavit of value to be lodged.
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- 58. Settlement of property taking effect after death of settlor.
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*Miscellaneous provisions.*

- 60. One stamp may be used in place of many.
  - 61. Proceeding if return not made by any accountable party.
  - 62. Accounting party to verify his account.
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  - 65. Penalties.
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  - 67. Affidavits and penalty for false oath.
  - 68. As to suits pending.
  - 69. Recovery of penalties.
  - 70. Allowance in case of stamps becoming useless.
  - 71. Power to make regulations and forms.
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Legislative Council.

No. . , 1898.

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# A BILL

To consolidate the Laws relating to Stamp Duties.

[MR. WANT;—30 *June*, 1898.]

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**B**E 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:—

## PART I.

### *Preliminary.*

1. This Act may be cited as the "Stamp Duties Act, 1898," and is divided into parts, divisions, and subdivisions, as follows:—

Short title and  
division.

PART I.—*Preliminary.*—ss. 1-8.

PART II.—*Duties on deeds and instruments.*

DIVISION 1.—*General regulations.*—ss. 9-24.

C 27—A

DIVISION

DIVISION 2.—*Special regulations.*

- (1) *As to agreements.*—s. 25.
- (2) *As to bank notes, bills of exchange, and promissory notes.*—ss. 26–32.
- (3) *As to bills of lading.*—ss. 33, 34.
- (4) *As to conveyances on sale.*—ss. 35–38.
- (5) *As to leases, &c.*—ss. 39–41.
- (6) *As to policies of insurance.*—ss. 42–44.
- (7) *As to receipts*—ss. 45–47.
- (8) *As to transfers of pastoral runs or stations.*—s. 48.

PART III.—*Duties on estates of deceased persons.*—ss. 49–59.PART IV.—*Miscellaneous provisions.*—ss. 60–71.

Repeal of Acts.  
First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein mentioned hereby repealed, but such repeal shall be without prejudice to the past operation of anything in the said Acts or the Schedules thereto.

Officers under Acts  
hereby repealed.

(2) All persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

Regulations under  
Acts hereby repealed.

(3) All regulations made and forms prescribed under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under this Act.

Interpretation.  
44 Vic. No. 3, s. 2.

3. In this Act, unless the context or subject matter otherwise indicates or requires,—

“Administrator” means any person to whom any letters of administration in the estate of any deceased person is granted in New South Wales.

“Affidavit” includes affirmation and statutory declaration.

“Bank” means any corporation, society, or number of persons carrying on the business of banking.

“Banker” means the person managing or administering the affairs of any bank or branch thereof.

“Bill of exchange” means any ordinary bill of exchange, or any draft, order, cheque, letter of credit, instrument, or writing, not payable on demand, entitling any person whether or not named therein to payment of money by any other person.

“Bill of lading” means any instrument signed by the master, mate, or other person in charge of any vessel, or by the agent, shipping clerk, or other person acting as such for such vessel, for the conveyance therein of goods, wares, or merchandise to any place beyond New South Wales.

“Commissioner”

- “Commissioner” means any person appointed Commissioner of Stamp Duties under this Act.
- “Conveyance” means any instrument or deed whereby property is vested in any person or transferred or conveyed from one person to another.
- “Draft” means any draft, cheque, or order for money payable on demand, not being a bill of exchange or otherwise herein specified.
- “Estate” means real or personal property.
- “Executor” means any person to whom probate of the will of any deceased person is granted in New South Wales.
- “Executed” means signed and completed, whether or not by sealing or any process customary or required by law in any particular case.
- “Execution” means the form or process of being executed.
- “Instrument” means any written or printed deed or document.
- “Issue” means delivery of a promissory-note or bill of exchange by the maker or acceptor to the payee thereof.
- “Lease” means lease or promise of or agreement for a lease.
- “Marketable security” means any security capable of being sold in any stock market in New South Wales.
- “Material” means any sort of material commonly used for writing or printing upon which words or figures can be expressed.
- “Minister” means any Minister charged with the administration of this Act.
- “Money” means any sum in British, Foreign, or Colonial currency.
- “Policy” means any insurance, or contract, whether of insurance against loss by fire, or upon or concerning any vessel or goods, for any voyage or period, whether the same is issued singly or in duplicate or otherwise.
- “Promissory-note” means any ordinary promissory-note, or any debenture issued by any public company, corporation, or society in New South Wales, or any debenture issued out of New South Wales, if negotiated therein.
- “Receipt” means any stamp, mark, impression, indication, as well 50 Vic. No. 10, s. 3. as any note, memorandum, or writing whatsoever, whereby any money amounting to two pounds or upwards is deposited for any fixed period, or is acknowledged, or expressed to have been received or paid in satisfaction of any debt, or whereby any debt or demand or any part of a debt or demand of the amount of two pounds or upwards is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

“Regulations”

44 Vic. No. 3, s. 2.

“Regulations” means regulations under this Act.

“Settlement” means any contract or agreement (whether voluntary or upon any good or valuable consideration other than a *bonâ fide* pecuniary consideration) whereby any property, real or personal, is settled or agreed to be settled, or containing any trusts or dispositions to take effect after the death of any person.

36 Vic. No. 15, s. 3.

“Stamp” means a stamp impressed by means of a die, or an adhesive stamp, and includes a postage stamp.

44 Vic. No. 3, s. 2.

“Stamped” means impressed with stamps by means of a die, or having an adhesive stamp affixed according to this Act.

“Stock” means any share in stocks or funds of Great Britain, or of any Foreign or Colonial State or Government, or in the capital, stock, or funded debt of any company, corporation, or society, British, Foreign, or Colonial.

“Unstamped” means either not stamped at all or insufficiently stamped, or not duly stamped.

“Writing” means any mode or process by which words or figures can be expressed upon material.

Stamp duties to be levied.

*Ibid.* s. 3.

Second and Third Schedule.

4. From and after the commencement of this Act, and subject to the exemptions contained in the Second and Third Schedules hereto, there shall be charged, levied, collected, and paid for the use of Her Majesty, and to form part of the Consolidated Revenue Fund, for and in respect of the several instruments and matters described or mentioned in this Act, and in the said Schedules hereto the several duties or sums of money, and at the several rates specified herein or set down in figures against the same respectively in the said Schedules.

Such duties shall be denoted in stamps upon the material upon which any such instrument or matter is written or expressed.

Power to appoint commissioner and officers.

*Ibid.* s. 4.

50 Vic. No. 10, s. 6.

5. The Governor may appoint—

- (a) a Commissioner who shall be charged with the levying and collection of the duties imposed by this Act; and also
- (b) either a Deputy or an Assistant Commissioner of Stamps, who shall perform such duties and exercise such powers as the Governor may prescribe; and also
- (c) such other officers as may be deemed necessary for the due execution of this Act.

The said persons shall give such security for the due discharge of the duties hereby reposed in them as the Governor may direct.

Power to appoint stamp distributors.

44 Vic. No. 3, s. 5.

6. (1) The Minister may appoint any person a distributor of stamps throughout New South Wales, who shall be remunerated for his services by a commission upon the value of stamps purchased by him for disposal.

Stamps to be provided.

(2) The Minister shall also provide for denoting the several duties hereby imposed, such stamps or dies as may be required for the purposes

purposes of this Act, and do any other act which may be necessary for effectually collecting the said duties.

7. All stamp duties which may from time to time be chargeable by law upon any instruments shall be denoted and paid in accordance with the provisions of this Act and the regulations.

Stamp duties to be denoted, &c., in accordance with Act and Regulations.

8. The Schedules to this Act and everything therein contained shall be read and construed as part of this Act.

44 Vic. No. 3, s. 6.  
Schedules part of Act.  
*Ibid.* s. 7.

## PART II.

### *Duties on deeds and instruments.*

#### DIVISION I.—*General Regulations.*

9. Every instrument, subject under this Act to be stamped, shall be written in such manner, and every instrument partly or wholly written before being stamped shall be so stamped, that the stamp appears on the face of the instrument, and cannot be used for or applied to any other instrument written upon the same piece of material.

Stamp to appear on face of instrument.  
*Ibid.* s. 8.

10. (1) Every fact and circumstance affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable under this Act, shall be fully and truly set forth in such instrument.

Consideration money, &c., to be truly set forth.  
*Ibid.* s. 9.

(2) Every person who, with intent to defraud Her Majesty, executes any instrument in which all the said facts and circumstances are not fully and truly set forth, or, who being employed or concerned in or about the preparation of any instrument, with the like intent neglects or omits fully and truly to set forth therein all the said facts and circumstances, shall forfeit the sum of fifty pounds.

Penalty.

11. In the case of an instrument chargeable under this Act with duty in respect of any money in any foreign or colonial currency, such duty shall be calculated in British currency according to the current rate of exchange on the day of the date of the instrument.

Value of consideration to be calculated in British currency.  
*Ibid.* s. 10.

12. Where an instrument is chargeable with duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

If in stock how to be calculated.  
*Ibid.* s. 11.

13. Whenever the duty with which an instrument is chargeable under this Act depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty on production of both the instruments shall be denoted in such manner as the Commissioner thinks fit upon such first-mentioned instrument.

Commissioner may denote duty as paid.  
*Ibid.* s. 12.

Stamping documents  
after execution.  
44 Vic. No. 3, s. 13.

14. (1) Subject to the provisions of this Act any unstamped instrument may be stamped after the execution thereof on payment of the unpaid duty and a sum by way of fine at the rate of twenty pounds per centum on the value of the stamps to be affixed.

The payment of any fine shall be denoted on the instrument by a particular stamp—

Proviso.

(2) Provided as follows :—

- (a) Any unstamped instrument which was first executed at any place out of New South Wales may be stamped at any time within two months after it is first received in New South Wales on payment of the unpaid duty only.
- (b) The Commissioner may if he thinks fit at any time within twelve months after the first execution of any instrument remit the fine or any part thereof.
- (c) No fine as aforesaid shall be charged if the instrument is stamped within one month after execution.

No instrument  
admissible as evidence  
except in criminal  
proceedings or unless  
duly stamped.  
*Ibid.* s. 14.

15. (1) Unless otherwise herein expressly enacted no unstamped instrument executed in New South Wales after the passing of this Act, or relating, wheresoever executed, to any property situate, or to any matter or thing done, or to be done, in New South Wales, shall, except in criminal proceedings, be admissible in evidence, or available or effectual for any purpose whatsoever in law or equity :

Provision as to  
unstamped  
instruments at any  
trial not criminal.

Provided that upon the production of any such instrument as evidence at the trial of any cause not being a criminal proceeding, the officer of the Court whose duty it is to read such instrument shall call the attention of the Judge to any omission or insufficiency of the stamp, and the instrument if unstamped or not sufficiently stamped shall not be received in evidence until the whole or the deficiency of the stamp duty and the fine imposed by this Act has been paid ; and such officer of the Court shall, upon payment to him of such stamp duty and fine, give a receipt for the amount of the same, and thereupon such instrument shall be admissible in evidence, saving all just exceptions on other grounds.

Officer of the Court  
to receive and account  
for the duty and  
penalty.

(2) An entry of the fact of such payment and of the amount thereof shall be made in a book kept by such officer, who shall, at the end of each sittings or assizes, duly make a return to the Commissioner of any moneys which he has so received by way of duty or fine, distinguishing between such moneys, and stating the name of the cause and of the parties from whom he received such moneys, and the date and description of the instrument for the purpose of identifying the same, and he shall pay over the said moneys to the Commissioner. And in case such officer neglects or refuses to furnish such account, or to pay over any of the money so received by him, he shall be liable to be proceeded against in the manner directed by this Act, and the Commissioner shall, upon request and production of the receipt herein-  
before



before mentioned cause such instrument to be stamped with the proper stamp in respect of the sums so paid as aforesaid.

16. No conveyance or other instrument affecting real estate in New South Wales, or power of attorney authorising the execution or registering of any such conveyance or other instrument shall, wheresoever executed, be inadmissible in evidence by reason of the same not being stamped in accordance with the laws of any country other than New South Wales.

Deeds affecting real estate and executed out of New South Wales.

20 Vic. No. 23.

17. Subject to regulations any Commissioner may, upon being required by any person, assess upon any instrument or material the duty payable under this Act and cause it to be stamped accordingly: Provided that any instrument upon which the duty has been assessed by the Commissioner shall not be stamped otherwise than in accordance with such assessment.

For removing doubts as to the sufficiency or insufficiency of stamp duty paid on instruments.

44 Vic. No. 3, s. 15.

18. (1) Any person dissatisfied with the assessment of a Commissioner may, within fourteen days after the date thereof, and on payment of duty in conformity therewith, appeal against such assessment to the Minister, who may confirm or modify such assessment; and if such assessment is not confirmed the amount of duty to be ultimately retained shall be that fixed by the Minister and the difference shall be refunded to the appellant.

Appeal to Supreme Court against Commissioner's decision.

*Ibid.* s. 16.

If such person is still dissatisfied, he may, within twenty-one days after the Minister's decision is communicated to him, appeal to the Supreme Court, and may for that purpose require the Commissioner to state and sign a case setting forth the grounds upon which his assessment was made:

Provided that any person dissatisfied with such assessment may appeal to the Supreme Court in the first instance without any intermediate appeal to the Minister.

(2) The Commissioner shall thereupon state and sign a case accordingly and deliver the same to the appellant upon whose application such case may be set down for hearing in the Supreme Court.

Commissioner to state case.

(3) Upon the hearing of such case (due notice of which shall be given to the Commissioner) the Court shall determine the question submitted, and assess the duty chargeable under this Act, and also decide the question of costs.

Court to determine question.

(4) If it is decided by the Court that the assessment of the Commissioner is erroneous, any excess of duty which has been paid in conformity with such erroneous assessment, together with any penalty which has been paid in consequence thereof, shall be ordered by the Court to be repaid to the appellant.

Order as to excess.

(5) For the purposes of this section the Court may be holden before one Judge only.

Single Judge.

19. In any case of application to the Commissioner with reference to any instrument, the Commissioner may require an abstract

Abstract of instrument to be furnished.

Of s. 17.

of the instrument, and also such evidence as he deems necessary in order to show whether every fact and circumstance affecting the liability of the instrument to duty or the amount of the duty chargeable thereon has been fully and truly set forth, and may refuse to proceed upon any such application until such abstract and evidence are furnished accordingly.

Impressed stamps to be used.  
44 Vic. No. 3, s. 18.  
Mode of cancelling adhesive stamps.  
*Ibid.* s. 19.

20. Except where express provision is made to the contrary, all duties shall be denoted by impressed stamps only.

21. Any instrument, the duty upon which is required or permitted by law to be denoted by an adhesive stamp, shall not be deemed duly stamped unless the person affixing such stamp cancels the same by writing or stamping with a die on or across each stamp his name or initials, or the name or initials of his firm, together with the true date of such cancellation; and in case he wilfully neglects or refuses duly and effectually to do so, he shall be liable to a penalty not exceeding ten pounds.

Penalty on fraudulent removal or second use of adhesive stamps.  
*Ibid.* s. 20.

22. Every person who—

- (a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or fraudulently affixes to any instrument any adhesive stamp which has been removed from any other instrument with intent that such stamp may be used again; or
- (b) knowingly sells, or offers for sale, or utters any adhesive stamp which has been removed from any instrument, or utters any instrument having thereon any adhesive stamp which, to his knowledge, has been so removed as aforesaid; or
- (c) practises or is concerned in any fraudulent act, contrivance, or device with intent to evade any duty under this Act—

shall be liable to a penalty (beside any other penalty to which he may be liable) not exceeding twenty pounds, in addition to the value of the duty evaded or sought to be evaded.

Instruments not to be registered unless duly stamped.  
*Ibid.* s. 21.

23. No unstamped instrument required by this Act to be stamped shall be registered or capable of being registered in any Court or office. Any officer knowingly registering or permitting to be registered any such instrument shall be liable to a penalty not exceeding five pounds for each offence.

The Supreme Court to enforce payment of any moneys received for duties.  
*Ibid.* s. 22.

24. The Supreme Court may, upon application on behalf of a Commissioner, grant a rule requiring any person who has received money payable by way of duty or penalty under this Act, or the executor or administrator of such person, to show cause why he should not deliver to the Commissioner an account upon affidavit of any duty or sum of money received by such person, or executor, or administrator, and why the same should not be forthwith paid to the said Commissioner.

The Court may make absolute such rule, and enforce by attachment or otherwise the payment of any such duty or sum of money as appears to be due, together with costs.

DIVISION

DIVISION II.—*Special Regulations.*

(1) *As to agreements.*

25. The duty of one shilling upon an agreement may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the agreement is first executed.

Adhesive stamp may be used for agreement.  
44 Vic. No. 3, s. 23.

(2) *As to bank notes, bills of exchange, and promissory notes.*

26. There shall be payable quarterly to the Commissioner by every bank an annual composition at the rate of forty shillings for every one hundred pounds upon the amount of notes stated to be in circulation in the return made by such bank pursuant to the Banks and Bank Holidays Act, 1898. Any bank note payable on demand issued unstamped by any banker who has duly paid such composition may be from time to time re-issued without being liable to stamp duty.

Bank notes exempt by composition.  
*Ibid.* s. 24.

27. Any banker, not having paid such composition, who issues or causes or permits to be issued any bank note not duly stamped, shall be liable to a penalty not exceeding fifty pounds.

Penalty for issuing unstamped bank notes.  
*Ibid.* s. 25.

28. The *ad valorem* duties upon bills of exchange and promissory-notes drawn or made out of New South Wales shall be denoted by adhesive stamps; and every holder of any unstamped bill of exchange or promissory-note drawn out of New South Wales shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates, or pays the same, cause it to be duly stamped:

Adhesive stamp to be used for foreign bills.  
*Ibid.* s. 26.

Provided that if, at the time when any such bill or note comes into the hands of any *bonâ fide* holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall, so far as relates to such holder, be deemed to be duly cancelled, although it may not appear to have been so affixed or cancelled by the proper person:

Holder to cancel stamps.

Provided, also, that if, at the time when any such bill or note comes into the hands of any *bonâ fide* holder thereof, there is affixed thereto an adhesive stamp not duly cancelled it shall be competent for such holder to cancel such stamp as if he were the person by whom it was affixed, and upon his so doing such bill or note shall be deemed duly stamped and be as valid and available as if the stamp had been cancelled by the person by whom it was affixed:

Provided that nothing herein shall relieve any person from any penalty under this Act.

29. A bill of exchange or promissory-note purporting to be drawn or made out of New South Wales shall, for the purposes of this Act, be deemed to have been so drawn or made, although it may, in fact, be drawn or made in New South Wales.

Document deemed to be drawn as it may purport.  
*Ibid.* s. 27.

Penalty for  
unstamped bill and  
note.  
41 Vic. No. 3, s. 28.

**30.** (1) Whosoever issues, indorses, transfers, uses, negotiates, presents for payment, or pays any bill of exchange or promissory-note liable to duty and not duly stamped shall be liable to a penalty not exceeding twenty pounds.

Penalty.

(2) Whosoever takes or receives from any other person any bill of exchange or promissory-note not duly stamped, either in payment, or as a security, or by purchase, or otherwise, without causing the same to be duly stamped within fourteen days after receiving it, shall be liable to a penalty not exceeding twenty pounds, and shall not be entitled to recover thereon, or to make the same available for any purpose whatever until the same is duly stamped.

Proviso.

(3) Provided that no bill of exchange or promissory-note shall be liable to duty unless drawn or made after the thirtieth day of June, one thousand eight hundred and eighty.

Bills drawn in sets,  
how to be stamped.  
*Ibid.* s. 29.

**31.** Any number of bills of exchange or promissory-notes drawn in or forming part of one set or series, according to the custom of merchants or bankers, shall be held to be one such bill or note for the purposes of this Act, provided that one of the number is duly stamped.

Duty on draft may  
be denoted by  
adhesive stamp.  
*Ibid.* s. 30.

**32.** The duty of one penny on a draft payable on demand may be denoted by an adhesive stamp to be affixed thereto by the maker or holder thereof.

(3) *As to bills of lading.*

Bills of lading not  
to be stamped after  
execution.  
*Ibid.* s. 31.  
Penalty.

**33.** (1) A bill of lading shall not be stamped after the execution thereof.

(2) Whosoever makes or executes any bill of lading not duly stamped shall forfeit a sum not exceeding fifty pounds.

No master or mate  
to sign bill of lading  
unless stamped.  
*Ibid.* s. 32.

**34.** No master or mate of any vessel, and no agent or shipping clerk or other person acting for any vessel, shall be bound to sign any bill of lading or instrument answering the purpose of a bill of lading for the conveyance of merchandise of any kind to any place beyond New South Wales unless it is duly stamped.

(4) *As to conveyances on sale.*

If in stock, &c., how  
to be calculated.  
*Ibid.* s. 33.

**35.** (1) Where the consideration, or any part of the consideration, for a conveyance on sale, consists of any stock or marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the value of such stock or security.

If unmarketable  
security.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security, such conveyance shall be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon such security.

36. Where any property is conveyed to any person in consideration wholly or in part of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money, or stock shall be deemed the whole or part as the case may be of the consideration in respect whereof the conveyance shall be chargeable with *ad valorem* duty.

Where property subject to debt duty to be charged on such debt.

44 Vic. No. 3, s. 34.

37. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto, and such conveyance shall be charged with *ad valorem* duty in respect of such distinct consideration.

Property sold at one price conveyed by separate deeds.

*Ibid.* s. 35.

(2) Where any property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part or parcel shall be charged with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

Where sold to several at one price and conveyed in parts by separate deeds.

(3) Where a person having 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 by the original purchaser to the sub-purchaser.

Sub-sales conveyances by original seller to sub-purchaser.

(4) Where a person having 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 in respect only of the consideration moving from the sub-purchaser thereof without regard to the amount or value of the original consideration.

To several sub-purchasers in parts.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be exempt from the said *ad valorem* duty and chargeable only with the duty to which it may be liable under any general description, but such last-mentioned duty shall not exceed the *ad valorem* duty.

Conveyance by original seller to sub-purchaser where not to be charged.

Parties may elect which is to be the principal instrument. 44 Vic. No. 3, s. 36.

38. Where there are several instruments of conveyance for completing the purchaser's title to the property sold, the principal instrument of conveyance 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.

(5) *As to leases.*

Lease made in conformity with agreement how to be charged.

*Ibid.* s. 37.

Amount of duty.

39. (1) An agreement for a lease, or with respect to the letting of any lands, tenements, or heritable subjects for any term shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

(2) A lease made subsequently to and in conformity with such an agreement duly stamped shall be charged with the duty of two shillings and sixpence only.

Duty on certain leases how to be calculated and charged.

*Ibid.* s. 38.

40. (1) Where the consideration or any part of the consideration for which any lease is granted or agreed to be granted does not consist of money but consists of any produce or other goods, the value of such produce or goods shall be deemed a consideration in respect of which the lease or agreement shall be chargeable with *ad valorem* duty, and where it is stipulated that the value of such produce or goods shall amount at least to or shall not exceed a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the value of such produce or goods for the purpose of assessing the *ad valorem* duty shall be estimated at such given sum or according to such permanent rate.

When duly stamped.

(2) A lease or agreement made either entirely or partially for any such consideration if it contains a statement of the value of such consideration and is stamped in accordance with such statement shall, so far as regards the subject matter of such statement, be deemed duly stamped, unless or until it is otherwise shown that such statement is incorrect and that it is in fact not duly stamped.

Lease not to be charged with increased duty in respect of any penal rent, &c.

*Ibid.* s. 39.

41. (1) A lease, or agreement for a lease, or with respect to any letting shall not be charged with any duty in respect of any penal rent or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease or agreement of or relating to the same same subject matter.

Nor in respect of covenant to improve the property.

(2) No lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration, either of a covenant by the lessee to make or of his having previously made any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease, shall be charged with any duty in respect of such further consideration.

(3) No lease for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, shall be charged with any higher duty than one pound. Leases for life.

(6) *As to policies of insurance.*

42. A policy or other instrument of insurance which is made or signed out of New South Wales by or on behalf of any person carrying on the business of insurance in New South Wales, by which, according to any stipulation, agreement, or understanding, expressed or implied, any loss or damage, or any sum of money shall be payable or recoverable in New South Wales upon the happening of any contingency whatever, shall be charged with the same duty as is chargeable on policies made and signed within New South Wales : How foreign policy may be stamped. 44 Vic. No. 3, s. 40.

Provided such policy or instrument shall be brought to the said Commissioner for the purpose of being stamped within two calendar months next after the same has been received in New South Wales, and upon proof of that fact to the said Commissioner he shall cause such policy or instrument to be duly stamped on payment of the duties chargeable thereon.

43. Any person who—

- (a) receives or takes credit for any premium or consideration for any contract of insurance, and does not, within one month after receiving or taking credit for such premium or consideration, make out and execute a duly stamped policy of such insurance ; Penalty for not making out, &c., duly stamped policy. Ibid. s. 41.
- (b) makes, executes, or delivers out or pays, or allows in account, or agrees to pay or allow in account any money upon or in respect of any policy which is not duly stamped—

shall be liable to a penalty not exceeding twenty pounds.

44. (1) The duties imposed by this Act upon policies of insurance may be denoted by adhesive stamps, or partly by adhesive and partly by impressed stamps. Duties may be denoted by adhesive stamps. Ibid. s. 42.

(2) When the whole or any part of the duty upon a policy of insurance is denoted by an adhesive stamp, such adhesive stamp shall be cancelled by the person by whom the policy is first signed. Adhesive stamp to be cancelled.

(3) In default of such cancellation the person issuing such policy shall be liable to a penalty not exceeding twenty pounds. Penalty.

(7) *As to receipts.*

45. When on any division of profits made by any banking company the banker carries to the credit of any depositor or shareholder therein the amount payable to him on such division of profits, such transaction shall be considered a receipt liable to the duty on receipts under this Act. Division of profits carried to credit to be deemed a receipt. Ibid. s. 44.

The

The said banker shall make a sworn return of every such transaction within one week after the same has taken place, and pay the duty thereon according to the rates imposed under the head of receipt, in default of so doing he shall be liable to a penalty not exceeding five hundred pounds.

Duty may be denoted by adhesive stamp.

44 Vic. No. 3, s. 45.

Penalty for giving unstamped receipt.

50 Vic. No. 10, s. 4.

46. The duty upon a receipt may be denoted by an adhesive stamp, which shall be cancelled by the person by whom the receipt is given before he delivers it out of his hands.

47. (1) Any person who—

- (a) gives any receipt liable to duty and not duly stamped;
- (b) refuses to give a receipt duly stamped in any case where a receipt would be liable to duty;
- (c) upon a payment to the amount of two pounds or upwards gives a receipt for a sum not amounting to two pounds, or separates or divides the amount paid with intent to evade the duty;

shall incur a penalty of not less than two pounds nor more than ten pounds:

Demand for receipt not to affect tender.

(2) A demand for any such receipt shall not in any way affect the validity of a tender otherwise legal.

(8) *As to transfers of pastoral runs or stations.*

Assessment of stamp duties on transfers of pastoral runs.

44 Vic. No. 3, s. 47.

48. For the purpose of assessing the amount of stamp duty payable upon the instrument of transfer of any run or interest in a run held under lease or promise of a lease from the Crown, the Commissioner may require the person tendering such instrument for the purpose of being stamped to tender at the same time a declaration of the fair and reasonable market value of the interest intended to be transferred; such declaration to be duly made before a magistrate of the territory or a commissioner for affidavits.

### PART III.

#### *Duties on estates of deceased persons.*

Duties to be levied on estates of deceased persons.

*Ibid.* s. 48.

Third Schedule.

49. (1) The duties to be levied, collected, and paid as aforesaid, upon the estates of deceased persons shall be according to the duties mentioned in the Third Schedule to this Act; and such duties shall be charged and chargeable upon and in respect of all estate whether real or personal which belonged to any testator or intestate dying after the commencement of this Act.

(2)



(2) Duties to be levied, collected, and paid according to the duties mentioned in the said Third Schedule shall also be charged and chargeable upon and in respect of—

(A) all estate, whether real or personal—

- (a) which any person, dying after the twenty-second day of May, one thousand eight hundred and ninety-four, has disposed of, whether before or after that date, by will or by settlement containing any trust in respect of that estate to take effect after his death, under any authority enabling that person to dispose of the same by will or deed, as the case may be; 23 Vic., c. 15, s. 4.
- (b) taken under a voluntary disposition made after the day last aforesaid by such person purporting to operate as an immediate conveyance or gift *inter vivos*, whether by way of conveyance, transfer, delivery, declaration of trust or otherwise, which has not been *bona fide* made twelve months before the death of such person; 44 Vic., c. 12, s. 38, subs. 2 (a).
- (c) which such person, having been absolutely entitled thereto, has, before or after the day last aforesaid, voluntarily caused to be conveyed, transferred to, or vested in himself and any other person jointly, whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person; 44 Vic., c. 12, s. 38, subs. 2 (b).
- (d) being a purchase or investment by such person, made either by himself alone or in concert with, or by arrangement with, any other person, before or after the day last aforesaid, with property or the proceeds of property to which he was absolutely entitled, in the name of himself and any other person jointly, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to that other person; 52 Vic., c. 7, s. 11.
- (e) passing under any voluntary settlement made before or after the day last aforesaid by such person by deed or any other instrument not taking effect as a will, whereby an interest in that property or the proceeds of sale thereof for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in that property or the proceeds of sale thereof; 44 Vic., c. 12, s. 38, subs. 2 (c).  
52 Vic., c. 7, s. 11.
- and in this subsection the expression "voluntary settlement" includes any trust, whether expressed in writing or otherwise, in favour of a volunteer, and, if contained in a deed

Certain estates liable to duty.  
57 Vic. No. 20, s. 2.

deed or other instrument affecting the settlement, whether that deed or instrument was made for valuable consideration or not as between the settlor and any other person ;

52 Vic., c. 7, s. 11.

- (B) all personal estate (not being chattels real) taken under any gift whenever made by such person, of which *boná fide* possession and enjoyment has not been assumed by the donee immediately upon the gift, and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise.

Penalty for not taking out probate.  
44 Vic. No. 3, s. 48.

50. Whosoever takes possession of and in any manner administers any part of such estate of any person deceased without obtaining probate of the will or letters of administration within six calendar months after the decease of such person, or two calendar months after the termination of any suit or dispute respecting the will or the right to letters of administration (if there is any such) which is not ended within four calendar months after the decease of such person, shall incur a penalty not exceeding one hundred pounds, and also a further penalty of ten pounds per centum on the amount of stamp duty payable on the probate or letters of administration and such penalties shall be recovered and enforced in manner herein provided :

Proviso.

Provided that such penalties shall not be incurred when such estate does not exceed two hundred pounds in value :

Provided also that no duty shall be charged on the taking out of any second probate or administration if the proper amount of duty has been duly paid on the first taking out of the same.

Certain debts and shares belonging to deceased persons liable to duty.  
57 Vic. No. 20, s. 1.

51. (1) The estate of any person dying after the twenty-second day of May, one thousand eight hundred and ninety-four, wheresoever such person may have been domiciled, shall, for the purposes of this Act be taken to include—

- (a) every specialty debt due to such person and secured or partly secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal property situate within New South Wales, and notwithstanding that the specialty was, at the time of the death of such person, outside New South Wales ;
- (b) every share held by such person in any company, corporation, or society, whether registered or incorporated within or out of New South Wales, and carrying on the business of mining for any mineral in New South Wales.

And duties may be levied, collected, and paid under and in accordance with the provisions of this Act in respect of the said debts and shares, notwithstanding that the debts or shares were not at the time of the death of the said person *bona notabilia* within New South Wales :

(2)

(2) Provided that nothing in this section shall render any Proviso. person liable under the last preceding section to a penalty for taking possession of or administering the estate of a deceased person, where the estate includes no property in respect of which probate or letters of administration or an order to collect may be granted in New South Wales.

52. (1) Upon the death of any person who, after the thirtieth day of June, one thousand eight hundred and eighty, makes any conveyance or gift of any estate with intent to evade the payment of duty under this Act or any Act hereby repealed, such property shall be deemed part of his estate for the purposes of this Act, and the payment of the duty upon the value of such property may be enforced in the same way as if such person had bequeathed or devised the said property to the person to whom the same has been conveyed or given; and any conveyance or gift of property which after the date aforesaid is made to take effect upon the death of the person making the same shall be deemed to have been made with intent to evade the payment of such duty. Duty payable on property included in conveyance for purposes of evasion. 44 Vic. No. 3, s. 55.

(2) Any property being the subject matter of a *donatio mortis causá* shall, upon the death of the person making such *donatio mortis causá*, be deemed part of his property for the purposes of this Act, and duty shall be paid upon it, and payment of such duty may be enforced in the same way as against any other property of or to which such person has died seised, possessed, or entitled. Donationes mortis causá.

53. (1) Where any person dying after the twenty-second day of May, one thousand eight hundred and ninety-four was at the time of his death domiciled in New South Wales, all debts actually due and owing by him shall be deducted from his estate. What debts may be deducted. 57 Vic. No. 2, s. 3.

(2) Where any person so dying was not at the time of his death domiciled in New South Wales, the only debts which may be deducted from his estate shall be debts due and owing to persons resident in New South Wales, and debts secured by mortgage, encumbrance, pledge, or lien, legal or equitable, of or over real or personal estate of the said person situate in New South Wales. When deceased was not domiciled in New South Wales. 31 & 32 Vic., c. 224, s. 7. 44 Vic., c. 12, s. 28.

(3) Provided that, in any case, the debts to be deducted shall not include voluntary debts expressed to be payable on the death of the person so dying, or payable under any instrument which has not been *boná fide* delivered to the donee thereof three months before the death of such person, or debts in respect of which a reimbursement may be capable of being claimed from any other estate or person, except as to the excess (if any) above the amount of the reimbursement claimable. Proviso.

Affidavit of value to be lodged by applicants for probate or letters of administration.

50 Vic. No 10, s. 5.

54. (1) No probate of the will or letters of administration of the estate of any person deceased shall be granted after the commencement of this Act unless the applicant for such probate or letters—

(a) lodges with his application an affidavit stating that to the best of his knowledge and belief the estate of the deceased, exclusive of what he was possessed of or entitled to as a trustee, but including all his real estate and all estates for years is under the value of a certain sum to be specified in such affidavit; and

(b) at the same time delivers with such affidavit an inventory setting forth a full and true account of the estate of the deceased, and the value thereof, and all such particulars as are necessary or proper for enabling the Commissioner fully and correctly to ascertain the duties payable in respect of such estate.

Registrar to transmit affidavit and inventory to Commissioner.

(2) The Registrar of the Probate Jurisdiction of the Supreme Court shall transmit to the Commissioner every such affidavit and inventory, together with a copy of the will or letters of administration to which they relate, within thirty days from the granting of any probate or letters of administration under a penalty not exceeding fifty pounds for any neglect therein, and the Commissioner, if satisfied with such account and inventory or with any amendment that may be made therein upon his requisition, may assess the duty on the footing of such account and inventory (after deducting the debts actually due and owing by the deceased) upon the sum specified in such affidavit according to the rates set forth in the Third Schedule hereto, and such probate or letters shall be stamped accordingly.

Third Schedule.

Commissioner may appoint valuator.

(3) If the Commissioner is dissatisfied with such account and inventory, he may cause an account and inventory to be taken by any person to be appointed by him for that purpose, and he may assess the duty on the footing of such last-mentioned account and inventory subject to appeal therefrom in accordance with the provisions of section eighteen of this Act; and if the duty exceeds the duty assessable according to the return made to the Commissioner and with which he was dissatisfied, and if there is no appeal against such assessment, then 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 incident to the taking of such last-mentioned account and inventory against the estate of the said deceased, and to recover the same accordingly, and if there is an appeal against such last-mentioned assessment then the payment of such expenses shall be in the discretion of the Court:

Provided that no such account or inventory as last-mentioned shall be taken by such Commissioner or by any person appointed by him without the previous approval of the Colonial Treasurer.

(4)

(4) The Commissioner may lodge with the Registrar-General a caveat against the issue of any certificate of title by transmission where the land advertised by him does not clearly appear to have been included in any affidavit or inventory lodged with the Commissioner in connection with the estate of any deceased person upon which probate or administration duty has been assessed, or where the will of any deceased proprietor has not been proved in or letters of administration granted by the Supreme Court.

And may lodge caveat with Registrar-General.

Every such caveat shall be dealt with in all respects as if it were a caveat filed by the Registrar-General, except that the Commissioner shall be considered as the caveator.

55. (1) In respect of the estates of intestates deceased after the thirtieth day of June, one thousand eight hundred and eighty, for which an order to collect is granted to the Curator of Intestate Estates, a like duty shall be paid as by this Act is required to be paid by an administrator.

As to estates administered by Curator of Intestate Estates. 44 Vic. No. 3, s. 50.

(2) No Judge shall pass the accounts of the Curator of Intestate Estates in respect of the estate of any such intestate unless the amount of duty chargeable on such estate (as if administration had been taken out in respect thereof) has been paid by such Curator, and a receipt for such amount signed by the Commissioner is produced by such Curator.

Accounts not to be passed till duty paid.

(3) Provided that no administration duty shall be chargeable in respect of any such estate previously collected by such Curator.

Proviso.

56. (1) Any duty payable under this Act by any executor or administrator shall be deemed to be a debt of the testator or intestate to Her Majesty, and shall be payable out of his personal estate.

Duties payable out of personal estate. *Ibid.* s. 51.

(2) If the personal estate is insufficient to pay such duty the executor or administrator or any person interested may apply to the Supreme Court, which may order that a sufficient part of the real estate be sold to pay the said duty.

Where personal estate insufficient.

(3) Every executor or administrator may deduct from any property devised or bequeathed to any person an amount equal to the duty thereon, calculated at the same rate as is payable upon the estate under this Act, unless the testator has made a different disposition as to the payment of the said duty in his will.

Deduction of duty from property devised.

57. No probate or letters of administration shall issue from the Prothonotary's office until the duty under this Act has been paid or security given for the same, and the probate or letters of administration duly stamped.

Probates, &c., not to issue until duty paid. *Ibid.* s. 52.

58. (1) Within six months after the death of any person who has executed a settlement containing any trust to take effect after his death, or within such further time as the Commissioner may allow, notice of such settlement shall be lodged by the trustee thereof or by some person interested thereunder, together with a declaration specifying

Settlement of property taking effect after death of settlor. *Ibid.* s. 53.

fyng the property thereby settled and the value thereof, and duty shall thereupon be payable on such value at the rates specified in the Third Schedule hereto.

Third Schedule.

Procedure where notice not lodged.

(2) In case such notice and declaration are not lodged and the duty paid within six months or such further time as the Commissioner may allow, the Commissioner or any person interested may apply to the Supreme Court, which may order that a sufficient part of the property included in such settlement be sold, and the proceeds of such sale applied in payment of the duty and of the costs consequent thereon.

Court may make vesting orders.

44 Vic. No. 3, s. 54.

59. Whenever any order has been made for the sale of any lands under this Act every person seised or possessed of such lands or entitled to a contingent interest therein shall be deemed to be so seised, possessed, or entitled upon a trust within the meaning of the Trustee Act, 1898. And the Supreme Court may make an order vesting such lands or any part thereof either in any purchaser or in such other person as the Court directs, and every such order shall have the same effect as if such person so seised, possessed, or entitled had been free from all disability, and had duly executed all proper conveyances and assignments.

#### PART IV.

##### *Miscellaneous provisions.*

One stamp may be used in place of many and *vice versa*.

*Ibid.* s. 56.

60. Any single stamp may be used to denote the total amount of duty, and two or more stamps may be used to denote any one duty, and all instruments stamped with one, two, or more stamps for denoting the amount of duty charged thereon shall be as valid as if the same had been stamped with a single stamp or any number of stamps.

Proceeding if return not made by any accountable party.

*Ibid.* s. 57.

61. Any person required under this Act to deliver any account who makes default in so doing shall be liable, upon application to the Supreme Court by the Commissioner, or any person by him duly authorised, to be sued by writ of summons in such form as the Judges of the said Court shall direct, commanding the party so in default to deliver such account and to pay all costs incurred in consequence of such default up to the time of such delivery within such period as may be appointed in the writ, or to show cause to the contrary, and on cause being shown such order shall be made as is just.

Accounting party to verify his account.

*Ibid.* s. 58.

62. Every person delivering any account or estimate of property under this Act shall, if required by the Commissioner, produce before him such books and documents in the custody or control of such person

so far as the same relate to such account or estimate as may afford any necessary information for the purpose of ascertaining such property and the duty payable thereon, and the Commissioner may without payment of any fee inspect and take copies of any public book; and any commissioner or other officer who discloses the same or the contents of any document or book to any person other than for the purpose of this Act shall be liable to a penalty not exceeding one hundred pounds.

63. The Commissioner shall enter and keep on record in a book every payment of duty made under the Third Schedule hereto, and shall give a receipt for such duty in such form as shall be provided by regulations, and shall upon application for any reasonable purpose, deliver to any person interested in any property affected thereby a certificate of such payment.

Books to be kept  
and receipts given.  
44 Vic. No. 3, s. 59.  
Third Schedule.

64. Whosoever makes or assists in making any false statement, or any fraudulent alterations in any statement or document required under this Act, with intent to evade the payment of duty, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any period not exceeding three years, and to a fine not exceeding one hundred pounds.

Persons fraudulently  
mis-stating property  
or debts.  
*Ibid.* s. 60.

65. Whosoever does or causes to be done, or knowingly assists in doing any of the acts following, that is to say:—

Penalties for fraudulent acts.  
*Ibid.* s. 61.

- (a) forges a die or stamp;
- (b) impresses any material with a forged die;
- (c) cuts, tears, or in any way removes from any material any stamp with intent to make fraudulent use of such stamp or of any part thereof;
- (d) mutilates any stamp with intent to make fraudulent use of any part thereof;
- (e) fraudulently fixes or places upon any material, or upon any stamp, any stamp or part of a stamp which has been cut, torn, or in any way removed from any other material, or out of or from any other stamp;
- (f) erases or otherwise removes from any stamped material any name, sum, date, or other matter or thing whatsoever thereon written, with the intent that any fraudulent use should be made of the stamp upon such material;
- (g) knowingly sells or exposes for sale, or utters or uses any forged stamp;
- (h) knowingly and without lawful excuse (the proof of which lawful excuse lies on the person accused) has in possession any forged die or stamp, or any stamp or part of a stamp which

which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise removed—

shall be guilty of felony, and liable to be sentenced to hard labour on the roads or other public works of the colony, or to be imprisoned with or without hard labour for any term not exceeding seven years.

Transfer of shares to be stamped.

44 Vic. No. 3, s. 62.

**66.** Whosoever receives any transfer of any shares not duly stamped without causing the same to be duly stamped within one week after receiving the same shall be liable to a penalty not exceeding ten pounds.

Affidavits and penalty for false oath.

*Ibid.* s. 63.

Penalty.

**67.** (1) Every affidavit required by this Act shall be made before a justice of the peace, or a commissioner for affidavits.

(2) Whosoever knowingly and wilfully makes a false oath or statement concerning any matter in this Act shall be liable to the same punishment as for wilful and corrupt perjury.

Courts in suits for administration of property to provide for payment of duty.

*Ibid.* s. 64.

**68.** Whenever any suit is pending in any Court for the administration of any property chargeable with duty under this Act, such Court shall provide for the payment of such duty out of any property the subject matter of such suit which may be in the possession or control of the Court.

Recovery of penalties.

*Ibid.* s. 65.

**69.** Any penalty incurred under this Act may be recovered in a summary way before any two justices of the peace, or by action of debt in the Supreme Court in the name of the Attorney-General, and with costs in either case.

Allowance in case stamps becoming useless.

*Ibid.* s. 66.

**70.** Any person possessed of impressed stamps or stamped material rendered useless by being inadvertently spoiled, may upon application to the commissioner, be allowed in lieu thereof other stamps of the same or any other denomination amounting in the whole to the value of such spoiled stamps.

Power to make regulations and forms.

*Ibid.* s. 67.

**71.** The Governor may frame regulations not being inconsistent with this Act and prescribe forms for carrying out this Act, and such regulations and forms when published in the *Gazette*, shall have the force of law :

Provided that the same shall be laid before both Houses of Parliament forthwith if Parliament is sitting, and if not, then within twenty-one days after the commencement of the next Session.



SCHEDULES.

Section 2.

FIRST SCHEDULE.

Reference to Act.	Title or short title.	Extent of Repeal.
20 Vic. No. 23...	An Act to declare that instruments affecting Real Estate in this Colony executed out of the Colony are admissible in evidence therein although not stamped.	The whole.
36 Vic. No. 15...	Postage Stamps Extension Act of 1873.	The whole.
44 Vic. No. 3...	Stamp Duties Act of 1880.	The whole.
50 Vic. No. 10...	Stamp Duties Act Amendment Act of 1886.	The whole.
54 Vic. No. 15...	Transfer of Mining Stock Stamp Duty Exemption Act 1890.	The whole.
57 Vic. No. 20...	Stamp Duties Acts Further Amendment Act of 1894.	The whole.

SECOND SCHEDULE.

Section 4.  
44 Vic. No. 3.  
Schedule 1.

*Containing the Duties on Deeds or other instruments relating to transactions between living persons.*

	£	s.	d.	
AGREEMENT not under seal ... ..	0	1	0	
And see section 25.				
BANK NOTE. An Annual Composition to be paid by Banking Companies in lieu of duties on promissory-notes payable on demand issued by them—				
For every £100 and also for the fractional part of £100 of the average annual amount of such notes in circulation as certified under the Banks and Bank Holidays Act, 1898	2	0	0	
And see sections 26, 27.				
BILL OF EXCHANGE OR PROMISSORY-NOTE—				
For every £25 and also for any fractional part of £25 ... ..	0	0	6	50 Vic. No. 10, s. 2.
And see sections 28, 29, 30, 31.				
BILL OF LADING—				
For every bill of lading or copy thereof ... ..	0	0	6	44 Vic. No. 3. Schedule I.
And see sections 33, 34.				
CONVEYANCE OR TRANSFER on sale of any share or shares in the stock and funds of any corporation, company, or society whatever in New South Wales.				
For every £10 and also for any fractional part of £10 of the consideration money therein expressed ... ..	0	0	6	
And see section 66, and the exemptions to this Schedule.				
CONVEYANCE OR TRANSFER on sale of any property (except such stock and funds as aforesaid)—				
Where the amount or value of the consideration for the sale does not exceed £50 ... ..	0	5	0	
Exceeds £50 and does not exceed £100 ... ..	0	10	0	
For every £100 and also for any fractional part of £100 of such amount or value ... ..	0	10	0	
				CONVEYANCE

## Stamp Duties.

	£	s.	d.
CONVEYANCE of any other kind not before charged ... .. And see sections 35, 36, 37, 38.	1	0	0
DRAFT—payable on demand. See section 32 ... ..	0	0	1
DEED of any kind whatever not otherwise charged in this Schedule ...	1	0	0
LEASE—			
(1.) For any definite term or for an indefinite term of any lands, tenements, or heritable subjects— Where the consideration or any part of the consideration moving either to the lessor or to any other person shall consist of any money, stock, or security—			
In respect of such consideration ... ..			
Where the consideration or any part of the consideration shall be any rent— In respect of such consideration—			
For every sum not exceeding £50 per annum ...	0	2	6
And for every £50 or fractional part of £50 per annum ... ..	0	2	6
(2.) Of any other kind whatsoever ... .. And see sections 39, 40, 41.	1	0	0
MEMORANDUM of transfer under the Act twenty-sixth Victoria number nine			
POLICY for or against loss by fire— For every £100 and also for every fractional part of £100 insured for any term or period exceeding six calendar months ...	0	0	6
And not exceeding six months ... ..	0	0	3
On every renewal or continuance thereof for every £100 and for every fractional part of £100 insured for any term ... ..	0	0	3
POLICY for any voyage or period— For every £100 and also for any fractional part of £100 so insured	0	0	3
On every renewal or continuance thereof for every £100 or fractional part of £100 ... ..	0	0	3
POLICY not otherwise specified— For every £100 and for every fractional part of £100 insured ...	0	1	0
And see sections 43, 44.			
RECEIPT given for or upon the payment of any sum of money amounting to £2 and upwards ... ..	0	0	2
TRANSFER OF SHARES. See CONVEYANCE.			
TRANSFER of any run or station held under lease or promise of lease from the Crown or of any interest therein where the declared value of the said run, or station, or interest, or the value thereof assessed as in this Act provided shall not exceed £100 ... ..	0	10	0
And where such value shall exceed £100 then for every £100 and any fractional part of £100 ... ..	0	10	0
And see section 48.			

The same duty as a conveyance on a sale for the same consideration.

The same duty as for a conveyance for the sale of lands for a like sum the consideration of such transfer.

EXEMPTIONS.

## EXEMPTIONS.

- Any agreement or memorandum for the hire of any labourer, artificer, manufacturer, or menial servant.*
- Any agreement or memorandum made for or relating to the sale of any goods, wares, or merchandise.*
- Any agreement or memorandum made between a master and any mariner of any ship or vessel for wages on any voyage coastwise from port to port in the Colony of New South Wales.*
- Any Debenture or Treasury Bill issued by the Government of New South Wales.*
- Any draft or order for the payment of money issued by any duly authorised officer of the Government on account of the Public Service.*
- Any draft or order for the payment of money commonly called an advance note issued by a master of a ship or vessel in favour of a seaman.*
- Any instrument relating to the service of an apprentice, clerk, or servant.*
- Any Customs bond.*
- Any administration bond.*
- Any bail bond.*
- Any bond to the Crown for the safe custody of an insane person.*
- Any bond on appointment of a special bailiff.*
- Any mortgage of real property or mortgage given by way of bill of sale or otherwise of live stock, goods, chattels, or effects, or personal estate generally, and any transfer, assignment, release, re-conveyance, or discharge thereof, and every receipt endorsed on either or any of said documents for the consideration thereof.*
- Any preferable lien or any lien on crops under the Lien on Crops and Wool and Stock Mortgages Act, 1898.*
- Any policy of insurance on life or on any public hospital or charitable institution.*
- Any policy of insurance on the tools or implements of work or labour used by any working mechanic, artificer, handicraftsman, or labourer by a separate policy in a distinct sum.*
- Any policy, whereby any insurance company, or underwriter, or association of underwriters may effect an insurance or transaction, the original policy representing which may have already contributed to the stamp duty imposed on policies: Provided that the fact of such policy being a reinsurance policy shall be expressed on the face thereof.*
- Any receipt given for or upon the payment of money to or for the use of Her Majesty.*
- Any acknowledgment by any banker of the receipt of any bill of exchange or promissory-note for the purpose of being presented for acceptance or payment.*
- Any acknowledgment by any person on receipt of money for the purchase of stock or shares in any banking or public company.*
- Any acknowledgment or receipt given by any labourer, artificer, or workman for or on account of wages received by him.*
- Any receipt written upon or given for a bill of exchange or promissory-note duly stamped.*
- Any receipt endorsed, or otherwise written upon, or contained in any instrument liable to stamp duty, and duly stamped acknowledging the receipt of the consideration money therein expressed.*
- Any receipt given by depositors on receiving deposits from any savings bank.*
- Any acknowledgment given for money deposited in any bank to be accounted for: Provided that this exemption shall not extend to acknowledgments for any sum carried to the credit of any depositor or shareholder in any bank on any division of profits made by such bank, or for or in respect of any dividend from any joint stock or other company, on the same being deposited by any person to the credit of any other person in any bank, or for or in respect of any sum paid to the credit of any person in any bank for rent or interest by any other person, or for or in respect of any sum deposited, which would be liable to duty if paid directly by any person to any other person.*

*Any receipt given in anticipation of a bill of lading, and not to be used in lieu thereof.*

*Any instrument of appointment relating to any property in favour of persons specially named or described as the objects of a power of appointment created by a previous settlement duly stamped in respect of the same property, or by will where probate duty has been paid in respect of the same property as personal estate.*

*Any instrument for the sale, transfer, or other disposition of any ship or vessel, or any part, interest, share, or property of, or in any ship or vessel.*

54 Vic. No. 15 s. 1.

*Any conveyance or transfer made since the first day of October, in the year one thousand eight hundred and ninety, of any shares in the stock and funds of any corporation, company, or society, carrying on only the business of mining for extracting or smelting any mineral or metal in New South Wales; and whether the operations of such corporation, company, or society are carried on within New South Wales or elsewhere.*

44 Vic. No. 3.  
Schedule I.

*And any copy of rules, or power, warrant, or letter of attorney granted by any trustee of any friendly society, within the meaning of Friendly Societies Act 1873 for the transfer of any share in the colonial funds or debentures, standing in the name of such trustee, or any order or receipt for money contributed to or received from the funds of any such society, by any person liable or entitled to pay or receive the same by virtue of the rules thereof, or any bond to be given to or on account of any such society, or by the treasurer, or any officer thereof, or any draft or order, or any form of policy, or any appointment of an agent, or any certificate or other instrument for the revocation of any such appointment, or any other document whatever required or authorised by the rules of any such society, shall be exempt from all stamp duties.*

### THIRD SCHEDULE.

#### *Duties on the estates of deceased persons.*

##### Part I.

Ss. 4 49-59.  
50 Vic. No. 10.  
Schedule B.

1. On the probate or letters of administration to be granted in respect of any estate real and personal of deceased persons.

Where the value of such estate is under £5,000 ...	...	...	...	1 per cent.
Where the value is £5,000 and under £12,500 ...	...	...	...	2 per cent.
Where the value is £12,500 and under £25,000 ...	...	...	...	3 per cent.
Where the value is £25,000 and under £50,000 ...	...	...	...	4 per cent.
Where the value is £50,000 and over that amount ...	...	...	...	5 per cent.

##### Part II.

2. Settlement of property taking effect after death of settlor—same duties as under Part I.